

# FTSEF LLC RULEBOOK

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**BY ACCESSING, OR ENTERING INTO ANY ORDER INTO, FTSEF LLC WHETHER DIRECTLY OR THROUGH AN INTERMEDIARY, AND WITHOUT ANY NEED FOR ANY FURTHER ACTION, UNDERTAKING OR AGREEMENT, EACH PARTICIPANT, ITS CLIENTS, AND CUSTOMERS, IF APPLICABLE, EACH REPRESENT THAT IT IS AN ELIGIBLE CONTRACT PARTICIPANT AS DEFINED IN SECTION 1A(18) OF THE COMMODITY EXCHANGE ACT AND SUCH PERSONS, AND THEIR AUTHORIZED TRADERS, AGREE:**

- (1) TO BE BOUND BY, AND COMPLY WITH, THE SEF RULES AND OBLIGATIONS, AND APPLICABLE LAW, IN EACH CASE TO THE EXTENT APPLICABLE TO IT;**
- (2) TO BECOME SUBJECT TO THE JURISDICTION OF THE SEF WITH RESPECT TO ANY AND ALL MATTERS ARISING FROM, RELATED TO, OR IN CONNECTION WITH, THE STATUS, ACTIONS OR OMISSIONS OF SUCH PERSON;**
- (3) TO PERMIT THE SEF TO ACCESS ANY AND ALL INFORMATION RELEVANT TO ACTIVITIES RELATED TO THE SEF'S BUSINESS;**
- (4) TO ASSIST THE SEF IN COMPLYING WITH ITS LEGAL AND REGULATORY OBLIGATIONS, COOPERATE WITH THE SEF AND THE CFTC IN ANY INQUIRY, INVESTIGATION, AUDIT, EXAMINATION OR PROCEEDING; AND**
- (5) THAT THE SEF IS AUTHORIZED TO PROVIDE INFORMATION REGARDING PARTICIPANT TO THE CFTC OR ANY SELF-REGULATORY ORGANIZATION.**



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## Chapter 1 MEANING OF TERMS

### RULE 101. DEFINITIONS

Unless the context otherwise indicates, the following terms have the meanings set forth below for all purposes under the SEF Rules. All defined terms are consistent with terms as defined in CFTC Regulation § 43.2.

“**Account Manager**” means a Person other than an individual that acts as an agent to buy or sell Swaps on the Trading System in the name or on behalf of another Person.

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

“**Administrative Services Agreement**” means the administrative services agreement(s) between the SEF and any Services Provider whereby technology services or other services are provided to the SEF.

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

“**Applicable Law**” means, with respect to any Person, any statute, law, regulation, rule or ordinance of any governmental or Self-Regulatory Organization applicable to such Person, including the CEA and CFTC Regulations.

“**Arbitration Panel**” shall mean a panel appointed to fulfill the various adjudicative responsibilities described in Chapter 8 regarding arbitration matters.

“**Authorized Representative**” means any Person who is authorized by a Participant to represent the Participant in SEF matters pursuant to Rule 306.

“**Authorized Trader**” means a natural person that has been designated by a Participant to be able to access and use the Trading System and SEF Services on Participant’s behalf.

“**Block Trade**” means a privately negotiated Swap that meets the criteria set forth in Rule 602 and CFTC Regulation Part 43.

“**Board**” means the Board of Managers of the SEF.

“**Business Day**” means any day on which the SEF is open for trading. FTSEF will offer trading 24 hours a day during regular trading days with a brief system shutdown between 5:00 and 5:20 EST daily.

“**Central Limit Order Book**” or “**CLOB**” is defined in Rule 702.

“**CFTC**” or “**Commission**” means the U.S. Commodity Futures Trading Commission or any successor regulatory body.

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

“**Chief Compliance Officer**” means the individual appointed by the Board as the SEF’s Chief Compliance Officer, with the duties and responsibilities as may be prescribed by the Board from time to time.

“**Chief Executive Officer**” means the individual appointed by the Board as the SEF’s Chief Executive Officer.

“**Clearing House**” or “**Derivatives Clearing Organization**” means a derivatives clearing organization as defined in CFTC Regulation § 1.3(d), or any successor regulation thereto or any non-U.S. central clearing counterparty(ies) recognized or approved by the CFTC that provide clearing services with respect to any or all of Swaps traded on the SEF.

“**Clearing House Rules**” means the Certificate of Incorporation, the By-Laws and any rule, interpretation, stated policy, or instrument corresponding to any of the foregoing, in each case as adopted or amended from time to time by the Clearing House relating to any or all of the Swaps.

“**Clearing Member**” means a member of a Clearing House that is authorized to clear trades in any or all Swaps for a Participant or its Clients or Customers. Each Clearing Member must sign documentation required by the SEF.

“**Client**” means a Person that granted in writing to an Account Manager authority to enter Orders and execute Swaps on behalf of such Person.

“**Commodity Exchange Act**” or “**CEA**” means the Commodity Exchange Act, as amended from time to time.

“**Compliance Department**” means the Chief Compliance Officer and all SEF Officials and/or agents of the SEF that assist FTSEF with the implementation, surveillance and enforcement of the SEF Rules and other Obligations.

“**Confirmation Data**” has the meaning ascribed to it in CFTC Regulation § 45.1, or any successor regulation thereto.

“**Continuation Data**” means the data required to be reported to a Swap Data Repository in CFTC Regulation § 45.1, or any successor regulation thereto.

“**Contract**” means any Swap, contract, agreement, or Transaction approved for trading on the Trading System pursuant to the SEF Rules.

“**Contract Market**” has the meaning ascribed to it in CFTC Regulation § 1.3(h), or any successor regulation thereto.



**“Contract Specifications”** means, with respect to any Contract, the rules or other trading protocols containing specifications for such Contract, as adopted, amended, supplemented or otherwise modified from time to time by FTSEF.

**“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 securities, by contract, or otherwise. The terms “controlling” or “controlled” shall have meanings correlative to the foregoing.

**“Creation Data”** has the meaning ascribed to the term “Required Swap creation data” in CFTC Regulation § 45.1.

**“CTI Code”** means a customer type indicator code.

**“Customer”** has the meaning set forth in CFTC Regulation § 1.3(k).

**“Customer Account”** means an account carried by a Participant or Clearing Member on behalf of a Customer.

**“Director”** means a member of the Board of Managers.

**“Disciplinary Action”** means a disciplinary proceeding, summary imposition of fines, summary suspension or other summary action.

**“Disciplinary Panel”** means the panel appointed by the Board at the recommendation of the Chief Compliance Officer to act in an adjudicative role and fulfill various adjudicative responsibilities and duties described in Chapter 10.

**“Eligible Contract Participant”** shall have the meaning set forth in Section 1a(18) of the CEA, as amended, and the CFTC’s rules and regulations promulgated thereunder.

**“Emergency”** means any occurrence or circumstance that, in the opinion of the Board, or a Person or Persons duly authorized to issue such an opinion on behalf of the Board under circumstances and pursuant to procedures that are specified, requires immediate action and threatens or may threaten such things as the fair and orderly trading in, or the liquidation of or delivery pursuant to, any agreements, contracts, Swaps or Transactions or the timely collection and payment of funds in connection with clearing and settlement by a Derivatives Clearing Organization, including: (a) any manipulative or attempted manipulative activity; (b) any actual, attempted or threatened corner, squeeze, congestion or undue concentration of positions; (c) any circumstances which may materially affect the performance of agreements, contracts, Swaps or Transactions, including failure of the payment system or the bankruptcy or insolvency of any participant; (d) any action taken by any Governmental Agency, or any other Registered Entity, board of trade, market or facility which may have a direct impact on trading or clearing and settlement; (e) at the request of the CFTC; and (f) any other circumstance which may have a severe, adverse effect upon the functioning of the SEF.

**“Emergency Rules”** means temporary emergency procedures and rules implemented pursuant to Rule 209.

**“End-User”** means a Participant that is not a “financial entity” as defined in CEA Section 2(h)(7)(C)(i) (or is exempt from the definition of “financial entity”), is using the Transaction to hedge or mitigate commercial risk as defined in CFTC Regulation § 50.50(c), and provides or causes to be provided to a registered Swap Data Repository or, if no registered Swap Data Repository is available, the Commission, the information specified in CFTC Regulation § 50.50(b), or any successor regulation thereto.

**“End-User Exception”** means the exception to the clearing requirement set forth in CEA Section 2(h)(7)(A), as amended from time to time, and CFTC Regulation § 50.50.

**“Execution”** means, with respect to a Contract, an agreement by the counterparties to the terms of the Contract that legally binds the counterparties to such terms under Applicable Law.

**“External Employees”** means SEF employees who are employed by an entity other than the SEF and who perform work on behalf of the SEF.

**“External Entity”** means an employer other than the SEF. **“Futures Commission Merchant”** has the meaning set forth in Section 1a(28) of the CEA.

**“Government Agency”** means (a) any U.S. or non-U.S. federal, national, state or local court or (b) any U.S. or non-U.S. federal, national, state or local entity that is (i) a governmental authority, (ii) a regulatory body or (iii) a self-regulatory body.

**“Hearing Panel”** means the Disciplinary Panel responsible for adjudicating disciplinary cases pursuant to a notice of charges authorized by a Review Panel.

**“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.

**“Interested Person”** has the meaning attributed to such term in Rule 210(a).

**“Legal Entity Identifier”** or **“LEI”** has the meaning set forth in section 45.6 of the CFTC Regulations.

**“Major Swap Participant”** shall have the meaning set forth in Section 1a(33) of the CEA and the CFTC’s rules and regulations promulgated thereunder.

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

**“Notice of Arbitration”** shall mean a pleading served by a Claimant in connection with a SEF Arbitration that meets the requirements of Rule 1102.

**“Notice to Participants”** means a communication sent by or on behalf of the SEF to all Participants as described in Rule 309.

**“Obligation”** means each SEF Rule, order or procedure issued by the SEF, including Notice to Participants, and other requirements implemented under the SEF Rules.

**“Officer”** has the meaning attributed to such term in Rule 203.

**“Order”** means either a bid or an offer for a Contract, including a response to a request for quote, a response to a resting quote, and the display of a quote on an order book.

**“Participant”** means any Person that has signed the Participant Documentation and has been granted, and continues to have, Trading Privileges under the SEF Rules. Subject to Applicable Law, a Participant may trade for its own proprietary account or for or on behalf of a Client or Customer.

**“Participant ID”** means each unique identifier assigned to a Participant by FTSEF for access to the SEF

**“Participant Documentation”** means the agreements (together with any applicable schedules, exhibits or appendices thereto required by the SEF) in form and substance acceptable to the SEF, that are required to be executed and delivered to the SEF before a Person may access the Trading System as a Participant.

**“Permitted Transactions”** means any Transaction 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.

**“Personal Information”** or **“Proprietary Data”** means information related to business Transactions, market positions, or trade secrets.

**“Trading System”** means the electronic trading system of the SEF established and operated by FTSEF, or any successor thereto, that is made available by FTSEF to Participants for trading in Swaps.

**“Primary Economic Terms”** has the meaning ascribed to it by CFTC Regulation § 45.1, or any successor regulation thereto.

**“Registered Entity”** means (1) a board of trade designated as a contract market under section 5 of the CEA; (2) a Derivatives Clearing Organization; (3) a board of trade designated as a contract market under section 5f of the CEA; (4) a Swap Execution Facility registered under section 5h of the CEA; (5) a Swap Data Repository registered under section 21 of the CEA; and (6) with respect to a contract that the CFTC determines is a significant price discovery contract, any electronic trading facility on which the contract is executed or traded.

**“Regulatory Oversight Committee”** means the committee of the Board constituted in accordance with Rule 207.

**“Reporting Entity”** means a Reporting Counterparty, as defined in CFTC Regulation § 45.1, and/or a Reporting Party, as defined in CFTC Regulation § 43.2.

“**Request For Quote Trading System**” or “**RFQ Trading System**” is defined in Rule 703.

“**Required Number**” means (i) prior to October 2, 2014, no less than two (2) potential Counterparties and (ii) thereafter, no less than three (3) potential Counterparties.

“**Required Transactions**” means any Transaction involving a Swap which is subject to the clearing requirement of Section 2(h)(1) of the CEA and which has been “made available to trade” by any Swap Execution Facility or Contract Market pursuant to the Applicable Law.

“**Review Panel**” means the Disciplinary Panel responsible for determining whether a reasonable basis exists for finding a violation of the SEF Rules, and for authorizing the issuance of notices of charges against Persons alleged to have committed violations if the Review Panel believes that the matter should be adjudicated.

“**Rule**” or “**Rules**” means “**SEF Rules**”

“**Secondment Agreement**” means the agreement entered into by SEF employees who are employed by an entity other than the SEF and who perform work on behalf of the SEF which sets forth the obligations that stem from the CEA, the CFTC’s regulations, and the SEF’s rules.

“**SEF**” or “**the SEF**” means FTSEF LLC, or any successor thereto, a Self-Regulatory Organization registered with the CFTC as a Swap Execution Facility.

“**SEF Activity**” means business for which a Participant, Clearing Member, Customer or Client is subject to the SEF Rules or which is purportedly conducted subject to the SEF Rules, including but not limited to the Execution of any Contract on the Trading System, including Permitted Transactions and Block Trades.

“**SEF Arbitration**” shall mean an arbitration proceeding commenced and conducted pursuant to the SEF Rules.

“**SEF LLC Agreement**” means the Operating Agreement of FTSEF LLC.

“**SEF Confirmation**” has the meanings attributed to such term in Rule 404(a).

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

“**SEF Market Data**” is defined in Rule 1201.

“**SEF Participant Application**” means the User Agreement and any other agreements or information that are required to be executed and delivered to the SEF before a Person may access the Trading System.

“**SEF Proceeding**” has the meanings attributed to such term in Rule 210(a).

“**SEF Rules**” means all rules adopted in this Rulebook, all Notices to Participants published by the SEF, the User Agreement, interpretations, orders, resolutions, advisories, statements of policy, decisions, manuals and directives of the SEF, and all amendments thereto.

“**Self-Regulatory Action**” has the meaning attributed to such term in Rule 210(a).

“**Self-Regulatory Organization**” shall, unless otherwise provided, have the meaning attributed to such term in CFTC Regulation § 1.3(ee), or any successor regulation thereto, and, in addition, shall include a Swap Execution Facility, Contract Market, Derivatives Clearing Organization, and registered futures association, such as the NFA. FTSEF is a self-regulatory organization.

“**Services Provider**” means the organization, if any, which provides technology services or other services to the SEF pursuant to an Administrative Services Agreement.

“**Swap**” or “**Swaps**” means any agreement, contract or Transaction that is a Swap as defined in Section 1a(47) of the CEA and as further defined by the CFTC, which is listed on the SEF in accordance with CFTC Regulation § 37.4.

“**Swap Data Repository**” or “**SDR**” shall have the meaning set forth in Section 1a(48) of the CEA and the CFTC’s rules and regulations promulgated thereunder.

“**Swap Dealer**” shall have the meaning ascribed to it by CFTC Regulation § 1.3(ggg), or any successor regulation thereto.

“**Swap Execution Facility**” or “**SEF**” shall have the meaning set forth in Section 1a(50) of the CEA and the CFTC’s rules and regulations promulgated thereunder.

“**Terms Incorporated by Reference**” means any documents and agreements (including, without limitation, ISDA master agreements, other master agreements, terms supplements, master confirmation agreements, and incorporated industry definitions) governing a Transaction existing at the time of execution to which the applicable Participants are party.

“**Trade Confirmation**” has the meaning attributed to such term in Rule 404(a).

“**Trading Hours**” means, for any Business Day, the hours during which Orders may be placed on Trading System , as shall be established, and may be revised from time to time, by the SEF pursuant to Rule 903.

“**Trading Privileges**” means the right granted to a Participant to use, directly or indirectly, the SEF for execution of Swaps. No Person may exercise Trading Privileges on behalf of a Participant during any suspension of such Participant’s Trading Privileges.

“**Trading System**” means the electronic trading system of the SEF established and operated by FTSEF, or any successor thereto, that is made available by FTSEF to Participants for trading in Swaps.

“**Transaction**” means any purchase or sale of any Contract made on the Trading System or pursuant to the SEF Rules.

“**Transaction Data**” means, with respect to a Participant, data submitted by that Participant related to requests for quotes, offers, bids, pricing, matching, netting, settlement and similar data submitted through the Trading System to one or more counterparties, as well as information that such Participant may upload to the Trading System with respect to Transactions conducted otherwise than through the use of the Trading System’s functionality, and messages sent in respect thereof.

“**U.S. Person**” means a U.S. person as defined in the Commodity Exchange Act and the applicable regulations promulgated from time to time in connection therewith, or, in each case, under any interpretation issued in connection therewith or successor statute or rule.

“**Unique Swap Identifier**” or “**USI**” shall have the meaning ascribed to it by CFTC Regulation § 45.5, or any successor regulation thereto.

“**User Agreement**” means the agreement entered into between a Participant and FTSEF that identifies the rights and obligations of both parties and incorporates the FTSEF Rules by reference to such agreement.

“**Valuation Data**” has the meaning ascribed to it in CFTC Regulation § 45.1, or any successor regulation thereto.

“**written**” or “**writing**” means printing, lithography, photography, and other modes of representing or reproducing words or data in a visible form, including electronic transmissions.

\* \* \* \* \*

## **RULE 102. RULES OF CONSTRUCTION**

The following rules of construction shall apply to the SEF Rules:

- (a) the headings in the SEF Rules are for convenience only and do not affect the construction of the SEF Rules;
- (b) all references to time in the SEF Rules are to local time in New York, New York, except where expressly provided otherwise;
- (c) in the SEF Rules, words denoting a singular number include the plural number where the context permits and vice versa;
- (d) where the context permits or requires, any pronoun shall include the corresponding masculine, feminine and neuter forms;
- (e) forms of the word “include” mean that the inclusion is not limited to the items listed;
- (f) “or” is disjunctive but not exclusive;
- (g) references in the SEF Rules to statutory provisions include those provisions as amended, and any rules or regulations promulgated thereunder.

## **Chapter 2 GOVERNANCE**

### **RULE 201. GOVERNANCE**

The SEF is a New York limited liability company. The management of the SEF is governed by the SEF LLC Agreement.

### **RULE 202. BOARD**

- (a) The Board shall oversee the operation of the SEF and shall have the authority to review, call for review, amend, suspend or overrule the decisions and actions of any SEF Committee. Without limiting the generality of the foregoing, the Board shall have the power to: adopt, amend, implement and repeal SEF Rules, not contrary to Applicable Law or the SEF LLC Agreement, as in the Board's judgment promotes the best interest of the SEF; and
- (b) make interpretations of the SEF Rules, which shall be binding on all Persons subject to the jurisdiction of the SEF.
  - (1) The board's membership will include a diversity of membership interests. Twenty percent or more of the regular voting members of the board must be persons who:
    - i. Are knowledgeable of futures trading or financial regulation or are otherwise capable of contributing to governing board deliberations; and,
    - ii. Are not members of the SEF,
    - iii. Are not currently salaried employees of the SEF,
    - iv. Are not primarily performing services for the SEF in a capacity other than as a member of the SEF's governing board, or
    - v. Are not officers, principals or employees of a firm which holds a membership at the SEF either in its own name or through an employee on behalf of the firm;
- (c) Within thirty days after each governing board election, the SEF will submit to the CFTC a list of the governing board's members, the membership interests they represent and how the composition of the governing board otherwise meets the requirements of CFTC Regulation §1.64(b) and the SEF's implementing standards and procedures.

### **RULE 203. OFFICERS**

The Board shall appoint a Chief Compliance Officer and such other officers of the SEF as it may deem necessary or appropriate from time to time, in accordance with the SEF LLC Agreement. The Chief Compliance Officer shall have all authority required under CFTC Regulation 37.1500

*et seq.* Any Officer may also be a director, officer, partner or employee of the SEF or any of its Affiliates. The Officers shall have such powers and duties in the management of the SEF as the Board may prescribe from time to time.

#### **RULE 204. DISQUALIFICATION OF BOARD AND COMMITTEE MEMBERS**

- (a) No Person may serve as a Director, or serve on a committee established by the Board or a Disciplinary Panel if the individual:
- (1) within the prior three (3) years has been found, by a final decision in any action or proceeding brought in a court of competent jurisdiction, the CFTC, or any Self-Regulatory 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 a Contract Market, is suspended or expelled from membership in a Self-Regulatory 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 a court of competent jurisdiction, the CFTC, or any Self-Regulatory 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 or Self-Regulatory Organization not to apply for registration with the CFTC or for membership in the Self-Regulatory 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 section 8a(2)(D)(ii) 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; or
  - (7) is subject to a statutory disqualification pursuant to Section 8a(2) or 8a(3) of the CEA.
- (b) For purposes of Rule 204(a), the terms “disciplinary offense,” “final decision,” and “settlement agreement” have the meanings set forth in CFTC Regulation § 1.63(a) or any successor regulation.



## **RULE 205. CHIEF COMPLIANCE OFFICER QUALIFICATIONS AND DUTIES**

- (a) The individual designated to serve as Chief Compliance Officer shall have background and skills appropriate for fulfilling the responsibilities of the position. No individual disqualified from registration pursuant to Sections 8a(2) or 8a(3) of the CEA may serve as Chief Compliance Officer. The SEF shall notify the CFTC of the removal of the Chief Compliance Officer and the appointment of any new Chief Compliance Officer, whether interim or permanent, within two Business Days of such appointment.
- (b) The position of Chief Compliance Officer shall carry with it the authority and resources to develop and enforce policies and procedures necessary to fulfill the duties set forth for chief compliance officers in the CEA and the CFTC Regulations. The Chief Compliance Officer shall have supervisory authority over all staff acting in furtherance of the Chief Compliance Officer's obligations.
- (c) The Chief Compliance Officer shall report directly to the Board, and the Board shall approve the compensation of the Chief Compliance Officer.
- (d) The Chief Compliance Officer shall have the following duties:
  - (1) Overseeing and reviewing the SEF's compliance with Section 5h of the CEA and any related rules adopted by the CFTC;
  - (2) In consultation with the Board, resolving any conflicts of interest that may arise including:
    - i. Conflicts between business considerations and compliance requirements;
    - ii. Conflicts between business considerations and the requirement that the SEF provide fair, open, and impartial access as set forth in CFTC Regulation § 37.202 or any successor regulation; and;
    - iii. Conflicts between the SEF's management and members of the Board;
      - 1. Conflicts affecting the Chief Compliance Officer's ability to impartially perform his duties will be resolved by the Board without participation from the Chief Compliance Officer.
  - (3) Establishing and administering written policies and procedures reasonably designed to prevent violation of the CEA and any rules adopted by the CFTC;
  - (4) Taking reasonable steps to ensure compliance with the CEA and CFTC regulations;
  - (5) Establishing procedures for the remediation of noncompliance issues identified by the Chief Compliance Officer through a compliance office review, look-back, internal or external audit finding, self-reported error, or validated complaint;

- (6) Establishing and following appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues;
  - (7) Establishing and administering a compliance manual designed to promote compliance with the applicable laws, rules, and regulations and a written code of ethics designed to prevent ethical violations and to promote honesty and ethical conduct;
  - (8) Supervising the SEF's self-regulatory program with respect to trade practice surveillance; market surveillance; real-time market monitoring; compliance with audit trail requirements; enforcement and disciplinary proceedings; audits, examinations, and other regulatory responsibilities with respect to Participants, Customers and Clients (including ensuring compliance with, if applicable, financial integrity, financial reporting, sales practice, recordkeeping, and other requirements); and
  - (9) Supervising the effectiveness and sufficiency of any regulatory services provided to the SEF by a Regulatory Services Provider or other Registered Entity in accordance with CFTC Regulation § 37.204 or any successor regulation.
- (e) The Chief Compliance Officer shall have the authority to inspect the books and records of all Participants, Customers, Clients or Clearing Members and the authority to require any Participant, Customer, Client or Clearing Member to appear before him or her and produce its books and records and answer questions regarding alleged violations of the SEF Rules, at the time, place and in the manner it designates.
  - (f) The Chief Compliance Officer shall annually prepare and sign a report pursuant to the requirements in Section 37.1501(e) and 37.1501(f) which shall contain a description of: (i) the compliance of the SEF with the CEA; and (ii) the policies and procedures, including the code of ethics and conflict of interest policies, of the SEF. Such annual report shall include a certification that, under penalty of law, it is accurate and complete and be submitted to the CFTC.

#### **RULE 206. COMMITTEES**

- (a) The SEF shall have such committees, and special committees that the Board may deem, from time to time, necessary for the operations of the SEF and appointed in accordance with the SEF Rules. For the avoidance of any doubt, all references to "committee" shall include any panel appointed from a committee.
- (b) The Board shall initially have one standing committee: the Regulatory Oversight Committee (ROC).
- (c) Each standing committee shall assist in the supervision, management and control of the affairs of the SEF within its particular area of responsibility, subject to the authority of the Board.

- (d) All committee decisions shall be reported to the Board for final approval. Except as otherwise provided in the SEF Rules, the Board shall have the authority to overrule the decision of any committee.

**RULE 207. REGULATORY OVERSIGHT COMMITTEE**

- (a) The Regulatory Oversight Committee shall have a total of three (3) members or such other number of committee members as the Board shall determine is necessary to comply with any final governance rules adopted by the CFTC. The Board shall delegate sufficient authority, dedicate sufficient resources, and allow sufficient time for the Regulatory Oversight Committee to fulfill its mandate. The Regulatory Oversight Committee shall oversee all aspects of the SEF's regulatory program on behalf of the Board. The Regulatory Oversight Committee shall report to the Board and shall make such recommendations to the Board as may, in its judgment, best promote the interests of the SEF. The Chief Compliance Officer shall meet with the Regulatory Oversight Committee at least once each calendar quarter.
- (b) Each member of the Regulatory Oversight Committee shall serve for a term of two (2) calendar years from the date of their appointment or for the remainder of their term as a Director, if applicable, and until the due appointment of his or her successor, or until his or her earlier resignation or removal, with or without cause, as a member of the Regulatory Oversight Committee or as a Director. A member of the Regulatory Oversight Committee may serve for multiple terms.
- (c) The Regulatory Oversight Committee shall oversee the SEF's regulatory program on behalf of the Board. The Board shall delegate sufficient authority, dedicate sufficient resources, and allow sufficient time for the Regulatory Oversight Committee to fulfill its mandate. It shall make such recommendations to the Board as will, in its judgment; best promote the interests of the SEF. The Regulatory Oversight Committee shall also have such other powers and perform such other duties as set forth in the SEF Rules and as the Board may delegate to it from time to time.
- (d) Without limiting the generality of the foregoing, the Regulatory Oversight Committee shall have authority to monitor all aspects of the SEF's regulatory program for sufficiency, effectiveness, and independence regarding:
  - (1) trade practice and market surveillance, audits, examinations and other regulatory responsibilities with respect to SEF Participants, including, without limitation, compliance with financial integrity, financial reporting, sales practice, recordkeeping, and conducting investigations;
  - (2) reviewing the size and allocation of regulatory budget and resources, and the number, hiring, termination, and compensation of regulatory personnel;
  - (3) reviewing the performance of the Chief Compliance Officer and making recommendations with respect to such performance to the Board;
  - (4) recommending changes that would ensure fair, vigorous, and effective regulation;

- (5) reviewing all regulatory proposals prior to implementation and advising the Board as to whether and how such changes may impact regulation; and
- (6) monitoring for potential conflicts of interest and assisting the Board in minimizing actual or potential conflicts of interest relating to the SEF's self-regulatory obligations.

#### **RULE 208. ADDITIONAL COMMITTEES AND PANELS**

- (a) The Board may create such additional standing committees of the Board as it may from time to time deem necessary or advisable. Except as otherwise specifically provided in the SEF Rules, the members of any additional committee or panel shall be appointed as determined by the Board. The Board shall designate the chairperson of such additional committee or panel.
- (b) In addition to the standing committees, the Board may from time to time constitute and appoint, by Rule or resolution, special committees of the Board and designate their composition, responsibilities and powers.
- (c) Subject to the authority of the Board, each additional committee or panel shall determine the manner and form in which its proceedings shall be conducted. Each additional committee or panel may act only by the decision of an absolute majority in number of the members of such committee or panel, either by vote at a meeting or by unanimous written consent without a meeting.

#### **RULE 209. EMERGENCY RULES**

- (a) Subject to Applicable Law, during an Emergency, the SEF may implement Emergency Rules, Pursuant to the Emergency Rules, the SEF will have the authority to intervene as necessary to maintain markets with fair and orderly trading and to prevent or address manipulation or disruptive trading practices, whether the need for intervention arises exclusively from the SEF's market or as part of a coordinated, cross-market intervention. Emergency Rules may require or authorize the SEF, the Board, any committee of the Board, the Chief Executive Officer, the Chief Compliance Officer, or any other Officer to take actions necessary or appropriate to respond to the Emergency, including:
  - (1) suspending or restricting trading or limiting trading to liquidating only (in whole or in part)
  - (2) extending, limiting or changing trading hours;
  - (3) temporarily modifying or suspending any provision of the SEF Rules or Participant obligations;
  - (4) imposing intraday market restrictions;
  - (5) ordering the liquidation or transfer of open positions;

- (6) shortening or extending trading hours;
  - (7) suspending or curtailing trading in a Contract;
  - (8) altering the terms and conditions of a Contract;
  - (9) imposing or modifying price limits; and/or
  - (10) imposing or modifying position limits.
- (b) Before any Emergency Rule may be adopted and enforced, a required vote of the Regulatory Oversight Committee must approve the enforcement of such Emergency Rule at a duly convened meeting. Directors may attend such a meeting by teleconference. If the Chief Executive Officer or Chief Compliance Officer determines that Emergency Rules must be implemented with respect to an Emergency before a meeting of the Regulatory Oversight Committee can reasonably be convened, then the Chief Executive Officer or Chief Compliance Officer shall have the authority, without Board or Committee action, to implement any Emergency Rules with respect to such Emergency that he or she deems necessary or appropriate to respond to such Emergency. In such circumstances, the Chief Executive Officer or Chief Compliance Officer must convene a meeting as soon as practicable.
- (c) Whenever the SEF, the Board, any committee of the Board, the Chief Executive Officer or Chief Compliance Officer takes actions necessary or appropriate to respond to an Emergency, it will, where practicable, ensure that prompt notice is given to Participants.
- (d) In situations where a Swap is traded on more than one Swap Execution Facility, Emergency action to liquidate or transfer open interest must be directed, or agreed to, by the CFTC or CFTC staff, and the SEF will use reasonable efforts to coordinate with any Derivatives Clearing Organization that has cleared the Swap and any other Swap Execution Facilities where such Swap is traded prior to mandating the liquidation or transfer of such Swap.
- (e) The SEF will use reasonable efforts to notify the CFTC prior to implementing, modifying or terminating an Emergency Rule. If such prior notification is not possible or practicable, the SEF will notify the CFTC at the earliest possible time after implementation, modification or termination, but in no event more than twenty-four hours after implementation, modification or termination.
- (f) Upon taking any action in response to an Emergency, the SEF will document the decision-making process related to such action. Information on any regulatory action taken pursuant to the Emergency Rules will be included in a submission of a certified rule to the CFTC. All such documentation will be kept for at least five years, two years in a readily accessible location, following the date on which the Emergency ceases to exist or to affect the SEF, and all such documentation will be provided to the CFTC upon request.

- (g) Upon taking any action in response to an Emergency, the SEF will promptly notify the CFTC of the SEF's exercise of the Emergency Rules, explaining its decision-making process, the reasons for using its Emergency authority, and how conflicts of interest were minimized, including the extent to which the SEF considered the effect of its Emergency action on the underlying markets and on markets that are linked or referenced to the contracts traded on its facility, including similar markets on other trading venues.
- (h) When the SEF determines that the Emergency has been reduced sufficiently to allow the SEF to resume normal functioning, any such actions will be modified or terminated, as appropriate.

## **RULE 210. CONFLICTS OF INTEREST**

FTSEF believes that it is in the best interest of FTSEF and Participants to be aware of and properly manage all conflicts of interest and appearances of conflicts of interest. Accordingly, the following rules shall apply to mitigate potential and actual conflicts of interest.

- (a) A Director, Officer, Disciplinary Panel member or other Person authorized to exercise the SEF's authority concerning any inquiry, investigation, disciplinary proceeding, summary suspension, or other summary actions (any such action, a "**SEF Proceeding**" and, collectively, "**SEF Proceedings**"), or Emergency actions taken pursuant to Rule 209 or Emergency disciplinary action taken pursuant to Rule 1014 (each such SEF Proceeding or Emergency action, a "**Self-Regulatory Action**") who knowingly has a "material conflict of interest" between his or her position as a Director, Officer, panel member or exercise of authority concerning a Self-Regulatory Action and his or her personal interests (each, an "**Interested Person**") may not participate in any deliberations or vote of the Board Committee, panel or exercise any authority with respect to such Self-Regulatory Action involving his or her personal interest, except as described in Rule 210(d).
- (b) For purposes of Rule 210(a), a "**material conflict of interest**" means a Director, Officer, Disciplinary Panel Member or other Person:
  - (1) being named as a respondent or potential respondent in the Self-Regulatory Action;
  - (2) being an employer, employee, fellow employee or an Affiliate of a respondent or potential respondent in the Self-Regulatory Action;
  - (3) having any significant, ongoing business relationship with a respondent or potential respondent in the Self-Regulatory Action;
  - (4) having a family relationship with a respondent or potential respondent in a Self-Regulatory Action (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 either exchange or non-exchange positions (as referenced in CFTC Regulation § 1.69) that could reasonably be expected to be affected by the action. A direct and substantial financial interest includes positions in Contracts 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 are reasonably expected to be affected by the deliberations or vote; and/or
  - (6) any other circumstance that gives rise to a conflict between the Director's, Officer's, Disciplinary Panel Member's or Other Person's exercise of authority concerning any Self-Regulatory Action and his or her personal interests.
- (c) Before considering any Self-Regulatory Action, an Interested Person must disclose in writing to the Board the material facts concerning his or her relationship or interest in the matter.
- (d) Any Interested Person who would be required otherwise to abstain from deliberations and voting pursuant to Rule 210(a) as a result of having a direct and substantial financial interest in the result of the deliberations and vote may participate in deliberations, prior to a vote on the matter, if:
- (1) the material facts about the Interested Person's financial interest in the matter are disclosed or known to the Board, Committee, of Disciplinary Panel;
  - (2) the Board, Committee, of Disciplinary Panel determines that the participation by the Interested Person would be consistent with the public interest; and
  - (3) a majority of the Directors (excluding any Interested Persons) vote to allow the Interested Person to participate in deliberations on the matter.
- (e) If a determination is made pursuant to Rule 210(d) that an Interested Person may participate in deliberations prior to a vote, then the minutes of the meeting of the Board or committee thereof will reflect the determination and the reasons for the determination.
- (f) If a determination is made that all Directors are Interested Persons with respect to a matter subject to a vote by the Board, the Chief Executive Officer will appoint a panel of individuals who are not Interested Persons with respect to such matter, which will have the same authority and powers over such matter that the Board would have if the Directors were not Interested Persons with respect to such matter.
- (g) No Director, Officer or member of any committee or panel established by the Board shall use or disclose for any purpose other than the performance of his or her official duties and responsibilities as a Director, Officer or committee or panel member any material, non-public information obtained as a result of the individual's duties and responsibilities as a Director, Officer or committee or panel member. No Director, Officer or committee or panel member shall, directly or indirectly, disclose or use at any time, either during his or her association with the SEF or thereafter, any confidential information of which the Board member or committee or panel member becomes aware. Each Director, Officer or

committee or panel member in possession of confidential information shall take all appropriate steps to safeguard the information and to protect it against disclosure, misuse, espionage, loss and theft.

- (h) Notwithstanding Rule 210(g), a Director, Officer or committee or panel member may disclose confidential information if required by Applicable Law or a court order to be revealed to the United States Department of Justice or the CFTC.
- (i) For the purposes of Rule 210(g), the terms “material information” and “non-public information” shall each have the meaning set forth in CFTC Regulation § 1.59(a) or any successor regulation.

#### **RULE 211. SERVICES AGREEMENTS**

- (a) The SEF may, at any time, choose to contract with a registered futures association, or other Registered Entity, for the provision of regulatory services which includes, without limitation, assistance with the SEF’s enforcement of the SEF Rules. Any act or requirement that is required to be performed by the Compliance Department, under the SEF Rules, may be performed by a regulatory service provider. The SEF shall retain ultimate decision-making authority with respect to any functions that are contracted to a Regulatory Service Provider.
- (b) The SEF may contract with a Services Provider to provide certain technology services to the SEF pursuant to an Administrative Services Agreement. In accordance with an Administrative Services Agreement, a Services Provider may perform certain functions under the SEF Rules and the SEF may provide information to the Services Provider in connection with the performance by the Services Provider of such functions.

#### **RULE 212 FINANCIAL RESOURCES**

- (a) In calculating projected operating costs, the SEF includes all costs incurred by the SEF in its capacity as a SEF, includes all costs allocated to the SEF for which the SEF is responsible, and includes all costs incurred by any affiliated entity on behalf of the SEF.
- (b) In calculating projected operating costs, the SEF calculates the costs associated with all methods of execution and all products it lists and does not omit any costs associated with Permitted Transactions.
- (c) If a letter of credit is issued, the letter is irrevocable, non-conditional, provides cash within the same or next business day after a draw request, and is used to satisfy only liquidity requirements, not the broader financial resources requirements.
- (d) The SEF does not count any resources of its parent company or any affiliated company as part of its financial resources calculation.



### **Chapter 3 PARTICIPANTS**

#### **RULE 301. ELIGIBILITY CRITERIA FOR BECOMING A PARTICIPANT**

- (a) Pursuant to CFTC Regulation §37.202, in order to be eligible for admission as a Participant, an applicant must demonstrate that it:
- (1) is an Eligible Contract Participant, and each Client or Customer on whose behalf it wishes to trade on the SEF is an Eligible Contract Participant;
  - (2) is of good reputation and business integrity;
  - (3) maintains adequate financial resources and credit;
  - (4) is validly organized, in good standing, and authorized by its governing body and, if relevant, documents of organization, to trade Contracts (if an entity);
  - (5) is not subject to any economic or trade sanctions programs administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury (“OFAC”) or other relevant U.S. or non-U.S. authority, and is not listed on OFAC’s List of Specially Designated Nationals and Block Persons;
  - (6) has not filed for bankruptcy;
  - (7) is not prohibited from using the services of the SEF for any reason whatsoever;
  - (8) holds all registrations required under Applicable Law, if any;
  - (9) is not subject to statutory disqualification under Section 8a(2) of the CEA;
  - (10) consents to the SEF’s jurisdiction pursuant to Rule 311; and
  - (11) satisfies any other criteria that the SEF may require from a Participant perform its SRO responsibilities, comply with Applicable Law or provide SEF services.
- (b) No Participant, including a Participant that is an Account Manager, shall carry an account for a Customer or enter an Order in the name of or on behalf of a Client unless the Participant has entered into an agreement with such Customer or Client, which must, at a minimum:
- (1) contain a representation from the Customer or Client that the Customer or Client is an Eligible Contract Participant at the time of execution of any Swap on or subject to the rules of the SEF;
  - (2) contain a requirement that each Customer or Client become a Participant or consent to the jurisdiction of the SEF in connection with and with respect to any

Swap executed for or on behalf of such Customer or Client on or subject to the rules of the SEF; and

- (3) obligate the Customer or Client to provide the SEF and its agents access to all books and records, staff and other information necessary for monitoring and enforcement of the SEF Rules.
- (c) Once admitted, the Participant shall continue to comply with all applicable eligibility criteria in Rule 301(a).
- (d) Each Participant that is not an Account Manager must either be a Clearing Member or establish a clearing relationship with a Clearing Member, and each Participant that is an Account Manager must ensure that each of its Clients has established a clearing relationship with a Clearing Member; provided, however, that such requirements shall not apply if a Participant or Client, as the case may be: (i) (A) qualifies as an End-User, or (B) otherwise transacts in Swaps on the Trading System that are not required to be cleared, and (ii) does not clear or intend to clear any Swaps executed on the Trading System.
- (e) Each Participant that is not an Account Manager must disclose to the SEF the Clearing Members with which it has clearing relationships, if any, and shall immediately notify the SEF if it ceases to be a clearing customer of any Clearing Member.
- (f) Each Participant that is an Account Manager must disclose to the SEF the Clearing Members with which its Clients have clearing relationships, if any, and shall immediately notify the SEF if it ceases to be a clearing customer of any Clearing Member.
- (g) Participants and Clients that do not have a relationship with a Clearing Member as set forth in the SEF Rule 301(d) are prohibited from entering Orders or causing Orders to be entered for Required Transactions.
- (h) Participant understands that the SEF may restrict, suspend or terminate Participant's access to the Trading System at the direction of the Clearing Member.
- (i) The SEF may allow, deny, suspend, or permanently bar Participant's access to the Trading System pursuant to disciplinary measures or emergency action, or for any other reason at the sole discretion of the SEF.

**RULE 302. APPLICATION PROCEDURES; TERMINATION OF PARTICIPANT**

- (a) Any Person who desires to become a Participant shall:
  - (1) complete and submit the Participant Documentation;
  - (2) establish a clearing relationship with a Clearing Member, except as provided in the SEF Rule 301(d);
  - (3) enter into an agreement to clear with a Clearing House, if applicable;

- (4) agree to abide by the SEF Rules and Applicable Law;
  - (5) provide such information and documentation as may be requested by the SEF pertaining to the Participant or the Participant's Clients if Participant is an Account Manager, and follow the procedures established by the SEF for admission; and,
  - (6) if Participant is organized or located outside of the United States, enter into a written agreement acceptable to the SEF appointing a third party as its U.S. agent for service of process for purposes of CFTC Regulation 15.05, and shall provide the SEF with a copy of the agreement.
- (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. In determining whether to admit an applicant as a Participant, the SEF will evaluate, among other things, the applicant's disciplinary history and financial and operational soundness.
- (c) If the SEF decides to admit an applicant as a Participant, it shall promptly notify the applicant and state in such notice the date on which the applicant shall become a Participant.
- (d) The SEF may deny, condition or terminate Participant status of any Person:
- (1) If such Person is unable to satisfactorily demonstrate its ability to satisfy the eligibility criteria to become or remain a Participant;
  - (2) If such Person is unable to satisfactorily demonstrate its capacity to adhere to all applicable SEF Rules and Applicable Law;
  - (3) for such other cause as the SEF may reasonably determine.
- (e) If the SEF 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 Board reconsider that determination. The Board 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 Board 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. Board shall promptly notify the applicant of its decision in writing. The decision of the Board shall be final and not subject to appeal.

### **RULE 303. TRADING PRIVILEGES OF A PARTICIPANT**

- (a) Upon admission as a Participant, the Participant must execute such Participant Documentation as required from time to time by the SEF, and such Participant Documentation must remain in effect for the Participant to access the Trading System.
- (b) Admission as a Participant only entitles the Participant to the Trading Privileges and does not confer any right of ownership in, or right to attend or vote at meetings of, the SEF, or right to share in the profits, of the SEF. A Participant may not transfer or assign its status as a Participant.

### **RULE 304. TRADING ACCESS**

The SEF may at any time revoke, suspend, limit, condition, restrict or qualify a Participant's and/or a Participant's Authorized Trader(s)' Trading Privileges and/or ability to access the Trading System, if in the sole discretion of the SEF such action is in the best interests of the SEF.

### **RULE 305. FEES AND ASSESSMENTS**

Each Participant shall pay when due all dues, assessments and fees as may be established by the SEF and published on the SEF's website or otherwise agreed between the SEF and such Participant. The SEF 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 and its ability to otherwise access the Trading System if such Participant fails to pay such amounts when due.

### **RULE 306. PARTICIPANT REPRESENTATIVES**

- (a) Authorized Traders. Each Participant shall nominate or designate one or more Authorized Traders.
  - (1) Each Authorized Trader: (i) must be a natural person; and (ii) must satisfy any other requirements as be prescribed by the SEF from time to time; and
  - (2) Any person who is an Authorized Trader must: (i) utilize the Participant's Legal Entity Identifier for all activities on the Trading System; and (ii) utilize the Participant ID provided by the SEF to such Authorized Trader.
- (b) Authorized Representatives
  - (1) Authorized Representatives will represent the Participant before the SEF and its committees and receive notices on behalf of such Participant.
  - (2) Authorized Representatives shall be empowered by the Participant to act on its behalf, and the SEF shall be entitled to rely on the actions of Authorized Representatives as binding on the Participant, unless and until Participant has

notified the SEF that such Authorized Representative's designation has been revoked.

- (3) Each Participant must provide the SEF with current contact and other requested information for each of its Authorized Representatives so that the SEF is able to immediately contact such Authorized Representatives.

#### **RULE 307. IDENTIFICATION OF AUTHORIZED TRADERS**

- (a) Each person trading on behalf of a Participant shall be identified to the SEF by Participant's Legal Entity Identifier and shall be subject to the SEF Rules. It is the duty of the Participant to ensure that Legal Entity Identifiers are current and accurate at all times. Participant shall not use, and the SEF may deny Participant access to, the Trading System at any time that Participant has, or is required by CFTC regulations to have, a Legal Entity Identifier if Participant does not have such a Legal Entity Identifier or has not notified the SEF in writing of such Legal Entity Identifier.
- (b) Participant shall be responsible for, and shall take and maintain appropriate steps to ensure, the security of Participant's (and Participant's Authorized Traders') use of the Trading System.
- (c) Without limiting the foregoing, each Authorized Trader will abide by applicable SEF Rules and Applicable Law, and each Participant will ensure on an ongoing basis that: (i) none of its Authorized Traders is subject to a disqualification pursuant to any Applicable Law (unless an appropriate exemption has been obtained with respect thereto); (ii) each of its Authorized Traders will be technically proficient; (iii) each of its Authorized Traders will conduct its business in a fair and equitable manner; and (iv) each of its Authorized Traders will conduct its business in accordance with the SEF Rules.
- (d) Each Participant and each Authorized Trader will also individually receive a Participant ID and a corresponding password to enable such Participant or Authorized Trader to access and use the Trading System. Each individual must use a Legal Entity Identifier and Participant ID to access the Trading System. In no event may a Person enter an Order or permit the entry of an Order by an individual using Participant ID other than the individual's own Participant ID.

#### **RULE 308. RECORDING OF COMMUNICATIONS**

The SEF or may record conversations and retain copies of electronic communications between SEF Officials, on one hand, and Participants and their Authorized Traders, on the other hand. Any such recordings may be retained by the SEF in such manner and for such periods of time as the SEF may deem necessary or appropriate or as required by Applicable Law.

#### **RULE 309. NOTICES TO PARTICIPANTS**

The SEF shall publish a notice with respect to each addition to, modification of, or clarification of, the SEF Rules or of any action to implement any SEF Rules, in a form and manner that is reasonably designed to enable each Participant to become aware of and familiar with, and to

implement any necessary preparatory measures to be taken by it with respect to, such addition or modification, prior to the effective date thereof (each a “*Notice to Participants*”). For purposes of publication in accordance with the first sentence of this Rule, it shall be sufficient (without limiting the discretion of the SEF as to any other reasonable means of communication) if a Notice to Participants is published on the SEF’s website and posted on the SEF’s internal notification system. Any Notice to Participants published and transmitted shall also be deemed to have been made to all Account Managers, Clients, Customers, Authorized Representatives and Authorized Traders.

#### **RULE 310. COMMUNICATIONS BETWEEN THE SEF AND PARTICIPANTS**

Each Participant must provide the SEF with its current electronic mail address and telephone number and the electronic mail address and telephone number of any of its Authorized Traders, and immediately (and in any event within 24 hours) update this information whenever it changes. All communications made to Participants shall also be deemed to have been made to all Authorized Representatives and Authorized Traders, and all communications made to an Authorized Representative or Authorized Trader shall also be deemed to have been made to Participant. The Participant shall be responsible for conveying such communications to its Authorized Traders and/or to its Customers or Clients. Each Participant will be responsible for promptly reviewing and, if necessary, responding to all electronic communications from the SEF to the Participant or any of its Authorized Traders, Customer or Clients.

#### **RULE 311. APPLICATION OF THE SEF RULES**

- (a) Any Participant accessing the Trading System or entering any Order or submitting any Contract into the Trading System, whether directly or through an intermediary, and without any need for any further action, undertaking or agreement, a Participant and its Authorized Trader(s), and the Clients and Customers of any Participant agree:
- (1) TO BE BOUND BY, AND COMPLY WITH, THE SEF RULES AND OBLIGATIONS, AND APPLICABLE LAW, IN EACH CASE TO THE EXTENT APPLICABLE TO IT;
  - (2) TO BECOME SUBJECT TO THE JURISDICTION OF THE SEF WITH RESPECT TO ANY AND ALL MATTERS ARISING FROM, RELATED TO, OR IN CONNECTION WITH, THE STATUS, ACTIONS OR OMISSIONS OF SUCH PERSON;
  - (3) TO PERMIT THE SEF TO ACCESS ANY AND ALL INFORMATION RELEVANT TO ACTIVITIES RELATED TO THE SEF’S BUSINESS;
  - (4) TO ASSIST THE SEF IN COMPLYING WITH ITS LEGAL AND REGULATORY OBLIGATIONS, COOPERATE WITH THE SEF AND THE CFTC IN ANY INQUIRY, INVESTIGATION, AUDIT, EXAMINATION OR PROCEEDING; AND

(5) THAT THE SEF IS AUTHORIZED TO PROVIDE INFORMATION REGARDING PARTICIPANT TO THE CFTC OR ANY SELF-REGULATORY ORGANIZATION.

- (b) Any Person whose access to the SEF is suspended for any period remains subject to the SEF Rules, the Obligations and the SEF's jurisdiction throughout the period of suspension. Any Person whose access to the SEF is revoked or terminated shall remain bound by the SEF Rules and Applicable Law, in each case to the extent applicable to it, and subject to the jurisdiction of the SEF with respect to any and all matters arising from, related to, or in connection with, the status, actions or omissions of such Participant prior to such revocation or termination.

#### **RULE 312. DESCRIPTION OF PARTICIPANT'S STATUS**

A Participant shall ensure that the form, content and context of any description of the Participant's status on the SEF to Customers is not inconsistent with, and does not misrepresent, the Participant's capacity on the SEF under the SEF Rules or the Participant's registration, if any, under the CEA, or under any other Applicable Law.

#### **RULE 313. DEATH OR DISSOLUTION OF A PARTICIPANT**

All rights and privileges of a Participant terminate upon, and all obligations of a Participant shall survive, the death or incapacity of the Participant (if an individual) or the dissolution of the Participant (if an entity).

#### **RULE 314. WITHDRAWAL OF A PARTICIPANT**

- (a) A Participant may withdraw from the SEF by submitting a written request to the SEF. All requests for withdrawal of Participant status will be reviewed by the SEF. Unless otherwise provided by written agreement Participant's request to withdraw from the SEF shall be effective immediately upon receipt of a Participant's request to withdraw.
- (b) When the SEF accepts the withdrawal of a Participant, all rights and privileges of such Participant terminate (including, without limitation, the Trading Privileges and ability to access the Trading System). The accepted withdrawal of a Participant shall not affect the rights of the SEF under the SEF Rules or relieve the former Participant of its Obligations under the SEF Rules, to perform all contracts involving any Contracts entered into by such, or to pay any of the SEF's fees, costs, or charges incurred, before the withdrawal. Notwithstanding the accepted withdrawal of a Participant, the withdrawn Participant remains subject to the SEF Rules, the Obligations and the jurisdiction of the SEF for acts done and omissions made while a Participant, and must cooperate in any SEF Proceeding under Chapter 10 as if the withdrawn Participant were still a Participant.

#### **RULE 315. COMPLIANCE WITH THE COMMODITY EXCHANGE ACT**

All Participants, Authorized Traders of Participants and all Clients and Customers of any Participant that is an Account Manager shall comply with the provisions of the CEA and CFTC Regulations, including the filing of reports, maintenance of books and records, and permitting

inspection and visitation by duly authorized representatives of the CFTC or Department of Justice.

#### **RULE 316. ACCESS**

- (a) Eligible Contract Participant Access. The SEF will provide its services to any Eligible Contract Participant with access to its markets and services that is impartial, transparent and applied in a fair and non-discriminatory manner; provided, however, that each Eligible Contract Participant complies with the SEF's documentation and the eligibility requirements set forth in this Rulebook.
- (b) ISV Access. The SEF will provide independent software vendor's with access to its Trading System and data in a fair and non-discriminatory manner; provided, however, that each Independent Software Vendor shall comply with the SEF's criteria governing such access. Such access shall be impartial and transparent.

#### **RULE 317 EXTERNAL EMPLOYEES**

- (a) SEF employees who are employed by an entity other than the SEF ("External Entity") and who perform work on behalf of the SEF ("External Employees") are subject to an agreement setting the External Entity's and the External Employees' obligations that stem from the CEA, the CFTC's regulations, and the SEF's rules ("Secondment Agreement"). As set forth below, such agreement specifies that External Employees have obligations that are identical to those of SEF employees who are not employed by an External Entity.
  - (1) Each Secondment Agreement requires the External Employee to follow the reporting structure of the SEF when performing his or her responsibilities for the SEF.
  - (2) Each Secondment Agreement requires the External Employee to consent to jurisdiction in the United States.
  - (3) Each Secondment Agreement specifies that the Commission has jurisdiction over the External Employees with respect to matters related to the SEF.
  - (4) Each Secondment Agreement requires the External Entity to cooperate fully, including providing relevant documents, in any Commission investigation with respect to matters related to the SEF.
  - (5) Each Secondment Agreement requires the External Employees to be bound by the SEF's rules, policies, and procedures.
  - (6) The SEF has submitted as part of its application either (1) signed copies of all Secondment Agreements or (2) a single copy of the full Secondment Agreement and a certification specifying which employees have signed the agreement.



- (b) Potential conflicts arising from the employment of External Employees will be handled in accordance with Rule 210.

**Chapter 4**  
**RECORDKEEPING AND REPORTING**

**RULE 401. REAL-TIME PUBLIC REPORTING**

- (a) The responsibilities for real-time reporting pursuant to CFTC Regulation Part 43 will vary depending on whether or not the Transaction is executed on or pursuant to the SEF Rules.
- (b) For Transactions executed on the Trading System or pursuant to the SEF Rules, including Block Trades, the SEF will fulfill the real-time reporting obligations in CFTC Regulation Part 43. The SEF may enter into contractual relationships with third party service providers to transmit the Swap transaction and pricing data to a Swap Data Repository
- (c) The SEF will report all Swap Transactions and pricing data necessary to publicly disseminate such data, pursuant to CFTC Regulation Part 43 and Appendix A, to a registered SDR as soon as technologically practicable after execution of the publicly reportable Swap Transaction. The SEF shall provide the registered SDR with Swap Transaction and pricing data that includes an actual description of the underlying asset(s).
- (d) The SEF shall timestamp Swap Transaction and pricing data relating to a publicly reportable Swap Transaction with the date and time, to the nearest second of when the SEF (i) receives data from a Swap counterparty (if applicable); and (ii) transmits such data to the SEF for public dissemination. Records of all timestamps shall be maintained for a period of at least five years from the execution of the publicly reportable Swap Transaction.
- (e) The SEF shall have the authority to charge fees for the transmission of transaction and pricing data to a real-time disseminator for Transactions executed on the Trading System or pursuant to the rules of the SEF; provided, however, that such fees shall be equitable and non-discriminatory.
- (f) Likewise, any fees or charges assessed on a Reporting Entity or SEF by a SDR that accepts and publicly disseminates Swap Transaction and pricing data in real-time for the collection of such data shall be equitable and non-discriminatory. If such SDR allows a fee discount based on the volume of data reported to it for public dissemination, then such discount shall be made available to all Reporting Entities or registered SEF's in an equitable and non-discriminatory manner.
- (g) Pursuant to CFTC Regulation § 43.4(f)(2), or any successor regulation thereto, the SEF will report the actual notional or principal amount for all Swaps executed on or pursuant to the rules of the SEF, including those of any Block Trade, to a registered SDR. However, this amount may be rounded or capped by such SDR prior to public dissemination.

- (h) Conversely, the actual notional or principal amount for any Block Trade executed pursuant to the rules of the SEF shall be reported to the SEF pursuant to the rules of the SEF.
  - (1) Participant or Participant's counterparty must transmit all data required to be reported under CFTC Regulation Part 43 for any Block Trades to the SEF as soon as technologically practicable after Execution, but in any event before the times set forth in CFTC Regulation § 43.5(d), or any successor regulation thereto.
  - (2) The parties to a publicly reportable Swap Transaction that has a notional amount at or above the appropriate minimum block size shall notify the SEF, pursuant to the rules of the SEF, of its election to have the publicly reportable Swap Transaction treated as a Block Trade. The SEF pursuant to the rules of which a Block Trade is executed shall notify the SDR of such Block Trade election when transmitting Swap Transaction and pricing data to such SDR in accordance with CFTC Regulation § 43.3(b)(1).
- (i) The SEF will not disclose transaction or pricing data for any Transactions to the general public prior to the public dissemination of such data. However, the SEF may permit Participants and any market participants subscribing to the SEF for information services to access such data after the SEF transmits such data to a registered Swap Data Repository pursuant to Rule 401(g).
- (j) Real-time dissemination of Block Trades will be done in accordance with Rule 602.

#### **RULE 402. REGULATORY REPORTING**

- (a) The SEF will only report Swap data to DTCC SDR.
- (b) The SEF will not modify its trading systems or protocols, its reporting to a Swap Data Repository (including reporting via a third-party service provider), nor its confirmation process pursuant to CFTC Regulation 37.6(b) in a way that reduces the amount of PET data it reports.
- (c) Creation Data.
  - (1) CFTC Regulation Part 45, which sets forth the rules regarding regulatory reporting, requires Creation Data for any Transaction to be reported to a Swap Data Repository after Execution. Creation Data includes the Primary Economic Terms and Confirmation Data.
  - (2) The SEF will use the facilities, methods, or data standards of the Swap Data Repository to which it reports all Swap data.
  - (3) The SEF will report all data fields and Swap creation data to the Swap Data Repository as soon as technologically practicable after execution of the Swap Transaction, including all confirmation data and all PET data, as defined in CFTC Regulation § 45.1.

- (4) The SEF will transmit to both counterparties to the Swap, and to the derivatives clearing organization, if any, that will clear the Swap both:
- i. the identity of the Swap Data Repository to which required Swap creation data is reported by the SEF; and
  - ii. the USI for the Swap created pursuant to CFTC Regulation § 45.5.
- (5) If both counterparties are Swap Dealers, or both counterparties are Major Swap Participants, or both counterparties are neither Swap Dealers nor Major Swap Participants that are financial entities as defined in CEA section 2(h)(7)(C), or both counterparties are neither Swap Dealers nor Major Swap Participants and neither counterparty is a financial entity as defined in CEA section 2(h)(7)(C), then the seller of risk in the currency which is first, when sorted alphabetically by ISO code, would bear responsibility to report the trade. For additional information, please see the ISDA Reporting Counterparty Rules, attached hereto as Rulebook Appendix A.
- (i) The SEF will use the information obtained pursuant to CFTC Regulation § 45.8(h)(1) to identify the counterparty that is the Reporting Entity pursuant to the CEA and CFTC Regulation § 45.8, whenever possible.
- (6) For Transactions executed on the Trading System or pursuant to the SEF Rules, including Block Trades, the SEF will report the Primary Economic Terms and Confirmation Data to a Swap Data Repository. The SEF may enter into contractual relationships with third party service providers to transmit the Primary Economic Terms and Confirmation Data to such Swap Data Repository.
- (7) The SEF will generate and assign a USI for each Swap executed on or pursuant to the rules of the SEF at, or as soon as technologically practicable following, the time of execution of the Swap, and prior to the reporting of required Swap creation data.
- (8) The SEF will include in a single data field:
- i. The unique alphanumeric code assigned to the SEF by the Commission for the purpose of identifying the SEF with respect to USI creation; and
  - ii. An alphanumeric code generated and assigned to the Swap by the automated systems of the SEF, which shall be unique with respect to all such codes generated and assigned by the SEF.
- (9) The SEF will transmit the USI electronically to:
- i. the Swap Data Repository to which the SEF reports required SSwap creation data for the Swap, as part of that report;

- ii. to each counterparty to the Swap, as soon as technologically practicable after execution of the Swap; and
- iii. to the DCO, if any, to which the Swap is submitted for clearing, as part of the required Swap creation data transmitted the DCO for clearing purposes.

Participant or Participant's counterparty must transmit all data required to be reported under CFTC Regulation Part 45 for any Block Trades to the SEF as soon as technologically practicable after Execution.

(10) Participant must provide the SEF with sufficient information to enable the SEF to report all Creation Data, including without limitation:

- i. The Legal Entity Identifier of the Participant;
- ii. A yes/no indication of whether Participant is a Swap Dealer with respect to the product with respect to which the Order is placed;
- iii. A yes/no indication of whether Participant is a Major Swap Participant with respect to the product with respect to which the Order is placed.
- iv. A yes/no indication of whether Participant is a financial entity as defined in CEA section (2)(h)(7)(C);
- v. A yes/no indication of whether Participant is a U.S. Person;
- vi. If applicable, an indication that Participant will elect the End-User Exception for any Swap resulting from the order;
- vii. If the Transaction will be allocated:
  - 1. An indication that the Transaction will be allocated.
  - 2. The Legal Entity Identifier of the agent.
  - 3. An indication of whether the Swap is a post-allocation Swap.
  - 4. If the Swap is a post-allocation Swap, the Unique Swap Identifier of the original Transaction between the Reporting Entity and the agent.
  - 5. For pre-allocation Swaps, the Unique Swap Identifier in Swap creation data reported to the Swap Data Repository and transmitted to the Reporting Entity and to the agent.

(11) The SEF shall have the authority to charge fees for any services provided pursuant to this Rule 402; provided, however, that such fees shall be equitable and non-discriminatory.

(d) Continuation Data.

- (1) CFTC Regulation Part 45 requires Continuation Data to be reported to a Swap Data Repository during the life of any Transaction. Continuation Data includes life-cycle event data or state data, each as defined in CFTC Regulation § 45.1, or any successor regulation thereto, and Valuation Data.
- (2) Pursuant to CFTC Regulation § 45.4(b), Continuation Data for any cleared Transaction will be reported to the relevant Swap Data Repository by the relevant Derivatives Clearing Organization, except that the Reporting Entity will also be responsible for reporting Valuation Data to the relevant Swap Data Repository if the Reporting Entity is a Swap Dealer or Major Swap Participant.
- (3) Pursuant to CFTC Regulation § 45.4(c), Continuation Data for any uncleared Transaction, whether or not the Transaction is executed on a Swap Execution Facility, will be reported to the relevant Swap Data Repository by the Reporting Entity.
- (4) The SEF will have no obligation to fulfill any requirements to report Continuation Data for any Participant, including Valuation Data.
- (5) If the SEF fulfills any requirements to report Continuation Data for any Participant that is a Reporting Entity, such Participant will at all times remain responsible for the performance of any and all regulatory reporting requirements imposed on such Participant under CFTC Regulation Part 45.

**RULE 403. MAINTENANCE OF BOOKS AND RECORDS BY THE SEF**

- (a) Pursuant to CFTC Regulation § 45.2(a), the SEF will keep full, complete, and systemic records together with all pertinent data and memoranda of all activities relating to the business of the SEF with respect to Swaps. Such records shall include, without limitation, all records required by CFTC Regulation Part 37.
- (b) All records required to be kept pursuant to CFTC Regulation § 45.2 or any other section of the CEA shall be retained with respect to each Swap throughout the life of the Swap and for a period of at least five years following the final termination of the Swap.
  - (1) Each record required to be kept by the SEF shall be readily accessible via real time electronic access by the registrant throughout the life of the Swap and for two years following the final termination of the Swap, and shall be retrievable by the registrant within three business days through the remainder of the period following final termination of the Swap during which it is required to be kept.
- (c) The SEF will maintain:
  - (i) A copy of the written policies and procedures, including the code of ethics and conflicts of interest policies adopted in furtherance of compliance with the Act and Commission regulations;

- (ii) Copies of all materials created in furtherance of the Chief Compliance Officer's duties, including records of any investigations or disciplinary actions taken by the SEF;
- (iii) Complete and accurate books and records of all activities relating to the business of the SEF, including a complete audit trail for all Swaps executed on or subject to the rules of the SEF, confirmations produced pursuant to Rule 404, investigatory files, and disciplinary files, and all books and records required to be maintained pursuant to the CEA and CFTC Regulations.
- (d) Records may be kept in electronic form, or kept in paper form if originally created and exclusively maintained in paper form, so long as they are retrievable, and information in them is reportable.
- (e) Pursuant to CFTC Regulation § 45.2(h), all records required to be kept shall be open to inspection upon request by any representative of the CFTC, the United States Department of Justice, or the Securities and Exchange Commission, or by any representative of a prudential regulator as authorized by the CFTC. Copies of all such records shall be provided, at the expense of the SEF, to any representative of the CFTC upon request. Copies of records required to be kept shall be provided either by electronic means, in hard copy, or both, as requested by the CFTC, with the sole exception that copies of records originally created and exclusively maintained in paper form may be provided in hard copy only.
- (f) The SEF shall include the USI for all such Swaps in all records and all Swap data reporting concerning that Swap, from the time the USI is created as provided in CFTC Regulation § 45.5, throughout the existence of the life of the Swap and for as long as any records are required by the CEA or Commission regulations to be kept, regardless of any lifecycle events or any changes to state data concerning the Swap, including, without limitation, any changes with respect to the counterparties to or the ownership of the Swap.
- (g) The SEF shall also include each counterparty to any Swap executed on or pursuant to the rules of the SEF in all recordkeeping and all Swap data reporting pursuant to CFTC Regulation 45 using a single LEI.
- (h) When a UPI and product classification system has been designated by the Commission, the SEF will use the designated UPI and product classification system in all recordkeeping and Swap data reporting pursuant to CFTC Regulation 45.
- (i) Before a UPI and product classification system has been designated, the SEF will use the internal product identifier or product description used by the Swap Data Repository to which a Swap is reported in all recordkeeping and Swap data reporting pursuant to CFTC Regulation 45.

#### **RULE 404. TRADE CONFIRMATIONS**

- (a) The SEF will confirm each Transaction at the same time as execution of the Transaction. The economic terms specific to the Transaction agreed to by the Participants on the SEF

shall be reflected by the SEF in a written communication (the “**Trade Confirmation**”) sent to the applicable Participants.

- (1) With respect to an uncleared Transaction:
    - i. The Trade Confirmation, together with the Terms Incorporated by Reference shall, taken together, comprise all of the terms of such Transaction and constitute a confirmation for purposes of CFTC Regulation § 37.6(b) and shall be deemed to be the “**SEF Confirmation.**”
    - ii. In satisfaction of the obligations imposed on the SEF under CFTC Regulation § 37.6(b): (i) each Trade Confirmation is deemed to incorporate the Terms Incorporated by Reference set forth in this Rule 404, and (ii) the participants hereby agree that the provisions of Rule 404(b)(1)(iii) shall govern any conflicting terms.
    - iii. Pursuant to NAL 16-25 (“**Trade Confirmation NAL**”), expiring March 31, 2017, the Trade Confirmation will state that the terms of the confirmation legally supersede any contradictory terms in the underlying previously-negotiated freestanding agreements.
    - iv. In the event of any conflict between (x) the Trade Confirmation and (y) the Terms Incorporated by Reference, the Trade Confirmation shall prevail to the extent of any inconsistency.
    - v. The SEF will request from Participants any and all underlying previously-negotiated freestanding agreements on request from the CFTC, and the SEF will furnish such documents to the CFTC as soon as they are available.
    - vi. Participant agrees that all Terms Incorporated by Reference and any all freestanding agreements incorporated by reference shall be made available to the SEF and CFTC staff upon request within a reasonable period of time.
  - (2) For a cleared Transaction, the Trade Confirmation shall constitute a confirmation for purposes of CFTC Regulation § 37.6(b) and shall be deemed to be the “SEF Confirmation.”
- (b) A SEF Confirmation shall be deemed to be a binding and fully enforceable confirmation of the Transaction between such parties.
  - (c) A SEF Confirmation shall be deemed to be fully, and mutually executed by the parties, “signed” and “in writing” for any and all purposes, and the resulting SEF Confirmation shall constitute the controlling confirmation with respect to the applicable Transaction.
  - (d) Participant agrees not to contest the legally binding nature or enforceability of any Transaction entered into or negotiated on the Trading System and further agrees not to



contest or assert any defense to the validity or enforceability of any Transaction on the basis that such Transaction was executed or negotiated electronically or on the basis of any law requiring agreements to be in writing or to be signed by the parties. Participant hereby waives any and all right to assert any such claims.

- (e) Participant agrees to use commercially reasonable efforts to promptly review all SEF Confirmations and to reconcile any data or other discrepancies. Any discrepancies, errors or omission with respect to SEF Confirmations shall be resolved as provided in the SEF Rules.

#### **RULE 405. AUDIT TRAIL PROGRAM**

- (a) The SEF's audit trail permits it to immediately track customer orders from the time of receipt through fill, allocation, or other disposition, and includes both order and trade data. Audit trails are captured and maintained throughout the life cycle of a customer order. Data fields present on customer orders, trades for matches, fill reports are stored in a proprietary format. Timestamps are assigned down to the millisecond for all order events including submission, cancel/replace, partial fill, fill, cancels and allocations. This data can be viewed either from FTSEF's AdminMonitor application or in plain text format. Activity can be looked up using the AdminMonitor in real-time or for previous days. Audit trails are kept for all types of execution, via Streams, RFQ or CLOB.
- (b) The audit trail program includes all original source documents and an electronic Transaction history database. Original source documents include unalterable, sequentially-identified records on which trade execution information is originally recorded, whether recorded manually or electronically. The electronic Transaction history database (referred to as the "FTSEF Transaction Database") includes a history of all, requests for quotes, orders, and trades entered into the Trading System, including all orders and trades, and order modifications and cancellations. An adequate Transaction history database also includes:
  - (1) All data that is input into the trade entry or matching system for the Transaction to match and clear;
  - (2) Customer type indicator code;
  - (3) Timing and sequencing data adequate to reconstruct trading; and
  - (4) Identification of each account to which fills are allocated.
- (c) Pursuant to NAL 15-68 ("Post-Trade Allocation NAL"), expiring November 15, 2017, participants must provide post-trade allocation information to the SEF for particular trades, if the SEF, at the request of the CFTC or otherwise, requests such information.
- (d) In the course of a trade practice surveillance or market surveillance investigation into any trading activity involving post trade allocations, upon such request pursuant to condition (c) above, the SEF will ascertain whether a post-trade allocation was made, and if so, the

SEF will request, obtain and review the post-trade allocation information from a Participant as part of its investigation.

- (e) The audit trail program also includes electronic analysis capability with respect to all audit trail data in the Transaction history database. Such electronic analysis capability ensures that the SEF has the ability to reconstruct, requests for quotes, orders, and trades, and identify possible trading violations with respect to both customer and market abuse. The names of the systems that the SEF uses for its electronic analysis capability are the FTSEF Real-time Alert System and the FTSEF Automated Trade Surveillance System.
- (f) The SEF's audit trail program safely stores all audit trail data retained in its Transaction history database. Such safe storage capability includes the capability to store all data in the database in a manner that protects it from unauthorized alteration, as well as from accidental erasure or other loss. Data is retained in accordance with the recordkeeping requirements of CFTC Regulation Part 37, Core Principle 10 for Swap execution facilities and the associated regulations in CFTC Regulation Part 37, Subpart K.
- (g) The SEF will enforce its audit trail and recordkeeping requirements through at least annual reviews of all Participants to verify their compliance with the SEF's audit trail and recordkeeping requirements. Such reviews will include, but are not limited to, reviews of randomly selected samples of front-end audit trail data for order routing systems; a review of the process by which user identifications are assigned and user identification records are maintained; a review of usage patterns associated with user identifications to monitor for violations of user identification rules; and reviews of account numbers and customer type indicator codes in trade records to test for accuracy and improper use.

#### **RULE 406. MONITORING OF TRADING**

The SEF will monitor trading on the Trading System in order to prevent manipulation, price distortion, and disruptions of the delivery or cash settlement process through surveillance, compliance, and disciplinary practices and procedures, including through the real-time monitoring of trading, and comprehensive trade reconstruction.

#### **RULE 407. USE OF PARTICIPANT PROPRIETARY DATA**

The SEF shall not use for business or marketing purposes any Proprietary Data or Personal Information it collects or receives, from or on behalf of any person, for the purpose of fulfilling its regulatory obligations; provided, however, that SEF may use such data or information for business or marketing purposes if the Person from whom it collects or receives such data or information clearly consents in Writing to the SEF's use of such data or information in such manner. The SEF shall not condition access to its market(s) or market services on a Person's consent to the SEF's use of Proprietary Data or Personal Information for business or marketing purposes. The SEF, where necessary for regulatory purposes, may share such data or information, with one or more Swap Data Repositories, Swap Execution Facility, or Contract Markets registered with the CFTC.

#### **RULE 408. TIMELY PUBLICATION OF TRADING INFORMATION**

- (a) The SEF will publish trading information as required by CEA Section 5h(f)(9) and Parts 16 and 37 of CFTC Regulations.
- (b) In making information available to the general public pursuant to CFTC Regulation §37.900, the SEF ensures that such information can be accessed by visitors to the SEF's website without the need to register, log in, provide a user name or obtain a password.
- (c) The SEF's website can be accessed at: [www.ftsef.com](http://www.ftsef.com).

#### **RULE 409. ERRORS AND OMISSIONS**

- (a) Pursuant to CFTC Regulation 45.14(a), each registered entity and Swap counterparty that is required to report Swap data to a Swap Data Repository, to any other registered entity or Swap counterparty, or to the Commission shall report any errors and omissions in the data so reported as soon as technologically practicable after discovery of any such error or omission.
- (b) If a Reporting Entity to a Swap becomes aware of an error or omission in the Swap Transaction or pricing data which was reported by the SEF with respect to such Swap, either through its own initiative or through notice by the other party to the Swap, the Reporting Entity will promptly submit corrected data to the SEF.
- (c) (b) If the SEF becomes aware of an error or omission in the Swap Transaction or pricing data reported with respect to such Swap, or receives notification from the Reporting Entity, the SEF will promptly submit corrected data to the same registered Swap Data Repository.
- (d) (c) The SEF will not submit or agree to submit a cancellation or correction for the purpose of re-reporting Swap Transaction and pricing data in order to gain or extend a delay in public dissemination of accurate Swap Transaction or pricing data or to otherwise evade the reporting requirements of CFTC Regulation Part 43.
- (e) (d) Pursuant to NAL 15-24 ("DCO Clerical Error NAL"), expiring June 15, 2016, where an operational or clerical error or omission is not discovered until after a Swap has been cleared, the SEF may permit a prearranged trade between the original parties that offsets the Swaps carried on the DCO's books, without that trade having been executed pursuant to the methods required in CFTC Regulations 37.9(a)(2) and 38.500.
- (f) (e) After a trade has been rejected for clearing, the SEF will permit a new trade, with terms and conditions that match the terms and conditions of the original trade, other than any such error and time of execution, to be submitted for clearing without having been executed pursuant to methods set forth in CFTC Regulations 37.9(a)(2) or 38.500.
- (g) (f) For Swaps rejected for non-credit reasons, the new trade must be executed on the SEF and submitted for clearing as quickly as technologically practicable after receipt of notice and the rejection by the DCO to the clearing members, but, in any event, no later

than one hour from the issuance of the notice. For erroneous cleared Swaps, the trade to offset the Swaps carried on the DCO's books and the new transaction that corrects the errors in the original transaction must be executed and submitted for clearing no later than three days after the erroneous cleared Swap was executed.

- (h) (g) If the SEF is able to determine how to correct an error, the SEF will execute the new trades without obtaining consent from the counterparties. If the SEF cannot determine how to correct an error, the SEF may either not fix the error, or it may seek guidance on how to address the error from the counterparties. Any such guidance may not be implemented without consent from both counterparties.

**Chapter 5**  
**PARTICIPANT OBLIGATIONS**

**RULE 501. DUTIES AND RESPONSIBILITIES OF PARTICIPANTS**

- (a) Each Participant shall, its Authorized Traders and Clients or Customers, if applicable shall:
- (1) Ensure the SEF's Trading System is used in a responsible manner and not for any improper purpose;
  - (2) Ensure the Trading System is used only to conduct SEF Activity;
  - (3) Ensure all SEF Activity is conducted in a manner consistent with SEF Rules and Obligations;
  - (4) Comply with all SEF Rules and Obligations and act in a manner consistent with each SEF Rule and Obligation;
  - (5) Observe high standards of integrity, market conduct, commercial honor, fair dealing, and just and equitable principles of trade while conducting or attempting to conduct any SEF Activity, or any aspect of any business connected with or concerning the SEF;
  - (6) not mislead or conceal any material fact or matter in any dealings or filings with the SEF or in response to any SEF Proceeding;
  - (7) employ practices to monitor and enforce compliance with risk limits; and
  - (8) keep, or cause to be kept, complete and accurate books and records, including, without limitation, all books and records of its SEF Activity and his or her activity in the underlying commodity and related derivatives markets, and all books and records required to be maintained pursuant to the CEA, the CFTC Regulations or the SEF Rules, for the period required by Applicable Law, and make such books and records available for inspection by a representative of the SEF or the CFTC.
- (b) Each Participant shall:
- (1) be responsible for promptly informing the SEF of any material changes to the eligible criteria information provided to the SEF by the Participant.
  - (2) be fully liable for all trading losses, all Orders, all Transactions in Contracts effected by such Participant, all Transactions effected on the Trading System and for any use of the Trading System made by Participant or the Participant's Authorized Traders, and all trades even if the Orders received via the Trading System : (1) were entered as a result of a failure in the security controls and/or

credit controls, other than due to the gross negligence of the SEF; or (2) were entered by an unknown or unauthorized user;

- (3) be responsible for promptly informing the SEF of any material changes to the information provided to the SEF by the Participant pursuant to Rule 301.

## **RULE 502. REQUIRED NOTICES**

- (a) Each Participant shall immediately notify the Compliance Department upon becoming aware of any of the following events:
  - (1) any material change to the contact information provided to the SEF;
  - (2) any damage to, or failure or inadequacy of, the systems, facilities or equipment of the Participant to effect Transactions pursuant to the SEF Rules or to timely perform the Participant's financial obligations under or in connection with Transactions;
  - (3) any refusal of admission, or involuntary withdrawal of the Participant for membership in, any Self-Regulatory Organization, Contract Market or Derivatives Clearing Organization;
  - (4) any expulsion, suspension or fine in excess of \$25,000, cease and desist order, denial of trading privileges, censure or other sanction or remedy (whether through an adverse determination, voluntary settlement or otherwise) imposed on the Participant by any Self-Regulatory Organization, Contract Market or Derivatives Clearing Organization registered with the CFTC or, with respect to SEF Activity, any relevant Government Agency;
  - (5) any indictment or conviction of, or any confession of guilt or plea of guilty or nolo contendere by, the Participant (or, if the Participant is an entity, by any of its principals or senior officers) for any felony or misdemeanor involving, arising from, or related to, the purchase or sale of any commodity, Swap, Futures contract, option, security, securities futures product or other financial instrument, or involving or arising from fraud or moral turpitude;
  - (6) the Participant becoming the subject of a petition for bankruptcy;
  - (7) the appointment of a receiver, trustee or administrator for the Participant;
  - (8) the presentment of a petition, or the passing of a resolution, for the winding-up of Participant;
  - (9) the commencement of proceedings for the dissolution of Participant; or
  - (10) the occurrence of an event of insolvency with respect to the Participant.

### **RULE 503. INSPECTIONS BY THE SEF**

- (a) The SEF shall have the right with such prior reasonable advance notice as is practicable under the circumstances, in connection with determining whether all SEF Rules and Obligations are being, will be, or have been complied with by the Participant, Customer, Client or Clearing Member to:
  - (1) inspect the books and records of the Participant, Customer, Client or Clearing Member in connection with SEF Activity, wherever located;
  - (2) inspect systems, equipment and software of any kind operated by the Participant, Customer, Client or Clearing Member in connection with SEF Activity and any data stored in any of the systems or equipment related to SEF Activity; or
  - (3) copy or reproduce any data to which the SEF has access under this Rule.
- (b) Such books and records, systems, equipment, software and data shall be made available to the SEF during regular business hours and the SEF and the Regulatory Services Provider agrees to adhere to Participant, Customer, Client or Clearing Member's reasonable logical and physical access and security procedures.
- (c) The Compliance Department may examine (periodically or on a particular occasion) the books and records of any Participant or any Customer or Client of a Participant that relate to SEF Activity.
- (d) The SEF shall provide information in its possession to the CFTC upon request. The SEF shall also share information with other regulatory organizations, data repositories, and reporting services as required by the CFTC or as otherwise necessary and appropriate to fulfill its self-regulatory and reporting responsibilities. Appropriate information-sharing agreements can be established with such entities or the CFTC can act in conjunction with the SEF to carry out such information sharing.

### **RULE 504. MINIMUM REQUIREMENTS FOR PARTICIPANTS**

- (a) Each Participant and each Participant's Authorized Traders shall comply with the provisions of Applicable Law, including but not limited to the rules and regulations of any Government Agency that are imposed on a Participant relating to minimum financial requirements (if applicable), reporting and recordkeeping requirements, and any mandatory clearing requirements.
- (b) Transactions executed on or through the Trading System must be cleared through a CFTC-registered Derivatives Clearing Organization unless:
  - (1) The Transaction is exempted from clearing under Section 2(h)(7) of the CEA or another applicable exemption under CFTC Regulations; or
  - (2) The Transaction is a Permitted Transaction.

- (c) When a Swap Dealer or Major Swap Participant enters into or facilitates a Swap that is subject to the mandatory clearing requirement of CEA Section 2(h), the Swap dealer or major Swap participant shall be responsible for compliance with the mandatory trading requirement under section 2(h)(8) of the Act.
- (d) For Transactions that are executed on or subject to the rules of the SEF, if such Transaction is not cleared by a Derivatives Clearing Organization and is not required to be cleared, each Participant party must have entered into an agreement governing the execution and settlement of the Swap with the prospective counterparty to such Swap prior to placing such Order.
- (e) A copy of any notice or written report that a Participant is required to file with the CFTC pursuant to CFTC Regulation § 1.12, or any successor regulation thereto, shall be concurrently provided to the SEF.
- (f) A Participant who violates any CEA provision or CFTC Regulation referred to in this Rule 504 shall be deemed to have also violated this Rule 504.

#### **RULE 505. PARTICIPANT BOOKS AND RECORDS**

- (a) Each Participant must maintain or cause to be maintained records for all books and records required to be maintained in accordance with Applicable Law, including the SEF Rule 501(a)(8).
- (b) Bunched Orders must be allocated and recorded in accordance with CFTC Regulation § 1.35(b)(5), or any successor regulation thereto, and the NFA's Interpretative Notice related to Compliance Rule 2-10 or any successor regulations.
- (c) As required by CFTC Regulation § 37.404, each Participant must keep records of its trading on the SEF, including records of its activity in the commodity underlying any Swap and trading on related derivatives markets and make such records available, upon request, to the SEF and the CFTC.

#### **RULE 506. CONFIDENTIALITY OF FINANCIAL AND OTHER INFORMATION**

All information and data obtained or received by the Compliance Department from inspections of accounting and other records, quarterly balance sheets and declarations or reports on financial condition will be treated as confidential by the SEF; however, this Rule 506 does not supplant Rule 210, Rule 1003(c), Rule 1201(e), or any other requirement of Applicable Law.

#### **RULE 507. AUTHORITY TO REPORT**

Whenever the SEF learns that Participant has failed to file any notice or written report required by CFTC Regulation § 1.12, or any successor regulation thereto, the SEF will immediately report this failure to the CFTC. The SEF may impose such conditions or restrictions on the business and operations of Participant that has failed to file any such notice or written report as the SEF may deem necessary or appropriate for the protection of Customers, other Participants, or the SEF.



## **RULE 508. BROKERS AND ACCOUNT MANAGERS**

- (a) No Participant acting as a broker or Account Manager shall carry an account for a Customer or enter an Order in the name of or on behalf of a Client unless the Participant has entered into a written agreement with the Customer or Client containing such terms as may from time to time be prescribed in these SEF Rules, including without limitation, those rules contained in SEF Rule 301(b).
- (b) No Participant shall engage in soliciting or accepting an Order for the Contract for a Participant, Customer or Client unless the Participant has entered into a written agreement with the Participant, Customer or Client obtaining such terms as may from time to time be prescribed in these SEF Rules.

## **RULE 509. TREATMENT OF CUSTOMER FUNDS AND SECURITIES**

Each Participant that is required to be registered with any Government Agency, including the CFTC and the U.S. Securities and Exchange Commission or any Self-Regulatory Organization, shall comply with the provisions of Applicable Law, including but not limited to the rules and regulation such Government Agency imposes on a Participant relating to the treatment of Customer funds and the maintenance of books and records with respect thereto. Any Participant that violates any of the aforementioned Government Agency Regulations shall be deemed to have violated this Rule 509.

## **RULE 510. DISCLOSURE REQUIREMENTS; KNOW YOUR COUNTERPARTY REQUIREMENTS**

- (a) Each Participant must comply with all disclosure requirements set forth in applicable CFTC Regulations, if any. Any such disclosure may be combined with a disclosure regarding the existence of financial interests held by the Participant in the SEF or any other Swap Execution Facility.
- (b) Participants that are Swap Dealers or Major Swap Participants shall verify that each potential counterparty is an Eligible Contract Participant with respect to each Swap as provided in Subpart H of Part 23 of the CFTC Regulations, or any successor regulations related to external business conduct standards for Swap Dealers and Major Swap Participants.
- (c) Participants that are Futures Commission Merchants must verify that each of their Customers are Eligible Contract Participants.
- (d) Participants that are Account Managers must verify that each of their Clients is Eligible Contract Participants.

## **RULE 511. INFORMATION REGARDING ORDERS**

- (a) The SEF will make information regarding Orders (including prices bid or offered), trades and any other matters it may deem appropriate available to Participants and other Persons at such times and in such manner (whether through the Trading System, a ticker, financial

information services or otherwise) as it may consider necessary or advisable from time to time.

- (b) Each Participant or other Person receiving any such information through the Trading System may redistribute such information only to such extent and in such manner as may be permitted by the SEF from time to time.

**RULE 512. CUSTOMER TYPE INDICATOR (CTI) CODES**

- (a) Each Participant must identify each Transaction executed on the Trading System on the record of Transactions submitted to the SEF with the correct CTI Code. The CTI Codes are as follows:
  - (1) CTI 1- Transactions initiated and executed by a Participant for his own account, for an account he controls or for an account in which he has ownership or financial interest.
  - (2) CTI 2- Transactions executed for the proprietary account of a Clearing Member or non-Clearing member firm.
  - (3) CTI 3- Transactions where an individual Participant or Authorized Trader executes for the personal account of another individual Participant, for an account the other individual Participant controls or for an account in which the other individual Participant has ownership or financial interest.
  - (4) CTI 4- Any Transaction not meeting the definition of CTI 1, 2 or 3.

## Chapter 6 TRANSACTIONS SUPPORTED

### **RULE 601. GENERAL**

- (a) The SEF supports both Permitted Transactions and Required Transactions through the execution methods detailed in Chapter 7.
- (b) Required Transactions shall be submitted for clearing according to Rule 801 unless they are eligible for the End-User Exception and one Counterparty properly elects such End-User Exception.
- (c) If one or both of the counterparties to a Transaction elects to use the End-User Exception detailed in Rule 801, the party electing to use the End-User Exception must notify the SEF of such election as required by SEF Rule 402(c)(5), and the Transaction shall be treated as a Permitted Transaction.

### **RULE 602. BLOCK TRADES**

- (a) The SEF will only allow Block Trades that are executed on the SEF's RFQ system, pursuant to, and subject to the conditions of, NAL 15-60 ("**Block Trade NAL**"), expiring November 15, 2016.
- (b) The SEF shall set the minimum block sizes for all Swaps listed on the Trading System, which shall be equal to or greater than the appropriate minimum block sizes established by CFTC Regulation § 43.6, Appendices B, D, E and F.
- (c) The SEF will publish the list of contracts for which it permits and facilitates the bilateral trading and execution of Block Trades on its website.
- (d) The following shall govern Block Trades:
  - (1) Each counterparty to a Block Trade (or a Person, Customer or Client on whose behalf a Block Trade is executed) must be an Eligible Contract Participant.
  - (2) Parties to a Swap of a large notional value must elect to have the Swap treated as a Block Trade in order for the Swap to constitute a Block Trade pursuant to this Chapter 6.
  - (3) A Block Trade must be for a quantity that is at or in excess of the appropriate minimum block size, as defined by FTSEF. Orders may not be aggregated for different accounts in order to achieve the minimum Transaction size unless done by a Person who:
    - (a) Is either: (i) a commodity trading advisor registered under Section 4n of the CEA, or exempt from registration under the CEA, or a principal thereof, who has discretionary trading authority or directs client accounts,

- (ii) is an investment adviser who has discretionary trading authority or directs client accounts and satisfies the criteria of CFTC Regulation § 4.7(a)(2)(v), or (iii) is a non-U.S. person, as defined in CFTC rules, regulations and/or interpretations who performs a similar role or function as the persons described in Rule 602(d)(3)(a)(i) or (ii) and is subject as such to foreign regulation; and
- (b) Has more than \$25,000,000 in total assets under management.
- (4) A broker for a Customer shall not execute any order by means of a Block Trade for a Customer unless such Customer has specified that the order be executed as a Block Trade. Such instruction or consent may be provided in the power of attorney or similar document by which the Customer provides the broker with discretionary trading authority or the authority to direct the trading in its account.
- (5) The price at which a Block Trade is executed must be fair and reasonable in light of (i) the size of the Block Trade, (ii) the prices and sizes of other Transactions in the same Contract at the relevant time, (iii) the prices and sizes of Transactions in other relevant markets at the relevant time, and (iv) the circumstances of the markets or the Participants to the Block Trade.
- (6) One of the counterparties or the broker of one of the Persons party to the Block Trade must ensure that each Block Trade is reported to the SEF within the time limit set forth in Rule 401.
- (7) Block Trades must be reported to the SEF in accordance with the SEF approved reporting method and must include all of the data required by CFTC Regulations Part 43 and 45. The SEF will transmit Block Trade Transaction and pricing data to a Swap Data Repository as soon as technologically practicable after receipt of such data. CFTC Regulations prohibit any Swap Data Repository from publicly disseminating this data until the expiration of certain time delays as specified in CFTC Regulation § 43.5, or any successor regulation thereto.
- (8) An executed Block Trade must become a part of the SEF's audit trail.
- (9) Block Trades will not be executed on the SEF's Order Book functionality, as defined in CFTC Regulation § 37.3(a)(3).
- (10) Pursuant to Block Trade NAL, each cleared Block Trade must comply with the requirements set forth in the Block Trade definition in CFTC Regulation § 43.2. Specifically, the Block Trade must:
- i. Involve a Swap that is listed on a registered SEF;
  - ii. Be executed pursuant to the SEF's rules and procedures;
  - iii. Meet the notional or principal amount at or above the appropriate minimum block size applicable to the Swap; and

- iv. Be reported to a Swap Data Repository pursuant to the SEF's rules and procedures and the CFTC's rules and regulations.

## **Chapter 7 EXECUTION METHODS**

### **RULE 701. GENERAL**

Transactions executed on the SEF must be executed either on the SEF Central Limit Order Book (“**CLOB**”) or the SEF RFQ Trading System (“**RFQ Trading System**”) pursuant to this chapter.

### **RULE 702. CENTRAL LIMIT ORDER BOOK (“CLOB”)**

- (a) The CLOB is an anonymous electronic price-time priority central limit order book in which Participants trade against firm quotes posted by other Participants. Quotes with better prices are placed ahead of others with worse prices. Quotes that are entered before other quotes take priority when multiple quotes have the same price.
- (b) Orders submitted as Required Transactions can only match with quotes for Required Transactions posted by Participants who have common clearing arrangements. Both counterparties must have available credit.
- (c) Orders submitted as Permitted Transactions can only match with quotes for Permitted Transactions posted by Participants who have bilateral settlement arrangements with the order submitters and where credit is available.

### **RULE 703. REQUEST FOR QUOTE TRADING SYSTEM (“RFQ TRADING SYSTEM”)**

- (a) Both Required and Permitted Transactions may be negotiated by Participants and their Counterparties by use of the RFQ Trading System. Through the RFQ Trading System, Participants can transmit a request for a quote (“**RFQ**”) to buy or sell a specific instrument to other Participants, to which all such Participants may respond. An RFQ can be sent as a request for quote.
- (b) An RFQ for a Required Transaction must be submitted to no less than the Required Number of other Participants who are not affiliated with or controlled by the RFQ requester and are not affiliated with or controlled by each other.
  - (1) Counter requests on RFQs must go to minimum of 3 unaffiliated counterparties.
- (c) An RFQ for a Required Transaction may be sent to any or all Counterparties with whom the Participant has a common clearing arrangement and where both counterparties have available credit.
- (d) An RFQ for a Permitted Transaction may be sent to any Counterparty with whom the Participant has an agreement governing the execution and settlement of Swaps.

(e) Negotiation Process

- (1) The negotiation process on the RFQ Trading System is initiated by entry of an RFQ for specific value dates and tenors by an RFQ requester on the Trading System. An RFQ acts as a non-binding solicitation of a non-binding quote and provides essential economic terms sufficient for any RFQ requester's counterparty to formulate a responsive quote.
- (2) In response to an RFQ, any potential counterparty receiving an RFQ may reply with a responsive quote. For Required Transactions, any firm bids or offers resting on the CLOB will be communicated to the RFQ requester along with any responsive quotes.
- (3) In the event that a responsive quote is acceptable to the requestor, the requestor can accept the quote and a request to deal will be sent to the responder. If the responder accepts the request, a legally enforceable Transaction arises and the RFQ process concludes. If the responder rejects the request, the RFQ process concludes and no Transaction arises.
- (4) For a Required Transaction, if any resting bid or offer from the CLOB is acceptable to the RFQ requester, the RFQ requester may issue an acceptance and if the match is completed on the CLOB, a legally enforceable Transaction arises and the RFQ process concludes.

**RULE 704. LEGAL CERTAINTY FOR SEF TRADES.**

A Transaction entered into on or pursuant to the SEF Rules shall not be void, voidable, subject to rescission, otherwise invalidated, or rendered unenforceable as a result of:

- (a) a violation by the SEF of the provisions of Section 5h of the CEA or CFTC Regulations;
- (b) any CFTC proceeding to alter or supplement a Rule, term, or condition under Section 8a(7) of the CEA or to declare an emergency under Section 8a(9) of the CEA; or
- (c) any other proceeding the effect of which is to:
  - (1) alter or supplement a specific term or condition or trading rule or procedure; or
  - (2) require the SEF to adopt a specific term or condition, trading rule or procedure, or to take or refrain from taking a specific action.

**Chapter 8**  
**MANDATORY CLEARING**

**RULE 801. GENERAL**

- (a) All Participants must clear all Contracts which are required to be cleared under CEA Section 2(h)(1) and CFTC Regulation § 50.4, or any successor regulation thereto; provided, however, that the clearing requirement in this Rule 801 will not apply if at least one Participant party to a Transaction is an End-User and that party elects the End-User Exception.
- (b) Each Participant shall be responsible for determining whether any Swap it enters into is subject to the mandatory clearing requirements of Section 2(h)(1) of the Commodity Exchange Act.
- (c) Each Participant shall be responsible for determining whether an exemption from clearing is available, and, if Participant and its counterparty opt against clearing pursuant to an applicable exemption, Participant shall make all necessary elections and provide all necessary notifications to the SEF to establish that the Swap is exempted from the clearing requirement; provided, however, that the SEF shall have no responsibility for evaluating the validity of such exemption, and no conclusion as to such exemption should be made as a result of the SEF allowing a Transaction to proceed on the Trading System.
- (d) Each Participant will only execute a Swap subject to the mandatory clearing requirement on the Trading System if Participant has delivered, or causes to be delivered, to the SEF all information necessary to permit the SEF to submit the Swap for clearing. Each Participant, that is not a direct Clearing Member, executing Required Transactions or executing Permitted Transactions that are intended to be cleared must have in place appropriate arrangements for the clearance of Swaps executed on the SEF by the Participant through one or more Clearing Members, and provide, or cause to be provided, appropriate evidence thereof to the SEF pursuant to the provisions of the SEF Rules.
- (e) All Participants that are not direct Clearing Members executing Required Transactions or executing Permitted Transactions that are intended to be cleared must be guaranteed by a Clearing Member that assumes responsibility for clearing any Transactions executed by the Participant on the SEF that have satisfied the Clearing Member's credit limits and risk controls. Such guarantee is effective only until such time that the Clearing House accepts the Transaction. With respect to Transactions given up to other Clearing Members, such guarantee is effective only until such time that the other Clearing Member accepts the trade. A trade given up to another Clearing Member will be deemed to have been accepted by such Clearing Member if the trade is not rejected by the close of business on the business day that the trade is executed. The acceptance of a trade by a Clearing Member shall not relieve any Participant or Clearing Member of the duty to act in accordance with the SEF Rules.
- (f) Clearing Members that are Participants shall assist the SEF in any investigation into potential violations of the SEF Rules or the CEA which occur with respect to a



Participant guaranteed by such Clearing Member or a Customer of such Clearing Member. Such assistance must be timely and may include, but not be limited to, requiring any Participant or Customer to produce documents, to answer questions from the SEF, and/or to appear in connection with an investigation. Upon request by the SEF, Clearing Members that are Participants shall suspend or terminate a Participant's or Customer's access if the SEF determines that the actions of the Participant or Customer threaten the integrity or liquidity of any Contract or violate any the SEF Rule or the CEA, or if the Participant or Customer fails to cooperate in an investigation.

- (g) If a Clearing Member that is a Participant has actual or constructive notice of a violation of the SEF Rules in connection with the use of the SEF by a Participant or Customer for which it has authorized a direct connection and the Clearing Member fails to terminate the connection, the Clearing Member may be found to have committed an act detrimental the SEF.

#### **RULE 802. ACCEPTANCE AND REJECTION FOR CLEARING**

- (a) The SEF shall submit each Swap that is required to be or is intended to be cleared to the applicable Clearing House. If a Swap is submitted for clearing and is rejected or fails to clear for any reason, then such Swap shall be void *ab initio*; provided, however, that Swaps originally executed without an intent to clear shall not be void *ab initio* if they are subsequently submitted for clearing and fail to clear for any reason.
- (b) Any agreement between two Participants that governs Swaps that are submitted for clearing and fail to clear, including a breakage agreement, shall be inapplicable to Required Transactions and Permitted Transaction that are intended to be cleared and which are executed on or pursuant to the rules of the SEF.
- (c) Unless otherwise required under Applicable Law, the SEF shall be under no obligation to ensure that Swaps are successfully cleared and shall have no liability with respect to a Swap that fails to clear for any reason.

#### **RULE 803. CLEARING HOUSE RULES**

- (a) The clearing services provided by a Clearing House with respect to any Contract, and the rights and obligations of purchasers and sellers under cleared Contracts (including without limitation rights and obligations in respect of clearing and settlement, variation payments and performance at maturity), shall be governed by the Clearing House Rules, as applicable.
- (b) The Clearing House Rules shall prevail in the event of any conflict or inconsistency between the SEF Rules and the Clearing House Rules with respect to any Clearing Member responsibilities or obligations under the Clearing House Rules.

#### **RULE 804. SUBSTITUTION AND NOVATION**

For a Transaction that is both executed and submitted to a Clearing House on the current business date at prevailing market prices, and in accordance with the rules governing such

Transaction, the Clearing House shall, through the process of novation, be substituted as, and assume the position of, seller to the buyer and buyer to the seller of the relevant number of Contracts once the Transaction is accepted at the Clearing House; provided, however, that the timing of the clearing guarantee for Transactions involving initial mark-to-market amounts above a specified threshold, and for Transactions that are not both executed and submitted to the Clearing House on the current business date, shall be subject to terms specified in the Clearing House manual of operations.

**Chapter 9**  
**TRADING PRACTICES AND BUSINESS CONDUCT**

**RULE 901. SCOPE**

This Chapter 9 prescribes Rules concerning trading practices and business conduct on the SEF.

**RULE 902. PROCEDURES**

- (a) With respect to trading on or through the Trading System, the SEF may adopt, without limitation, procedures relating to Transactions in Contracts and trading on the Trading System, including procedures to:
- (1) disseminate the prices of bids and offers on, and trades in, Contracts;
  - (2) record, and account for, Contracts and SEF Activity and regulate administrative matters affecting Swaps and SEF Activity;
  - (3) establish limits on the number and/or size of Orders that may be submitted by a Participant through the Trading System;
  - (4) establish limits on the number of Contracts that may be held by a Customer or Participant;
  - (5) establish a limit on the maximum daily price fluctuations for any Contract and provide for any related restriction or suspension of trading in the Contract; and
  - (6) require a suspended or expelled Participant, or a Participant with restricted trading rights, to have Contracts executed for the Participant to reduce or eliminate any open position or exposure to price changes for the Participant in any Contract.
- (b) The SEF may, in its discretion and at any time, amend any procedures adopted pursuant to Rule 902(a), and will publish the amendments in a Notice to Participants or in any other manner determined appropriate by the SEF.

**RULE 903. BUSINESS DAYS AND TRADING HOURS**

Except as provided in Rule 209 with respect to Emergencies, the SEF shall determine and publish a Notice to Participants listing the Business Days and Holidays of the SEF and the Trading Hours for each Contract.

**RULE 904. RULE VIOLATIONS**

- (a) It shall be an offense for a Participant, Authorized Trader, Account Manager, Customer, and Client, as applicable, to violate any SEF Rule regulating the conduct or business of a Participant or its Account Managers or any agreement made with the SEF, or to engage in fraud, dishonorable or dishonest conduct, or in conduct which is inconsistent with just and equitable principles of trade.

- (b) Participants shall assist the SEF in any investigation into potential violations of the SEF Rules or, with respect to the SEF Activity, the CEA. Such assistance must be timely and may include, but not be limited to, producing documents, answering questions from the SEF or its designee, and/or appearing in connection with an investigation.
- (c) If a Participant has actual or constructive notice of a violation of the SEF Rules in connection with the use of the SEF operated by the SEF by a Participant, Authorized Trader, Customer or Client, or Account Manager and the Participant fails to take appropriate action, the Participant may be found to have committed an act detrimental to the interest or welfare of the SEF operated by the SEF.

**RULE 905. FRAUDULENT ACTS**

No Participant, Authorized Trader, Account Manager, Customer or Client, or any market participant that directly or indirectly effects a Transaction on the SEF shall engage in any fraudulent act or engage in any scheme to defraud, deceive, trick or mislead in connection with or related to any SEF Activity. Specifically, no Participant, Authorized Trader, Account Manager, Customer or Client, or any market participant that directly or indirectly effects a Transaction on the SEF shall engage in front running, fraudulent trading, money passes, trading ahead of Customers, trading against Customers or accommodation trading.

**RULE 906. FICTITIOUS, WASH OR NON-COMPETITIVE TRANSACTIONS PROHIBITED**

No Participant or any Authorized Trader of a Participant shall create, place or accept fictitious Transactions, wash Transactions, or non-competitive Transactions except, in the case of non-competitive Transactions, as otherwise authorized by the SEF Rules, or execute any such Order with knowledge of its nature as a fictitious Transaction, wash Transaction, or non-competitive Transaction. No person shall place or accept to buy and sell orders in the same Unique Swap Identifier, where the person knows or reasonably should know that the purpose of the orders 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 the prohibition on wash Transactions. Additionally, no Person shall knowingly execute or accommodate the Execution of such Orders by direct or indirect means.

**RULE 907. MARKET DISRUPTION AND MARKET MANIPULATION PROHIBITED**

- (a) Orders entered into the Trading System for the purpose of upsetting the equilibrium of the market in any Contract or creating a condition in which prices do not or will not reflect fair market values are prohibited, and any Participant or any Authorized Trader of a Participant who makes or assists in entering any such Order with knowledge of the purpose thereof or who, with such knowledge, in any way assists in carrying out any plan or scheme for the entering of any such Order, will be deemed to have engaged in an act detrimental to the SEF.

- (b) Any attempted or completed manipulation of the market in any Swaps is prohibited. A Participant or an Authorized Trader of a Participant shall violate this Rule 907 if such person directly or indirectly, in connection with any Contract in interstate commerce, intentionally or recklessly:
- (1) Uses or employ, or attempt to use or employ, any manipulative device, scheme, or artifice to defraud;
  - (2) Makes, or attempt to make, any untrue or misleading statement of a material fact or to omit to state a material fact necessary in order to make the statements made not untrue or misleading;
  - (3) Engages, or attempt to engage, in any act, practice, or course of business, which operates or would operate as a fraud or deceit upon any Person; or,
  - (4) Delivers or cause to be delivered, or attempt to deliver or cause to be delivered, for transmission through the mails or interstate commerce, by any means of communication whatsoever, a false or misleading or inaccurate report concerning market information or conditions that affect or tend to affect the price of any Contract in interstate commerce, knowing, or acting in reckless disregard of the fact that such report is false, misleading or inaccurate; provided, however, that no violation of this Rule 907 shall exist where the Participant or an Authorized Trader of a Participant mistakenly transmits, in good faith, false or misleading or inaccurate information to a price reporting service.

#### **RULE 908. MARKET DISRUPTION PROHIBITED**

The following are prohibited:

- (a) Violating Bids and Offers. No Participant, or Authorized Trader, shall enter or attempt to enter a Contract on the Trading System at a price that is higher than the lowest available price offered for such Contract or sell a Contract on the Trading System at a price that is lower than the highest available price bid for such Contract.
- (b) Orderly Execution of Transactions during the Closing Period. No Participant, or Authorized Trader, shall engage in any conduct that demonstrates reckless or intentional disregard for the orderly execution of Transactions during any closing period, including, but not limited to, conduct commonly known as “banging” or “marking” the close.
- (c) Spoofing. No Participant, or Authorized Trader, shall intentionally engage in any conduct that is, is the character of, or is commonly known to the trade as “spoofing,” including, but not limited to:
  - (1) Bidding and offering with the intent to cancel the bid or offer before execution;
  - (2) Submitting or cancelling bids or offers to overload the quotation system;

- (3) Submitting or cancelling bids or offers to delay another Participants' execution of Transactions;
- (4) Submitting or cancelling multiple bids or offers to create an appearance of false market depth; and
- (5) Submitting or cancelling bids or offers with intent to create artificial price movements upwards or downwards.

#### **RULE 909. PROHIBITION OF MISSTATEMENTS**

It shall be an offense to make any knowing misstatement of a material fact to the SEF, any SEF Official, any Board committee or SEF panel, the Compliance Department and/or agents of the SEF.

#### **RULE 910. ACTS DETRIMENTAL TO WELFARE OF THE SEF PROHIBITED**

It shall be an offense to engage in any act that is detrimental to the interest or welfare of the SEF.

#### **RULE 911. ADHERENCE TO LAW**

No Participant or Authorized Trader of a Participant shall engage in conduct that is a violation of the CEA or CFTC Regulations, the rules of any other Swap Execution Facility, Contract Market, or Derivatives Clearing Organization that has jurisdiction over such Participant, with respect to SEF Activity, the laws, rules or regulations of any relevant Governmental Agency.

#### **RULE 912. SUPERVISION**

A Participant shall establish, maintain and administer reasonable supervisory procedures to monitor the compliance of Authorized Traders with the SEF Rules and any applicable provisions of the CEA or CFTC and such Participant may be held accountable for the actions of such Authorized Traders.

#### **RULE 913. MISUSE OF THE TRADING SYSTEM**

Misuse of the Trading System is strictly prohibited. It shall be deemed an act detrimental to the SEF to permit unauthorized use of the Trading System , to assist any Person in obtaining unauthorized access to the Trading System , to trade on the Trading System without a User Agreement or, for Required Transactions, without an established account with a Clearing Member, to alter the equipment associated with the Trading System (except with the SEF's consent), to interfere with the operation of the Trading System , to intercept or interfere with information provided thereby, or in any way to use the Trading System in a manner contrary to the SEF Rules.

#### **RULE 914. WITHHOLDING ORDERS PROHIBITED**

- (a) Any Participant entering Orders on the Trading System for any legally distinct Customer shall not withhold or withdraw from the market any Order, or any part of an Order, for the benefit of any Person other than such Customer.
- (b) A Participant must enter immediately into the SEF all Orders from its Customers that are executable immediately. If a Participant cannot immediately enter into the Trading System an Order received from its Customer, the Participant must enter the Order as soon as practicable, and must immediately create an electronic record

#### **RULE 915. PRIORITY OF CUSTOMERS' ORDERS**

No Participant shall enter an Order into the Trading System for his own account, an account in which he has a direct or indirect financial interest or an account over which he has discretionary trading authority, including, without limitation, an Order allowing discretion as to time and price, when such Participant is in possession of any un-submitted Customer Order based on the same Contract and with the same fixing date or expiration date and that the Trading System is capable of accepting.

#### **RULE 916. HANDLING OF CUSTOMER ORDERS**

- (a) No Participant in possession of a Customer Order shall knowingly trade ahead of a Customer Order or take, directly or indirectly, the opposite side of such Order for its own account, an account in which it has a direct or indirect financial interest, or an account over which it has discretionary trading authority.
- (b) No Participant in possession of a Customer Order shall engage in accommodation trading or improper cross-trading.
- (c) Exceptions. The restriction in this Rule 916 shall not apply to the following:
  - (1) Transactions executed pursuant to SEF Rule 602 (Block Trades); or
  - (2) Transactions executed pursuant to SEF Rule 918 (15 Second Rule).

#### **RULE 917. DISCLOSING ORDERS PROHIBITED**

No Person shall disclose another Customer's Order to buy or sell except to a designated SEF Official or the CFTC, and no Person shall solicit or induce another Person to disclose Order information. No Person shall take action or direct another to take action based on non-public Order information, however acquired. The mere statement of opinions or indications of the price at which a market may open or resume trading does not constitute a violation of this rule.

#### **RULE 918. 15 SECOND RULE**

For Required Transactions, a Participant that is a broker, dealer or Account Manager which seeks to execute against a Customer or Client's Order or execute two Customers or Clients against

each other through the SEF Order Book, following some form of pre-arrangement or pre-negotiation of such orders, must expose one side of the potential Transaction to other Participants for at least a 15 seconds before the second side of the potential Transaction, whether for the Participant's own account or for the account of a second Customer or Client, is submitted for execution. If the Order is not executed by another Participant after 15 seconds, the Participant displaying the one side of the Transaction may execute the other side of the Transaction against its own, or against another Client or Customer's Order.

#### **RULE 919. PRE-ARRANGED AND NONCOMPETITIVE TRADES PROHIBITED**

- (a) No Person shall pre-arrange any purchase or sale or noncompetitively execute any Transaction, except in accordance with Section (b).
- (b) The foregoing restriction shall not apply to Transactions executed pursuant to SEF Rule 602 (Block Trades), and, for the avoidance of doubt, does not prohibit communications necessary to effect any RFQ Transaction pursuant to SEF Rule 703.

#### **RULE 920. RESPONSIBILITY FOR CUSTOMER ORDERS**

- (a) A Participant shall exercise due diligence in the handling and execution of Customer Orders. Failure to act with due diligence shall constitute negligence. In the case of a dispute as to whether a Participant has exercised due diligence, the appropriate arbitration or disciplinary committee is authorized to determine whether the Participant was negligent and, if so, whether an adjustment is due to the Customer.
- (b) A Participant is prohibited from directly or indirectly guaranteeing the execution of an Order or any of its terms such as the quantity or price. A Participant may only report an execution that has been effected through the Trading System or has been executed under Chapter 7. This Rule 920(b) shall not be construed to prevent a Participant from assuming or sharing in the losses resulting from an error or the mishandling of an Order provided such action is done in accordance with the SEF Rules as well as Applicable Law.
- (c) A Participant may not be held responsible for executing a Customer Order or failing to execute a Customer Order unless such Participant was negligent. A Participant may not compel an adjustment from another Participant in the absence of a bona-fide dispute regarding negligence. Participants shall document all adjustments and shall make and retain a record which contains the date the adjustment was received, the name of the Participant making the adjustment, the account to which the adjustment was credited, the amount of the adjustment, the Order number and the reason for the adjustment. Such records must be provided to the Compliance Department upon request.

#### **RULE 921. DISCRETIONARY ORDERS**

No Participant shall submit a discretionary order to the Trading System for any account of another Person, without the prior specific written consent of such other Person to the exercise of such discretion.



## **RULE 922. POSITION LIMITS**

To reduce the potential threat of market manipulation or congestion, FTSEF shall adopt for each of the contracts on the Trading System, as is necessary and appropriate, position limitations or position accountability levels for speculators.

## **RULE 923. TRADING SYSTEM ACCESS RESTRICTIONS**

All individuals entering Customer Orders in other than a clerical capacity must have appropriate industry registration. Customer Orders may be entered only from the premises of an entity registered to conduct Customer business.

## **RULE 924. PRE-EXECUTION CREDIT CHECKS**

Pre-execution credit checks will be performed for: (i) Required Transactions, (ii) Permitted Transactions that are intended to be cleared and (iii) Permitted Transactions executed on the Order Book. Pre-execution credit checks are not currently required for NDF contracts. If/when the clearing mandate for NDF contracts becomes finalized, credit checks will be conducted for block trades in the same manor as all other Transactions. The SEF will only offer block trading via the RFQ system.

Clearing Members have the ability to set credit limits for the cleared Swaps that their clients enter into on the Trading System. If a credit check fails, a trade is not permitted.

## **RULE 925. RISK CONTROLS FOR TRADING**

- (a) The SEF reserves the right to modify, adjust, or cancel any Transaction, including Block Trades, that it determines in its sole discretion to be unlawful, off market, the result of error, or otherwise incompatible with these SEF Rules, the User Agreement, or the efficient and secure operation of the SEF, including, but not limited to, excessive electronic traffic sent by any Participant, to the SEF.
- (b) The SEF reserves the right to modify, adjust, or cancel any Transaction, including Block Trades, when such action is necessary to mitigate market disrupting events caused by the improper or erroneous use of the Trading System or by system defects.
- (c) Notwithstanding any other provisions of this Rule, the SEF may modify or adjust trade prices or cancel any trade if the SEF determines that allowing the trade to stand as executed may have a material, adverse effect on the integrity of the market.
- (d) The SEF shall have the right to take any action to reduce the potential of market disruption, including but not limited to, market restrictions that pause or halt trading in market conditions prescribed by the SEF if such action is in the best interest of the Swap markets.

## **RULE 926. LIMITATION OF LIABILITY**

- (a) EXCEPT IN INSTANCES WHERE THERE HAS BEEN A FINDING OF FRAUD OR WILLFUL OR WANTON MISCONDUCT, IN WHICH CASE THE PARTY FOUND TO HAVE ENGAGED IN SUCH CONDUCT CANNOT AVAIL ITSELF OF THE PROTECTIONS OF THIS RULE, THE SEF (INCLUDING ITS AFFILIATES), AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, LICENSORS AND SERVICE PROVIDERS AND VENDORS (EACH, A “DISCLAIMING PARTY” AND COLLECTIVELY, “DISCLAIMING PARTIES”) SHALL NOT BE LIABLE TO ANY PERSON, INCLUDING WITHOUT LIMITATION ANY CUSTOMER, FOR ANY LOSS, DAMAGE OR COST (INCLUDING BUT NOT LIMITED TO ATTORNEYS’ FEES AND COURT COSTS), WHETHER DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, LOST PROFITS OR OTHERWISE OF ANY KIND, REGARDLESS OF WHETHER ANY OF THEM HAS BEEN ADVISED OR IS OTHERWISE AWARE OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF THE USE OR PERFORMANCE OF THE TRADING SYSTEM , ANY COMPONENT(S) THEREOF, OR ANY FAULT, FAILURE, MALFUNCTION OR OTHER ALLEGED DEFECT IN THE TRADING SYSTEM , INCLUDING ANY INABILITY TO ENTER OR CANCEL ORDERS IN THE TRADING SYSTEM , OR ANY FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY OR TERMINATION, OR ANY OTHER CAUSE IN CONNECTION WITH THE FURNISHING, PERFORMANCE, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF THE TRADING SYSTEM , INCLUDING BUT NOT LIMITED TO ANY FAILURE OR DELAY IN TRANSMISSION OF ORDERS OR TRADES OR LOSS OF ORDERS OR TRADES RESULTING FROM (A) MALFUNCTION OF THE TRADING SYSTEM , (B) DISRUPTION OF COMMON CARRIER LINES, (C) LOSS OF POWER, (D) ACTS OR FAILURES TO ACT OF ANY THIRD PARTY, (E) NATURAL DISASTERS OR (F) ANY AND ALL OTHER CAUSES. THE FOREGOING SHALL APPLY REGARDLESS OF WHETHER A CLAIM ARISES IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE. THE FOREGOING LIMITATIONS ARE CUMULATIVE AND SHALL NOT LIMIT OR RESTRICT THE APPLICABILITY OF ANY OTHER LIMITATION OR RULE, TRADING PROCEDURE OR NOTICE OF TRADING SYSTEM.
- (b) THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS PROVIDED BY ANY DISCLAIMING PARTY RELATING TO THE TRADING SYSTEM OR ANY FACILITY SERVICE OR FACILITIES USED TO SUPPORT THE TRADING SYSTEM , INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR USE.
- (c) IF ANY OF THE FOREGOING LIMITS ON THE LIABILITY OF A DISCLAIMING PARTY SHOULD BE DEEMED TO BE INVALID, INEFFECTIVE, OR UNENFORCEABLE OR IN THE EVENT THE FACILITY ELECTS TO ASSUME RESPONSIBILITY FOR DIRECT, OUT OF POCKET LOSSES DIRECTLY CAUSED BY THE GROSS NEGLIGENCE OF A DISCLAIMING PARTY AND ANY

PARTICIPANT OR THIRD PARTY SUSTAINS A LOSS, DAMAGE OR COST RESULTING FROM USE OF THE TRADING SYSTEM , THE ENTIRE LIABILITY OF ALL DISCLAIMING PARTIES SHALL NOT EXCEED \$10,000 FOR ALL LOSSES SUFFERED FROM ALL CAUSES ON A SINGLE CALENDAR DAY; \$25,000 FOR ALL LOSSES SUFFERED FROM ALL CAUSES IN A SINGLE CALENDAR MONTH; AND \$500,000 FOR ALL LOSSES SUFFERED FROM ALL CAUSES IN A SINGLE CALENDAR YEAR. IF THE NUMBER OF ALLOWED CLAIMS ARISING OUT OF ANY FAILURE OR MALFUNCTIONS ON A SINGLE DAY OR SINGLE MONTH CANNOT BE FULLY SATISFIED BECAUSE OF THE ABOVE DOLLAR LIMITATIONS, ALL SUCH CLAIMS SHALL BE LIMITED TO A PRO RATA SHARE OF THE MAXIMUM AMOUNT FOR THE RESPECTIVE PERIOD.

- (d) NOTWITHSTANDING ANY OF THE FOREGOING, THIS RULE SHALL IN NO WAY LIMIT THE APPLICABILITY OF ANY PROVISION OF THE ACT OR COMMISSION REGULATIONS.

## **Chapter 10**

### **DISCIPLINARY RULES**

#### **RULE 1001. GENERAL**

- (a) All Participants, Authorized Traders of Participants, Clients, Customers and Clearing Members shall be subject to the SEF's jurisdiction. All Participants, Clients, Customers and Clearing Members are subject to this Chapter 10 if they, or with respect to a Participant, Client, Customer or Clearing Member any other Person using its Legal Entity Identifier, are alleged to have violated, to have aided and abetted a violation, to be violating, or to be about to violate, any SEF Rule or any provision of Applicable Law for which the SEF possesses disciplinary jurisdiction.
- (b) The Compliance Department has the authority to: (i) initiate and conduct inquiries and investigations; (ii) prepare investigative reports and make recommendations concerning initiating disciplinary proceedings; and (iii) prosecute alleged violations within the SEF's disciplinary jurisdiction.
- (c) Each Participant, Authorized Trader of a Participant, Client, Customer and Clearing Member: (i) is obligated to appear and testify and respond in writing to interrogatories within the time period required by the Compliance Department in connection with: (A) any Obligation; (B) any inquiry or investigation; or (C) any preparation by and presentation during a Disciplinary Action; (ii) is obligated to produce all books, records, papers, documents or other tangible evidence in its, his or her possession, custody or control within the time period required by the Compliance Department in connection with: (A) any Obligation; (B) any inquiry or investigation; or (C) any preparation by and presentation during a Disciplinary Action; and (iii) may not impede or delay any Disciplinary Action.
- (d) The SEF, through the Compliance Department, will promptly prosecute possible rule violations within the SEF's disciplinary jurisdiction.
- (e) The SEF, through the Regulatory Services Provider, if any, and the Disciplinary Panel, will conduct inquiries, investigations, disciplinary proceedings, summary impositions of fines, summary suspensions or other summary actions in accordance with this Chapter 10.
- (f) No SEF Official or Officer will interfere with or attempt to influence the process or resolution of any inquiry, investigation, or disciplinary proceeding. No Director will interfere with or attempt to influence the process or resolution of any Disciplinary Action except to the extent provided under the SEF Rules.
- (g) Any Participant, Authorized Trader of a Participant, Client, Customer or Clearing Member may be represented by counsel during any Disciplinary Action pursuant to this Chapter 10.

- (h) Participant, Customer, Client and Clearing Member Liability – Individual and Joint Liability/Controlling Person Liability.
- (1) The SEF may hold a Participant, Customer, Client or Clearing Member liable for, and impose sanctions against such Participant, Customer, Client or Clearing Member for such Participant, Customer, Client or Clearing Member's own acts and omissions that constitute a violation as well as for the acts and omissions of each (A) Authorized Trader authorized by such Participant, Customer, Client or Clearing Member (B) other Person using a Legal Entity Identifier of such Participant, Customer, Client or Clearing Member or (C) other agent or representative of such Participant, Customer, Client or Clearing Member in each case, that constitute a violation as if such violation were that of the Participant, Customer, Client or Clearing Member.
  - (2) The SEF 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 as well as or for the acts and omissions of any other agent or representative of such Authorized Trader that constitute a violation as if such violation were that of the Authorized Trader.
- (i) *Ex Parte* Communications.
- (1) A Person subject to a disciplinary proceeding (and any counsel or representative of such Person) and the Compliance Department (and any counsel or representative of the Compliance 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 hearing such proceeding.
  - (2) Members of a Disciplinary Panel 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 (and any counsel or representative of such Person) and the Compliance Department (and any counsel or representative of the Compliance Department).
  - (3) Any Person who receives, makes or learns of any communication that is prohibited by this rule shall promptly give notice of such communication and any response thereto to the Compliance Department and all parties to the 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 proceeding as soon as it becomes apparent the communication concerns the merits.

## **RULE 1002. INVESTIGATIONS AND INVESTIGATION REPORTS**

### **(a) Procedures.**

- (1) The SEF's Compliance Department shall initiate an investigation upon the receipt of a request from the CFTC or upon the discovery or receipt of information that, in the judgment of the Compliance Department, indicates a possible basis for finding that a violation has occurred or will occur.
- (2) Absent mitigating circumstances, a Compliance Department investigation must be completed no later than twelve (12) months after the date that such investigation is opened. If a Compliance Department investigation will take longer than twelve (12) months to complete, the Compliance Department must explain the reasons in writing to the Chief Compliance Officer.

### **(b) Investigation Reports.**

- (1) If the Compliance Department determines that a reasonable basis exists for finding a violation of the SEF Rules or Applicable Law, the Compliance Department must submit a written report to the Review Panel, which shall include: a summary of the complaint, if any; a description of the Participant's disciplinary history (including warning letter); the relevant facts; the Compliance Department's analysis and conclusions; and a recommendation as to whether Disciplinary Action should be pursued.
- (2) If the Compliance Department determines that no reasonable basis exists for finding a violation of the SEF Rules or Applicable Law, the Compliance Department must nonetheless submit a written report to the Chief Compliance Officer, which shall include: the reason the investigation was initiated; a summary of the complaint, if any; the relevant facts; Compliance Department's analysis and conclusions; and if applicable, any recommendation that a disciplinary committee issue a warning letter. If the Compliance Department recommends that a warning letter be issued to a Participant or Authorized Trader, the investigation report shall include a copy of the letter as well as the Participant or Authorized Trader's disciplinary history at the SEF, including copies of warning letters.

### **(c) Warning Letters.**

- (1) After conducting an investigation pursuant to Rule 1002(a), the Compliance Department may recommend to the Chief Compliance Officer that the SEF issue a warning letter to a Participant or Authorized Trader. Upon such recommendation, the Chief Compliance Officer may issue a warning letter to any Participant or Authorized Trader. A warning letter is not a penalty or an indication that a finding of a violation has been made.

### **RULE 1003. DISCIPLINARY PANELS**

(a) Disciplinary Panel Composition.

- (1) The SEF shall have a Review Panel and a Hearing Panel (collectively, the “**Disciplinary Panel**”).
- (2) All information, records, materials and documents provided to the Disciplinary Panels 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 an investigation or as required by law.
- (3) The Disciplinary Panel shall not include any members of the SEF’s compliance staff or any person involved in adjudicating any other stage of the same proceeding.
- (4) The Review Panel and Hearing Panel will each be comprised of three members. At least one member of the Review Panel and one member of the Hearing Panel must be a person who is not a member of the self-regulatory organization whenever such panel is acting with respect to a disciplinary action in which:
  - i. The subject of the action is a member of the self-regulatory organization’s governing board or major disciplinary committee; or
  - ii. Any of the charged, alleged or adjudicated contract market rule violations involve:
    - (1) Manipulation or attempted manipulation of the price of a commodity, a futures contract or an option on a futures contract, or
    - (2) Conduct which directly results in financial harm to a non-member of the contract market.
- (5) In the case of a contract market, that more than fifty percent of each major disciplinary committee or hearing panel thereof include persons representing membership interests other than that of the subject of the disciplinary proceeding being considered;
- (6) In the case of a registered futures association, that each major disciplinary committee or hearing panel thereof include persons representing membership interests other than that of the subject of the disciplinary proceeding being considered; and,
- (7) That each major disciplinary committee or hearing panel thereof include sufficient different membership interests so as to ensure fairness and to prevent special treatment or preference for any person in the conduct of a committee's or the panel's responsibilities.

- (b) Review Panel. The Review Panel is responsible for determining whether a reasonable basis exists for finding a violation of the SEF Rules, and for authorizing the issuance of notices of charges against Persons alleged to have committed violations if the Review Panel believes that the matter should be adjudicated.
- (c) Hearing Panel. The Hearing Panel is responsible for adjudicating disciplinary cases pursuant to a notice of charges authorized by a Review Panel. No member of a Hearing Panel may have a financial, personal, or other direct interest in the matter under consideration.

#### **RULE 1004. REVIEW OF INVESTIGATORY REPORT**

- (a) Within thirty (30) days of receiving a completed investigation report pursuant to Rule 1002, a Review Panel must take one of the following actions:
  - (1) If the Review Panel determines that additional investigation or evidence is needed, it must promptly direct the Compliance Department to conduct further investigation.
  - (2) If the Review Panel determines that no reasonable basis exists for finding a violation or that prosecution is otherwise unwarranted, it may direct that no further action be taken. Such determination must be in writing, and must include a written statement setting forth the facts and analysis supporting the decision.
  - (3) If the Review Panel determines that a reasonable basis exists for finding a violation and adjudication is warranted, it must direct that the person or entity alleged to have committed the violation be served with a notice of charges and must proceed in accordance with the rules of this section.

#### **RULE 1005. NOTICE OF CHARGES**

- (a) If the Review Panel directs that a respondent be served with a notice of charges pursuant to Rule 1004(a)(3), the Compliance Department shall prepare and serve a notice of charges.
- (b) A notice of charges will state the acts, conduct, or practices in which the respondent is alleged to have engaged; state the rule, or rules, alleged to have been violated (or about to be violated); advise the respondent that he is entitled, upon request, to a hearing; prescribe the period within which a hearing on the charges may be requested, which shall not be less than twenty (20) days; advise the respondent that he has the right to be represented by legal counsel or any other representative of its choosing in all succeeding stages of the disciplinary process; 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 advise the respondent that any allegation in the notice of charges that is not expressly denied will be deemed to be admitted.
- (c) Any notice of charges or other documents to be served pursuant to this Chapter 9 may be served upon the respondent and service shall be deemed complete either personally or by



leaving the same at his or her place of business; by deposit in the United States mail, postage prepaid, via registered or certified mail addressed to the respondent at the address as it appears on the books and records of the SEF; or via electronic mail to the electronic mail address as it appears on the books and records of the SEF.

- (d) Upon being served with a notice of charges, a respondent will have the right to be represented by legal counsel or any other representative of its choosing in all succeeding stages of the disciplinary process.

#### **RULE 1006. ANSWER TO NOTICE OF CHARGES**

- (a) In General. If the respondent determines 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; and
- (5) sign and serve the answer on the Chief Compliance Officer.

- (b) Failure to Respond.

- (1) 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. 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 (a) above.
- (2) If a respondent admits to allegations through such a failure to respond, the Hearing Panel shall impose appropriate sanctions.
- (3) Before imposing sanctions pursuant to Rule 1006(b)(2), the Hearing Panel will notify the respondent in writing of any sanction to be imposed and advise the respondent that it may request a hearing on such sanction within a specified period of time. If a respondent fails to request a hearing within twenty (20) days after being served with such notice, the respondent will be deemed to have accepted the sanction.

- (c) Denial of Charges and Right to Hearing.
  - (1) If a respondent requests a hearing on a charge that is denied pursuant to Rule 1006(a), or on a sanction set by the Hearing Panel pursuant to Rule 1006(b)(3), the respondent shall be entitled to a hearing in accordance with Rule 1009.
  - (2) Except for good cause shown, the hearing will be concerned only with those charges denied and/or sanctions set by the Hearing Panel under Rule 1006(b)(3) for which a hearing has been requested.

#### **RULE 1007. 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.
- (b) Any offer of settlement should contain proposed findings and sanctions and be signed by the respondent or potential respondent and submitted to the Disciplinary Panel presiding over the matter.
- (c) 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 SEF over it and over the subject matter of the proceedings and consent to the entry of the findings and sanctions imposed.
- (d) If a respondent or potential respondent submits an offer of settlement in accordance with paragraph (a) above, the Compliance Department will forward the offer to the Hearing Panel with a recommendation on whether to accept or reject the offer. If the Compliance Department and Hearing Panel agree to accept the offer of settlement, then the offer of settlement shall be accepted. If applicable, the Hearing Panel's decision must include a statement that the respondent has accepted the sanctions imposed without either admitting or denying the rule violations.
- (e) Upon accepting any offer of settlement, the Hearing Panel shall issue a written decision specifying the rule violations it has reason to believe were committed, including the basis or reasons for the panel's conclusions, and any sanction to be imposed, which must include full customer restitution where customer harm is demonstrated.
- (f) If an offer of settlement is accepted by the Hearing Panel, the respondent's submission of the offer will be deemed to constitute a waiver of the right to notice, opportunity for a hearing and review and appeal under the SEF Rules.
- (g) If the offer of settlement is not accepted or is withdrawn by the respondent or potential respondent, the matter will proceed as if the offer had not been made and the offer and all documents relating to it will not become part of the record. Neither a respondent or potential respondent nor the Hearing Panel may use an unaccepted offer of settlement as an admission or in any other manner at a hearing of, or appeal from, disciplinary proceedings.

## **RULE 1008. RESPONDENT REVIEW OF EVIDENCE**

- (a) Prior to the commencement of a hearing, each respondent will be given the opportunity to review all books, records, documents, papers, transcripts of testimony and other tangible evidence in the possession or under the control of the SEF that the Compliance Department will use to support the allegations and proposed sanctions in the notice of charges or which the chair of the Hearing Panel deems relevant to the disciplinary proceedings. Notwithstanding the foregoing, no respondent will have the right to review, and the SEF will have no obligation to disclose, any information protected by attorney-client privilege.
- (b) If any books, records, documents, papers, transcripts of testimony, or other tangible evidence contain information that could adversely affect the competitive position of the Person providing the information or if such information might compromise other investigations being conducted by the Compliance Department, the Compliance Department may redact, edit or code such information before furnishing it to the respondent.
- (c) Notwithstanding anything in paragraph (b) above to the contrary, the Compliance Department:
  - (1) will not redact, edit or code competitive or investigative information contained in documents in a manner that would impair the respondent's ability to defend against the allegations or proposed sanctions in the notices of charges; and
  - (2) will provide the respondent with access to the information and portions of the documents that the Compliance Department intends to rely on to support the allegations or proposed sanctions in the notice of charges.
- (d) For purposes of this Rule 1008, information that could adversely affect competitive positions include positions in Contracts currently held, trading strategies employed in establishing or liquidating positions, the identity of any Participant, and the personal finances of the Person providing the information.

## **RULE 1009. HEARINGS**

Hearings shall be conducted pursuant to the procedures below, or pursuant to the procedures of a Regulatory Services Provider, if any.

- (a) Hearing Procedures
  - (1) A hearing shall be fair, shall be conducted before members of the disciplinary panel, and shall be promptly convened after reasonable notice to the respondent.
  - (2) If the respondent has requested a hearing, a copy of the hearing shall be made and shall become a part of the record of the proceeding. The record shall not be required to be transcribed unless:

- i. The transcript is requested by CFTC staff or the respondent; or
- ii. The decision is reviewed by the CFTC.

In all other instances, a summary record of a hearing will be prepared.

- (3) After reasonable notice to each respondent, the Hearing Panel will promptly convene a hearing to conduct the disciplinary proceedings with respect to such respondent. Parties to a disciplinary proceeding include each respondent and the Compliance Department.
- (4) 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 will not be bound by any evidentiary or procedural rules or law. Once admitted during the hearing, the Hearing Panel may consider, and attach the weight it believes appropriate to, evidence or other materials.
- (5) Except for procedural and evidentiary matters decided by the chair of the Hearing Panel pursuant to paragraph (3), unless each respondent otherwise consents, the entire Hearing Panel must be present during the entire hearing and any related deliberations.

(b) Conducting Hearings.

- (1) At a hearing conducted in connection with any disciplinary proceedings, the Compliance 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 1006, the respondent is entitled to attend and participate in the hearing.
- (2) At a hearing conducted in connection with any disciplinary proceedings, the Hearing Panel or the Compliance Department and each respondent may:
  - i. present evidence and facts determined relevant and admissible by the chair of the Hearing Panel;
  - ii. call and examine witnesses; and
  - iii. cross-examine witnesses called by other parties.
- (3) 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 a respondent fails to file an answer but appears at the hearing, the

respondent may not participate in the hearing (by calling or cross-examining witnesses, testifying in defense, presenting evidence concerning the notice of charges, or otherwise) unless the Hearing Panel determines that the respondent had a compelling reason for failing to timely file an answer. If the Hearing Panel determines that the respondent had a compelling reason for failing to timely file an answer, the Hearing Panel will adjourn the hearing and direct the respondent to promptly file a written answer in accordance with Rule 1006.

- (4) Any Person entitled, or required or called upon, to attend a hearing before a Hearing Panel pursuant to paragraph (b)(2) above will be given reasonable notice, confirmed in writing, specifying the date, time and place of the hearing, and the caption of the disciplinary proceedings. All Participants (that are individuals) and Authorized Traders that are called as witnesses are required to appear at the hearing and, where applicable, produce evidence. The Compliance Department will make reasonable efforts to secure the presence of all other Persons called as witnesses whose testimony would be relevant.
  - (5) If during any disciplinary proceeding, the Hearing Panel determines that a reasonable basis exists to believe that the respondent violated or is about to violate a Rule of the SEF or a provision of Applicable Law other than the violations alleged in the notice of charges, the Hearing Panel may consider those apparent violations after providing the respondent with an opportunity to answer the additional allegations in accordance with Rule 1006. In connection with considering apparent violations pursuant to this paragraph (b)(5), the Hearing Panel may request that the Compliance Department provide the Hearing Panel with any additional information related to the violations at issue.
  - (6) The SEF will arrange for an audio recording of every hearing conducted in connection with disciplinary proceedings to be created, which shall become a part of the record. At the direction of the CFTC or the request of the respondent, the SEF will arrange for the recording to be accurately transcribed. If the respondent requests a copy of all or portions of the recording of a hearing, the chair of the Hearing Panel may within his or her sole discretion require the respondent to pay the costs for transcribing the recording of the hearing.
- (c) The Hearing Panel may summarily impose sanctions on any Participant or Authorized Trader that impedes or delays the progress of a hearing.
  - (d) No interlocutory appeals of rulings of any Hearing Panel or chair of the Hearing Panel are permitted.

#### **RULE 1010. DECISION OF HEARING PANEL**

The decision of the Hearing Panel shall be made pursuant to the procedures below, or pursuant to the procedures of a Regulatory Services Provider, if any.

- (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 SEF will serve a copy of the order of the disciplinary proceedings on the respondent and the Compliance 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;
  - (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 of the SEF and provision of Applicable Law that the respondent is found to have violated; and
  - (6) the imposition of sanctions, if any, including the basis for such sanctions and the effective date of each sanction.

#### **RULE 1011. SANCTIONS**

- (a) After notice and opportunity for hearing in accordance with the SEF Rules, the SEF will impose sanctions if any Participant, Authorized Trader, Customer, Client, Clearing Member or other Person using the Participant's Legal Entity Identifier is found to have violated or to have attempted to violate a Rule of the SEF or provision of Applicable Law for which the SEF possesses disciplinary jurisdiction. All sanctions, including sanctions imposed pursuant to an accepted settlement offer, must take into account the respondent's disciplinary history. In the event of demonstrated customer harm, any sanction must also include full customer restitution, except where the amount of restitution or to whom it should be provided cannot be reasonably determined. The SEF may impose one or more of the following sanctions or remedies: (1) censure; (2) limitation on Trading Privileges, ability to otherwise access the Trading System , and/or other activities, functions or operations; (3) suspension of Trading Privileges and/or ability to otherwise access the Trading System ; (4) fine (subject to paragraph (b) below); (5) restitution or disgorgement; (6) termination of Trading Privileges and/or ability to otherwise access the Trading System; or (7) any other sanction or remedy deemed to be appropriate.
- (b) The SEF may impose a maximum fine of \$50,000 for each violation of a Rule of the SEF or a provision of Applicable Law. If a fine or other amount is not paid within 30 days of the date that it becomes payable, then interest will accrue on the sum from the date that it became payable at the quoted prime rate plus three (3) percent. The SEF has sole discretion to select the bank on whose quotations to base the prime rate. Participant will be responsible for paying any fine or other amount imposed on, but not paid by, any of its Authorized Traders.

## **RULE 1012. NO RIGHT TO APPEAL**

All decisions of a Disciplinary Panel, including summary impositions of fines and other summary actions are final and are not subject to appeal under the SEF Rules. Participants are entitled to the appeal process outlined in CFTC Regulation Part 9.

## **RULE 1013. SUMMARY FINES FOR VIOLATIONS OF THE SEF RULES REGARDING TIMELY SUBMISSION OF RECORDS**

- (a) The Chief Compliance Officer or Compliance Department may summarily impose a fine against a subject person on account of conduct by such subject person, any person, Participant, Customer or Client, or any person using any Firm ID, User ID or Admin ID assigned to such subject person for violations of rules relating to the following:
  - (1) failure to make time and accurate submission to the SEF of any notice or report required by SEF rules
  - (2) failure to make timely payments of fees, costs, charges or fines to the SEF
  - (3) failure to keep books or records required by SEF rules
- (b) The Chief Compliance Officer or Compliance Department will give notice of any summary fine imposed pursuant to this Rule 1013, which shall include:
  - (1) the violations of the SEF Rules for which the fine is being imposed;
  - (2) the date of the violation for which the fine is being imposed; and,
  - (3) the amount of the fine, not to exceed \$5,000 per violation of Rule 1013.
- (c) In lieu of a summary fine, the Chief Compliance Officer may issue a warning letter for first-time violations or violators pursuant to Rule 1002(c), provided that no more than one warning letter may be issued per rolling 12-month period for the same violation by the same Person.
- (d) Any Person subject to a summary fine may challenge such summary fine by denying the charges and filing a request for a hearing pursuant to Rule 1006(c).

## **RULE 1014. EMERGENCY SUMMARY SUSPENSIONS AND OTHER SUMMARY ACTIONS**

- (a) Notwithstanding anything in the SEF Rules to the contrary, the Chief Compliance Officer may, after consultation with the Compliance Department, if practicable, summarily suspend, revoke, limit, condition, restrict or qualify a Participant's Trading Privileges and/or ability to otherwise access the Trading System ; provided, however, that the Chief Compliance Officer may only summarily suspend a Participant's Trading Privileges or the trading privileges of any Participant's Authorized Traders if the Chief Compliance Officer reasonably believes that:

- (1) such Person is subject to statutory disqualification from registration as provided in CEA Section 8a(2) or (3);
  - (2) such Person has failed to pay applicable fees, costs, charges, fines or arbitration awards; or
  - (3) immediate action is necessary to protect the public or the best interests of the SEF.
- (b) Whenever practicable, the SEF shall provide prior written notice to the party against whom any action in accordance with paragraph (a) shall be taken. If prior notice is not practicable, the SEF will give notice at the earliest possible opportunity to the respondent against whom the action is brought.
  - (c) Any action taken in accordance with paragraph (a) will become final upon the expiration of 20 days after the notice of action is served on the respondent.
  - (d) At the request of the SEF, a respondent against whom a summary action is brought pursuant to this Rule 1014 must provide books and records over which the respondent has access or control and must furnish information to, or appear or testify before, the SEF in connection with the enforcement of any Rule of the SEF.

#### **RULE 1015. RIGHTS AND RESPONSIBILITIES AFTER SUSPENSION OR TERMINATION**

- (a) When a Participant's Trading Privileges and/or ability to otherwise access the Trading System are suspended for a period of 12 months or less, none of its rights (including the right to hold oneself out to the public as a Participant, enter Orders into the Trading System and receive Participant rates for fees, costs, and charges and deposit margin at Participant levels) will apply during the period of the suspension, except for the right of the Participant in question to assert claims against others as provided in the SEF Rules. Any such suspension will not affect the rights of creditors under the SEF Rules or relieve the Participant in question of its, his or her obligations under the SEF Rules to perform any Contracts entered into before the suspension, or for any the SEF fees, costs, or charges incurred during the suspension. The SEF may discipline a suspended Participant under this Chapter 10 for any violation of a Rule of the SEF or provision of Applicable Law committed by the Participant before, during or after the suspension.
- (b) When a Participant's Trading Privileges and/or ability to otherwise access the Trading System are terminated, all of its related rights will terminate, except for the right of the Participant in question to assert claims against others, as provided in the SEF Rules. Any such termination will not affect the rights of creditors under the SEF Rules. A terminated Participant may only seek to be reinstated by applying for Trading Privileges pursuant to Rule 302.
- (c) The SEF will not consider the application of a terminated Participant if such Participant, as the case may be, continues to fail to appear at disciplinary proceedings without good cause or continues to impede the progress of disciplinary proceedings.



- (d) A suspended or terminated Participant remains subject to the SEF Rules and the jurisdiction of the SEF for acts and omissions prior to the suspension or termination, and must cooperate in any inquiry, investigation, disciplinary proceeding, summary suspension or other summary action as if the suspended or terminated Participant still had Trading Privileges or ability to otherwise access the Trading System.

**RULE 1016. Notice to the Respondent, the Regulatory Services Provider and the Public**

- (a) Upon rendering a final decision regarding a disciplinary or access denial action, the SEF shall, within thirty days thereafter, provide written notice of such action to the person against whom the action was taken. Any disciplinary or access denial action taken will not become effective until at least fifteen days after the written notice is delivered to the person disciplined or denied access.
- (b) The SEF will provide written notice of disciplinary proceedings to the parties, the Regulatory Services Provider, if any, and the CFTC to the extent such notice is required by the Regulatory Services Provider and/or the CFTC.

**Chapter 11**  
**ALTERNATIVE DISPUTE RESOLUTION**

**RULE 1101. DISPUTES SUBJECT TO ARBITRATION**

(a) Mandatory Arbitration of Disputes.

- (1) It is contrary to the objectives and policy of the SEF for Participants or Authorized Traders to litigate SEF-related disputes. Participants or Authorized Traders must arbitrate all disputes between or among themselves, or against the SEF, that relate to or arise out of any Transaction on or subject to the SEF Rules that are based upon facts and circumstances that occurred at a time when the parties were Participants, other than disputes between a Participant and Clearing Member relating to a Contract that fails to clear.
- (2) Notwithstanding the foregoing, this Rule 1101 does not require an employee of a Participant to submit to arbitration any claim that includes allegations of a violation of federal, state or local employment discrimination, sexual harassment, wage payment or benefits laws.

(b) Claims Against a Clearing House.

Claims against a Clearing House must be pursued pursuant to the rules of the Clearing House.

(c) Permissive Arbitrations.

The following may be submitted for arbitration through the National Futures Association Arbitration Program:

- (1) claims of a Customer or Client that is not a Participant against a Participant or Authorized Traders that relate to or arise out of any Transaction on or subject to the SEF Rules, including any disputes brought under Rule 920(a);
- (2) claims between a Participant and Clearing Member relating to a Contract that fails to clear; and
- (3) at the discretion of the Chief Compliance Officer, any claim involving the interests of the SEF, its Participants, their business relations or trading in general not otherwise arbitrable under these rules, provided the parties have consented to such arbitration.

(d) Waiver of Any Objection to Jurisdiction.

Any Person who is not a Participant who submits a claim or grievance to arbitration or any Person who appeals any arbitration decision, or who takes any steps therein, shall be conclusively presumed to have voluntarily recognized and agreed to the jurisdiction of

the SEF and any Regulatory Services Provider or other Registered Entity with whom the SEF has contract pursuant to Rule 1103 to hear and determine the claim or appeal.

**RULE 1102. INITIATING AN ARBITRATION CLAIM**

- (a) A claimant may initiate an arbitration proceeding against a respondent by serving a Notice of Arbitration on the respondent and the Compliance Department, together with proof of service, within two years from the date the cause of action accrued.
- (b) The Notice of Arbitration served on the Compliance Department shall be accompanied by the claimant’s non-refundable check for arbitration filings fees, which shall be as follows:

<u>Amount of Relief Requested</u>	<u>Filing Fee</u>
up to \$5,000	\$100
over \$5,000 and up to \$25,000	\$250
over \$25,000 and up to \$100,000	\$500
over \$100,000	\$1,500

- (c) The Notice of Arbitration shall set forth the name and address of the claimant(s) and respondent(s), the nature of the allegations against the respondent(s), the relief requested and the factual and legal basis for granting such relief.
- (d) Any documents regarding a SEF Arbitration may be served, and service shall be deemed completed upon: (i) hand delivery, (ii) deposit in the United States mail, postage paid, via registered mail or certified mail return receipt requested; (iii) deposit in nationally recognized overnight mail carrier; or (iv) sending of such documents by electronic mail with a confirmation copy promptly sent by United States mail. Service made on the claimant and respondent shall be made to the address provided by the claimant and respondent to the SEF for notices from the SEF. Service to the Compliance Department shall be made at the address of the SEF to the attention of the Compliance Department.

**RULE 1103. AGREEMENT WITH REGULATORY SERVICES PROVIDER**

The SEF may, at any time, choose to contract with a Regulatory Services Provider, or other Registered Entity, for the provision of regulatory services which includes, without limitation, assistance with the resolution of disputes pursuant to the SEF Rules. Any act or requirement that is required to be performed by the SEF under the SEF Rules, with respect to arbitration proceedings may be performed by a Regulatory Services Provider. The SEF shall retain ultimate decision-making authority with respect to any functions that are contracted to a Regulatory Service Provider.

**Chapter 12**  
**MISCELLANEOUS**

**RULE 1201. MARKET DATA**

- (a) Subject to each Participant's or Customer's or rights in its own data, all Participants, Customer of Participants and Clearing Members acknowledge and agree that the SEF shall have a proprietary interest in all market data and information entered into and/or created on the SEF and/or displayed on the SEF's systems ("**SEF Market Data**") including without limitation:
- (1) price, quantity, structure, date and time of entry of each and every bid and offer submitted on the SEF;
  - (2) price, quantity, structure, date and time of trade execution of each and every Trade executed on the SEF;
  - (3) the end of day price for each instrument traded on the SEF;
  - (4) any information that can be derived from (a), (b) or (c) above; and
  - (5) the dissemination or transmission of SEF Market Data to Participants, Customers Clearing Members and/or any publisher of market data with whom the SEF has a written agreement, provided that SEF Market Data is anonymized and aggregated.
- (b) Except as permitted by the SEF Rules, Participants, Customer, and Clearing Members shall not sell, distribute, re-transmit, transfer, license or otherwise provide SEF Market Data to any third-party. The SEF will not use SEF Market Data to replicate or reverse engineer the trading strategy of a Participant or Customer.
- (c) Except in respect of its Participant data, Participant shall not (a) provide to any third party access to or the ability to use the SEF, SEF Market Data, or any content or data that may be accessible , in whole or in part, on the SEF, (b) store, copy, modify, reverse engineer, reverse assemble or reverse compile the Trading System, SEF Market Data, or any content or data that may be accessible, in whole or in part, on the SEF; (c) distribute, rent, sell, retransmit, redistribute, release or license to any third party other than a Participant the Trading System , the SEF Market Data, or any content or data that may be accessible , in whole or in part, on the SEF, and (d) use the SEF, the SEF Market Data, or any content or data that may be accessible, in whole or in part, on the SEF in constructing or calculating the value of any index or index products. For the avoidance of any doubt this section shall not prohibit Participant and/or Clearing Member from (i) providing the Trading System , SEF Market Data, any content or data that may be accessible, in whole or in part, on the SEF to an employee of a Participant and/or Clearing Member engaged in risk management or supervisory activities with the authority to establish, monitor, or modify credit controls for orders transmitted entered, or (ii) use SEF Market Data for internal business and regulatory reporting purposes.

- (d) The SEF acknowledges and agrees that a Participant shall be permitted, and the SEF hereby grants Participant a non-exclusive, revocable, non-transferable and royalty-free license (without warranties of any kind, express or implied), to use for the benefit of the Participant the SEF Market Data, and in particular to use the SEF Market Data to create pricing data for Participant's internal business purposes and Participant shall retain all ownership and proprietary interest with respect to such pricing data. Subject to the foregoing license, and subject to a Participant's rights in its Participant Data as between the SEF and the Participant, the SEF retains all ownership and proprietary interest with respect to the SEF Market Data.

## **RULE 1202. INFORMATION SHARING**

- (a) The SEF may enter into information-sharing agreements or other arrangements or procedures to coordinate surveillance with other markets on which financial instruments related to the Contracts trade. As part of any information-sharing agreements or other arrangements or procedures adopted pursuant to this Rule, the SEF may:
- (1) provide market surveillance reports to the CFTC, any Government Agency with jurisdiction over the SEF or, as necessary for the SEF to comply with its SRO obligations, to other markets;
  - (2) share information and documents concerning current and former Participants with the CFTC, any Government Agency with jurisdiction over the SEF or, as necessary for the SEF to comply with its SRO obligations, to other markets;
  - (3) share information and documents concerning ongoing and completed investigations with the CFTC, any Government Agency with jurisdiction over the SEF or, as necessary for the SEF to comply with its SRO obligations to other markets; and/or
  - (4) require its current or former Participants to provide information and documents to the SEF at the request of the CFTC, any Government Agency with jurisdiction over the SEF or, as necessary for the SEF to comply with its SRO obligations, other markets.
- (b) The SEF may enter into any information sharing arrangement with any Person or body (including, without limitation, the CFTC, the NFA, any Self-Regulatory Organization, any exchange, market, or clearing organization, or foreign regulatory authority) if the SEF considers such arrangement to be in furtherance of the SEF's purpose or duties under the SEF Rules or any law or regulation.
- (c) The SEF may disclose to any Person or entity information concerning or associated with a Participant or other Person that the SEF 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.

### **RULE 1203. SEF EMPLOYEES**

- (a) SEF employees, officers, agents, independent contractors and consultants are prohibited from disclosing material, non-public information obtained as a result of their employment or relationship with the SEF. SEF employees, officers, agents, independent contractors and consultants are prohibited from providing non-public information obtained as a result of their employment or relationship with the SEF if such employee, officer, agent, independent contractor or consultant expects or should have reasonably expected that such disclosed information may assist a Person trading in an instrument traded on the SEF or other trading venue.
- (b) Except as otherwise provided, an employee or officer of the SEF shall not, directly or indirectly, buy or sell any instruments traded on the SEF, or any other trading venue that trades Swaps or other CFTC-jurisdictional contracts. This rule does not prohibit an employee or officer of the SEF that has received the prior written approval of the SEF's Chief Compliance Officer from participating in a pooled investment vehicle or other investment vehicle that is directed by a third-party advisor over which the SEF officer or employee has no direct or indirect control.
- (c) Except as permitted in writing by the Chief Executive Officer, no Participant or Authorized Traders shall, directly or indirectly, give or permit to be given anything of value, including gifts and gratuities, in excess of one hundred dollars (\$100) per individual per year to a SEF Official or employee.

### **RULE 1204. NO ENDORSEMENT OF OPINIONS, RESEARCH OR RECOMMENDATIONS**

Any opinions, research or recommendations appearing on the Trading System are not the SEF's opinions, research or recommendations, and the SEF does not endorse them or any content provided by third parties.

### **RULE 1205. NOT A PARTY**

The SEF is not directly or indirectly a party to or participant in any trade or Swap executed on or pursuant to the rules of the SEF.

### **RULE 1206. NO ADVICE**

The SEF is not providing and shall not provide any financial, legal, tax, advisory, consultative or business services to Participant, or advice on structuring Transactions or drafting or negotiating Transaction documentation. Participant should seek its own legal, tax, financial and other advice when structuring, negotiating and/or documenting Transactions.

### **RULE 1207. EXTENSION OR WAIVER OF RULES**

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

#### **RULE 1208. EFFECT OF AMENDMENT, REPEAL OR NEW RULE**

- (a) These SEF Rules may be modified or amended by the SEF by posting such amendments to the SEF website, and any such amendment shall be applicable to and binding and shall be effective when posted.
- (b) If an amendment or repeal of a SEF Rule or adoption of a new SEF Rule does not materially change the terms or conditions of a Contract and does not affect the value of open Contracts as determined by the Board in its sole discretion, then the effective date of any amendment or repeal of a SEF Rule or adoption of a new SEF Rule relating to Contracts is binding on all Contracts entered into before and after the effective date of such amendment, repeal or adoption.
- (c) If an amendment or repeal of a SEF Rule or adoption of a new SEF Rule materially changes the terms or conditions of a Contract or affects the value of open Contracts as determined by the Board in its sole discretion, then the amendment, repeal or new SEF Rule is binding only on Contracts listed for trading after the effective date of such amendment, repeal or adoption, and Contracts listed as of the effective date of such amendment, repeal or adoption with no open positions then in existence, unless otherwise specifically provided by the Board.

#### **RULE 1209. GOVERNING LAW, JURISDICTION AND DISPUTE RESOLUTION**

- (a) The law of the State of New York governs the SEF Rules; *provided, however*, that if Participant provides an opinion of a counsel (i) stating that the Participant cannot be subject to the law of the State of New York and must be subject to the law of the jurisdiction of the location where the Participant is organized (the “**Local Law**”) and (ii) enumerating specific Rules that must be subject to the Local Law, then FTSEF will specify the application of the Local Law to the enumerated Rules; *provided, further*, that in no event shall Local Law supersede any provision of the CEA.
- (b) Any dispute between the SEF and a Participant arising from or in connection with the SEF Rules will be settled by arbitration pursuant to Chapter 11. All Participants unconditionally and irrevocably waive any and all right to trial by jury in connection with any such dispute.

## Chapter 13 CONTRACT SPECIFICATIONS

The SEF's NDF contract specifications are as follows:

Contract Overview	A non-deliverable forward (NDF) is an outright forward contract in which counterparties settle the difference between the contracted NDF price or rate and the prevailing spot price or rate on an agreed notional amount
Reference Currency	Brazilian Real            USD/BRL Chilean Peso                USD/CLP Chinese Yuan                USD/CNY Columbian Peso              USD/COP Indonesian Rupiah         USD/IDR Indian Rupee                USD/INR Korean Won                  USD/KRW Malaysian Ringgit         USD/MYR Peruvian Sol                 USD/PEN Philippine Peso              USD/PHP Russian Ruble                USD/RUB New Taiwan Dollar        USD/TWD
Settlement Currency	Non-deliverable forwards (NDFs) settle in USD
Quoting Convention and Minimum Increment	Notional amount, as agreed by the counterparties
Minimum Size	Notional amount, as agreed by the counterparties
Notional Currency	Currency in which contract size is expressed in
Trading Conventions	Buy or Sell which refers to the contract size expressed in notional currency
Forward Rate	Currency exchange rate expressed as the amount of reference currency per unit of non-reference currency
Trade Date	The date on which parties enter into the contract
Settlement Date	Specified settlement of Payment date
Fixing Date	The date at which the difference between the prevailing market exchange rate and the agreed upon exchange rate is calculated
Settlement Procedure	Bilateral settlement performed in the settlement currency
Trading Hours	FTSEF will offer trading 24 hours a day during regular trading days with a brief system shutdown between 5:00 and 5:20 EST daily.
Clearing Venue	Bilateral
Block Size	Minimum Block size is set to \$25,000,000 USD for all currencies.
Speculative Limits	As set forth in CFTC 17 CFR Part 151
Reportable Levels	As set forth in CFTC Regulation 15.03



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# **EXHIBIT A**

## **Dodd Frank Act - Swap Transaction Reporting Party Requirements**

*This version supersedes the one published on May 30, 2014.*

*Latest updates can be found on ISDA's Data & Reporting website*

<http://www2.isda.org/functional-areas/technology-infrastructure/data-and-reporting/>

### **1. Background to This Document and Status**

The generation of a Unique Swap Identifier (“USI”) can be linked to reporting counterparty (“RP”) responsibilities while the process of USI generation and determination of an RP are separate and distinct processes.

The ISDA USI Working Group was responsible for the USI generation and documentation of RP rules which are discussed with and agreed to by the various asset class implementation groups and steering committees. The ISDA Data and Reporting Compliance Working Group (“DWG”) will identify next steps and ongoing maintenance of this document.

### **2. Reporting Party Requirements**

The Commodity Futures Trading Commission (“CFTC” or “Commission”) specified in the final rules for Part 45 that complete data concerning swaps is available to regulators, including:

1. Creation data; and
2. Continuation data of all life cycle events affecting the terms of the swap until final termination or expiration.

The CFTC also specified in the final rules for Part 43 that certain anonymized data concerning swaps is publicly disseminated to enhance price discovery and increase transparency. Registered entities and swap counterparties must report swap creation data electronically to a Swap Data Repository (“SDR”). Required swap creation data includes all primary economic terms (“PET”) data and all confirmation data for a swap. Required swap continuation data must be reported to the SDR to ensure that all data concerning the swap remains current and accurate and includes any change to the primary economic terms of the swap. Continuation data generally must be reported by a swap dealer (“SD”) or major swap participant (“MSP”) to the SDR no later than the same day of such a change (non-SD/MSP RPs have longer timeframes). Additionally, regulations require SD and MSP reporting counterparties to report valuation data to fully describe the daily mark of the transaction (such as the daily “mark to market”) for each of their swaps on a transactional basis.

Registered entities and counterparties required to report swap creation data or swap continuation data may contract with third-party service providers to facilitate reporting. However, these entities remain fully responsible for reporting as required by the regulations.

### 3. Reporting Counterparty Responsibility

The RP is the party to a swap with the responsibility to report a swap<sup>1</sup> to an SDR as soon as technologically practicable after execution in accordance with the Dodd Frank Act.<sup>2</sup> Under the Dodd-Frank Act and CFTC regulations, one party must bear responsibility to ensure that the trade is reported. The CFTC has created a hierarchy whereby registered SDs always report when trading with MSPs or End Users and registered MSPs always report when trading with End Users. (See Annex 1)

#### For swaps executed on facility:

- For Parts 43 and 45 swaps executed on a SEF or DCM the SEF or DCM must report swap creation data to an SDR “as soon as technologically practicable.”
- For Part 45 swap continuation data reporting only, if neither party is a U.S. person but the swap is executed on a SEF or DCM or otherwise executed in the U.S. or cleared by a DCO, then the parties are required to agree which counterparty will be the RP.

#### For swaps executed off-facility: (both U.S. persons)

- For Parts 43 and 45, if only one party is an SD or MSP, the SD or MSP shall be the RP.
- For Parts 43 and 45, if one party is an SD and the other party is an MSP, the SD shall be the RP.
- For Parts 43 and 45, if both parties are SDs, the SDs shall designate which party shall be the RP (see section 5 - Same Level Determination of the Reporting Party).
- For Parts 43 and 45, if both parties are MSPs, the MSPs shall designate which party shall be the RP (see section 5 - Same Level Determination of the Reporting Party).
- For Part 45 only:
  - If both parties are non-SDs/MSPs, and only one party is a financial entity,<sup>3</sup> the party that is a financial entity is the RP.
  - If both parties are non-SDs/MSPs that are financial entities or non-SDs/MSPs that are not financial entities, the parties shall designate which party (or its agent) will be the RP.
- For Part 43 only:
  - If both parties are non-SDs/MSPs, the parties shall designate which party (or its agent) shall be the RP for the publicly reportable swap transaction (see section 5 - Same Level Determination of the Reporting Party).

<sup>1</sup>

Under Part 45 all swaps must be reported; however the reporting requirements under Part 43 only require an RP to report a “publicly reportable swap transaction” which means:

(1) Any executed swap that is an arm's-length transaction between two parties that results in a corresponding change in the market risk position between the two parties; or  
(2) Any termination, assignment, novation, exchange, transfer, amendment, conveyance, or extinguishing of rights or obligations of a swap that changes the pricing of the swap.

<sup>2</sup>

Dodd–Frank Wall Street Reform and Consumer Protection Act, [Pub.L. 111-203, 124 Stat. 1376 \(2010\)](#).

<sup>3</sup>

As defined in Section 2(h)(7)(C) of the Commodity Exchange Act.

For swaps executed off-facility: (one U.S. person only)

- For Part 45 only, if both parties are non-SDs/MSPs, the U.S. person is the RP.
- For Part 43 only, if both parties are non-SDs/MSPs the parties shall designate which party (or its agent) shall be the RP for the publicly reportable swap transaction.
- For Parts 43 and 45, the Commission generally agrees that if a registered SD or MSP is a party to a swap, regardless of whether it is non-U.S. person, it should be the RP in accordance with the hierarchy described above for swaps with two U.S. persons.

For swaps accepted for clearing:

The determination of the RP under § 45.8 of the Commission's Regulations applies to all swaps, both cleared and non-cleared. The general hierarchy for determining the RP for swaps accepted for clearing is the same as that detailed above for swaps executed off-facility.

However, it should be noted that with respect to the definition of non-SD/MSP set forth in § 45.1 of the Commission's Regulations, the CFTC Staff interpret the regulations such that DCOs will have reporting obligations for cleared swaps that are not dependent on whether the DCO is deemed to be an RP.

Further details on the reporting of cleared swaps transactions can be found in the CFTC Division of Market Oversight publication entitled "Frequently Asked Questions (FAQ) on the Reporting of Cleared Swaps".<sup>4</sup>

#### **4. Designation of reporting responsibilities:**

Parties required to report pursuant to Part 43 or Part 45 may contract with third parties to facilitate reporting. In this context, third parties may include, but are not limited to, the other counterparty to the swap, a third party service provider as well as the DCO in the case of a cleared swap. As a result, the RP may delegate the actual process of reporting data to the SDR to the other counterparty as well as to a third party. However, the party that is required to report remains fully responsible for compliance with the reporting obligations under Part 43 and Part 45.

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<sup>4</sup> Available at:

[http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/clearedswapreportingredline\\_fa.pdf](http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/clearedswapreportingredline_fa.pdf)

## 5. Same Level Determination of the Reporting Party

In situations where both counterparties have the same hierarchical status in executing a swap transaction, the regulations established a mechanism for the parties to the swap transaction to follow in choosing the RP.

In such situations (e.g., both counterparties are SDs) the regulations require the counterparties to agree, as either one term of their swap transaction for off-facility swaps or as a post-execution side agreement for swaps executed on an SEF or DCM, which counterparty will fulfill the reporting obligations with respect to the swap. Therefore SDs and MSPs are establishing a set of rules (“Reporting Party Rules”) for each swap transaction to determine which counterparty has the RP responsibility for real-time, creation and continuation data for situations where the CFTC Regulations indicate that the parties shall agree on the RP as a term of the swap transaction.

### Prime Brokerage Intermediation

Notwithstanding the reporting hierarchy in Parts 43 and 45 and the Reporting Party Rules provided below, an alternative approach to RP determination applies to transactions intermediated by a Prime Broker (“PB”). In brief and in very general terms, under customary PB arrangements, a client of a PB agrees on the terms of a PB intermediated trade with an Executing Broker (“EB”) and then the client and/or the EB gives up the trade to a PB for its acceptance. If the trade terms are within certain pre-agreed parameters and the PB thus accepts the trade, the result is two off-setting transactions, one between the EB and PB and the second between the PB and the client. In these cases, reporting eligibility for each trade is determined independently based on the status of the two parties to the transaction, and the reporting responsibilities are as follows:

EB is the RP for the EB-PB trade

PB is the RP for the PB-Client trade

For the avoidance of doubt, there is no separate transaction between the EB and client to report.

*Please note:* The above approach to determine the RP to a PB Intermediated swap was acknowledged by the CFTC in No Action Letter No. 12-53<sup>1</sup>. Although the relief under NAL 12-53 has expired, the RP approach is still industry best practice, and ISDA continues to work with the CFTC to permanently adopt the approach in revisions to Part 43 and Part 45. Included in those discussions are outstanding questions regarding cross-border treatment for PB Intermediated transactions (e.g. if EB and/or PB is not a SD, MSP or U.S. Person).

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<sup>1</sup> <http://www.cftc.gov/LawRegulation/CFTCStaffLetters/12-53>  
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## 6. Reporting Party Rule Determination: status and description of the rule

The ISDA Unique Swap Identifier (USI)/(UTI) Trade Identifier Working Group proposed that each asset class Steering Committee would determine the “Reporting Party Rules” for the asset class where two parties to a swap transaction are on the same hierarchical level. This proposal was approved and ratified by the DWG.

Because of the different characteristics and workflows of the various asset classes: Rates, Credit, Equity, Commodity and FX, each asset class is required to analyze in detail the specific trade workflows in formulating a “Reporting Party Rule” convention unique to that asset class.

Regardless of asset class, each set of reporting party rules provided below assumes that both parties have a reporting obligation under the Commission’s requirements. In the event only one party has a reporting obligation, that party is the RP.

### 6.1 Reporting Party Rules

#### 1. Credit

Where both parties are the same hierarchy level (e.g., MSP vs. MSP, SD vs. SD, or non- SD/MSP vs. non-SD/MSP), the RP is the Floating Rate Payer (a/k/a ‘seller’). For Swaptions, the RP is the Floating Rate Payer of the underlying swap.

For Real Time Reporting of step-in novations, the RP should be determined between the Transferor and Transferee based on the above and the position of the Transferee. So, if both parties are of the same classification and the Transferee is the Seller (Floating Rate Payer) in the novated transaction, the Transferee is the RP. If the Transferee is the Buyer (Fixed Rate Payer), then the Transferor is the RP.

For novated transactions, the RP should be reassessed between the Transferee and Remaining Party based on the above.

## 2. Rates

### Product Attribute Determination

RP Tiebreaker Logic - Rates		
Trade Type	Explanation	Reporting Party
Cap/Floor	When a single Fixed Rates Payer exists	Fixed Rate Payer. Otherwise Reverse ASCII sort, first LEI/pre-LEI
Debt Option	All	Option Buyer
Exotic	All	Reverse ASCII sort, first LEI/pre-LEI
FRA	All	Fixed Rate Payer
IRS Basis	All	Reverse ASCII sort, first LEI/pre-LEI
IRS Fix-Fix	All	Reverse ASCII sort, first LEI/pre-LEI
IRS Fix-Float	All	Fixed Rate Payer
IRSwap: Inflation	When a single Fixed Rates Payer exists	Fixed Rate Payer. Otherwise Reverse ASCII sort, first LEI/pre-LEI
IRSwap: OIS	All	Fixed Rate Payer
Swaption	All	Option Buyer
XCCY Basis	All	Reverse ASCII sort, first LEI/pre-LEI
XCCY Fix-Fix	All	Reverse ASCII sort, first LEI/pre-LEI
XCCY Fix-Float	All	Fixed Rate Payer

### Tiebreaker Logic

When the LEI/pre-LEI tiebreaker is invoked the following processes will be used:

1. Identifier Tiebreaker Logic Scenarios
  - i. When only one firm has an LEI/pre-LEI then the party with the LEI/pre-LEI is the RP.
  - ii. When both firms have an LEI/pre-LEI then determine based on comparison of the two LEI/pre-LEIs in accordance with the below.
2. Determining sort order of identifiers
  - LEI/pre-LEI are comprised of characters from the following set {0-9, A-Z}.
  - For avoidance of doubt, before comparing IDs convert all IDs to UPPER CASE only.
  - For comparison basis the sort order will be reverse ASCII sort order. For avoidance of doubt the following are sort order of precedence:
    - Z, Y, X, W, V, U, T, S, R, Q, P, O, N, M, L, K, J, I, H, G, F, E, D, C, B, A, 9, 8, 7, 6, 5, 4, 3, 2, 1, 0.
3. When comparing two IDs the RP will be the firm with the first ID in the list when sorted in reverse ASCII sort order.



### 3. Equity

When both parties are of the same hierarchy level, the RP will be the:

- Seller of performance on any product in the taxonomy.<sup>5</sup>
- Seller of product on all other (exotic) products in the taxonomy.
- If seller cannot be identified the fall back would be for the parties to agree amongst themselves.
- For Portfolio Swaps Agreements (PSA's) the seller will remain the seller regardless of the underlying's performance.

For the avoidance of doubt, if the trade is confirmed via negative affirmation, the provider of the negative affirmation agreement is the RP.

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<sup>5</sup><http://www2.isda.org/otc-taxonomies-and-upi/>

#### 4. Commodities

A seller convention applies if the executed trade is one of the trade types enumerated in the table below. Otherwise, the LEIs of the parties should be compared in standard ASCII order and the party with the first ID in the list will be the RP.

RP Tiebreaker Logic - Commodities		
Trade Type	Explanation	Reporting Party
<b>Fixed Floating Swap</b>	Seller of the Fixed leg = Reporting Party	Fixed leg seller (Receiver of Cash on the fixed leg)
<b>Option</b>	Receiver of premium payment or Option writer	Seller
<b>Swaption</b>	Receiver of premium payment or Swaption writer	Seller
<b>Option Strategies (Collars, Corridors, Multi-leg)</b>	Premium receiver is the Seller = Reporting Party	Premium Receiver
	If no premium, go to alpha convention	Go to alpha convention
For trade types not listed above		
<b>Seller convention with Alpha</b>	Any trade that falls outside of that list will have the alphanumeric ASCII convention applied based on the LEI/CICI. The LEI/CICI selected as the RP will be the LEI/CICI at the top of that sort order. As an example, ASCII is the same sort logic that MS Excel applies.	

**5. FX**

When asset class tie-breaker logic needs to be applied:

- For Cash trades: The RP is the counterparty selling the currency that occurs first in the 26-letter English alphabet.
- For Options: The RP is the seller of the option.

RP Tie Breaker Logic - FX		
Taxonomy	Rule	Comment
<b>Forward</b>	FX Cash Rule	For FX Swaps, the Reporting Party of both legs of the swap would be determined by applying the Cash Rule to the far-leg of the Swap
<b>NDF</b>	FX Cash Rule	n/a
<b>Option</b>	Option Seller Rule	n/a
<b>NDO</b>	Option Seller Rule	n/a
<b>Simple Exotic</b>	Option Seller Rule	n/a
<b>Complex Exotic</b>	See comment	For a complex exotic product where there is an unambiguous seller of the product, then Option Seller Rule would apply. The seller determination would be driven by the seller as agreed in the standard FpML representation of the product. IF there is no clear seller, then the FX Cash Rule would apply.

For more information see:

[http://www.gfma.org/uploadedfiles/initiatives/foreign\\_exchange\\_\(fx\)/determiningreportingpartyunderdoddfrank.pdf](http://www.gfma.org/uploadedfiles/initiatives/foreign_exchange_(fx)/determiningreportingpartyunderdoddfrank.pdf)

## 7. Change in Registration Status

On October 16, 2012, the ISDA DWG participants were polled to determine what should happen to the RP obligations on a trade executed between, for instance, an SD and a non-MSP/SD, where at a later date, the non-MSP/SD becomes an SD. Determination of RP may equally be impacted by a party's deregistration as an SD/MSP.

Industry consensus was reached that the RP obligation remains unchanged through the remaining life of the USI until it is matured / terminated / novated away / compressed into a new transaction. The RP is reassessed only when a new USI is created. (In summary if an event does not result in a new USI, the RP remains unchanged. If the event results in a new USI, the RP is calculated a fresh for the new USI using the statuses effective at that date).

In general, a contract intrinsic event would not result in a new USI, nor would a bilaterally negotiated event that does not change the parties to the swap. Events that change the parties to the swap and/or result in a new swap(s) would prompt the creation of a new USI(s). The following table indicates which lifecycle events would result in a new USI at the point the event occurs or is executed:

Event Type		Triggers new USI Generation?
New Trade		Y
Amendment (correction to the trade for any trade attribute or fee)		N
Cancel (trade booked in error)		N
Trade Allocated	Original Unallocated "Block" Trade	Y
	Allocated Trades	Y (each allocation)
Cleared Positions	Original Bilateral Trade ("alpha")	Y
	Cleared Positions ("beta" and	Y
	Original Unallocated "Block" Trade	Y
	Block cleared pre-allocation	Y
	Post-clearing allocations	Y (each allocation)
Termination / Unwind		N
Partial Termination / Partial Unwind / Partial Decrease		N
Increase / Decrease		N
Full or Partial Novation	Original Trade (b/t Transferor and Remaining Party)	Y
	Novated Trade (b/t Transferee and Remaining Party)	Y
	Fee trade (b/t Transferor and Transferee) (For Part 43 reporting only)	Y

Event Type (continued)		Triggers new USI Generation?
Full or Partial Novation – 4 way	Original Trade (b/t Transferor 1 and Remaining Party)	Y
	Novated Trade (b/t Transferee 1 and Transferee 2)	Y
	Free Trade (b/t Transferor 1 and Transferee 1) (For Part 43 reporting only)	Y (For Part 43 reporting)
Exercise	Original Option	Y
	New Swap (resulting from Physically Settled option)	Y
Prime Brokerage	EB-client execution	n/a
	EB: PB leg	Y
	PB: Client leg	Y
Succession Events	Rename	N
	Reorganizations	Y (each new trade)
Credit Events	Bankruptcy / Failure to Pay	N
	Restructuring	Y <sup>6</sup>
Compression Events	Original Trade - Terminated	N
	Original Trade – Amendment/Increase/Decrease	N
	New Trade	Y
CCP: Position Transfer (i.e. transfer of a trade between Clearing Members)		Y
CCP: Compression		Y

<sup>6</sup> Depending on product type and triggering activity

## 8. Part 46 Historical Swap Reporting

As described in the prior section, each individual swap should have a single Reporting Party (RP) for the life of the swap. Therefore the party responsible for reporting an historic swap under the CFTC's Part 46 regulations should be the party that first incurs the RP obligation and retains that obligation throughout the remaining life of the swap, if any. Such RP should be determined in accordance with section 46.5 of the CFTC's rules and the Reporting Party Rules specified in this document.

Given the uncertainties in the evolving regulation of the swaps marketplace, including but not limited to the interplay of the CFTC's Cross Border Interpretive Guidance<sup>7</sup>, Exemptive Order<sup>8</sup> and/or a change in the swap dealer registration status of counterparties, for a swap between two non-U.S. Persons, the parties may have reporting obligations commence at different points in time. To prevent duplication or gaps in historic swap reporting, participants should determine the RP for an historic swap, whether live or non-live, based on the Reporting Party determination rules provided in this document, without regard to whether the other party's reporting obligation is currently in effect, unless otherwise indicated in this Section 8. Each party should submit historical swap data for the swaps for which they are the RP in accordance with the commencement of their reporting obligation and in accordance with the reporting logic developed and agreed to among the swap dealers then in effect at the time of their reporting obligation.

For swaps between two non-U.S. persons, if a new swap (reportable under Part 45) was entered into in the time period where only one party ("Party 1") had already a Part 45/46 reporting obligation while the Part 45/46 reporting obligation for the other party ("Party 2") is still delayed/not yet in effect, Party 1 may rely for its Part 45 reporting obligation for the new swap on the reporting party logic set forth in this document with the result that any new trade not reported by Party 1 under Part 45 (because the reporting party logic required Party 2 to report such trade) will be reported by Party 2 as part of its (later in time) Part 46 reporting obligation.

For swaps between two non-U.S. persons, if a party to a swap changes its status and becomes a SD (the "New SD") in the time period when all applicable time delays permitted under the Exemptive Order expired (e.g., the time period starting December 22, 2013), if the other party to the swap was a SD already prior to that time period (the "Old SD"), the Old SD may have already reported the historical swap data and, therefore would remain the RP for the life of the USI.

If one of the parties to the swap is a U.S. Person, that party may have already reported the historical swap data, and therefore would remain the RP for the life of the USI.

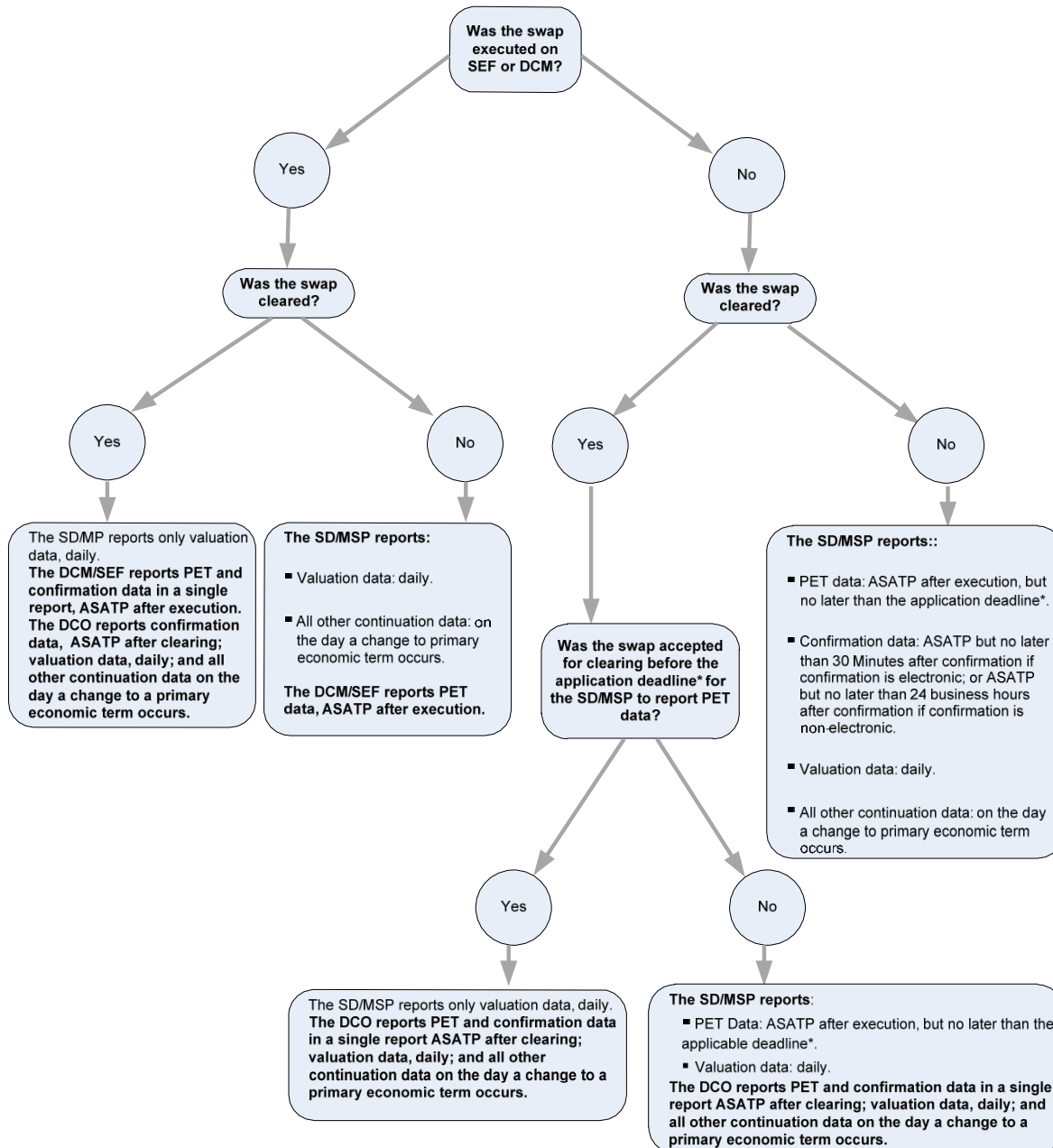
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<sup>7</sup> CFTC's *Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations* published July 26, 2013

<sup>8</sup> CFTC's *Exemptive Order Regarding Compliance with Certain Swap Regulations* published July 22, 2013

## Annex 1 (CFTC Reporting Obligations)

### SD/MSP Is the RP - Reporting Obligation Flowchart – (Source CFTC Final Part 45 Rules)

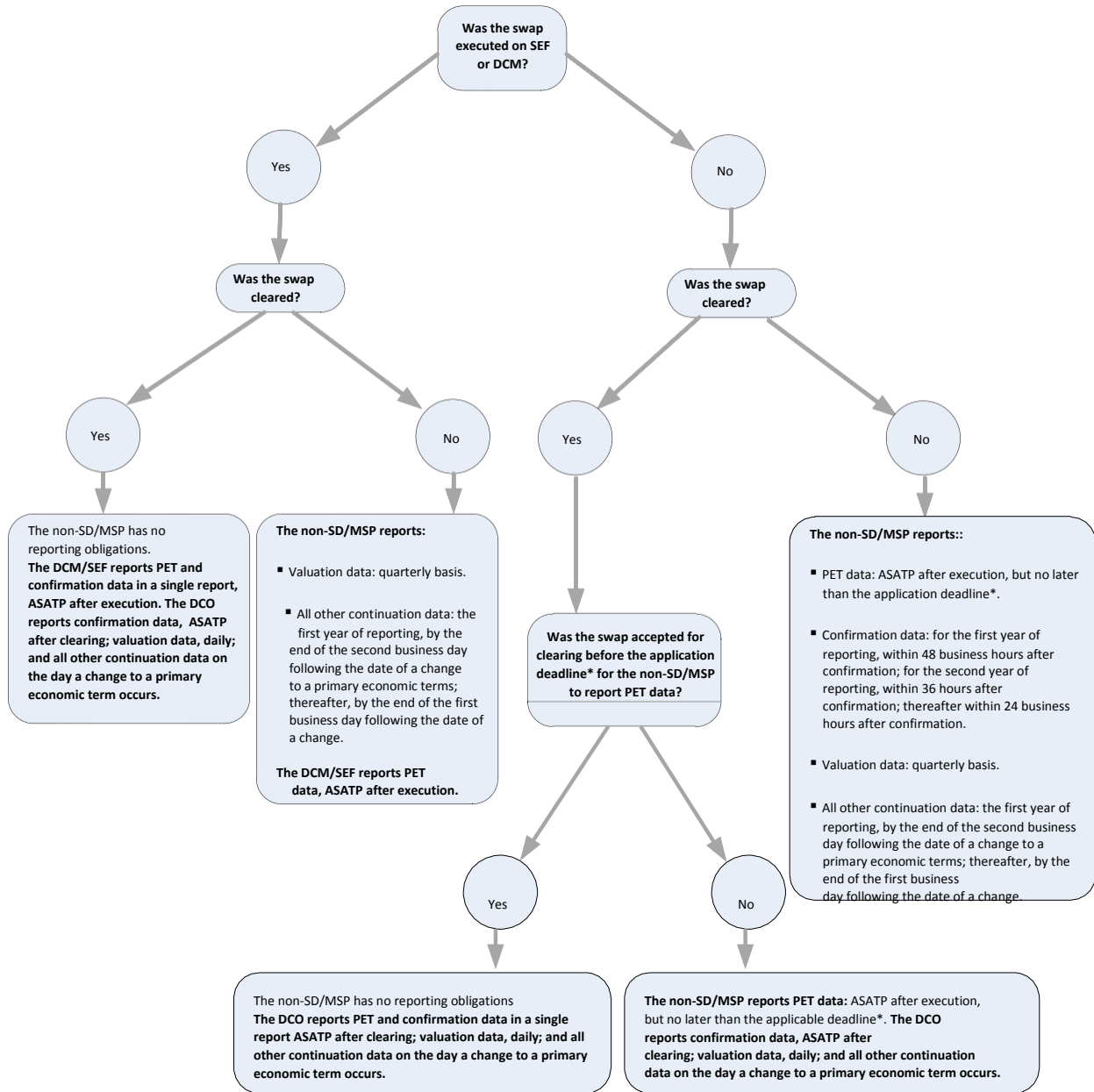


\* Swap subject to mandatory clearing: 30 minutes after execution (year 1), 15 minutes after execution (thereafter).

Swap not subject to mandatory clearing (credit, equity, FX, rates): 1 hour after execution (year 1), 30 minutes after execution (thereafter). But if the non-reporting counterparty is not a financial entity, and verification is not electronic: 24 business hours after execution (year 1), 12 business hours after execution (year 2), 30 minutes after execution (thereafter).

Swap not subject to mandatory clearing (other commodities): 4 hours after execution (year 1), 2 hours after execution (thereafter). But if the non-reporting counterparty is not a financial entity, and verification is not electronic: 24 business hours after execution (year 1), 12 business hours after execution (year 2), 30 minutes after execution (thereafter).

**Non-SD/MSP is the RP - Reporting Obligation Flowchart – Source (CFTC Final Part 45 Rules)**



\* Swap subject to mandatory clearing: 4 hours after execution (year 1), 2 hours after execution (year 2), 1 hour after execution (thereafter)  
 Swap not subject to mandatory clearing: 48 business hours after execution (year 1), 36 business hours after execution (year 2), 24 business hours after execution (thereafter)