



**ONEXCHANGE CLEARING CORPORATION**

**RULES**

**Exhibit 7 to Application for Designation as a Contract Market**

# RULES OF ONEXCHANGE CLEARING

## PART 1

### General Provisions

#### Rule 1.01. Definitions

Unless the context otherwise clearly requires, the following terms as used in these Rules shall have the meanings set forth below:

**“Act”** means the Commodity Exchange Act, as in effect from time to time.

**“Affiliate”** means, with respect to any Entity, any Person who Controls, is Controlled by or is under common Control with such Entity, and, without limiting the generality of the foregoing, any partner, trustee, officer, director or employee (whether or not having Control) of such Entity; with respect to any individual, any Person of which such individual is a partner, member, trustee, officer, director or employee or has Control, and any Person who Controls, is Controlled by or is under common Control with such Person.

**“Approved Financial Institution”** means a bank, trust company or other entity designated as such by the Board pursuant to Rule 5.01 as eligible to issue letters of credit for the benefit of Class B Members.

**“Approved Foreign Currency”** means any currency other than the U.S. dollar which is deliverable under any Contract or which is approved by the Board for any purpose under the Bylaws or these Rules.

**“Bank Holiday”** means any day when banks in the State of New York generally are closed, as determined by the Company.

**“Board”** means the board of directors of the Company.

**“Business Day”** means any day on which the Company is open to accept Contracts for clearance.

**“Bylaws”** means, with respect to any Entity, the bylaws of such Entity, and the interpretations, resolutions, orders and directives of the Entity thereunder, as in effect from time to time; and, if no other Entity is specified, shall mean the Bylaws of the Company.

**“Chairman”** means the Chairman of the Board.

**“Class B Member”** means a Person who or which pursuant to the Bylaws has the privilege to clear with the Company Contracts effected on or subject to the Rules of the Exchange.

**“Clearing Organization Bylaws”** means the Bylaws of the Company in effect from time to time.

**“Closed Contract Position”** means (i) any combination of long and short Open Contract Positions that the Company may offset and results in Closed Contract Profit or Loss Amount replacing such positions or (ii) an Open Contract Position that is offset by the tendering or receipt of a notice of delivery.

**“Closed Contract Profit or Loss Amount”** means the gain or loss on a Closed Contract Position as calculated between the price at which the initiating Contract was bought, sold, or Marked to Settlement and the offsetting Contract was bought, sold, or Marked to Settlement as the case may be.

**“Commission”** means the Commodity Futures Trading Commission or any successor agency.

**“Commission Regulation”** means any rule, regulation or order of the Commission, as in effect from time to time (including any successor provision), and any interpretation thereof by the Commission or its staff.

**“Commodity”** means and includes any “commodity” within the definition of that term in the Act, as in effect from time to time.

**“Company”** means onExchange Clearing Corporation, a nonstock corporation existing under the laws of the State of Delaware, its successor and any permitted assign.

**“Contract”** means a Futures Contract listed and cleared by onExchange.

**“Control”** means the power to direct or cause the direction of the management or policies of a Person, whether through ownership of securities, by contract or otherwise.

**“Custody Bank”** means a bank or trust company designated by the Company pursuant to Rule 5.01 to hold Class B Member funds.

**“Defaulting Class B Member”** shall have the meaning set forth in Rule 7.03.

**“Delivery Margin”** means the amount of cash or collateral a Class B Member is required to maintain with the Company with respect to Contracts that are in delivery under the Rules of the Contract.

**“Enforcement Staff”** means the employees and agents of the Exchange, including the NFA Department of Compliance (“NFA Compliance Department”), or any such third party provider as the Board may decide from time to time, who are responsible for assisting the Exchange in enforcing the Bylaws and Rules.

**“Entity”** means any Person other than an individual.

**“Event of Default”** shall have the meaning set forth in Rule 7.01.

**“Exchange”** means onExchange Board of Trade, Inc. Unless otherwise provided in these Rules or the Bylaws, any reference to an action required or permitted to be taken by “the Exchange” pursuant to these Rules or the Bylaws shall include an action to be taken by any duly authorized officer or employee of the Exchange.

**“Futures Contract”** means a contract for the purchase or sale of a Commodity for future delivery traded on or subject to the Rules of the Exchange.

**“Governments”** means a security which is a direct obligation of the United States government.

**“Guaranty Fund”** means the fund established by the Company to support its financial integrity.

**“Margin-Eligible Assets”** means those assets which may be used by a Subscriber to meet its margin obligations, as set forth in Rule 5.04.

**“Mark to Settlement”** means the setting of a Contract price to a Settlement Price for the purpose of assessing the amount to be paid or received as Variation Margin by a Class B Member.

**“Monetary Default”** means (i) the failure of a Class B Member or its Approved Financial Institution to timely deposit with, or pay to, the Company or the Exchange in full any Original Margin, Variation Margin, Delivery Margin or other sum under or in connection with any Contract held by such Subscriber or any other Subscriber having the same Approved Financial Institution, when and as required by or pursuant to the Rules of the Company or the Exchange; (ii) the filing of any warrant or order of attachment against a Class B Member’s Trading Account(s); or (iii) an event, which onExchange reasonably considers necessary for its protection after notifying the Class B Member and/or Approved Financial Institution and offering the Class B Member and/or Approved Financial Institution the opportunity to provide adequate assurances acceptable to onExchange within a reasonable period of time under the circumstances.

**“onExchange”** means, unless otherwise indicated, onExchange Board of Trade, Inc. and onExchange Clearing Corporation, Inc., collectively.

**“Open Contract Position”** means any purchase or sale of a Contract by a Class B Member and cleared by the Company that has not been designated as a Closed Contract Position. Such positions may include (i) long and short positions without matching offset, (ii) long and short positions with matching offsets but held open by the Class B Member under an approved hedge program, or (iii) long and short positions with matching offsets but held open under Contract rules which defer offset until Contract expiration or other prompt date.

**“Open Contract Profit or Loss Amount”** means the gain or loss on an Open Contract Position as calculated between the current Settlement Price of such contract and the price at which each such contract was bought, sold, or last Marked to Settlement, as the case may be.

**“Order for Relief”** means the filing of a petition in bankruptcy in a voluntary case and the adjudication of bankruptcy in an involuntary case.

**“Original Margin”** means the initial and every subsequent deposit of margin money or other asset each Class B Member is required to make according to the Exchange and/or Company Rules based upon positions carried.

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

**“President”** means the president of the Company.

**“Rules”** means, with respect to any Entity, the rules, interpretations, resolutions, orders, directives and procedures of such Entity thereunder as in effect from time to time; and, if no other Entity is specified, shall mean the Rules of the Company.

**“Settlement Price”** means the settlement price for any Contract as determined in accordance with the Rules of the Exchange.

**“Subcustody Account”** means an account of the Company at a Custody Bank that is designated for the receipt of certain Margin-Eligible Assets of a Class B Member at such Custody Bank.

**“Subscriber”** means a Person that is a counterparty to the Exchange’s Subscriber Agreement.

**“Subscriber Agreement”** means the agreement between a Subscriber and the Exchange.

**“Trading Account”** means the account of a Class B Member at the Company.

**“Variation Margin”** means the payment made or received by a Class B Member to the Company based on the Mark to Settlement of any position held by the Class B Member.

Rule 1.02. Extension or Waiver of Rules

(a) The time fixed by these Rules for the doing of any act or acts may be extended, or the doing of any act or acts required by these Rules may be waived, by the Board whenever, in its judgment, such extension or waiver is necessary or in the best interests of the Company.

(b) The time fixed by these Rules for filing any report or other document, for submitting any information or for making deposits or payments of Original Margin or Variation Margin may be extended by the President whenever, in his judgment, such extension is necessary or in the best interests of the Company.

Rule 1.03. Action by the Company

Except as otherwise specifically provided in the Bylaws or Rules, any action permitted or required by the Bylaws or Rules to be taken by the Company may be taken by the Board, the Chairman, the President or any other officer to whom authority has been delegated by the Board, the Chairman or the President.

Rule 1.04. Headings

The headings of the various Rules appear for convenience only and shall not affect the meaning of the language contained in these Rules.

Rule 1.05. Confidential Treatment of Information Submitted by Class B Member

All information received by the Company concerning past or current positions carried by the Company or any other clearing organization for a Class B Member, or concerning margin payments between the Company or any other clearing organization and a Class B Member, or concerning deliveries made by or to a Class B Member, and any financial statements filed with the Company by any Class B Member, shall be held in confidence by the Company and shall not be made known to any other Person except as follows:

- (a) with the written consent of the Class B Member involved;
- (b) to the Commission, or the National Futures Association acting as a national futures association, or the United States Department of Justice pursuant to the requirements of the Act or any Commission Regulation;
- (c) pursuant to a subpoena issued by or on behalf of any Person, or in the Company's discretion, pursuant to a written request from the Congress of the United States, any committee or subcommittee thereof, the General Accounting Office, or any department or agency of the United States, any State, or the City of New York;
- (d) pursuant to an order issued by a court having jurisdiction over the Company;
- (e) to an exchange or clearing organization of which such Class B Member is a member for audit, compliance or market surveillance purposes; provided that the furnishing of any such information shall be subject to such terms and conditions as the Board, from time to time, may deem appropriate;
- (f) to any Person in the business of providing data processing or similar services for the purpose of performing computations or analysis, or of preparing reports or

records, for the Company, subject to such terms and conditions as the Board, from time to time, may deem appropriate;

- (g) to counsel for the Company;
- (h) the National Futures Association acting as onExchange's Enforcement Staff; or
- (i) to any other Person if, to the extent and pursuant to such terms and conditions as the Board, from time to time, may deem appropriate.

If information concerning one or more named Class B Members is requested pursuant to paragraphs (b), (c) or (d) above, the Company shall so notify each such Class B Member prior to furnishing such information, unless in the judgment of the Company it would be contrary to the best interests of the Company to do so.

Rule 1.06. [Reserved]

Rule 1.07. [Reserved]

Rule 1.08. Notices to Class B Members

The delivery by electronic transmission of any notice, order or other communication to a Class B Member at the electronic address last designated by it, shall be good and sufficient delivery thereof to such Class B Member.

## PART 2

### Class B Membership

Rule 2.01. Obligations of Class B Members

A Class B Member shall:

- (a) at all times be an Exchange Subscriber in good standing;
- (b) file with the Company such information regarding its financial condition, shareholders, partners, members, officers, directors, management personnel and Affiliated Persons as the Company may require;
- (c) furnish the Company with such other information regarding the ownership, Control or management of such Class B Member as the Company may request;
- (d) notify the Company of any of the following events:
  - (i) the merger, combination or consolidation between the Class B Member and another person or entity;

- (ii) the assumption or guarantee by the Class B Member of all or substantially all of the liabilities of another in connection with a direct or indirect acquisition of all or substantially all of that person's or entity's assets;
- (iii) the sale by the Class B Member of a significant part of its business and/or assets to another person or entity; and
- (iv) a change in the direct or indirect beneficial ownership of 20% or more of the Class B Member;
- (e) notify the Company promptly in writing of any occurrence (other than an occurrence referred to in paragraph (d)) which would cause a statement furnished pursuant to paragraphs (b) and (c) of this Rule 2.01 to be inaccurate or incomplete;
- (f) establish and maintain such accounts as the Company shall require at an Approved Financial Institution and/or Custody Bank;
- (g) deposit Margin-Eligible Assets in a Subcustody Account or maintain letters of credit from Approved Financial Institutions, as required by the Company from time-to-time;
- (h) maintain such operational capability, including, without limitation, having such equipment, facilities and personnel, as in the judgment of the Company are necessary and desirable in order properly to perform the function of clearing Contracts with the Company and to comply with all of the obligations of the Class B Member pursuant to the Bylaws and these Rules;
- (i) timely comply with all provisions of any agreements entered into by such Class B Member with the Company; and
- (j) otherwise timely comply with all provisions of the Bylaws and these Rules.

**Rule 2.02. Reports to Class B Members**

Each Class B Member shall immediately (a) review every communication delivered to such Class B Member by the Company and (b) report to the Company any error in any such communication.

**Rule 2.03. Documents Submitted to the Company**

(a) All documents, papers, notices, checks, drafts, certificates of deposit and other items required or permitted by the Rules to be submitted to the Company, except as may otherwise be specifically prescribed by the Rules, shall be delivered to the Company at such times, in such form and in such manner as the Company shall require from time to time.

(b) If any payment (by wire transfer or otherwise) to the Company made by or on behalf of a Class B Member is dishonored, reversed or revoked, then, any statute or rule of law to the contrary notwithstanding, the Class B Member which made such transfer or on whose behalf such transfer was made shall continue to be liable for the amount thereof.

Rule 2.04. Records and Information

All records required under the Rules shall be retained for the time, and in the manner, specified by Commission Regulations with respect to records required to be kept by the Act and Commission Regulations.

Rule 2.05. False Information

No Class B Member shall furnish any false, inaccurate or misleading information to the Company.

Rule 2.06. Termination of Class B Membership

(a) A Class B Member shall cease to be a Class B Member upon termination of its status as a Subscriber of the Exchange.

(b) Notwithstanding clause (a) of this Rule 2.06, a Person which for any reason ceases to be a Class B Member shall nevertheless remain and continue to be liable to the Company for all obligations arising under Contracts cleared and all obligations incurred before, during or after such suspension or termination, including but not limited to obligations to deposit and pay Original, Delivery and Variation Margin.

### PART 3

#### Financial Requirements

Rule 3.01. Reporting

(a) Upon the Company's request, each Class B Member shall file with the Company (i) a financial statement in the form prescribed in paragraph (b) of this Rule 3.01 within 90 days after the end of such Class B Member's fiscal year, and within 45 days after the end of each of the first three fiscal quarters of such Class B Member's fiscal year; and (ii) such financial or other information as may be requested by the Company from time to time.

(b) The financial statement for the fiscal year of a Class B Member which is an Entity shall be certified by an independent public accountant, and the financial statements for the first three quarters of the fiscal year shall be certified by the president, the chief financial officer or a general partner of the Class B Member.

(c) Each Class B Member shall notify the Company in writing if its net worth declines from that shown on the latest financial statement filed by it with the Company for any reason by 20% or more. Such notification shall be given not later than the Business Day following the event requiring such notification.

Rule 3.02. [Reserved]

## PART 4

### Clearing Mechanism

#### Rule 4.01. Acceptance for Clearance

Exchange: (a) Upon receipt by the Company of a Contract executed through the

(i) the Company shall acquire all of the rights, and assume all of the liabilities and obligations, of the Class B Members that were parties to such Contract, subject to the provisions of paragraph (b) of this Rule; and

(ii) the Class B Members shall be deemed to have entered into such Contract with the Company and shall have no further rights, liabilities or obligations against or to the opposite Class B Member with respect to such Contract.

(b) THE COMPANY SHALL NOT BE LIABLE OR OBLIGATED UNDER OR IN CONNECTION WITH ANY CONTRACT TO:

(i) PAY DAMAGES FOR OR IN CONNECTION WITH THE FAILURE ON THE PART OF ANY CLASS B MEMBER TO DELIVER ANY COMMODITY TO ANY OTHER CLASS B MEMBER, OR TO PAY ANY OTHER CLASS B MEMBER FOR ANY COMMODITY DELIVERED, WHEN AND AS REQUIRED UNDER THE BYLAWS AND RULES OF THE EXCHANGE, THE BYLAWS OF THE COMPANY OR THESE RULES, IN AN AMOUNT GREATER THAN THE LESSER OF (A) THE DIFFERENCE BETWEEN THE DELIVERY PRICE OF SUCH COMMODITY AND THE FAIR MARKET VALUE OF SUCH COMMODITY AT THE TIME DELIVERY AND PAYMENT ARE REQUIRED AND (B) THE DELIVERY MARGIN ON DEPOSIT OR OBLIGATED WITH RESPECT TO SUCH COMMODITY;

(ii) PHYSICALLY MAKE OR ACCEPT DELIVERY OF ANY COMMODITY;

(iii) PAY ANY DAMAGES FOR OR IN CONNECTION WITH ANY ERROR OR OMISSION IN ANY DOCUMENT DELIVERED OR RECEIVED IN CONNECTION WITH ANY DELIVERY OF A COMMODITY MADE OR TO BE MADE; OR

(iv) PAY ANY DAMAGES FOR OR IN CONNECTION WITH THE FAILURE OR INSOLVENCY OF ANY BANK OR OTHER PERSON INVOLVED IN THE DELIVERY OF OR PAYMENT FOR ANY COMMODITY.

(c) EXCEPT AS SPECIFIED IN THE APPLICABLE CONTRACT RULES, THE COMPANY SHALL NOT BE LIABLE OR OBLIGATED TO ANY CLASS B MEMBER

OR OTHER PERSON FOR OR IN CONNECTION WITH ANY FAILURE OF ANY OTHER CLASS B MEMBER OR PERSON TO DELIVER ANY COMMODITY OR TO ACCEPT AND PAY FOR ANY COMMODITY.

(d) THE LIABILITIES AND OBLIGATIONS OF THE COMPANY SHALL EXTEND ONLY TO CLASS B MEMBERS.

(e) All Contracts accepted for clearance by the Company shall be subject in all respects to the Bylaws and these Rules.

## PART 5

### Margins

#### Rule 5.01. Approved Financial Institutions and Custody Banks

(a) A bank, trust company or other institution may be designated by the Board as an:

(i) Approved Financial Institution for the purpose of issuing letters of credit on behalf of a Class B Member; and/or

(ii) Custody Bank acting as a depository for the segregated funds of Class B Members;

provided, such Approved Financial Institution or Custody Bank, as the case may be, has a rating with respect to its long term, unsecured, unsubordinated indebtedness of at least BBB+ by S&P or Baa1 by Moody's.

(b) To be designated as an Approved Financial Institution or Custody Bank, a bank, trust company or other institution must submit an application in such form and containing such information as the Company from time to time may require and must meet such financial and other requirements as the Board may establish from time to time, including a maximum net credit exposure. A bank, trust company or other institution which has been designated by the Board as an Approved Financial Institution or Custody Bank may act as such until such designation is suspended or terminated in accordance with paragraph (c) of this Rule.

(c) If a bank, trust company or other institution does not meet all the requirements established by the Company pursuant to this Rule, or if the Board determines, based on such facts or circumstances as the Board deems relevant or appropriate, that it would be in the best interests of the Company or its Class B Members, the Board may:

(i) deny the application of such bank, trust company or institution for designation as an Approved Financial Institution or Custody Bank;

(ii) suspend or terminate the status of such bank, trust company or institution as an Approved Financial Institution or Custody Bank for any or all purposes; or

(iii) approve the application or permit the bank, trust company or other institution to continue as an Approved Financial Institution or Custody Bank, subject in any case to such terms, conditions and limitations as the Board, in its judgment, deems appropriate.

Rule 5.02. Margin Requirements

Each Class B Member shall make available to the Company Original Margin, Variation Margin and Delivery Margin in Margin-Eligible Assets for each Contract held by such Class B Member, at such times and in accordance with such systems as may be prescribed by or pursuant to these Rules or by the Board, pursuant to the Bylaws.

Rule 5.03. Accounts

Each Class B Member shall establish and maintain a Trading Account and deposit Margin-Eligible Assets in a Subcustody Account.

Rule 5.04. Categories, Conditions and Procedures for Margin-Eligible Assets

The following assets may be used by Class B Members to meet their margin obligations:

- (a) U.S. Dollars in a Subcustody Account;
- (b) Securities in a Subcustody Account, as provided by this Rule 5.04(b) and

5.04(e):

(i) Securities eligible for deposit as Original Margin shall include unencumbered Governments and any other unencumbered securities from time to time approved by the Board.

(ii) Securities shall be subject to such capital charges as may be adopted by the Board from time to time.

(iii) Any securities deposited as Original Margin may be sold at any time by the Company, with or without notice to the Class B Member depositing same, at public or private sale, without demand of any kind, if and when determined by the Board pursuant to Rule 7.03.

(c) Letters of credit from Approved Financial Institutions, as provided by this Rule 5.04(c) and 5.04(e):

(i) Each form of letter of credit must be issued by an Approved Financial Institution selected by Class B Member in favor of the Company, provided that:

(A) the form and terms of the letter credit shall be acceptable to the Company;

(B) the aggregate amount of the letters of credit issued by any Approved Financial Institution, either in total or for the account of any Class B Member, may be limited by the Board from time to time and upon such notice as the Board shall determine;

(C) a letter of credit issued on behalf of a Class B Member by an institution which is an Affiliated Person of such Class B Member must be confirmed by an Approved Financial Institution which is not an Affiliated Person of such Class B Member;

(D) letters of all credit shall be in writing and in such form and in such denomination as may be prescribed by the Company from time to time, shall be irrevocable, shall be available to be drawn upon by the Company by a clean sight draft or written demand and shall expire not less than 90 days from the date of deposit with the Company; and

(E) the reimbursement obligation of the Class B Member to the issuing financial institution shall not be secured by a pledge of, lien on or other security interest in assets of the Class B Member unless the written approval of the Company shall first have been obtained.

(ii) Any form of letters of credit presented to the Company may be drawn upon, in whole or in part, at any time by the Company to meet the Class B Member's Original Margin, Variation Margin and Delivery Margin obligations.

(iii) Any form of letters of credit presented by a Class B Member shall cease to be eligible to meet such Class B Member's Original Margin obligations, from and after the fifth Business Day prior to its expiration date.

(d) Approved Foreign Currencies in a Subcustody Account, as provided by this Rule 5.04(d) and 5.04(e):

(i) Approved Foreign Currencies shall be subject to such capital charges as may be adopted by the Board from time to time.

(ii) The Company may convert any Approved Foreign Currencies deposited as Original Margin by any Class B Member into U.S. Dollars at any time and at such exchange rate as the Company in its discretion may determine.

(e) If any securities deposited by any Class B Member pursuant to this Rule 5.04 are sold by the Company, or if any letters of credit deposited by any Class B Member pursuant to this Rule are drawn upon, or if any Approved Foreign Currencies deposited by any Class B Member pursuant to these Rules are converted into U.S. Dollars, the net proceeds thereof shall be credited to the account of such Class B Member.

Rule 5.05. Original and Delivery Margin Requirements

(a) Each Class B Member shall make available to the Company at all times Original Margin and Delivery Margin for each cleared Contract as specified in the Contract rules promulgated by the Exchange. Margin payments shall be made for each cleared Contract in such amounts, in such forms, at such times and in accordance with such systems as may be prescribed by or pursuant to these Rules or by the Board, pursuant to the Bylaws.

(b) The Company shall retain the Original Margin with respect to each Open Contract Position until such contract shall be a Closed Contract Position.

(c) The Company shall retain the amount of Delivery Margin with respect to each Contract until the Company receives notice from either the Class B Member which issued a delivery notice pursuant to such Contract, or the Class B Member to which a delivery notice was allocated pursuant to such Contract, that delivery and full payment have been made.

Rule 5.06. Open Contract Profit and Loss Amounts

The aggregate Open Contract Profit and Loss Amount for each Trading Account shall be determined by the Company at least daily and more frequently as determined by the Company in its discretion; and

(a) if the aggregate amount of such Open Contract Profit and Loss Amount is an Unrealized Loss, then the Class B Member shall make such amount available to the Company as an additional Original Margin requirement; or

(b) if the aggregate amount of such Open Contract Profit and Loss Amount is an Unrealized Gain, then the Company shall apply such gain to reduce the Class B Member's Original and Delivery Margin requirements. Notwithstanding the fact that Unrealized Gain exceeds the amount of the Class B Member's required Original and Delivery Margin, the Member may not withdraw such excess.

Rule 5.07. Closed Contract Profit and Loss Amounts

The aggregate Closed Contract Profit and Loss Amount for each Trading Account shall be determined by the Company at least daily and more frequently as required by the Company; and

(a) if the aggregate Closed Contract Profit and Loss Amount is a Realized Loss, then the Class B Member shall make such amount available to the Company in U.S. Dollars; or

(b) if the aggregate Closed Contract Profit and Loss Amount is a Realized Profit, the Company shall make such amount available to the Class B Member in U.S. Dollars.

**Rule 5.08. Variation Margin Payments**

(a) As specified in the rules of each Contract, the Company will perform a Mark to Settlement, where the Settlement Price may be determined by means of reference to the last trade price, a computation derived from bids and offers respecting such content, or external reference prices, and the Company will assess Variation Margin accordingly. Contracts that are traded under rules requiring daily Variation Margin calls shall have such calls made at 8:00 a.m. each Business Day and at such other times as may be necessary. When a Variation Margin call is made of a Class B Member, the Company shall:

(i) give notice to the Class B Member of the amount payable by such Class B Member; and

(ii) immediately after giving the notice described in subparagraph (i), the Company shall instruct the Custody Bank to transfer funds from the appropriate Subcustody Account into the appropriate settlement account of the Company in the amount due to the Company as determined by the Company.

(b) Upon notice from the Company that a transfer of funds from a Subcustody Account pursuant to paragraph (a) was not effected as instructed by the Company for any reason, the Class B Member shall deliver to the Company that amount required at such time and in such form as the Company may prescribe.

**Rule 5.09. Excess Amounts Held by the Company**

(a) The Company shall make available to a Class B Member the amount of any excess amounts on deposit in the Subcustody Account, provided the Company receives a request for such a release from such Class B Member by such time as may be specified by the Company on the day such release is to be made.

(b) Excess amounts on deposit in a Subcustody Account shall not be released pursuant to paragraph (a) unless the Class B Member has deposited and paid all margins, premiums and other amounts required pursuant to the Bylaws and these Rules for all of such Class B Member's Trading Accounts.

(c) Net income, if any, generated by any securities, Approved Foreign Currencies or other instruments held by the Company as Original Margin or Delivery Margin for any Class B Member shall belong and be credited to such Class B Member.

**Rule 5.10. Change in Status of Approved Financial Institution**

If at any time the Board suspends or terminates the status of an Approved Financial Institution as an Approved Financial Institution to guaranty credit to the Company, or if the Board shall limit or change the limit on the aggregate credit guarantees which may be

accepted from or confirmed by any Approved Financial Institution, or if any Approved Financial Institution shall exceed any limits imposed pursuant to Rule 5.05(b)(i)(A), then any Class B Member on whose behalf credit guarantees were issued or confirmed by such Approved Financial Institution shall immediately replace the same by new Original Margin deposits complying with these Rules to the extent and in such amounts as the Company may specify.

## **PART 6**

### **Deliveries**

#### **Rule 6.01. Delivery Rules**

Any delivery of a Commodity under any Contract shall be made in accordance with these Rules and the Rules of the Exchange.

#### **Rule 6.02. Delivery Margin on Delivery Notices**

(a) Each Class B Member that issues or receives a delivery notice for a Commodity under any Contract shall maintain Delivery Margin on each such Contract in accordance with these Rules and the Rules of the Exchange. If any Class B Member shall not have deposited or paid any Original Margin or Variation Margin due from it at the time it tenders a delivery notice to the Company, the Company may decline to accept such delivery notice.

(b) THE COMPANY SHALL HAVE NO RESPONSIBILITY TO ANY PERSON TO INVESTIGATE OR OTHERWISE VERIFY THE ACCURACY, GENUINENESS OR COMPLETENESS OF ANY DOCUMENT OR PAYMENT DELIVERED TO OR BY THE COMPANY PURSUANT TO THIS RULE 6.02, AND SHALL HAVE NO LIABILITY TO ANY PERSON FOR THE COMMODITY DELIVERED.

(c) Nothing contained in this Rule 6.02 shall prevent a Class B Member from making mutually agreeable arrangements to settle delivery on terms other than those set forth in this Rule 6.02.

(d) The making or taking of delivery or payment or other settlement with respect to any Contract in accordance with this Rule 6.02, shall discharge in full the obligations and liabilities of the Clearing Member making delivery, the opposite Class B Member and the Company with respect thereto.

## **PART 7**

### **Defaults**

#### **Rule 7.01. Defaults**

If any of the following events ("Events of Default") shall occur with respect to any Class B Member:

(a) if such Class B Member fails to meet any of its obligations under its Contracts with the Company;

(b) if any Monetary Default occurs with respect to such Class B Member;

(c) if such Class B Member is not a Subscriber in good standing;

(d) if such Class B Member commences a voluntary or a joint case in bankruptcy or files a voluntary petition or an answer seeking liquidation, reorganization, arrangement, readjustment of its debts or any other relief for the benefit of creditors under any bankruptcy or insolvency act or law of any jurisdiction, now or hereafter existing, or if such Class B Member applies for or consents to the appointment of a custodian, liquidator, conservator, receiver or trustee (or other similar official) for all or a substantial part of its property; or if such Class B Member makes an assignment for the benefit of creditors; or if such Class B Member becomes or admits that it is insolvent;

(e) if an involuntary case is commenced against such Class B Member in bankruptcy or an involuntary petition is filed seeking liquidation, reorganization, arrangement, readjustment of its debts or any relief for the benefit of creditors under any bankruptcy or insolvency act or law of any jurisdiction, now or hereafter existing; or if a custodian, liquidator, receiver or trustee (or other similar official) of the Class B Member is appointed for all or a substantial part of its property;

(f) if the Securities Investor Protection Corporation files an application for a protective decree with respect to such Class B Member;

(g) if such Class B Member holds a short futures contract position and does not tender a delivery notice on or before the time specified by the Rules of the Exchange on the last day on which such notices are permitted to be tendered, or fails to make delivery by the time specified in the Rules of the Exchange;

(h) if such Class B Member holds a long futures contract position and does not accept delivery or does not make full payment when due as specified in the Rules of the Exchange; or

(i) if the Approved Financial Institution guaranteeing the credit of such Class B Member shall fail to timely perform with respect to any letter of credit extended to the Company;

then, and in any such event, such Class B Member shall automatically and without further action be suspended as a Class B Member, except that such suspension may be temporarily postponed by the President if the President shall determine that such suspension would not be in the best interests of the Company, in which case the President shall immediately call a special meeting of the Board as soon as practicable, at which the Board may reinstitute such suspension or take such other action as may be provided for in the Bylaws or these Rules.

Rule 7.02. Liquidation and Close Out on Termination or Suspension of Class B Member

(a) When a Person ceases to be a Class B Member or is suspended as a Class B Member, all open Contracts carried by the Company for such Class B Member shall be liquidated in the manner set forth herein as expeditiously as is practicable unless and to the extent that:

(i) such open Contracts are transferred to and accepted by one or more other Class B Members, with the consent of the Company;

(ii) the President determines that the protection of the financial integrity of the Company does not require such a liquidation; or

(iii) such liquidation is delayed because of the cessation or curtailment of trading on the Exchange for such Contracts.

(b) If it is determined pursuant to paragraph (a)(ii) of this Rule 7.02 to liquidate any open Contracts of a Person, or if the Company is unable for any reason to liquidate such open Contracts in a prompt and orderly fashion, the President may authorize the executions from time to time for the account of the Company, solely for the purpose of reducing the risk to the Company resulting from the continued maintenance of such open Contracts, hedging transactions, including, without limitation, the purchase, grant, exercise or sale of Contracts.

(c) The Person whose Contracts are liquidated shall be liable to the Company for any commissions or other expenses incurred in liquidating such Contracts.

(d) The open Contracts of any Person which are required to be liquidated pursuant to this Rule shall be liquidated in such a manner as the Company in its discretion may direct. Without limiting the generality of the foregoing any such liquidation may be effected by:

(i) placing orders for the purchase, grant, exercise, or sale of Contracts within the Exchange's trading system and subject to the rules of the Contract market;

(ii) placing spread orders for any combination of Contracts other than the liquidation Contract within the Exchange's trading system and subject to the rules of the respective Contract markets;

(iii) conducting a uniform second price sealed auction to liquidate open Contracts; and

(iv) offsetting such Contracts against the opposite side open interest on a last-in first-out basis at a price equal to the Settlement Price on the day such liquidation is ordered or at such other price as the Board may establish; provided, however, if an Order for Relief has been entered with respect to such Person, the Company will not effect any such liquidation by book entry except as may be permitted by Commission Regulations.

(e) Notwithstanding any other provisions of this Rule 7.02, any such liquidation may be effected without placing orders for execution into the Exchange's trading systems, by making appropriate book entries on the records of the Company (including, without limitation, by pairing and canceling offsetting long and short positions).

(f) If, as a result of the Rules of the Exchange or other circumstances, it is not possible to liquidate all net open Contracts pursuant to Rule 7.03(d)(i), the Company may liquidate such Contracts by taking opposite positions in the current expiration month for the account of the Person which ceased to be a Class B Member and liquidating the resultant offset positions by a spread.

(g) All liquidations made pursuant to this Rule 7.02 shall be for the account and risk of the Person which ceased to be a Class B Member or which is suspended as a Class B Member. NEITHER SUCH PERSON NOR ANY OTHER PERSON SHALL HAVE ANY CLAIM OR RIGHT AGAINST THE COMPANY FOR ANY ACTION OR INACTION OF THE COMPANY AUTHORIZED PURSUANT TO THIS RULE 7.02.

**Rule 7.03. Payments in the Event of Default**

A Class B Member that is the subject of an Event of Default shall be deemed a "Defaulting Class B Member" and:

(a) such Defaulting Class B Member's Original Margin and any of its other assets or credit facilities under the control of the Company shall be liquidated and applied by the Company to pay the amount owing (the "Defaulted Obligation") as hereinafter set forth; and

(b) if the margin and other assets or credit facilities of a Defaulting Class B Member under the control of the Company are in the aggregate less than the Defaulted Obligation, and if the Defaulting Class B Member fails to pay the Company the amount of the deficiency on demand, such Defaulting Class B Member shall continue to be liable therefore, but the amount of the deficiency, until collected from the Defaulting Class B Member, shall be met from the following sources of funds in the order listed<sup>^</sup>:

(i) if the President so determines in accordance with the Bylaws, a loan on such terms and conditions as the President may determine to be necessary or appropriate;

(ii) the Guaranty Fund;

(iii) insurance proceeds, if any, received by the Company in connection with the Event of Default giving rise to the Defaulted Obligation; and

(iv) such portion, if any, of the surplus of the Company as the Board determines in accordance with the Bylaws to be available for such purpose.

## PART 8

### Safekeeping of Class B Member Cash and Securities

Rule 8.01. [Reserved]

Rule 8.02. The Company's Clearing and Settlement Bank

(a) All Class B Member cash and securities deposited with the Company shall be deposited with a bank, or trust company under an account name which clearly identifies such cash and securities as segregated for the account of such Class B Member and held pursuant to Commission Regulation § 1.20(b).

(b) The Company, upon opening such an account as described in this Rule 8.02 shall obtain and retain in its files an acknowledgment from such bank or trust company that it has been informed that the obligations belong to Class B Members and are being held in accordance with the Act and Commission Regulations. Such acknowledgment shall be retained in accordance with Commission Regulation § 1.31.

## PART 9

### Arbitration

Rule 9.01. Class B Member Arbitration

Any Class B Member that has a dispute, claim, or controversy against another Class B Member or the Company shall in accordance with the Subscriber Agreement submit such dispute, claim, or controversy to arbitration before, and in accordance with the Code of Arbitration of the NFA, except that Section 11, Arbitration Fees, of the Member Arbitration Rules of the NFA shall apply.

Rule 9.02. Company Arbitration

(a) Except for disciplinary matters that are subject to Part 7 of the Exchange Rules, any dispute, claim, or controversy the Company may have concerning a Class B Member shall be settled in accordance with the Member Arbitration Rules of the NFA.

(b) Notwithstanding sub-paragraph (a) of this Rule 9.02, the Company may seek equitable relief against a Class B Member (e.g., a stay, injunction or order of attachment) in assistance to any arbitration proceeding under Part 9 of these Rules.

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