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April 29, 2020

Submitted via CFTC Portal

Mr. Christopher J. Kirkpatrick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: *tpSEF Inc. – Regulation 40.6(a) Rule Certification; Notification of Amendments to Rulebook (tpSEF Submission #20-06R)*

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c) of the Commodity Exchange Act, as amended (the “Act”), and Section 40.6(a) of the regulations of the Commodity Futures Trading Commission (the “Commission”), tpSEF Inc. (“tpSEF”), a registered swap execution facility, hereby notifies the Commission that it wishes to amend its Rulebook as provided in Exhibit A and its Compliance Manual as provided in Exhibit D. The intended date of implementation of the amended Rulebook and Compliance Manual is May 14, 2020.

Pursuant to Commission Regulation 40.6, this submission includes:

- (i) Rulebook:
 - a. A concise explanation and analysis of the amendments to the Rulebook and their compliance with applicable provisions of the Act, attached as Exhibit A;
 - b. A clean copy of the amended Rulebook, attached as Exhibit B;
 - c. A copy of the amended Rulebook marked to show changes to the previously effective version, attached as Exhibit C;

- (ii) Compliance Manual:
 - a. A concise explanation and analysis of the amendments to the Compliance Manual and their compliance with applicable provisions of the Act, attached as Exhibit D;
 - b. A clean copy of the amended Compliance Manual, attached as Exhibit E; and
 - c. A copy of the amended Compliance Manual marked to show changes to the previously effective version, attached as Exhibit F.

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tpSEF is separately filing with the CFTC FOIA Compliance Office, pursuant to Commission Regulation 145.9, a petition for confidential treatment of Confidential Exhibits D, E and F (the “FOIA Confidential Treatment Request”) on the grounds that disclosure would reveal confidential commercial and financial information. A copy of the FOIA Confidential Treatment Request is included with this submission.

tpSEF hereby certifies that the amendments comply with the requirements of the Act and Commission regulations thereunder. tpSEF is not aware of any substantive opposing views expressed with respect to this filing and certifies that, concurrent with this filing, a copy of this submission was posted on tpSEF’s website.


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Please contact Brian D. Donnelly, Chief Compliance Officer, at (201) 984-6956 or by email at bddonnelly@tullettprebon.com with any questions regarding this matter.

Very truly yours,

tpSEF Inc.

By: 

Name: Brian D. Donnelly

Title: Chief Compliance Officer

Date: April 29, 2020

Enclosures

cc: CFTC Division of Market Oversight (dmosubmissions@cftc.gov)
Nancy Markowitz, CFTC (nmarkowitz@cftc.gov)

EXHIBIT A

Explanation of Amended Rulebook

tpSEF has amended its Rulebook as provided below. In general, the Rulebook has been amended (i) to make conforming changes to the updated Compliance Manual, and (ii) to make certain non-substantive changes related to typographical errors and formatting throughout the Rulebook. Capitalized terms used but not defined herein have the meanings assigned to them in the Rulebook.

Section/Rule	Description of Revision	Reason and/or Supporting Rule or Core Principle
Cover Page	Changed effective date.	Conforming change
Table of Contents	Updated Table of Contents.	Conforming change
<i>Section 1: Definitions</i>		
Rule 1000	A definitions of “Financial Entity,” was added to clarify use of the term in Rule 8001.	Conforming Change
<i>Section 2: SEF Governance</i>		
Rule 2201	Rule 2201 was amended to clarify that the Chief Compliance Officer’s responsibility to enforce the SEF Rules.	Core Principle 2; CFTC Regulations 37.201 and 37.203
Rule 2401	Rule 2401 was amended to remove language referencing proposed but never adopted Commission Regulations regarding the responsibilities of the Regulatory Oversight Committee.	Core Principle 2; CFTC Regulations 37.201 and 37.203
Rule 2602	Rule 2602 was amended for clarity.	Core Principle 2; CFTC Regulation 37.7
<i>Section 3: Participant Access Rules</i>		
Rule 3000	Rule 3000 was amended to clarify that the SEF will review financial filings and notices made by Participants in order to monitor Participants’ status as ECPs.	Core Principle 7; CFTC Regulations 37.702 and 37.703
Rule 3112	Rule 3112 was amended to clarify that an Introducing Broker may execute Transactions on behalf of Customers in addition to introducing Orders.	Core Principle 2; CFTC Regulation 37.203
<i>Section 4: Transaction Execution</i>		

Section/Rule	Description of Revision	Reason and/or Supporting Rule or Core Principle
Rule 4008	Rule 4008 was amended to clarify that the SEF has the right to impose market restrictions in order to prevent market disruption.	Core Principle 4; CFTC Regulations 37.400 and 37.405
Rule 4012	Rule 4012 was amended to provide that confirmations of Prime Broker Transactions will be sent to the Prime Broker Client.	Core Principle 2; CFTC Regulation 37.6
Rule 4100	Rule 4100 was amended to clarify that the Board, the CEO or, if the CEO is unavailable, the most senior officer that is available, may take Emergency Actions.	Core Principle 8
<i>Section 5: Conduct of Participants and Other Persons</i>		
Rule 5000	Rule 5000 was amended to provide specifically that each Participant must settle all Transactions entered into pursuant to the SEF Rules.	Core Principle 4; Core Principle 7; CFTC Regulation 37.702
Rule 5100	Rule 5100 was amended to consolidate and clarify the enumerated list of prohibited trading practices to conform to the tpSEF Compliance Manual.	Conforming Change; Core Principle 2; Core Principle 3
<i>Section 6: Enforcement of Rules and Disciplinary Proceedings</i>		
Rule 6002	Rule 6002 was amended to clarify that the Market Regulation Department may recommend the preparation and service of a Notice of Charges.	Core Principle 2; CFTC Regulations 37.201 and 37.206

Mr. Christopher J. Kirkpatrick
April 29, 2020

EXHIBIT B

tpSEF Inc. Rulebook

(Clean Version)

tpSEF Inc.
Rulebook

Effective May 14, 2020

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SECTION 1 DEFINITIONS

Rule 1000 **Definitions**

Unless otherwise specifically provided in the SEF Rules or the context otherwise requires, the following terms have the meanings specified herein.

“*Account Manager*” means an investment manager or other Person acting in a similar capacity that (i) is not an individual, and (ii) acts as an agent and attorney-in-fact to transact Swaps via the SEF in the name and on behalf of a Client. An Account Manager may be a Participant, a Sponsored Participant or a Customer.

“*Affected Person*” has the meaning specified in Rule 3103.

“*Affiliate*” means with respect to any Person, any Person who, directly or indirectly, controls, is controlled by or is under common control with, such other Person.

“*Affirm*” means the process by which the counterparties to a Cleared Swap verify that they agree on the details of the transaction after execution on the SEF but prior to submission to the relevant DCO, which may be done by any means acceptable to the counterparties, including the use of an Affirmation Hub.

“*Affirmation Hub*” means a third-party service designated by the SEF to route Cleared Swaps to DCOs and which may provide Participants or Customers, as applicable, with the opportunity to Affirm the Cleared Swaps.

“*Appeals Panel*” means a panel appointed by the Chief Compliance Officer pursuant to Rule 6015.

“*Applicable Law*” means, with respect to any Person, any statute, law, regulation, rule or ordinance of any governmental or self-regulatory authority applicable to such Person, including (without limitation) these SEF Rules, any DCO Rule, the CEA and CFTC Regulations.

“*Appropriate Minimum Block Size*” means the minimum notional or principal amount established from time to time by the CFTC for a category of Swap that qualifies as a block trade pursuant to CFTC Regulation 43.6. The Appropriate Minimum Block Size is published by the CFTC or its designee from time to time in accordance with CFTC Regulations 43.6 and 43.7 and are included in Appendix D hereto.

“*Approved SDR*” has the meaning specified in Rule 8005(b).

“*Authorized Representative*” means any natural Person who is employed and authorized by a Participant to represent the Participant in SEF matters pursuant to Rule 3113.

“*Authorized Trader*” means a Person who is appointed, employed or authorized by a Participant (or by a Sponsored Participant) and who has been assigned a User ID by the SEF. Each Authorized Trader: (i) must be a natural Person; (ii) must have been granted Trading Privileges with respect to the trading activities of a Participant (or Sponsored Participant); and (iii) must satisfy any other

requirements as may be prescribed by the SEF from time to time. In the case of a Prime Broker Client, each Authorized Trader designated by such Prime Broker Client shall be considered an Authorized Trader of the Prime Broker Client and not of the relevant Prime Broker.

“*Block Trade*” means a Swap that: (i) has a notional or principal amount at or above the Appropriate Minimum Block Size applicable to such Swap; (ii) is executed pursuant to the SEF Rules and (x) in the case of an Uncleared Block Trade, occurs away from a SEF trading system or platform or (y) in the case of a Cleared Block Trade, is executed on a non-Order Book trading system or platform of the SEF in accordance with Rule 4016(j); and (iii) is a publicly reportable swap transaction that is reported subject to the SEF Rules and procedures of the SEF and Part 43 of the CFTC Regulations.

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

“*Business Day*” means a day on which the SEF is open for trading as provided on the SEF website.

“*By-Laws*” means the by-laws of the SEF.

“*Cancellation Notice*” has the meaning specified in Rule 4105(b)(2).

“*CEA*” means the Commodity Exchange Act, as amended.

“*CFTC*” means the U.S. Commodity Futures Trading Commission.

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

“*Chief Compliance Officer*” means the chief compliance officer of the SEF appointed pursuant to Rule 2201.

“*Chief Executive Officer*” or “*CEO*” means the chief executive officer of the SEF appointed by the Board pursuant to Rule 2200.

“*Cleared Block Trade*” means a Block Trade in a Cleared Swap.

“*Cleared Swap*” means (i) a Swap that is subject to the Clearing Requirement, or (ii) any Swap of a type that is accepted by a DCO for clearing that the parties have elected to submit for clearing, whether or not the particular Swap is accepted or rejected.

“*Clearing Exception*” means an exception to, or an exemption from, the Clearing Requirement, which exception or exemption is set forth in Section 2(h)(7) of the CEA, CFTC Regulations or any CFTC No-Action Letter.

“*Clearing Exempt Transaction*” means a Transaction that is not subject to the Clearing Requirement due to an election by one or more counterparties to use an available Clearing Exception.

“*Clearing Firm*” means a Clearing Member that provides clearing services to one or more Participants, Sponsored Participants, Clients or Customers and has either executed a Clearing Firm

Agreement or in relation to which the relevant Participant, Sponsored Participant, Client, Customer and/or Clearing Member has provided the SEF with evidence or assurances satisfactory to the SEF of the existence and scope of the clearing services provided.

“*Clearing Firm Agreement*” means an agreement between the SEF and a Clearing Firm that includes (i) a list of the DCOs of which the Clearing Firm is a member, (ii) a list of the Persons for whom the Clearing Firm provides clearing services and (iii) if the Clearing Firm does not clear at all such DCOs for all such Persons, a per-Person list of the DCOs at which it does clear for such Person. The Clearing Firm shall be entitled to update this information in its sole discretion by written notice to the SEF and upon receipt of such notice, the SEF shall take such action necessary to effect the Clearing Firm’s modifications as promptly as practicable. For the avoidance of doubt, notwithstanding that such notice has not yet been provided or such modifications made, if the Clearing Firm has ceased to provide clearing services to a Person on any or all DCOs, the Clearing Firm may reject all such Person’s trades during the pre-execution credit check described in Rule 4017.

“*Clearing Member*” means a member of a DCO that is authorized to clear Swaps for itself and/or for other Persons.

“*Clearing Requirement*” means the mandatory clearing requirement set forth in Section 2(h)(1)(A) of the CEA.

“*Client*” means a Person that granted in writing to an Account Manager investment discretion on behalf and in the name of such Person.

“*Confirmation*” means a written record of all the terms of a Transaction as required by Applicable Law.

“*Correcting Transaction*” has the meaning specified in Rule 4013.A.(f).

“*Cross Transaction*” a Permitted Cross Transaction or a Required Cross Transaction.

“*Customer*” means a Person for whom an Introducing Broker, as agent, (i) enters Orders and/or engages in Transactions on the SEF, and/or (ii) submits Uncleared Block Trades pursuant to the SEF Rules. A Customer may be a Participant acting through an Introducing Broker as agent in accordance with the foregoing sentence, including a Participant that is a Prime Broker Client acting through an Introducing Broker.

“*Customer Type Indicator Code*” has the meaning specified in Rule 8001(a).

“*DCM*” means a designated contract market as defined in CFTC Regulation 1.3(h).

“*DCO*” means a derivatives clearing organization as defined in Section 1a(15) of the CEA that is registered with, or has been exempted from registration by, the CFTC and that provides clearing services with respect to any Swaps traded on the SEF or pursuant to the SEF Rules.

“*DCO Rules*” means the relevant organizational documents of a DCO and any relevant 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 DCO.

“*DDR*” has the meaning specified in Rule 8005(b).

“*Deal Management System*” means the SEF’s back-end systems that facilitate post-trade processing and that can be used to execute Permitted Cross Transactions as described in Rule 4004.

“*Director*” means any member of the Board.

“*Disclosable Financial Interest*” means the position information contained in CFTC Regulation 1.69(b)(2)(iii)(A) – (E).

“*Disciplinary Action*” means any inquiry, investigation, disciplinary proceeding, appeal from a disciplinary proceeding, summary imposition of fines, summary suspension or other summary action.

“*Disciplinary Offense*” means any of the following violations, which, in each case, arises out of a proceeding or action that is brought by the SEF, a Self-Regulatory Organization, the CFTC or any federal or state agency or other governmental body:

- (1) Any violation of the SEF Rules or the rules of a Self-Regulatory Organization, except those violations related to (i) decorum or attire, (ii) financial requirements or (iii) reporting or recordkeeping unless resulting in fines aggregating more than \$5,000 within any calendar year;
- (2) Any violation described in paragraph (1)(i) – (iii) immediately above that involves fraud, deceit or conversion or results in a suspension or expulsion;
- (3) Any violation of the CEA or CFTC Regulations; or
- (4) Any failure to exercise supervisory responsibility with respect to acts described in paragraphs (1) – (3) immediately above when such failure is itself a violation of the SEF Rules, the rules of a Self-Regulatory Organization, the CEA or the CFTC Regulations.

“*Disciplinary Panel*” means the panel appointed by the Chief Compliance Officer to act in an adjudicative role and fulfill various adjudicative responsibilities and duties described in Section 6 of the SEF Rules.

“*Displayed Order*” has the meaning specified in Rule 4011(a)(2).

“*ECP*” means an “eligible contract participant” as defined in Section 1a(18) of the CEA and CFTC Regulations thereunder.

“*Emergency*” means any occurrence or circumstance that, in the opinion of the Board and/or the CEO (or, if the CEO is not available, the most senior Officer that is available), 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 DCO, including, without limitation, the following:

- (1) any manipulative or attempted manipulative activity;
- (2) any actual, attempted or threatened corner, squeeze, congestion or undue concentration of positions in a Swap or any related asset;
- (3) any circumstance that 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;
- (4) any action taken by any governmental body, or any other registered entity, board of trade, market or facility that may have a direct impact on trading or clearing and settlement of, or the legality or enforceability of, any Swap;
- (5) the imposition of any injunction or other restraint by any government agency, court or arbitrator upon a DCO which may affect the ability of a DCO to perform on a Swap;
- (6) any circumstance that may have a severe, adverse impact upon the functions and facilities of the SEF, including, but not limited to, acts of God, fire, flood or other natural disasters, bomb threats, acts of terrorism or war, severely inclement weather or failure or malfunction of all or a portion of the SEF, or other system breakdowns or interruptions such as power, computer, communication or transportation systems or the Internet;
- (7) any circumstance in which it appears to the Board and/or the CEO (or, if the CEO is not available, the most senior Officer that is available) that a DCO or any other Person:
 - (i) has failed to perform on a Swap;
 - (ii) is insolvent; or
 - (iii) is in a financial or operational condition or is conducting business such that (A) the DCO cannot be permitted to continue to clear Swaps transacted on the SEF or pursuant to the SEF Rules without jeopardizing the safety of Participants, the SEF or any other Person or (B) the Person cannot be permitted to continue to transact business on the SEF without jeopardizing the safety of Participants, the SEF, any DCO or any other Person; or
- (8) any other circumstance that may have a severe, adverse effect upon the functioning of the SEF.

“*Emergency Action*” means any action taken in accordance with Rule 7000 by the SEF, the Board, any committee of the Board, the CEO or any other Officer in response to an Emergency, including, without limitation, any of the following actions:

- (1) suspending or curtailing trading or limiting trading (in whole or in part);
- (2) ordering the fixing of a settlement price, or the reduction of positions;
- (3) extending, limiting or changing the Trading Hours;
- (4) temporarily modifying or suspending any provision of the SEF Rules or Obligations;
- (5) imposing or modifying price limits;
- (6) altering any contract’s settlement terms or conditions;
- (7) imposing or modifying position limits; and/or
- (8) ordering any other action or undertaking to address or relieve the Emergency.

“*Emergency Rules*” has the meaning specified in Rule 7000.

“*Error*” has the meaning specified in Rule 5103.C.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended.

“*Execution Specialist*” means a SEF employee responsible for assisting Participants and Sponsored Participants (and any of their Supervised Persons) in entering on the SEF Orders and Transactions and receiving reports of Uncleared Block Trades.

“*Family Relationship*” means, with respect to any natural person, such natural person’s spouse, former spouse, parent, stepparent, child, stepchild, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece or in-law.

“*Financial Entity*” has the meaning set forth in Section 2(h)(7)(C) of the CEA.

“*FCM*” means futures commission merchant as defined under Section 1a(28) of the CEA and CFTC Regulation 1.3(p).

“*Government Agency*” means any governmental entity, body or agency of any government (including the United States, a state or foreign government).

“*Instrument Reference Price*” has the meaning specified in Rule 4003.B.(d)(1)(ii).

“*Interested Person*” has the meaning specified in Rule 2500(a).

“*Introducing Broker*” is a Participant that (i) is a registered or exempt FCM or introducing broker (as defined in Section 1a(31) of the CEA and CFTC Regulation 1.3(mm)), and (ii) enters Orders

or engages in Transactions on the SEF, and/or submits Uncleared Block Trades pursuant to the SEF Rules, on behalf of one or more Customers.

“*Investigation Report*” means any written report of investigation prepared by the Market Regulation Department.

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

“*ISDA Reporting Counterparty Rules*” means the rules identified in Appendix A hereto, as may be amended from time to time, for establishing a Reporting Counterparty under the circumstances where CFTC Regulation 45.8 does not determine a Reporting Counterparty (for example, because both counterparties are Swap Dealers or both counterparties are Major Swap Participants) as published by ISDA under the title “Dodd Frank Act – Swap Transaction Reporting Party Requirements” as such rules may be amended, restated, supplemented or otherwise modified or replaced from time to time.

“*ISV*” means independent software vendor.

“*Legal Entity Identifier*” has the meaning set forth in Part 45 of the CFTC Regulations.

“*Major Swap Participant*” has the meaning set forth in Section 1a(33) of the CEA and CFTC Regulations thereunder.

“*Market Regulation Department*” means the department within the SEF managed and overseen by the Chief Compliance Officer that regulates compliance with the SEF Rules. For purposes of the SEF Rules, Market Regulation Department may, as applicable, also include any Regulatory Services Provider pursuant to a Regulatory Services Agreement.

“*MAT/Agency MBS Package Transactions*” has the meaning set forth in CFTC No-Action Letter 14-137.

“*MAT/Futures Package Transactions*” has the meaning set forth in CFTC No-Action Letter 17-55.

“*MAT/MAT Cleared Package Transaction*” means a Package Transaction, all components of which are made available to trade and which is not a Clearing Exempt Transaction.

“*MAT/New Issuance Bond Package Transactions*” has the meaning set forth in CFTC No-Action Letter 17-55.

“*MAT/Non-CFTC Swap Package Transactions*” has the meaning set forth in CFTC No-Action Letter 17-55.

“*MAT/Non-MAT Cleared Package Transactions*” has the meaning set forth in CFTC No-Action Letter 15-55.

“*MAT/Non-MAT Uncleared Package Transactions*” has the meaning set forth in CFTC No-Action Letter 17-55.

“*MAT/Non-Swap Instruments Package Transactions*” has the meaning set forth in CFTC No-Action Letter 17-55, and shall, for the avoidance of doubt, exclude (1) U.S. Dollar Swap Spreads; (2) MAT/Futures Package Transactions; (3) MAT/Agency MBS Package Transactions; and (4) MAT/New Issuance Bond Package Transactions.

“*Material Adverse Change*” means a significant event that negatively affects the subject referenced.

“*Material Conflict of Interest*” has the meaning specified in Rule 2500(a).

“*Member*” has the meaning specified in Section 1a(34) of the CEA and CFTC Regulation 1.3(q), and shall include for purposes of the SEF Rules all Participants (including Sponsoring Participants) and all Sponsored Participants.

“*Membership Interests*” means financial institutions that vary as to their jurisdiction of organization, size, registration and regulatory status, primary business and business model.

“*Named Party in Interest*” means a Person that is identified by name as a subject of any matter being considered by the Board, any committee established by the Board (including the Regulatory Oversight Committee) or any SEF Panel.

“*NFA*” means the National Futures Association.

“*Non-Self-Clearing*” means, with respect to a DCO and any particular Swap, a Participant, Sponsored Participant, Client or Customer that is not a Clearing Member with respect to the related DCO and Swap.

“*Notice of Charges*” has the meaning specified in Rule 6005(a).

“*Notice to Participants*” has the meaning specified in Rule 3108.

“*Obligation*” means any and all duties and/or responsibilities arising under each SEF Rule, order or procedure issued by the SEF (including Notices to Participants) and other requirements implemented by the SEF under the SEF Rules, including the terms and conditions of each Swap, as well as any contractual obligations between a Participant and the SEF.

“*Off-Book Ticket Functionality*” means the functionality provided within the OMS that allows for the execution of Permitted Cross Transactions away from the Order Book. This functionality is available to market participants only for Transactions in the Rates asset class and for Transactions that are non-deliverable forwards.

“*Officer*” has the meaning specified in Rule 2200.

“*Offsetting Transaction*” has the meaning specified in Rule 4013.A.(f).

“*Order*” means a firm bid or offer for a Swap.

“*Order Book*” means the trading systems operated by the SEF in which any Participant or any market participant acting through a Participant has the ability to enter multiple bids and offers, observe or receive bids and offers entered by other Participants, and transact on such bids and offers. All bids and offers on the Order Book shall be Orders (*i.e.*, firm bids or offers and not indications of interest or indicative quotes), and all Orders shall be displayed on the Order Book on an anonymous basis. Any market participant who wishes to connect to and use the Order Book may choose to do so, as more fully described in Rule 4003.B. The Order Book is available for all Swaps listed for trading by the SEF.

“*Order Book Waiver*” has the meaning specified in Rule 4003.B.(f)(2).

“*Order Management System*” or “*OMS*” means the SEF’s front-end system that houses the Order Book, as well as the SEF’s Off-Book Ticket Functionality. Market participants may connect to the OMS via a graphical user interface (GUI) or an application program interface (API), which allows third-party trading systems to interact with the OMS.

“*Package Transaction*” means a transaction involving two or more instruments: (1) that is executed between two or more counterparties; (2) that is priced or quoted as one economic transaction with simultaneous or near simultaneous execution of all components; (3) that has at least one component that is a Swap that is a Required Transaction; and (4) where the execution of each component is contingent upon the execution of all other components. No Swap is prohibited from being executed on the SEF by virtue of its being part of a Package Transaction. The categories of Package Transactions currently executed on the SEF are: (i) MAT/MAT Cleared Package Transactions; (ii) MAT/Non-MAT Cleared Package Transactions; and (iii) MAT/Non-MAT Uncleared Package Transactions. The categories of Package Transactions currently facilitated by the SEF are: (i) MAT/Non-Swap Instruments Package Transactions (MAT/Bonds only); (ii) US Dollar Swap Spreads; and (iii) MAT/Futures Package Transactions (MAT/Eurodollar Futures only). Such facilitation is done by the SEF’s providing an execution venue for the Swap legs and reference price information regarding the non-Swap legs. The reference price is made available to Participants for informational purpose only. The SEF does not execute the non-Swap legs of Package Transactions; the counterparties to any Package Transaction involving a non-Swap component must execute such non-Swap component away from the SEF.

“*Package Transaction (Order Book Exempt)*” is a Package Transaction for which the CFTC has granted currently-effective no-action relief or an exception or exemption from the requirements of Section 2(h)(8) of the CEA and/or CFTC Regulation 37.9. Pursuant to CFTC No-Action Letter 17-55, the following are Package Transactions (Order Book Exempt) until 11:59 p.m. (Eastern Time) on November 15, 2020: (a) MAT/New Issuance Bond Package Transactions; (b) MAT/Futures Package Transactions; (c) MAT/Non-MAT Uncleared Package Transactions; (d) MAT/Non-Swap Instruments Package Transactions; and (e) MAT/Non-CFTC Swap Package Transactions. If any such no-action relief is extended, upon and to the extent of such extension, the relevant Package Transaction will continue to be a Package Transaction (Order Book Exempt) for purposes of the SEF Rules.

“*Participant*” means any Person, other than an ISV, that has been admitted by the SEF as a “Participant” and that has been granted, and continues to have, Trading Privileges.

“*Participation Criteria*” means the criteria set forth in Rule 3000(a).

“*Permitted Cross Transaction*” means a Permitted Transaction submitted to the SEF for execution either directly or via an Execution Specialist following some form of permitted pre-arrangement or pre-negotiation between or among the parties.

“*Permitted Transaction*” shall have the meaning provided in CFTC Regulation 37.9(c)(1).

“*Person*” means a natural person or an entity.

“*Personal Information*” means personally identifiable information or data concerning or relating to a Person’s employees, customers or prospective customers.

“*Prime Broker*” means a Participant that has authorized a Prime Broker Client to place Prime Brokerage Orders and execute Prime Broker Transactions on the SEF in the name of and on behalf of such Participant and that has been accepted by the SEF to act in such capacity.

“*Prime Broker Acknowledgement Letter*” shall have the meaning set forth in Rule 4105(b)(1).

“*Prime Broker Client*” means a Participant that has been identified by a Prime Broker in a Prime Broker Acknowledgment Letter to place Prime Brokerage Orders on the SEF and to execute Prime Broker Transactions in the name of and on behalf of such Prime Broker.

“*Prime Broker Limit*” means any limit, term or trading parameter established by a Prime Broker in respect of a Prime Broker Client, including credit limits and any categories of permissible Uncleared Swaps.

“*Prime Broker Transaction*” means a Permitted Cross Transaction in an Uncleared Swap executed on the SEF pursuant to Rule 4105 where one counterparty is a Prime Broker and the other is a Person (which may also be a Prime Broker) with which the Prime Broker has swap trading relationship documentation in place in accordance with the requirements of Rule 4013.B.

“*Prime Brokerage Order*” means an Order for a Prime Broker Transaction.

“*Proprietary Data*” means, with respect to any Person, any information that separately discloses business transactions, market positions or trade secrets of such Person.

“*Public Director*” means any Director who qualifies as a “Public Director” within the meaning of the By-Laws.

“*Regulatory Oversight Committee*” or “*ROC*” means the committee described in Rule 2401.

“*Regulatory Services Agreement*” means the agreement(s) between the SEF and Regulatory Services Provider(s), under which market surveillance and trade practice surveillance functions are delegated to the Regulatory Services Provider.

“*Regulatory Services Provider*” means the organization, if any, which provides regulatory services to the SEF pursuant to a Regulatory Services Agreement. The SEF’s Regulatory Services Provider is currently the NFA.

“*Related Party*” has the meaning given in Rule 6028.

“*Reporting Counterparty*” has the meaning set forth in Part 45 of the CFTC Regulations.

“*Required Cross Transaction*” means a Required Transaction (other than a Block Trade or Package Transaction (Order Book Exempt)) (x) in which a Participant acting as a broker or dealer seeks to either execute against its Customer’s Order or execute two of its customers’ Orders against each other, and (y) that is submitted for execution on the Order Book, either directly or via an Execution Specialist, following some form of permitted pre-arrangement or pre-negotiation.

“*Required Transaction*” shall have the meaning provided in CFTC Regulation 37.9(a)(1), as may be amended from time to time.

“*Resting Quote*” means any firm bid or offer displayed on the Order Book of the SEF.

“*Review Panel*” means a panel responsible for determining whether a reasonable basis exists for finding a violation of the SEF Rules or other provision of Applicable Law for which the SEF has disciplinary jurisdiction, 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.

“*Risk Mitigation Sessions*” has the meaning specified in Rule 4018.

“*SEC*” means the U.S. Securities and Exchange Commission.

“*SEF*” means the swap execution facility operated by tpSEF Inc. or any successor thereto.

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

“*SEF Panel*” means any Review Panel, Disciplinary Panel, Appeals Panel or any other disciplinary or oversight panel of the SEF and any subcommittee thereof.

“*SEF Proceeding*” and “*SEF Proceedings*” means any inquiry, investigation, disciplinary proceeding or any appeal from a disciplinary proceeding, summary suspension or other summary actions.

“*SEF Rules*” means the rules of the SEF as set forth herein, as may be amended from time to time by the SEF.

“*Self-Clearing*” means, as to any DCO and Swap, a Participant, Sponsored Participant, Client or Customer that is a Clearing Member of the relevant DCO with respect to such Swap.

“*Self-Regulatory Action*” means an Emergency Action or a SEF Proceeding.

“*Self-Regulatory Organization*” means the Financial Industry Regulatory Authority, the NFA or any other self-regulatory organization under the CFTC Regulations or the rules and regulations of the SEC.

“*Significant Action*” has the meaning specified in CFTC Regulation 1.69(a)(8).

“*Sponsored Participant*” means a third-party ECP that is extended Trading Privileges by a Sponsoring Participant pursuant to Rule 3110.

“*Sponsoring Participant*” means a Participant that extends Trading Privileges to a Sponsored Participant pursuant to Rule 3110.

“*Supervised Persons*” means Authorized Traders, directors, officers, employees or agents of any Participant or Sponsored Participant.

“*Swap*” means any “swap” as defined in CEA Section 1a(47) that has been listed for trading on the SEF.

“*Swap Data Repository*” or “*SDR*” has the meaning set forth in Section 1a(48) of the CEA.

“*Swap Dealer*” has the meaning set forth in Section 1a(49) of the CEA.

“*Swap Specification*” means, with respect to any Swap, the specifications for such Swap as set forth in Appendix B hereto, including any materials incorporated by reference therein.

“*TAS Cross Transaction*” has the meaning given in Rule 4003.C.(a).

“*Terms Incorporated by Reference*” has the meaning given in Rule 4012.

“*tpSEF Risk Mitigation Procedures*” means the SEF’s procedures for Risk Mitigation Sessions, which are attached hereto as Appendix C.

“*Trade Communication*” has the meaning given in Rule 4012.

“*Trading Hours*” means, for any Business Day, the hours specified in Rule 4000.A. below.

“*Trading Privileges*” means the right granted to a Participant by the SEF, or extended to a Sponsored Participant by a Sponsoring Participant, to use the SEF for execution of Swaps, in each case acting through one or more Authorized Traders.

“*Transaction*” means any Swap transacted on the SEF in accordance with the SEF Rules or, in the case of an Uncleared Block Trade, transacted away from a SEF trading system or platform in accordance with the SEF Rules.

“*Uncleared Block Trade*” means a Block Trade other than a Cleared Block Trade.

“*Uncleared Swap*” means a Swap other than a Cleared Swap.

“*User ID*” means a unique identifier issued to each Authorized Trader of a Participant that enables the SEF to identify the individual.

“*U.S. Dollar Swap Spreads*” has the meaning set forth in CFTC No-Action Letter 15-55.

“*USI*” means a unique swap identifier created by the SEF pursuant to Part 45 of the CFTC Regulations.

“*Waiting Order*” has the meaning specified in Rule 4011(a)(2).

SECTION 2 SEF GOVERNANCE

Rule 2000 The SEF

The SEF is a corporation organized under the laws of the state of Delaware. The By-Laws of the SEF govern the management and operation of the SEF.

BOARD

Rule 2100 Board

- (a) The Officers shall manage the day-to-day business operations of the SEF. The Board has the power and authority to oversee, and to affirm, modify, suspend or overrule, any and all decisions and actions of any committees of the Board or any panel of Officers related to the day-to-day business operations of the SEF.
- (b) The Board will determine which Swaps are available from time to time for trading subject to the SEF Rules, and will approve specifications for such Swaps; provided that the Board may delegate the authority to approve such rules to a SEF committee or to one or more Officers of the SEF; provided, further, that certifications or applications with respect to such rules will be submitted to the CFTC as required by the CEA and any regulations thereunder.
- (c) The Board may act only by the decision of an absolute majority in number of the Directors by vote at a meeting, by unanimous written consent without a meeting, or as otherwise set forth in the By-Laws. In the event of an Emergency, which in the judgment of the CEO (or, if the CEO is not available, the most senior Officer that is available) requires immediate action, a special meeting of the Board may be convened without notice, consisting of those Directors who are immediately available in person or by telephone and can be joined in the meeting in person or by conference telephone. The actions taken at such a meeting shall be effective if at least a quorum of the Directors participates either personally or by conference telephone.
- (d) At all times, at least 35% of the Directors shall be Public Directors. Each Director (including Public Directors) shall be appointed in accordance with the By-Laws and shall serve until his or her successor is duly appointed or until his or her earlier resignation or removal, with or without cause. The Directors shall include members who have had relevant experience in some capacity (whether as a current or former employee, officer, director, principal, consultant, advisor, service provider or otherwise) working with or for a diversity of Membership Interests.
- (e) Each Director is entitled to indemnification pursuant to the By-Laws with respect to matters relating to the SEF.
- (f) To qualify as a Director, an individual must meet the qualifications for directors set forth in the By-Laws, and to qualify as a Public Director, an individual must meet the qualifications for "Public Directors" set forth in the By-Laws.

- (g) Without limitation of any other provisions of this Rule 2100, the provisions of Article III of the By-Laws shall be deemed to be part of the SEF Rules and shall be deemed to be incorporated herein, to the same extent and with the same force and effect as if set forth herein in their entirety.

OFFICERS

Rule 2200 Officers

- (a) The Board shall appoint a Chief Executive Officer and such other officers of the SEF (each of the foregoing, an “Officer,” and collectively, the “Officers”) as it may deem necessary or appropriate from time to time, in accordance with and as required by the By-Laws.
- (b) Any Officer may also be a director, officer, partner or employee of the SEF or any of its Affiliates.
- (c) The Officers shall have such powers and duties in the management of the SEF as the Board may prescribe from time to time.
- (d) Each Officer is entitled to indemnification pursuant to the By-Laws with respect to matters relating to the SEF.

Rule 2201 Chief Compliance Officer

- (a) Either the Board or the Chief Executive Officer shall appoint a Chief Compliance Officer. The Board shall approve the compensation of the individual appointed as Chief Compliance Officer. Removal of the Chief Compliance Officer shall require the approval of a majority of the Board. 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 (2) Business Days of such removal and appointment.
- (b) The Chief Compliance Officer’s duties shall include, but are not limited to, the following:
- (1) overseeing and reviewing the SEF’s compliance with Applicable Law, including, without limitation, Section 5h of the CEA and related CFTC Regulations;
 - (2) enforcing the SEF Rules;
 - (3) in consultation with the CEO and such others, including, without limitation, the Board and/or the Regulatory Oversight Committee, as deemed appropriate and necessary, 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 the CFTC Regulations; and (iii) conflicts between the SEF’s management and members of the Board;
 - (4) establishing and administering requisite written policies and procedures reasonably designed to prevent violations of the CEA and CFTC Regulations;

- (5) taking reasonable steps to ensure compliance with the CEA and CFTC Regulations;
 - (6) establishing procedures for the remediation of noncompliance issues identified by the Chief Compliance Officer through compliance office reviews, look-backs, internal or external audit findings, self-reported errors or validated complaints;
 - (7) establishing and following appropriate procedures for the handling, management response, remediation, retesting and closing of noncompliance issues;
 - (8) establishing and administering a compliance manual designed to promote compliance with Applicable Law and a written code of ethics designed to prevent ethical violations and to promote honesty and ethical conduct;
 - (9) 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, Clients and other market participants (including seeking to ensure compliance with, if applicable, financial integrity, financial reporting, sales practice, recordkeeping and other requirements);
 - (10) supervising the effectiveness and sufficiency of any regulatory services provided to the SEF by a Regulatory Services Provider; and
 - (11) preparing and filing the annual compliance report as required under the CEA and applicable CFTC Regulations.
- (c) The Chief Compliance Officer shall have available to him or her at all times the authority and the resources of the Market Regulation Department and such other resources as may be necessary to develop and enforce policies and procedures necessary to fulfill the duties set forth for chief compliance officers of swap execution facilities in the CEA and the CFTC Regulations. The Chief Compliance Officer shall have supervisory authority over all staff of the Market Regulation Department and all other compliance staff.
- (d) The Chief Compliance Officer shall report directly to the Board. The Chief Compliance Officer shall have the authority to inspect the books and records of all Participants and the authority to require any Participant to appear before him or her and produce its books and records and answer questions regarding alleged violations of the SEF Rules or other provision of Applicable Law for which the SEF has disciplinary jurisdiction, at the time, place and in the manner it designates. The Chief Compliance Officer may also delegate such authority to staff of the Market Regulation Department and/or the Regulatory Services Provider.

QUALIFICATIONS

Rule 2300 Qualification of Chief Compliance Officer

- (a) The Chief Compliance Officer shall have the background and skills appropriate for fulfilling the responsibilities of the position.
- (b) The Chief Compliance Officer may not be disqualified from registration pursuant to Section 8a(2) or (3) of the CEA.

Rule 2301 Qualifications of Directors, Panel Members, Committee Members and Officers

- (a) A Director or Officer must meet the qualifications set forth from time to time in the By-Laws.
- (b) An individual may not serve as a Director or an Officer, hold a 10% or more ownership interest in the SEF or serve on a committee established by the Board (including the Regulatory Oversight Committee) or any SEF Panel if the individual:
 - (1) within the prior three (3) years has been found by a final decision of the SEF, a Self-Regulatory Organization, an administrative law judge, a court of competent jurisdiction or a Government Agency 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 DCM, 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 of the SEF, a Self-Regulatory Organization, an administrative law judge, a court of competent jurisdiction or a Government Agency; 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 a Government Agency, the SEF or a Self-Regulatory Organization not to apply for registration with the Government Agency or for membership in the SEF or 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 for any reason;
 - (6) has been convicted of a felony listed in Section 8a(2)(D)(ii) through (iv) of the CEA; or

- (7) 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 Exchange Act.
- (c) Any Director, Officer, member of a committee established by the Board, any SEF Panel member, any individual nominated to serve in any such role or any individual authorized by the Regulatory Oversight Committee to take summary action shall immediately notify the Chief Executive Officer or the Chief Compliance Officer if such individual meets one or more of the criteria in Rule 2301(b).
- (d) For purposes of Rule 2301(b), the terms “final decision” and “settlement agreement” have the meanings set forth in CFTC Regulation 1.63(a).

BOARD COMMITTEES

Rule 2400 [Reserved]

Rule 2401 Regulatory Oversight Committee

- (a) The Regulatory Oversight Committee of the Board shall be composed entirely of Public Directors appointed by the Board.
- (b) Each member of the Regulatory Oversight Committee shall serve for a term of two (2) calendar years from the date of his or her appointment or until such Person ceases to be Public Director or until removed from the ROC by the Board. 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 that, in its judgment, will 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:
 - (1) monitor the regulatory program of the SEF for sufficiency, effectiveness, and independence; and
 - (2) oversee all facets of the regulatory program.
- (e) The Regulatory Oversight Committee reports to the Board.

CONFLICTS OF INTEREST AND CONFIDENTIAL INFORMATION

Rule 2500 Conflicts of Interest Relating to Self-Regulatory Actions

- (a) A Director, Officer, SEF Panel member or other Person authorized to exercise the SEF's authority concerning a Self-Regulatory Action who has a Material Conflict of Interest between (i) his or her exercise of authority concerning a Self-Regulatory Action, and (ii) his or her personal interests (each, an "Interested Person"), may not (x) participate in any deliberations or vote of the Board (which includes for purposes hereof a Board committee) or SEF Panel, or (y) exercise any authority, with respect to the Self-Regulatory Action involving his or her personal interest, except as described below.

For purposes of this Rule 2500, a Director, Officer, SEF Panel member or other Person has a "Material Conflict of Interest" when such Director, Officer, SEF Panel member or other Person:

- (1) is named as a respondent or potential respondent or a witness or potential witness in a Self-Regulatory Action;
 - (2) is an employer, employee, fellow employee or an Affiliate of a respondent or potential respondent or a witness or potential witness in the Self-Regulatory Action;
 - (3) has any significant, ongoing business relationship with a respondent or potential respondent or a witness or potential witness in the Self-Regulatory Action;
 - (4) has a Family Relationship with a respondent or potential respondent or a witness or potential witness in a Self-Regulatory Action (including the individual's spouse, co-habitator, former spouse, parent, stepparent, child, step child, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece, father-in-law, mother-in-law, brother-in-law or sister-in-law); and/or
 - (5) is involved in any other circumstance that gives rise to a conflict between the Director's, Officer's, panel member's or other Person's exercise of authority concerning a Self-Regulatory Action and his or her personal interests.
- (b) Before considering any Self-Regulatory Action, an Interested Person, or a Director, Officer, SEF Panel member or other Person authorized to exercise the SEF's authority concerning a Self-Regulatory Action that believes he or she is or may be an Interested Person, must disclose in writing to the Board the material facts concerning his or her relationship or interest in the matter. Following such disclosure, the Board shall determine whether any Person that believes he or she is or may be an Interested Person actually is an Interested Person. Notwithstanding any contrary determination by the Board, any Person that believes he or she is or may be an Interested Person may recuse himself or herself from deliberations and voting or the exercise of authority pursuant to Rule 2500(a) above upon his or her election.
- (c) Any Interested Person who would be required otherwise to abstain from deliberations and voting or the exercise of authority pursuant to Rule 2500(a) above as a result of having

Material Conflict of Interest may participate in deliberations, prior to a vote on the matter, if:

- (1) the material facts about the Interested Person's interest in the matter are disclosed or known to the Board or SEF Panel;
 - (2) the Board 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.
- (d) If a determination is made pursuant to Rule 2500(c) 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.
- (e) 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 (unless the Chief Executive Officer is an Interested Person, in which case the most senior Officer who is not an Interested Person) 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.

Rule 2501 Voting by Interested Parties

- (a) Relationship with Named Party in Interest.
- (1) A member of the Board, any committee established by the Board (including the ROC) or any SEF Panel must abstain from such body's deliberations and voting on any matter involving a Named Party in Interest where such member:
 - (i) is a Named Party in Interest;
 - (ii) is an employer, employee or fellow employee of a Named Party in Interest;
 - (iii) is associated with a Named Party in Interest through a "broker association" as defined in CFTC Regulation 156.1;
 - (iv) has any other significant, ongoing business relationship with a Named Party in Interest, not including relationships limited to executing futures or option transactions opposite of each other or to clearing futures or option transactions through the same clearing member; or
 - (v) has a Family Relationship with a Named Party in Interest.
 - (2) Prior to the consideration of any matter involving a Named Party in Interest, each member of the Board, any committee established by the Board (including the ROC)

or any SEF Panel must disclose to the Chief Compliance Officer whether he or she is a Named Party in Interest or has one of the relationships listed in Rule 2501(a)(1)(ii)-(v) above with a Named Party in Interest.

(3) The following procedure will apply with respect to any matter involving a Named Party in Interest under this Rule 2501:

(i) In its sole discretion, the Chief Compliance Officer, in consultation with the ROC (excluding any potentially interested members of the ROC), shall determine whether any member of the Board, any committee established by the Board (including the ROC) or a SEF Panel is required to abstain from deliberations and voting on the matter.

(ii) The determination of the Chief Compliance Officer will take into consideration the exigency of the matter and shall be based upon: (x) information provided by the member pursuant to Rule 2501(a)(2), and (y) any other source of information that is held by and reasonably available to the SEF.

(4) Notwithstanding any contrary determination made in accordance with Rule 2501(a)(3), any Person that believes he or she is or may be a Named Party in Interest or has or may have one of the relationships listed in Rule 2501(a)(1)(ii)-(v) above with a Named Party in Interest may recuse himself or herself from deliberations and voting on the relevant matter involving a Named Party in Interest.

(b) Financial Interest in Significant Action.

(1) A member of the Board, any committee established by the Board (including the ROC) or any SEF Panel must abstain from such body's deliberations and voting on any Significant Action if the member knowingly has a direct and substantial financial interest in the result of the vote based upon either exchange or non-exchange positions that could reasonably be expected to be affected by the action.

(2) Prior to the consideration of any Significant Action, each member of the Board, any committee established by the Board (including the ROC) or any SEF Panel must disclose to Chief Compliance Officer any Disclosable Financial Interest that is known to such member. This requirement does not apply to members who choose to abstain from deliberations and voting on the subject Significant Action.

(3) The Chief Compliance Officer will independently require a member of the Board, any committee established by the Board (including the ROC) or any SEF Panel to abstain from both the deliberations and voting by the Board, committee or SEF Panel on any Significant Action if the Chief Compliance Officer, in consultation with the ROC (excluding any potentially interested members of the ROC), determines that the member has a direct and substantial financial interest in the result of the vote. The determination of the Chief Compliance Officer must include a review of the member's Disclosable Financial Interest, take into consideration the exigency of the Significant Action and should be based upon: (x) the most recent

large trader reports and clearing records available to the SEF; (y) information provided by the member with respect to any Disclosable Financial Interest pursuant to Rule 2501(b)(2); and (z) any other source of information that is held by and reasonably available to the SEF.

- (4) The Board, any committee established by the Board (including the ROC) or any SEF Panel may permit a member to participate in deliberations prior to a vote on a Significant Action for which deliberations such member otherwise would be required to abstain, pursuant to this Rule 2501(b), if such participation would be consistent with the public interest and the member recuses himself or herself from voting on such action.
- (5) In making a determination as to whether to permit a member to participate in deliberations on a Significant Action for which such member otherwise would be required to abstain, the deliberating body shall consider the following factors:
 - (i) Whether the member's participation in deliberations is necessary for the deliberating body to achieve a quorum in the matter, and
 - (ii) Whether the member has unique or special expertise, knowledge or experience in the matter under consideration.

Prior to making any such determination, the relevant deliberating body must fully consider the position information that is the basis for the member's direct and substantial financial interest in the result of a vote on a Significant Action.

- (6) The Board, Board committees and SEF Panels must reflect in their minutes or otherwise document that the conflicts determination procedures required by this Rule 2501 have been followed. Such records also must include:
 - (i) The names of all members who attended the meeting in person or who otherwise were present by electronic means;
 - (ii) The name of any member who voluntarily recused himself or herself or was required to abstain from deliberations and/or voting on a matter and the reason for the recusal or abstention, if stated; and
 - (iii) Information on the position information that was reviewed for each member.

**Rule 2502 Restrictions on Certain Persons who Possess Confidential Information;
Improper Use or Disclosure of Confidential Information**

- (a) No Director, Officer, member of any committee or panel established by the Board or any employee or consultant of the SEF shall use or disclose, either during his or her association with the SEF or thereafter, for any purpose other than the performance of his or her official duties and responsibilities as a Director, Officer, committee or panel member or employee or consultant any confidential information (including any material, non-public

information) obtained as a result of the individual's duties and responsibilities as a Director, Officer, committee or panel member or employee or consultant. Any Director, Officer, committee or panel member or employee or consultant 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.

- (b) Notwithstanding Rule 2500(a), a Director, Officer, member of any committee or panel established by the Board or employee or consultant of the SEF may disclose confidential information (i) in the course of his or her official duties; (ii) to any Self-Regulatory Organization, DCO, court of competent jurisdiction or representative of any agency or department of the federal or state government acting in his or her official capacity; (iii) if such information is or becomes a matter of public knowledge through no fault of the Director, Officer, member of any committee or panel established by the Board or employee or consultant; or (iv) as required pursuant to Applicable Law.
- (c) No Director, Officer, or member of any committee or panel established by the Board, no employee of the SEF and no consultant to the SEF shall:
 - (1) trade for such Person's own account, or for or on behalf of any other account, on the basis of any material, non-public information obtained through the performance of such Person's official duties;
 - (2) use or disclose, for any purpose other than the performance of such Person's official duties, any confidential information obtained by such Person as a result of such Person's official duties; *provided, however*, that this Rule shall not prohibit any disclosures that are expressly permitted pursuant to Rule 2502(b); or
 - (3) trade, directly or indirectly, in (i) any Swap traded on the SEF, (ii) any related commodity interest (as defined in CFTC Regulation 1.59(a)), or (iii) any commodity interest traded on any DCM or SEF or cleared by any DCO if such Person has access to material non-public information concerning such commodity interest.

SERVICE AGREEMENTS

Rule 2600 Services Agreement with a Regulatory Services Provider

- (a) The SEF may enter into a Regulatory Services Agreement with a Regulatory Services Provider to perform certain surveillance, investigative, and regulatory functions under the SEF Rules and the SEF may provide information to the Regulatory Services Provider in connection with the performance of those functions.
- (b) The SEF shall retain ultimate decision-making authority with respect to any functions that are contracted to a Regulatory Services Provider and shall remain responsible for the performance of any Regulatory Services received.

Rule 2601 Services Agreement with Other Service Providers

The SEF, in its discretion, may enter into services agreements with service providers of its choosing to perform functions under the SEF Rules, and may provide information to such service providers in connection with the performance of those functions.

Rule 2602 Prohibited Use of Data Collected for Regulatory Purposes

The SEF will 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 unless the Person from whom it collects or receives such data or information clearly consents to the SEF's use of such data or information in such manner by providing a separate signed consent prior to such use. The SEF will 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 and as permitted by Applicable Law, may share such data or information with one or more DCOs, swap execution facilities or DCMs registered with the CFTC. In such an event, the SEF will request the DCO, swap execution facility or DCM to maintain the confidentiality of any such information in the same manner as the DCO, swap execution facility or DCM would protect its own proprietary data.

**SECTION 3
PARTICIPANT ACCESS RULES**

QUALIFICATIONS

Rule 3000 Qualifications

- (a) To be eligible for admission as a Participant, an applicant must satisfy the following criteria (the “Participation Criteria”):
- (1) is an ECP;
 - (2) is of good reputation and business integrity;
 - (3) maintains adequate financial resources and credit, has adequate capacity to meet its financial obligations and has not filed for bankruptcy;
 - (4) if it is an entity, is validly organized, in good standing and authorized by its governing body and, if relevant, documents of organization, to act as a Participant and comply with its obligations under the SEF Rules and doing so will not violate any material agreement by which it is bound or require any consents not already obtained;
 - (5) is not prohibited from using the services of the SEF for any reason whatsoever;
 - (6) holds all registrations required under Applicable Law, including, without limitation, any introducing broker, futures commission merchant, and/or swap dealer registration (each as defined in the CEA and CFTC Regulations), and if required pursuant to Applicable Law, is a member of the NFA;
 - (7) is not subject to statutory disqualification under Section 8a(2) of the CEA; and
 - (8) satisfies any other criteria that the SEF may require from a Participant to enable the SEF to perform its responsibilities as a Self-Regulatory Organization, comply with Applicable Law or provide services, provided such criteria are impartial, transparent and applied in a fair and nondiscriminatory manner.
- (b) Each Participant intending to trade Cleared Swaps for its own account must either be (i) Self-Clearing with respect to the DCO where the Cleared Swaps it will trade are cleared, or (ii) if it is Non-Self-Clearing, have a clearing account with a Clearing Firm and be permitted by the related Clearing Firm to clear such Swaps at such DCO through such Clearing Firm.
- (c) Each Participant that is an Account Manager, Introducing Broker or Sponsoring Participant must ensure that each of its Clients, Customers or Sponsored Participants (as applicable) intending to trade Cleared Swaps meets the requirements of Rule 3000(b) above.

- (d) Participants are prohibited from entering Orders or Transactions in Cleared Swaps on the SEF on behalf of any party (whether the Participant itself or its Client, Customer or Sponsored Participant) that is Non-Self-Clearing unless such party has a relationship with a Clearing Firm as described in Rule 3000(b)(ii) that covers the relevant Order or Transaction.
- (e) The SEF shall review any financial filings and notices made by its Participants pursuant to the SEF Rules to determine whether they continue to qualify as ECPs. If any Client or Customer of an Account Manager or Introducing Broker is not also a Participant, the SEF shall obtain from the applicable Account Manager or Introducing Broker a representation that such Client or Customer is an ECP, which will be deemed repeated each time the applicable Account Manager or Introducing Broker transacts on the SEF on behalf of such Client or Customer.
- (f) Upon request of the SEF or its Regulatory Services Provider, each Participant (and each Authorized Trader) shall promptly provide to the Market Regulation Department or the Regulatory Services Provider (i) the names of its Customers, Client or Sponsored Participants (if applicable) and (ii) such information about Authorized Traders as the SEF requests.
- (g) The SEF may from time to time establish different categories of Participants receiving access to the SEF. Participants receiving comparable access to, or services from, the SEF will be subject to comparable fee structures.
- (h) Consistent with Applicable Law, the SEF will provide access to its trading platform and services on a fair and nondiscriminatory basis to any ECP that complies with the SEF's documentation and eligibility requirements as set forth in the SEF Rules.

PARTICIPANT APPLICATION AND ONGOING PARTICIPANT MATTERS

Rule 3100 Application Requirements

A Person that wishes to become a Participant of the SEF must:

- (a) Submit to the SEF an accurate and complete application and execute and deliver any applicable agreements and other documents as may be required by the SEF from time to time;
- (b) if it is an entity, provide a copy of all formation documents including any amendments thereto if requested by the SEF;
- (c) if it is an applicant 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;
- (d) provide such other information as may be requested by the SEF; and

- (e) provide (i) written or electronic confirmation of its status as an ECP, and (ii) with respect to any Client, Customer or Sponsored Participant that is not also a Participant and on whose behalf it wishes to trade on the SEF, a representation that such Client, Customer or Sponsored Participant is an ECP, which representation will be deemed repeated each time the Participant transacts on the SEF, whether for its own account or on behalf of such Client, Customer or Sponsored Participant.

Rule 3101 Review of Application

- (a) The SEF shall review a prospective Participant's application and may ask for and review any additional information it deems relevant.
- (b) The SEF in its discretion may conduct an investigation of any applicant.

Rule 3102 Acceptance as a SEF Participant

- (a) If the SEF decides to admit an applicant as a Participant, it shall notify the applicant and state in such notice the date on which the applicant shall become a Participant.
- (b) Once admitted, a Participant shall continue at all times to satisfy all the Participation Criteria set forth in Rule 3000(a) and all other applicable eligibility criteria the SEF may specify from time to time.
- (c) Admission as a Participant only entitles the Participant to Trading Privileges and does not confer any right of ownership in the SEF, or right to attend or vote at meetings of the SEF, or right to share in the profits of the SEF.

Rule 3103 Denial, Conditioning or Termination of Participant Status

- (a) 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 Participation Criteria or any other eligibility criteria required to become or remain a Participant or any of the representations and warranties made by the Participant is untrue;
 - (2) if such Person is unable to satisfactorily demonstrate its capacity to adhere to all applicable SEF Rules and any other Applicable Law, including those concerning recordkeeping, reporting, financial requirements and trading procedures;
 - (3) if such Person fails to comply with any limitation placed by the SEF on such Person;
 - (4) if such Person commits a violation of the SEF Rules;
 - (5) if such Person would bring the SEF into disrepute as determined by the SEF in its sole discretion; or
 - (6) for such other reason the SEF may reasonably determine.

- (b) If the SEF decides to deny or condition an application for admission as a Participant, or terminate a Person's status as a Participant, the SEF shall promptly notify such Person (the "Affected Person") thereof in a writing sent to the address in the SEF application form or maintained in the SEF's records. Such Affected Person may, within seven (7) calendar days of receipt of such notification, request in writing that the SEF reconsider its determination.
- (c) Within thirty (30) calendar days of receiving the request for reconsideration, the SEF shall either confirm, reverse or modify the denial, conditioning or termination of the Affected Person as a Participant, and shall promptly notify the Affected Person accordingly in a writing sent to the address in the SEF application form or maintained in the SEF's records.
- (d) Any denials, conditionings or terminations implemented by the SEF pursuant to this Rule 3103 will be impartially enforced.
- (e) Any denial, conditioning or termination that represents a suspension, expulsion, disciplinary or access denial action or other adverse action within the meaning of Part 9 of the CFTC Regulations may (to the extent required thereby) be subject to review by the CFTC pursuant to Part 9 of the CFTC Regulations.

Rule 3104 Duty to Keep Current

- (a) If any material information in the Participant's application becomes outdated or otherwise is inaccurate or incomplete for any reason, the Participant must promptly update the application.
- (b) Within thirty (30) calendar days following the end of each calendar year, Participants shall review and revise, as necessary, all information provided in their applications and provide such revisions to the SEF.

Rule 3105 Withdrawal of Participant; Temporary Deactivation of Trading Privileges

- (a) To withdraw from the SEF, a Participant must notify the SEF of its withdrawal. Such withdrawal shall be accepted and effective immediately upon receipt of such notice by the SEF, provided that the SEF may, in its reasonable discretion, refuse to accept a Participant's withdrawal request or may postpone the effective date of withdrawal of a Participant if the SEF considers it necessary for the protection of the Participant's Customers, other Participants or otherwise in the interests of the SEF.
- (b) Upon the effectiveness of the withdrawal of a Participant, all rights and privileges of such Participant with respect to the SEF shall terminate (including, without limitation, Trading Privileges). Notwithstanding the accepted withdrawal of a Participant, the withdrawn Participant, and any Client, Customer or Sponsored Participant thereof, shall remain bound by the SEF Rules 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 Person prior to such withdrawal and must cooperate in any SEF Proceeding as if the former Participant were still a Participant.

- (c) Notwithstanding the foregoing, a Participant may request, in writing, that the SEF temporarily deactivate its Trading Privileges. The SEF may approve or deny any such request in its sole discretion, and may approve any such request on such terms as the SEF shall determine in its sole discretion. Upon approval of any such request, the Participant's Trading Privileges shall be deactivated and the Participant will not be permitted to execute Transactions on the SEF or otherwise access the SEF until its Trading Privileges have been reinstated by the SEF. The Participant shall incur no new fees during the period of its deactivation.

Rule 3106 Dissolution of Participants

Upon dissolution of a Participant, all rights and privileges of such Participant with respect to the SEF shall terminate, but all obligations of such Participant shall survive.

Rule 3107 Jurisdiction and Application of SEF Rules

- (a) Prior to obtaining access to the SEF and each time a Participant, Customer, Client, Sponsored Participant or any other Person initiates or executes a transaction on or subject to the SEF Rules, directly or through an intermediary, such Participant, Customer, Client, Sponsored Participant or other Person and any Supervised Person acting on its behalf shall be deemed to have expressly:
- (1) consented 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;
 - (2) agreed to be bound by, and comply with, the SEF Rules and all Obligations, the DCO Rules and Applicable Law, in each case to the extent applicable to it;
 - (3) agreed to assist the SEF in complying with its legal and regulatory obligations, cooperate with the SEF, its Regulatory Services Provider(s) and the CFTC in any inquiry, investigation, audit, examination or proceeding, and authorizes the SEF to provide information regarding it to any Regulatory Services Provider, the CFTC or any Self-Regulatory Organization.
- (b) At the time any Clearing Firm executes a Clearing Firm Agreement, such Clearing Firm shall be deemed to have expressly:
- (1) consented 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;
 - (2) agreed to be bound by, and comply with, the SEF Rules and all Obligations, the DCO Rules and Applicable Law, in each case to the extent applicable to it;
 - (3) agreed to assist the SEF in complying with its legal and regulatory obligations, cooperate with the SEF, its Regulatory Services Provider(s) and the CFTC in any inquiry, investigation, audit, examination or proceeding, and authorizes the SEF to

provide information regarding it to any Regulatory Services Provider, the CFTC or any Self-Regulatory Organization.

- (c) Any Person (including any Authorized Trader) whose access to the SEF is suspended for any period, and, if applicable, any Client, Customer or Sponsored Participant thereof, remains subject to the SEF Rules and to the jurisdiction of the SEF throughout the period of suspension and must cooperate in any SEF Proceeding. Any Person whose access to the SEF is revoked or terminated, and, if applicable, any Client, Customer or Sponsored Participant thereof, shall remain bound by the SEF Rules 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 Person prior to such revocation or termination and must cooperate in any SEF Proceeding.

Rule 3108 Notices to Participants

- (a) The SEF shall publish a notice with respect to each addition to, modification or clarification of the SEF Rules or of any action to implement any SEF Rules on the SEF's website or via an electronic mail distribution 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 3108, 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.
- (b) Any Notice to Participants published on the SEF's website or otherwise provided to Participants shall be deemed to have been made to all of a Participant's Supervised Persons, Clients, Customers and Sponsored Participants.
- (c) Each Participant is required to review the "Notices to SEF Participants" section of the SEF's website to make itself aware of material changes to the SEF Rules or other notices that may affect its rights and obligations as a Participant, and is responsible for conveying such information to its Supervised Persons, Clients, Customers and Sponsored Participants in accordance with Rule 3114(c).

Rule 3109 Authorized Traders

- (a) Each Participant shall designate one or more Authorized Trader(s), which, in the case of a Sponsoring Participant, may include any Person appointed, employed or authorized by a Sponsored Participant as provided in Rule 3110. Participants shall be responsible to the SEF for acting with reasonable care in granting Authorized Trader status to any individual.
- (b) By agreeing to become an Authorized Trader, an individual is deemed to expressly consent to the jurisdiction of the SEF and agrees to be bound by the duties and responsibilities of an Authorized Trader and to be subject to, and comply with, the SEF Rules and Obligations. Among other duties and responsibilities that the SEF may impose, an Authorized Trader must:

- (1) have the authority, at the SEF's request, to adjust or withdraw any Order or Transaction submitted under any User ID assigned to him or her;
 - (2) conduct activity under any User ID assigned to him or her in compliance with all SEF Rules and Obligations; and
 - (3) ensure he or she has been assigned his or her own User ID.
- (c) To designate an Authorized Trader, a Participant must follow the procedures established by the SEF. The SEF may establish criteria that individuals must fulfill to become an Authorized Trader.
 - (d) The SEF will maintain a list of all designated Authorized Traders for each Participant.
 - (e) The SEF may, in its sole discretion, refuse to approve an Authorized Trader or revoke or suspend the designation of an individual as Authorized Trader to protect other Participants and the integrity of the SEF or for any other reason and shall promptly notify the related Participant of such action.
 - (f) To request the termination of the designation of an individual as Authorized Trader, the Participant must follow the procedures established by the SEF.
 - (g) Each Authorized Trader shall be identified to the SEF in the manner prescribed by the SEF and shall be subject to the SEF Rules. It is the duty of the Participant to ensure that each Authorized Trader registration is current and accurate at all times.
 - (h) Without limiting the foregoing, prior to accessing the SEF each Authorized Trader consents to abide by the 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 comply with the SEF Rules and Obligations and conduct its business in accordance with Applicable Law.

Rule 3110 Sponsored Access

- (a) A Sponsoring Participant may extend Trading Privileges to one or more Sponsored Participants. If the Sponsoring Participant is not the Sponsored Participant's Clearing Firm, the Sponsoring Participant will provide all relevant clearing information to the SEF on behalf of the Sponsored Participant. Each Sponsored Participant shall designate one or more Authorized Traders to transact on the SEF.
- (b) The Sponsoring Participant is responsible for all Orders and Transactions placed by any Person acting on behalf of or in the name of the Sponsored Participant on the SEF as if such Orders or Transactions were placed by the Sponsoring Participant (whether or not the Sponsoring Participant was aware of and/or had approved the placing of such Orders or

Transactions). Any execution occurring as a result of an Order or Transaction entered by a Sponsored Participant shall be binding in all respects on the Sponsoring Participant.

- (c) The Sponsoring Participant must monitor the Sponsored Participant's access to the SEF and activity on the SEF, including, but not limited to, the entry, cancellation or other processing of Orders, risk management, trade reporting, clearing and settlement of Transactions.
- (d) The Sponsored Participant is not a Participant of the SEF. The SEF has no liability to, and the SEF owes no duties or obligations to, nor has any responsibility for, the Sponsored Participant. Notwithstanding anything herein to the contrary, the Sponsored Participant and any other Person using a User ID or login credentials linked to a Participant will be subject to, and must comply with, the SEF Rules, and may be subject to Disciplinary Action by the SEF for any violation or attempted violation of the SEF Rules or provisions of Applicable Law for which the SEF has disciplinary jurisdiction. The Sponsored Participant will be deemed to have represented and warranted that it is an ECP and that it has all registrations, licenses and consents required under Applicable Law. The Sponsoring Participant further agrees to cooperate with the SEF, or any other regulator, in connection with any inquiry regarding the Sponsored Participant's access and activities relating to the SEF and, in connection with such inquiry, the Sponsoring Participant shall ensure the cooperation of the Sponsored Participant and procure that the Sponsored Participant is contractually bound to cooperate with the SEF or any other regulator.
- (e) The Sponsoring Participant shall ensure that:
 - (1) the Sponsored Participant, its directors, members, officers, employees and agents comply with Applicable Law and the policies and procedures issued or approved by the SEF and with all of the duties and/or obligations imposed on Participants under the SEF Rules as if the Sponsored Participant were a Participant for such purposes, except with respect to any such duties and/or obligations which manifestly only relate to the Sponsoring Participant;
 - (2) the Sponsored Participant takes reasonable security precautions to prevent unauthorized access to and use of the SEF, including unauthorized entry of information on the SEF and unauthorized use of information and data made available by the SEF; and
 - (3) the Sponsored Participant uses any market data for its own internal purposes only and only in accordance with the SEF Rules.
- (f) The SEF shall obtain from each Sponsoring Participant a representation that each of its Sponsored Participants will be an ECP at the time each such Sponsored Participant transacts on the SEF.
- (g) The SEF will promptly notify a Sponsoring Participant in writing of its approval, or refusal to approve, the designation of a Sponsored Participant. The SEF may, in its sole discretion, revoke, limit, restrict or suspend the designation of a Sponsored Participant, and shall notify the Participant of such action in accordance with SEF procedures.

- (h) A Sponsoring Participant that seeks to terminate the designation of a Sponsored Participant shall notify the SEF in writing, providing such information as the SEF may require. The SEF shall terminate the Sponsored Participant's access to the SEF in accordance with procedures established by the SEF.

Rule 3111 [Reserved]

Rule 3112 Introducing Brokers

- (a) An Introducing Broker will be permitted to introduce Orders and execute Transactions on the SEF on behalf of a Customer (which may include another Participant or an Account Manager acting on behalf of a Client) where such Customer has so authorized the Introducing Broker. Any time an Introducing Broker introduces an Order or Transaction on the SEF on behalf of a Customer, such Introducing Broker shall be deemed to represent that the Customer on whose behalf it is acting has granted the Introducing Broker such authorization. An Introducing Broker shall provide the SEF with such notice and/or proof of such Customer authorization as the SEF may request from time to time.
- (b) If authorized, an Introducing Broker may enter any Order, submit a Block Trade, or introduce to the SEF for execution any Transaction, permissible under the SEF Rules on behalf of such Customer.
- (c) Each Customer shall be the principal to all executed Transactions resulting from Orders submitted by an Introducing Broker to the SEF on such Customer's behalf (other than where the Customer is a Prime Broker Client executing a Prime Broker Transaction in the name of and on behalf of a Prime Broker, in which case the relevant Prime Broker shall be principal to such Transaction).

Rule 3113 Authorized Representatives

- (a) Each Participant shall designate an Authorized Representative(s) who will represent the Participant before the SEF and its committees and receive notices on behalf of the Participant.
- (b) An Authorized Representative shall be empowered by the Participant to act on its behalf and the SEF shall be entitled to rely on the actions of the Authorized Representative as binding on the Participant and each of its Authorized Traders.
- (c) 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 the Authorized Representatives.

Rule 3114 Communications between the SEF and Participants

- (a) Each Participant must provide the SEF with its current electronic mail address and telephone number and the electronic mail address and telephone number of each of its Authorized Traders and immediately (and in any event within 24 hours) update this information whenever it changes.

- (b) All communications between the SEF and the Participant will be transmitted by electronic mail and/or posted on the SEF's website, except as otherwise specified by the SEF.
- (c) Each Participant shall be responsible for conveying such communications to all of its Supervised Persons, Clients, Customers and Sponsored Participants (and Authorized Traders thereof).
- (d) 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 Supervised Persons.
- (e) All communications made to Participants shall also be deemed to have been made to all of its Supervised Persons, Clients, Customers and Sponsored Participants (and Authorized Traders thereof).

Rule 3115 Recording of Communications

The Market Regulation Department and/or Regulatory Services Provider(s) may record conversations and retain copies of electronic communications between the SEF, on one hand, and Participants, Sponsored Participants, Clients or Customers or any of their Supervised Persons or other agents, on the other hand. Any such recordings may be retained by the SEF or the Regulatory Services Provider in such manner and for such periods of time as the SEF may deem necessary or appropriate and in accordance with Applicable Law. The SEF or Regulatory Services Provider will retain such recording in compliance with CFTC Regulations.

MATERIAL CHANGES

Rule 3200 Change of Control; Non-Assignment

- (a) A Participant must provide written notice to the SEF of any of the following changes to its ownership, control or business operations prior to any such change taking effect to the extent practicable and in any event no later than 48 hours after any such change takes effect:
 - (1) a merger of the Participant with another Person, or
 - (2) a transfer, issuance or other transaction that results in one Person owning 50% or more of the voting equity of the Participant or a transaction that results in the transfer of all or substantially all of the assets of the Participant.
- (b) A Participant may not assign its rights as a Participant without the written consent of the SEF, which consent shall not be unreasonably withheld.

FEES

Rule 3300 Fees

- (a) The SEF shall set the times and amounts of any assessments or fees (including access and utilization fees), costs and charges to be paid by Participants. By accessing the SEF,

Participants agree to be bound by the fee schedule in effect at the time the applicable SEF services are rendered.

- (b) A Participant will be responsible for the payment of all fees charged to it with respect to any Transaction, including, without limitation, any Transaction that is (i) for any or no reason, not fully performed by the parties thereto or (ii) subsequently voided or rescinded.
- (c) Assessments, fees, costs and charges and other amounts owed to the SEF are payable upon receipt of the invoice. If a Participant fails to pay when due any assessments, fees, costs and charges owed, and such payment obligation remains unsatisfied thirty (30) days after its due date, the SEF may suspend, revoke, limit, condition, restrict or qualify the Trading Privileges of such Participant as it deems necessary or appropriate.

Rule 3301 Volume Discounts

The SEF may from time to time establish financial incentives for meeting trading volume, liquidity thresholds and/or other standards as may be established by the SEF.

INDEPENDENT SOFTWARE VENDORS

Rule 3400 ISVs

- (a) Consistent with Applicable Law, the SEF will provide access to its trading platform, services and data on a fair and nondiscriminatory basis to any ISV that complies with the SEF's documentation and eligibility requirements for ISVs as set forth in the SEF Rules.
- (b) An ISV that wishes to access the SEF must:
 - (1) consent to the jurisdiction of the SEF and agree to be bound by, and comply with, the SEF Rules and all Obligations, the DCO Rules and Applicable Law, in each case to the extent applicable to it;
 - (2) execute an ISV participation agreement in the form supplied by the SEF;
 - (3) pay the monthly access fees that may be established by the SEF from time to time, which fees will be comparable for ISVs receiving comparable access to, or services from, the SEF;
 - (4) comply with the applicable technical access standards, system compatibility requirements, security protocols and technical specifications for connection to the SEF as may be specified by the SEF from time to time;
 - (5) ensure that each Person that uses the ISV to access the SEF is either a Participant or a Client or Customer of a Participant;

- (6) in the case of any Order or Transaction submitted to the SEF through the ISV, provide sufficient detail to identify the Participant (and, if applicable, the Participant's Client or Customer) as required by the SEF; and
 - (7) satisfy any other criteria that the SEF may require to perform its responsibilities as a Self-Regulatory Organization, comply with Applicable Law or provide services, provided such criteria are impartial, transparent and applied in a fair and nondiscriminatory manner.
- (c) An ISV may provide data obtained from the SEF solely to Participants and/or Clients or Customers of a Participant in connection with such Participants' and/or Clients' or Customers' actual and proposed trading activity on the SEF, and will not provide such data to any other swap execution facility, security-based swap execution facility, DCM, national securities exchange or other trading facility or system without the prior written consent of the SEF.

BUSINESS CONDUCT REQUIREMENTS

Rule 3500 Customers and Clients

No Participant shall enter an Order or enter into a Transaction in the name of a Customer or Client, unless the Customer or Client has so authorized the Participant. Any time an Introducing Broker or Account Manager introduces an Order or Transaction on the SEF on behalf of a Customer or Client (as applicable), such Introducing Broker or Account Manager shall be deemed to represent that the Customer or Client on whose behalf it is acting has granted the Introducing Broker or Account Manager such authorization.

Rule 3501 Disclosure Requirements; Know Your Counterparty Requirements

- (a) With respect to Uncleared Swaps, Participants that are Swap Dealers or Major Swap Participants shall verify through representations or otherwise the status of each Swap counterparty as an ECP as provided in CFTC Regulations applicable to business conduct standards for Swap Dealers and Major Swap Participants in their dealing with counterparties.
- (b) Participants that are Introducing Brokers must verify the status of each of their Customers as an ECP.
- (c) Participants that are Account Managers must verify the status of each of their Clients as an ECP.
- (d) Participants that are Sponsoring Participants must verify the status of each of their Sponsored Participants as an ECP.
- (e) Each Participant and Supervised Person, Client, Customer or Sponsored Participant of a Participant must comply with all disclosure requirements set forth in under Applicable Law including any additional disclosure requirements imposed by the SEF Rules.

SECTION 4 TRANSACTION EXECUTION

This Section 4 prescribes Rules concerning trade practices and business conduct on the SEF and applies to all Orders and Transactions.

Rule 4000.A. Trading Hours

Except with respect to Emergencies, the SEF shall determine and publish the Business Days of the SEF and the Trading Hours for each Swap. Participants are prohibited from sending any Order or entering into any Transaction or using any other facility of the SEF outside of the designated Trading Hours for the relevant Swap. The Trading Hours for each Swap shall be twenty-three (23) hours per Business Day other than between 5:30 p.m. and 6:30 p.m. (Eastern Time), in each case, subject to any variation as may be published by the SEF in a Notice to Participants or included in the relevant Swap Specification.

Rule 4000.B. Swap Specifications

- (a) Notwithstanding any provision of the SEF Rules to the contrary, the terms and conditions set forth in the Swap Specification with respect to a particular Swap shall govern the trading in such Swap on the SEF and, in the event of any conflict between the general terms of the SEF Rules excluding the Swap Specifications and the particular terms of the SEF Rules set forth in the Swap Specification, the particular terms of the SEF Rules set forth in the Swap Specification shall govern with respect to trading in the relevant Swap on the SEF.
- (b) The Swap Specification for each individual Swap may specify:
 - (1) different classes of Participants eligible to trade such Swaps. Each such class of Participants shall have the rights and obligations specified by the Swap Specification for each such Swap;
 - (2) whether such Swap may be settled via cash settlement, physical delivery of the underlying commodity, or by any other means, as applicable; and
 - (3) the method for determining settlement prices.
- (c) The SEF shall permit trading only in Swaps that are not readily susceptible to manipulation.

Rule 4001 Procedures

- (a) With respect to trading on or through the SEF or subject to the SEF Rules, the SEF may adopt, without limitation, procedures relating to Transactions in Swaps and trading on the SEF or subject to the SEF Rules, including procedures to:
 - (1) disseminate the prices of bids and offers on, and Transactions in, Swaps;
 - (2) record, and account for, Swaps and SEF activity and regulate administrative matters affecting Swaps and SEF activity;

- (3) establish daily limits (or such other frequency as may be determined from time to time by the SEF) on the notional amount and/or risk of Orders or Transactions that may be submitted by a Participant through the SEF or subject to the SEF Rules;
 - (4) establish limits on Swaps that may be held by a Participant, Customer, Client or Sponsored Participant;
 - (5) establish a limit on the maximum daily price fluctuations for any Swap and provide for any related restriction or suspension of trading in the Swap; and
 - (6) establish minimum price quoting increments for each Swap.
- (b) The SEF may, in its discretion and at any time, amend any procedures adopted pursuant to Rule 4001(a), and will publish the amendments in a Notice to Participants or in any other manner determined appropriate by the SEF.

Rule 4002 Required Identifications

- (a) Each Participant and all related Authorized Traders (including those of its Sponsored Participants) must have a User ID assigned in accordance with the procedure adopted by the SEF from time to time in order to access the SEF. The User ID assigned to an Authorized Trader may not be reassigned to another Authorized Trader.
- (b) Orders entered on the SEF must include the User ID assigned to the Authorized Trader. An Authorized Trader is prohibited from allowing any other Person to use such unique identification to enter Orders on the SEF. No Person may enter Orders on the SEF using a User ID that has not been assigned to such Person.
- (c) Each Participant shall be responsible for all Orders placed or Transactions executed using any of the User IDs assigned to its Authorized Traders or those of any of its Sponsored Participants. Prime Brokers shall be responsible for all Prime Brokerage Orders placed or Prime Broker Transactions executed by a Prime Broker Client acting in its capacity as such subject to and in accordance with the relevant Prime Broker Acknowledgement Letter and Rules 4105 and 5103.E.
- (d) Participants must terminate an Authorized Trader's access to the SEF upon termination of the Authorized Trader's employment at, or authorization or appointment by, the Participant or Sponsored Participant (as applicable).

Rule 4003.A. Execution of Transactions

- (a) No Person shall execute a Required Transaction subject to the SEF's jurisdiction other than via the Order Book unless such Transaction is a Block Trade, Package Transaction (Order Book Exempt) or a Clearing Exempt Transaction. All Required Cross Transactions will be subject to the time delay requirement set forth in Rule 4011, including TAS Cross Transactions that are Required Cross Transactions.

- (b) No Person shall enter into a Clearing Exempt Transaction subject to the SEF's jurisdiction unless it (or, if applicable, its Customer, Client or Sponsored Participant) or the counterparty to the Swap is eligible for and elects to rely on a Clearing Exception. Upon request of the SEF, a Participant, Sponsored Participant, Customer or Client shall submit to the SEF all documentation supporting eligibility for the applicable Clearing Exception.
- (c) Permitted Transactions (including Permitted Cross Transactions) may be executed through the SEF's Order Book as described in Rule 4003.B. In addition, Permitted Cross Transactions may be executed away from the SEF's Order Book as described in Rule 4004. Certain Permitted Transactions may also be executed via Risk Mitigation Sessions as specified in Rule 4018 and the tpSEF Risk Mitigation Procedures.
- (d) Any swap component of a Package Transaction (Order Book Exempt) may be executed in the same manner as any Permitted Cross Transaction as described in Rule 4004 or, if available for execution on the SEF's Order Book, through the SEF's Order Book.
- (e) Block Trades are required to be executed in accordance with the requirements of Rule 4016.
- (f) No executed Transactions may be submitted to the SEF other than Block Trades that occur away from the SEF and that are executed in accordance with the requirements of Rule 4016.
- (g) TAS Cross Transactions must be submitted to the SEF and executed in accordance with the requirements of Rule 4003.C.
- (h) Any Order or Cross Transaction that is submitted to the SEF may be cancelled prior to execution.

Rule 4003.B. Order Book

- (a) All Orders posted to the Order Book are firm (*i.e.*, there are no indications of interest or indicative quotes allowed).
- (b) An acceptable Order must include a specific price and size, as well information meeting the requirements of Rule 8001.
- (c) Order Types.
 - (1) An acceptable Order must indicate the time in force, which may include the following:
 - (i) “Day” (or “Fill-and-Store”) Orders are only good for the Business Day and applicable Trading Hours in which they are entered.
 - (ii) “Fill-or-Kill” (“FOK”) Orders must be immediately executed for the entire size of the Order or are cancelled automatically.

- (iii) “*All-or-None*” (“*AON*”) Orders must be executed for the entire size of the Order or are cancelled automatically. AON Orders enter the Order Book as passive Orders.
 - (iv) “*Immediate or Cancel*” (“*IOC*”) Orders must be executed fully or partially and, if partially, the remaining quantity is cancelled automatically.
 - (v) “*Good ‘til Time*” (“*GTT*”) Orders are cancelled after a specified time if no matching Order is placed.
 - (vi) “*Good ‘til Price*” (“*GTP*”) Orders will be cancelled if the reference price of the specified instrument is moved up or down (depending upon whether the Order is a bid or offer).
 - (vii) “*One Cancels Other*” (“*OCO*”) Orders are paired Orders stipulating that if one of the Orders is executed, the other is automatically cancelled.
- (2) Good ‘til Time, Good ‘til Price and One Cancels Other Orders are all also Day Orders, in that they are only good for the Business Day and applicable Trading Hours in which they are entered, even if the time, price or execution conditions are not otherwise met.
- (3) Not all Orders types are available for all Swaps. The table below shows the Order types available for each asset class:

Asset Class	Day	FOK	AON	IOC	GTT	GTP	OCO
Credit	✓	✓	x	✓	✓	✓	✓
Commodities	✓	✓	x	x	✓	x	x
Rates	✓	✓	US\$ only	✓	✓	x	EUR/GBP only
Non-Deliverable Forwards	✓	✓	x	✓	✓	✓	✓
Equities	✓	✓	x	✓	✓	x	x
FX Options	✓	x	x	✓	✓	✓	✓

(d) Pre-Trade Controls.

- (1) Order Limits. The SEF may, within its sole discretion, set Order limits by product and by instrument within a particular asset class. The following types of Order limits may be imposed:
- (i) Order Size Limit (OSL): This is the maximum size allowed for any single Order. Any Order submitted will be checked against the product/asset

class's Order Size Limit, and if the Order exceeds this limit, such Order will be rejected and the Participant will be notified.

- (ii) *Order Price Limit (OPL)*: This is the maximum price differential allowed for any Order. Any Order submitted will be checked against the product/asset class's Order Price Limit and if the Order exceeds this limit, it will be rejected and the Participant will be notified. The price differential will be calculated as follows:

$$(\text{Order price entered}) - (\text{Instrument Reference Price}) = |\text{Price Differential}|$$

The "Instrument Reference Price" is an estimated current price for the relevant Swap, based on either current trading data for that instrument on the SEF and elsewhere, or, in the absence of current trading data for the relevant Swap, implied from current trading data for other instruments.

- (2) *Price Tick Deviation*. If the price for any Order entered into the Order Book is greater than (i) the top contra-Order price or, if no contra-Orders exist in the Order Book, the Instrument Reference Price, plus (ii) the specified number of tick increments in the Maximum Price Tick Deviation parameter for the Swap, the Order will be rejected. The Maximum Price Tick Deviation parameter for each Swap is determined by the SEF from time to time in its sole discretion.
 - (3) *Restriction Against Self-Trading*. The Order Book system is configured to prohibit the matching of Orders placed by Authorized Traders of the same Participant.
- (e) Implied Orders. The SEF offers limited implied order functionality. Under this functionality, individual separate Orders, which in aggregate would form the legs of a liquid spread trade, are displayed in the Order Book both as individual outright trades and in aggregate as a spread trade. This functionality is only made available for tenors at which spread trades are customarily transacted as determined by the SEF from time to time and displayed on the Order Book.
 - (f) Order Entry.
 - (1) Orders, including Orders for Required Cross Transactions and Permitted Cross Transactions, may be entered into the Order Book for execution either (i) directly by any Participant that has established direct connectivity to the SEF's Order Management System, or (ii) by an Execution Specialist acting on the instruction of a Participant. Order information may be communicated by Participants to Execution Specialists via telephone and/or via electronic modes of communication such as email and instant message.
 - (2) Certain Participants that have elected not to establish direct connectivity to the OMS have executed a "tpSEF Inc. Terms of Use and SEF Order Book Waiver" (the "Order Book Waiver") in lieu of the "tpSEF Inc. Terms of Use." During the effectiveness of its "Order Book Waiver," a Participant must access the Order Book

via an Execution Specialist both for Transactions that must be executed on Order Book pursuant to Rule 4003.A. and for Transactions voluntarily executed on the Order Book. Any such Participant may elect to establish direct connectivity to the OMS at any time by executing the “tpSEF Inc. Terms of Use” and terminating its “Order Book Waiver.” For the avoidance of doubt, all Participants, including those that have signed the “Order Book Waiver,” are required to comply with the requirements of Rule 4003.A. relating to the execution of Required Transactions.

- (3) An Order placed on the Order Book may be cancelled provided such Order has not been executed. The price or size of an Order placed on the SEF that has not fully traded may be revised. If the size is reduced, the time priority originally assigned to the Order does not change. Revising the price or increasing the size will reset the Order’s time priority in the queue to the time the SEF receives the revision. Order cancellations or revisions may be communicated by Participants to Execution Specialists via telephone and/or via electronic modes of communication such as email and instant message.
 - (4) When an Authorized Trader logs off and any relevant time-out has expired, (i) all Orders on the Order Book submitted by that Authorized Trader may be terminated or may remain live, depending on the manner in which the Authorized Trader has configured his or her account and (ii) where the Authorized Trader has entered the Order on behalf of a Customer, all such Customer Orders will be terminated. If for any reason the connection to the SEF is lost and not-re-established within any relevant time-out period, all Orders entered from that location on the SEF are deactivated.
- (g) Order Book Display and Interaction.
- (1) Once an Order is entered into the Order Book, the Order is displayed simultaneously to all Participants that have established direct connectivity to the OMS and may be transacted on as described in Rule 4003.B.(h) below.
 - (2) All Orders will be displayed on an anonymous basis and each Order Book platform will show, in real-time, the best price and the depth per product.
 - (3) For Participants that have direct connectivity to the OMS, each Order Book platform displays all executions to all Participants, and for each individual Participant, its Order and execution history for the trading day.
 - (4) The SEF’s Order Book supports the following Order interactions on any active Order, which may be taken only by the Participant who submitted the Order or by an Execution Specialist acting on the Participant’s instructions:
 - (i) Amend, and
 - (ii) Cancel. (If a partially executed Order is cancelled, only the balance of the Order is cancelled.)

(5) Information regarding Orders on the Order Book will be provided upon request to any Participant by an Execution Specialist via telephone and/or via electronic modes of communication such as email and instant message.

(h) Matching of Orders on the Order Book.

Orders may be either matched automatically or manually hit or lifted as described in this Rule 4003.B.(h). In each case, Orders will be executed using price and time priority.

(1) Ability to Trade. In the case of either Manual Matching or Automatic Matching as described in this Rule 4003.B.(h):

(i) An Order for a Cleared Swap may only be hit or lifted by, or matched with a contra-Order for, a Participant (or a Participant's Customer or Client) that is, or whose Clearing Firm is, a Clearing Member at the DCO at which the Swap is to be cleared, and

(ii) An Order for an Uncleared Swap may only be hit or lifted by, or matched with a contra-Order for, a Participant (or a Client or Customer of a Participant) that has swap trading relationship documentation in place with the relevant counterparty and only to the extent that each counterparty has available credit line, both as described in Rule 4013.B.

(2) Manual Matching. Subject to the requirements of Rule 4003.B.(h)(1) above, a Participant may manually hit or lift, in whole or in part, any resting Order within the Order Book that is (i) at the best price(s) within the market for the relevant product, and (ii) if there are multiple Orders at the same price(s), entered first in the Order Book.

(3) Automatic Matching. Subject to the requirements of Rule 4003.B.(h)(1) above and depending on Order type (as described in Rule 4003.B.(c)) and the Orders resting on the Order Book, Orders entered into the Order Book will be automatically (i) matched (fully or partially) to one or more Orders within the Order Book based on price and time priority or (ii) cancelled. Certain Order Book platforms do not support Automatic Matching.

Rule 4003.C. Trade at Settlement Cross Transactions

(a) A Participant may submit to the SEF for execution a Cross Transaction for which the fixed rate will be the ICE Swap Rate for the "USD Rates 1100" benchmark run and for the relevant tenor published by ICE Benchmark Administration Limited at 11:15 a.m. New York time on the date of the Participant's submission (each such Cross Transaction, a "TAS Cross Transaction"). TAS Cross Transactions may be submitted to the SEF between 7 a.m. New York time and 10:59 a.m. New York time on each day the SEF is open for business.

(b) Each TAS Cross Transaction submitted to the SEF will be held in abeyance by the SEF, and will not be deemed executed, until the relevant ICE Swap Rate has been announced and, in the case of any TAS Cross Transaction that is a Required Cross Transaction, the

time delay requirement set forth in Rule 4011 has been applied as described in Rule 4003.C.(c) below.

- (c) For any TAS Cross Transaction that is a Required Cross Transaction, the time delay requirement described in Rule 4011 will be applied immediately following the announcement of the relevant ICE Swap Rate.
- (d) Once a TAS Cross Transaction has been executed: (i) the SEF will generate and send a Confirmation to each counterparty in accordance with Rule 4012; (ii) the Transaction will be reported by the SEF to an Approved SDR in accordance with Rule 8005; and (iii) if it is a Cleared Swap, the Transaction will be routed by the SEF to the relevant DCO in accordance with Rule 4013.A.

Rule 4004 Permitted Cross Transactions

- (a) Permitted Cross Transactions may either be:
 - (1) Executed through the SEF's Order Book as described in Rule 4003.B., or
 - (2) Submitted to the SEF for execution away from the SEF's Order Book either (i) to an Execution Specialist, or (ii) for FX options, non-deliverable forwards and Transactions in the Rates asset class, directly by Participants that have established direct connectivity to the SEF.
- (b) Permitted Cross Transactions that are submitted to an Execution Specialist for execution away from the Order Book may be executed through either (1) the SEF's Deal Management System, or (2) if available, the OMS using Off-Book Ticket Functionality. A Participant submitting a Permitted Cross Transaction to an Execution Specialist must provide the information required by Rule 8001. Permitted Cross Transactions may be communicated to an Execution Specialist via telephone and/or via electronic modes of communication such as email and instant message.
- (c) Permitted Cross Transactions submitted directly to the SEF for execution away from the Order Book by Participants that have established direct SEF connectivity will be executed as follows:
 - (1) Through the OMS using Off-Book Ticket Functionality for Permitted Cross Transactions in the Rates asset class and non-deliverable forwards, and
 - (2) Through the SEF's Deal Management System for FX options.

Rule 4005 Mishandling of Customer Orders

Any Participant that mishandles any Customer Order is responsible for all remedial actions with respect to such Order.

Rule 4006 Trading Halts

The SEF, in its sole discretion, may declare a trading halt at any time.

Rule 4007 Termination of the SEF Connection

The SEF shall have the right to summarily terminate the direct, electronic connection of any Participant to the SEF. Additionally, the SEF shall have the right to direct a Participant to immediately terminate the direct, electronic access to the SEF of any Sponsored Participant. Any such termination shall be impartially enforced and shall be invoked only for technical reasons. Any affected Participant or Sponsored Participant shall continue to have access to the SEF by means of an Execution Specialist, unless such access is denied in accordance with the procedures set forth in Rule 3103 or elsewhere in the SEF Rules.

Rule 4008 Risk Controls

- (a) The SEF may, in its sole discretion, to protect other Participants and the integrity of the SEF, reject any Order or Transaction placed or reported on the SEF.
- (b) The SEF shall have the right to take any action to prevent or reduce the potential of market disruption, including, but not limited to, market restrictions that pause or halt trading, if such action is in the best interest of the swap markets and/or the SEF.

Rule 4009 Priority of Customers' Orders

No Participant that is an Introducing Broker shall enter an Order into the SEF 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, including, without limitation, an Order allowing discretion as to time and price, when such Introducing Broker is in possession of any Order in the same Swap for its Customer that the SEF is capable of accepting.

Rule 4010 Trading Against Customers' Orders Prohibited; Withholding Orders Prohibited

- (a) No Participant in possession of a Customer's Order shall knowingly 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) The foregoing restriction shall not apply to the following:
 - (1) Block Trades, and
 - (2) Transactions where the Customer has granted prior consent and such consent is permitted under Applicable Law.
- (c) Except as otherwise explicitly permitted under this Rule 4010(c) and Rule 5203(b), no Person shall (i) disclose another Person's Order to buy or sell except to a designated SEF

Official or the CFTC, (ii) solicit or induce another Person to disclose Order information or (iii) 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. Nothing contained in this Rule 4010(c) shall prevent a Person from disclosing information as may be required by legal process (including subpoena or demand for productions) or to such Person's agents or advisors (including, but not limited to, accountants and auditors and legal counsel).

- (d) Any Participant entering Orders on the SEF for its Customer or Client 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 or Client.
- (e) A Participant must immediately enter into the SEF all Orders received from its Customers that are executable immediately. If a Participant cannot immediately enter into the SEF an Order received from its Customer, the Participant must enter the Order into the SEF as soon as practicable, and must immediately create an electronic record as provided in Rule 8002.

Rule 4011 Time Delay Requirement for Required Cross Transactions

- (a) With respect to Required Cross Transactions, the following conditions must be satisfied:
 - (1) in the case of an execution by a Participant as principal/dealer against a customer Order, the Customer Order shall be entered into the Order Book as a firm quote and exposed to the market for at least 15 seconds before the Participant's Order may be entered, and
 - (2) in the case of an execution by a Participant acting as broker of two customers' Orders against each other, one side of the potential Transaction (the "Displayed Order") shall be entered into the Order Book as a firm quote and exposed to the market for at least 15 seconds before the second side of the potential Transaction (the "Waiting Order") may be entered.
- (b) With respect to a Required Cross Transaction subject to Rule 4011(a)(2) above, any Participant, Sponsored Participant, Customer or Client whose Order is the Waiting Order shall not, directly or indirectly, execute against the Displayed Order prior to the time that entry of the Waiting Order is permitted under Rule 4011(a)(2) above.

Rule 4012 Confirmations and USIs

- (a) The SEF will generate and send a Confirmation to each counterparty to a Transaction (which, in the case of a Prime Broker Transaction, will be the relevant Prime Broker) at the time of execution of such Transaction; provided that where a counterparty to a Transaction is a Customer, the Confirmation may be provided to the Customer's Introducing Broker in accordance with Rule 4012(f); and provided further that where a Prime Broker Client executes a Prime Broker Transaction, a copy of the Confirmation shall be sent to the Prime Broker Client. Upon receipt of a Confirmation, such counterparty,

Introducing Broker or Prime Broker Client (as applicable) shall, as soon as practicable, review the contents of such Confirmation and promptly report any errors or omissions to the SEF.

- (b) The Confirmation (including, with respect to Uncleared Swaps, the Terms Incorporated by Reference as defined in Rule 4012(d)(1)) shall legally supersede any previous agreement and shall constitute a confirmation as defined in CFTC Regulation 45.1. The Confirmation shall contain, among other things:
 - (1) the USI for the Transaction; and
 - (2) the identity of the Swap Data Repository to which the Transaction is being reported.
- (c) With respect to certain products, Transactions and counterparties, a Confirmation may be provided on the SEF's behalf by MarkitSERV's Organized Trading Venue (OTV) Confirmation Service or other similar confirmation service. Subject to Rule 4012(d), regardless of the means of delivery, pursuant to these rules, each Participant, Sponsored Participant, Customer and Client agrees that the Confirmation represents legally binding documentation memorializing the agreement of the parties to all the terms of the Transaction.
- (d) Confirmations for Uncleared Swaps.
 - (1) With respect to any Uncleared Swap, the economic terms specific to the Transaction shall be reflected in a written communication (the "Trade Communication") sent by the SEF to each counterparty, Introducing Broker or Prime Broker Client in accordance with Rule 4012(a). The Trade Communication, together with the documents and agreements (including, without limitation, ISDA master agreements, other master agreements, terms supplements, master confirmation agreements and incorporated industry definitions) governing such Transaction (the "Terms Incorporated by Reference") shall, taken together, for purposes of CFTC Regulation 37.6(b) comprise all of the terms of such Transaction and serve as a Confirmation of such Transaction. The provisions of this Rule 4012(d) relating to Terms Incorporated by Reference rely on relief granted by the CFTC's Division of Market Oversight in No-Action Letter 17-17, which expires on the effective date of any changes to the relevant CFTC Regulations.
 - (2) In satisfaction of the obligations imposed on the SEF under CFTC Regulation 37.6(b), each Trade Communication (and thus each Confirmation) is deemed to incorporate the Terms Incorporated by Reference. All Confirmations for Uncleared Swaps that are generated and issued directly by the SEF shall state that they incorporate by reference any previously-negotiated freestanding agreement of the counterparties governing such Transaction.
 - (3) In the event of any conflict or inconsistency between (i) the Trade Communication and (ii) the Terms Incorporated by Reference, the Trade Communication shall prevail to the extent of any such conflict or inconsistency, and each Trade Communication will state the same.

- (4) For each Uncleared Swap executed on or pursuant to the SEF Rules, each previously-negotiated freestanding agreement of the counterparties included in the Terms Incorporated by Reference must be available to the SEF and/or the CFTC staff upon request within a reasonable period of time. Any such agreements provided to the SEF in connection with a CFTC request will be furnished to the CFTC as soon as they are available.
- (e) The USI referred to in 4012(a) above shall be created by the SEF and transmitted to each counterparty as soon as technologically practicable in accordance with CFTC Rule 45.5(a)(2).
- (f) By executing a Transaction on the SEF through an Introducing Broker, each Customer is deemed to authorize the SEF to send Confirmations of such Transactions to the applicable Introducing Broker and to authorize such Introducing Broker to accept such Confirmations on behalf of such Customer.
- (g) By providing a Prime Broker Acknowledgement Letter to the SEF, each Prime Broker is deemed to authorize the SEF to send Confirmations of Prime Broker Transactions to the applicable Prime Broker Client and, in the case of a Prime Broker Transaction transacted through an Introducing Broker, to the applicable Introducing Broker, subject to Rule 4105(b).

Rule 4013.A. Cleared Swaps

- (a) Each Cleared Swap shall be cleared through the DCO indicated in the Swap Specification or agreed by the parties in accordance with the Applicable Law, provided that the DCO must be one of those recognized by the SEF. The DCOs currently recognized by the SEF are:
 - (1) ASX Clear (Futures) Pty Limited
 - (2) Chicago Mercantile Exchange, Inc.
 - (3) Eurex Clearing AG
 - (4) ICE Clear Credit LLC
 - (5) Japan Securities Clearing Corporation
 - (6) LCH.Clearnet LLC
 - (7) LCH.Clearnet Limited

The SEF may recognize additional DCOs either through amendment of this Rule 4013.A. or by issuance of a Notice to Participants.

- (b) For each Cleared Swap a Participant expects to enter into via the SEF or subject to the SEF Rules (whether for itself or for a Client, Customer or Sponsored Participant), the Participant

or a Participant's Client, Customer or Sponsored Participant, as applicable, must establish a clearing account with the relevant DCO or with a Clearing Firm that is a Clearing Member of such DCO.

- (c) The SEF shall route each Cleared Swap executed on the SEF (and accepted for clearing by a Clearing Firm if the relevant party to the Transaction is Non-Self-Clearing) to the relevant DCO as soon as technologically practicable after execution, and in no event later than ten (10) minutes after execution. The SEF may do so either by submitting the Cleared Swap directly to the DCO or by routing the Cleared Swap through an Affirmation Hub or other middleware provider. A Transaction will be deemed to have been accepted for, or rejected from, clearing upon receipt of appropriate notice, in accordance with Applicable Law, from the DCO or from a third party acting on behalf of the DCO as authorized by the DCO for such purpose. The acceptance of a Transaction for clearing shall not relieve any Participant, Client or Customer of the duty to act in good faith and with reasonable care and diligence.
- (d) If a Transaction in a Cleared Swap (including a Transaction that is a component leg of a Package Transaction) is rejected by the DCO or a third party acting on behalf of the DCO, such Transaction is void *ab initio* and shall be cancelled by the SEF. Trades that are rejected from clearing may not be held in a suspended state and then re-submitted.
- (e) Rejected Transactions in Cleared Swaps.
 - (1) If the SEF determines pursuant to the procedures set forth in Rule 5103.C. that a Transaction in a Cleared Swap (including a Transaction that is a component leg of a Package Transaction) is rejected from clearing (i) because of a clerical or operational error or omission made by the SEF or by one of the counterparties to the Transaction or its agent, or (ii) in the case of a component leg of a Package Transaction, due to the sequencing of the submission of the component legs of the Package Transaction, a new trade, with terms and conditions that match the terms and conditions of the original trade, other than any such error or omission and time of execution, may be executed on the SEF and submitted for clearing without having been executed pursuant to the methods set forth in CFTC Regulations 37.9(a)(2) or 38.500.
 - (2) If the SEF identifies and determines how to correct the error or omission, it may execute the new trade without obtaining the consent of the counterparties.
 - (3) If the SEF is unable to determine how to correct the error or omission, the SEF, at its election, may either (x) seek guidance from the counterparties (and, if applicable, their agents and/or Clearing Firms) with respect to how to correct the error after which the SEF may then correct the error with the consent of both counterparties, or (y) elect not to fix the Transaction, in which case the Transaction will be treated as void *ab initio* and shall be cancelled by the SEF.
 - (4) Execution of a new trade pursuant to this Rule 4013.A.(e) must comply with the requirements specified in Rule 4017 and must occur as quickly as technologically practicable after receipt of notice of the rejection by the DCO, but, in any event, no

later than sixty (60) minutes from issuance of such notice. If the resubmitted Transaction is rejected, such Transaction will be void *ab initio* and shall be cancelled by the SEF. The counterparties may not resubmit a new Transaction a second time.

- (5) The procedure set forth in this Rule 4013.A.(e) is not available with respect to Transactions that are rejected from clearing for credit reasons.
 - (6) This Rule 4013.A.(e) relies on relief granted by the CFTC's Divisions of Market Oversight and Clearing and Risk in No-Action Letter 17-27, which expires on the effective date of revised CFTC Regulations that address clerical or operational errors.
- (f) Erroneously Cleared Transactions.
- (1) If it is determined pursuant to the procedures set forth in Rule 5103.C. that a Transaction in a Cleared Swap (including a Transaction that is a component leg of a Package Transaction) was incorrectly executed or cleared as the result of a clerical or operational error or omission, the SEF may permit the original counterparties to the Transaction to enter into a prearranged Transaction on the SEF that offsets the Transaction carried on the DCO's books (an "Offsetting Transaction"), without the Offsetting Transaction having to be executed pursuant to the methods required in CFTC Regulations 37.9(a)(2) and 38.500. The SEF may also permit the original counterparties (or, if the wrong legal entity was assigned as a counterparty to the original Transaction, the intended counterparties) to enter into a prearranged Transaction on the SEF that corrects the errors in the original Transaction ("Correcting Transaction"), without the Correcting Transaction having to be executed pursuant to the methods required in CFTC Regulations 37.9(a)(2) and 38.500.
 - (2) If the SEF identifies and determines how to correct the error or omission, it may execute the Offsetting Transaction and the corresponding Correcting Transaction without obtaining the consent of the counterparties.
 - (3) If the SEF is unable to determine how to correct the error or omission, the SEF may either (x) seek guidance from the counterparties to the Transaction and, if applicable, their agents and/or Clearing Firms, after which the SEF may then correct the error by executing an Offsetting Transaction and corresponding Correcting Transaction with the consent of both counterparties, or (y) elect not to correct the error, in which case the original Transaction shall stand as executed.
 - (4) Offsetting Transactions and Correcting Transactions executed pursuant to this Rule 4013.A.(f) must comply with the requirements specified in Rule 4017 and must be executed and cleared no later than three (3) days after the original, erroneous Transaction was executed.

- (5) The procedure set forth in this Rule 4013.A.(f) is available only with respect to clerical or operational errors or omissions made by the SEF, a counterparty to a Transaction or an agent of a counterparty to a Transaction.
- (6) This Rule 4013.A.(f) relies on relief granted by the CFTC's Divisions of Market Oversight and Clearing and Risk in No-Action Letter 17-27, which expires on the effective date of revised CFTC Regulations that address clerical or operational errors.
- (g) The SEF shall have the right to (i) suspend Trading Privileges of the Participant(s) or Sponsored Participant(s) that executed one or more rejected Transactions or prohibit further trading on behalf of the Client(s) or Customer(s) on whose behalf any rejected Transaction(s) were executed, or (ii) take any other action permitted by the SEF Rules. The liability for any losses arising out of or in connection with a rejected Transaction will be determined by the parties to the Transaction. For the avoidance of doubt, the SEF will have no liability for any such losses.
- (h) It shall not be a condition for access to the SEF that any Participant be subject to a breakage agreement. This includes breakage agreements in respect of Package Transactions.
- (i) Each Person that is registered, or required to be registered, with the CFTC as a Swap Dealer or Major Swap Participant is responsible for compliance with the mandatory trading requirement under Section 2(h)(8) of the CEA when such Person enters into, or facilitates entry into, a Swap that is subject to the Clearing Requirement.
- (j) The clearing services provided by a DCO in respect of a Cleared Swap will be governed by the rules, policies and procedures of that DCO. In addition, with respect to any DCO that has been granted an exemption from registration as such, the clearing services provided by such DCO must comply with any terms and conditions imposed on that DCO by the CFTC in connection with the DCO's exemption from registration.
- (k) Procedures for Cleared Swaps Routed Through an Affirmation Hub.
 - (1) Each Cleared Swap that is routed to the relevant DCO through an Affirmation Hub shall be routed in accordance with the following procedures:
 - (i) (x) All Cleared Swaps resulting from Risk Mitigation Sessions, and (y) all Cleared Swaps that (A) are executed directly on the Order Book without the assistance of an Execution Specialist and (B) do not involve intermediation by an Introducing Broker, shall be automatically submitted by the Affirmation Hub to the relevant DCO as soon as technologically practicable after receipt from the SEF, without Participants or Customers being provided the opportunity to Affirm; and
 - (ii) All other Cleared Swaps must be Affirmed by Participants or Customers, as applicable, as soon as technologically practicable after execution so that each such Cleared Swap is routed to and received by the applicable DCO no later than ten (10) minutes after execution.

- (2) Failure by a Participant or Customer to Affirm a Cleared Swap routed through an Affirmation Hub within the time frame required by Rule 4013.A.(k)(1)(ii) shall be considered a violation of the SEF Rules; *provided that*:
 - (i) Such failure shall be a violation of the SEF Rules only by the Participant(s) or Customer(s), as applicable, that failed to Affirm the Cleared Swap in accordance with Rule 4013.A.(k)(1)(ii); and
 - (ii) No such failure shall be a violation of the SEF Rules where the failure, as determined in the SEF's discretion, was substantially the result of any errors or delays caused by the SEF, any Execution Specialist, the Affirmation Hub or any event (such as loss of internet connectivity, power or other force majeure) beyond the reasonable control of the Participant or Customer.
- (3) The Market Regulation Department shall, on a monthly basis, review the previous month's Affirmations by Participants and Customers for compliance with this Rule 4013.A.(k). Notwithstanding such regular monthly reviews, the SEF may at any time conduct investigations of possible violations of Rule 4013.A.(k)(1)(ii) in accordance with the procedures set forth in Rule 6001. The SEF, through its Market Regulation Department, shall review each possible violation of Rule 4013.A.(k)(1)(ii) in light of all the facts and circumstances, including whether any errors or delays were caused by the SEF, any Execution Specialist, the Affirmation Hub or any event (such as loss of internet connectivity, power or other force majeure) beyond the reasonable control of the Participant or Customer.
- (4) Unless the Market Regulation Department, the Regulatory Oversight Committee or the Chief Compliance Officer determines otherwise in accordance with the provisions of Chapter 6 of the SEF Rules, upon the first violation of Rule 4013.A.(k)(1)(ii) in any rolling 12-month period a warning letter will be issued in accordance with Rule 6017, upon the second or third violation a summary fine will be imposed in accordance with Rule 6016 and upon the fourth (or higher) violation, the matter will be referred to a Disciplinary Panel for formal disciplinary proceedings.

Rule 4013.B. Uncleared Swaps

A Participant may enter into an Uncleared Swap for its own account only with a counterparty with which such Participant has swap trading relationship documentation that meets the requirements of Applicable Law. A Participant may enter into an Uncleared Swap on behalf of a Customer or Client only if such Customer (or, where the Customer is a Prime Broker Client, the related Prime Broker) or Client has swap trading relationship documentation with the relevant counterparty that meets the requirements of Applicable Law. A Participant acting as a Prime Broker Client may enter into an Uncleared Swap in the name of and on behalf of a Prime Broker only with a counterparty with which such Prime Broker has swap trading relationship documentation that meets the requirements of Applicable Law. The Participant and/or Customer or Client or Participant's Prime Broker shall provide any information requested by the SEF in the processing and settlement of such Uncleared Swaps. In addition, a Participant, for itself or on behalf of its

Customer or Client may, from time to time, input onto the SEF's systems, either itself, or by instructing an Execution Specialist, the credit line for any or all parties with which it, or such Customer or Client, has such swap trading relationship documentation.

Rule 4014 Information Regarding Orders and Dissemination of Trade Data

The SEF may make information regarding Orders (including prices and amounts), Transactions and any other matters it may deem appropriate available to Participants and other Persons at such times and in such manner (whether through the SEF, a ticker, financial information services or otherwise) as it may consider necessary from time to time. In accordance with Rule 5702, each Participant or other Person receiving any such information through the SEF may redistribute such information only to such extent and in such manner as may be permitted by the SEF from time to time.

Participants are hereby notified that the SEF discloses swap transaction and pricing data for publicly reportable swap transactions executed on the Order Book prior to the public dissemination of such data by the relevant Swap Data Repository. This data is available to all Participants that have elected to obtain a connection to the Order Book and is disclosed to such Participants contemporaneously with the transmission of the data to the applicable Swap Data Repository for public dissemination.

Rule 4015 Enforceability

- (a) A Transaction entered into on or pursuant to the SEF Rules shall not be void, voidable, subject to rescission or otherwise invalidated or rendered unenforceable as a result of:
 - (1) a violation by the SEF of the provisions of Section 5h of the CEA or Part 37 of the CFTC Regulations;
 - (2) 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
 - (3) any other proceeding the effect of which is to alter, supplement or otherwise require the SEF to adopt a specific term or condition, trading rule or procedure or to take or refrain from taking a specific action.
- (b) Without limiting the generality of the foregoing, failure of the SEF to broadcast any message in respect of a Transaction made on the SEF shall not invalidate any Transaction recorded by the SEF.

Rule 4016 Block Trades

The following shall govern all Block Trades in Swaps:

- (a) All Block Trades, unless otherwise exempted by a SEF Rule, must comply with the recordkeeping requirements set forth in Rule 8003.

- (b) Block Trades that occur away from a trading system or platform of the SEF must be submitted to the SEF in a manner prescribed from time to time by the SEF. Each such submission must include all of the data required by Parts 43 and 45 of the CFTC Regulations, including without limitation (i) a notification to the SEF of the parties' election to have the Transaction treated as a Block Trade, and (ii) the actual notional or principal amount of the Transaction. The parties entering into a Block Trade must agree upon which party shall be responsible for reporting all terms of the Transaction to the SEF (which party may be an Introducing Broker), and such designated party must report the Block Trade to the SEF as soon as technologically practicable after execution, but no later than ten (10) minutes after execution. Only Block Trades that are not Cleared Swaps are permitted to occur away from a trading system or platform of the SEF.
- (c) Upon receipt of the submission of a Block Trade as required by Rule 4016(b), the SEF will review the submission, and will report the Transaction as required by Parts 43 and 45 of the CFTC Regulations as soon as technologically practicable after execution. Such report to the SDR will include among other things the actual notional or principal amount of the Transaction and a notification to the Swap Data Repository of the parties' election to have the Transaction treated as a block trade.
- (d) Swap components of Package Transactions may be executed as Block Trades, provided that each such swap component is for a quantity that is equal to or in excess the Appropriate Minimum Block Size.
- (e) A Participant transacting a Block Trade on behalf of a Client or Customer must receive prior written instruction or consent from the Client or Customer to do so.
- (f) Except as may be permitted by CFTC Regulation 43.6(h)(6), the aggregation of Orders across multiple Customers or Clients in order to meet the Appropriate Minimum Block Size is prohibited.
- (g) Each party to a Block Trade shall comply with all applicable SEF Rules and, without limiting the generality of the foregoing, each such party shall be an ECP.
- (h) Any Block Trade in violation of these requirements may constitute conduct which is inconsistent with just and equitable principles of trade.
- (i) Upon request by the SEF, each party to a Block Trade shall produce satisfactory evidence that the Block Trade meets the requirements set forth in the SEF Rules.
- (j) Cleared Block Trades must be executed on a non-Order Book trading system or platform of the SEF. Each Order underlying such a Cleared Block Trade must comply with the requirements for Order information set forth in Rule 8001 and shall include a notification to the SEF of the party's election to have the resultant publicly reportable swap transaction treated as a Block Trade. In addition, all such Cleared Block Trades must comply with the pre-execution credit check requirements set forth in Rule 4017 and all other applicable SEF Rules and CFTC Regulations. For the avoidance of doubt, all Block Trades in Cleared Swaps must be executed on a non-Order Book trading system or platform of the SEF in accordance with this Rule 4016(j) in order to facilitate compliance with Rule 4017. This

Rule 4016(j) relies on relief granted by the CFTC’s Division of Market Oversight in No-Action Letter 17-60, which expires at the earlier of (i) 11:59 p.m. (Eastern Time) on November 15, 2020, and (ii) the effective date of any CFTC action with respect to the issues discussed therein. If such no-action relief is extended, upon and to the extent of such extension, the provisions of this Rule 4016(j) will continue apply.

Rule 4017 Pre-Execution Credit Checks

- (a) At the time of submitting an Order for any Cleared Swap (including any Cleared Swap that is a leg of a Package Transaction) or any Cleared Block Trade, a Participant (whether for itself or for a Customer or Client) must designate a Clearing Member with regard to the Transaction, which may be either the relevant party to the Transaction if such party is Self-Clearing or a designated Clearing Firm if the relevant party to the Transaction is Non-Self-Clearing.
- (b) Prior to the execution of any Order for a Cleared Swap (including any Cleared Swap that is a leg of a Package Transaction) or any Cleared Block Trade for which the relevant party is Non-Self-Clearing, the SEF will facilitate pre-execution credit screening by or on behalf of the designated Clearing Firm. Upon receiving confirmation that the Order or Cleared Block Trade satisfies the Clearing Firm’s pre-execution limits with respect to such party, the SEF will accept the Order or Cleared Block Trade for execution. If the SEF does not promptly receive confirmation or receives confirmation that the Order or Cleared Block Trade does not satisfy the Clearing Firm’s pre-execution limits with respect to such party, the SEF will cancel the Order or Cleared Block Trade.
- (c) Any party that is Self-Clearing with respect to a Transaction is deemed to represent, by submitting an Order for its proprietary account or, in the case of a Customer, causing its Introducing Broker to do so, that it has completed pre-execution screening of its internal clearing risk limits for proprietary accounts.

Rule 4018 Risk Mitigation Sessions

The SEF may conduct periodic anonymous risk mitigation sessions (“Risk Mitigation Sessions”) in accordance with the tpSEF Risk Mitigation Procedures. Information on upcoming Risk Mitigation Sessions are made available by the SEF on its website. The tpSEF Risk Mitigation Procedures are attached hereto as Appendix C.

POSITION LIMITS AND POSITION ACCOUNTABILITY LEVELS

Rule 4100 SEF Rules Do Not Limit Emergency Powers

Nothing contained in the SEF Rules relating to position limits shall in any way be construed to limit the ability of the SEF to take an Emergency Action as enumerated in the SEF Rules, and, unless the Board and/or the CEO (or, if the CEO is not available, the most senior Officer that is available) in taking an Emergency Action shall state otherwise, any such Emergency Action shall be effective with respect to all Participants, Sponsored Participants, Clients and Customers regardless of whether an exemption from the position limits has previously been granted pursuant to these SEF Rules.

Rule 4101 Position Limits

- (a) To reduce the potential threat of market manipulation or congestion, the SEF shall adopt for each of the contracts of the SEF as is necessary and appropriate, position limits for speculators.
- (b) Except as otherwise provided by the SEF Rules, no Person, including a Participant, Sponsored Participant, Client or Customer, may hold or control a position in excess of such position limits, and no Person may maintain a position in excess of such position limits for a Client or Customer if such Person knows, or with reasonable care should know, that such position will cause such Client or Customer to exceed the applicable position limits.
- (c) Position limits shall apply to (i) all positions in accounts for which any Person, by power of attorney or otherwise, directly or indirectly holds positions or controls trading, and (ii) positions held by two or more Persons acting pursuant to an expressed or implied agreement or understanding, as if the positions were held by, or the trading of the positions were done by, a single Person.
- (d) Each Participant required to file any report, statement, form or other information with the CFTC pursuant to CFTC Regulations concerning a position limit on any Transaction or commodity underlying a Transaction must simultaneously file a copy of such report, statement, form or other information with the SEF. Such information shall include, for Participants who are Introducing Brokers, information concerning the Customers for which Transactions are entered into on the SEF.

Rule 4102 Exemptions from Position Limits

Any Person seeking an exemption from the position limits referred to in Rule 4101 must file an application with the SEF in the manner and within the time limits prescribed by the SEF. The SEF shall notify the applicant whether the exemption has been approved and whether the SEF has imposed any limitations or conditions on the exemption. The decision of the SEF shall be final.

Rule 4103 Position Accountability

- (a) To reduce the potential threat of market manipulation or congestion, the SEF shall adopt, as is necessary and appropriate, position accountability levels for speculators for each of the contracts of the SEF. Any Person, including a Participant, Sponsored Participant, Client or Customer, who owns or controls Swaps in excess of the applicable position accountability level shall provide the SEF, at its request, any information regarding the nature of the position, trading strategy or hedging activities, if applicable, and if ordered by the SEF, shall not increase the size of any such position.
- (b) For purposes of this Rule 4103, all positions in accounts for which a Person, by power of attorney or otherwise, directly or indirectly controls trading shall be included with the positions held by such Person. The provisions of this Rule 4103 shall apply to positions held by two or more Persons acting pursuant to an expressed or implied agreement or understanding, as if the positions were held by a single Person.

Rule 4104 Enforcement of Position Limits and Position Accountability Levels

- (a) No Person may for itself or any Customer or Client maintain a combination of Swaps which is, or which when aggregated in accordance with this Rule is, in excess of the limits established pursuant to Rule 4101 (or, to the extent ordered not to increase such positions pursuant to Rule 4103, a position in excess of the relevant level).
- (b) In the event the SEF learns that a Person maintains positions in accounts with more than one (1) Person such that the aggregate position in all such accounts exceeds (i) the position limits established pursuant to Rule 4101 or (ii) to the extent such Person is ordered not to increase such positions pursuant to Rule 4103, the relevant level, the SEF may notify all Persons maintaining or carrying such accounts of the total positions of such accounts. Such notice may also instruct each such Person to reduce the positions in such accounts immediately after receipt of the notice, proportionately or otherwise so that the aggregate positions of such accounts does not exceed the position limits and position accountability levels established pursuant to Rules 4101 and 4103, unless as provided by Rule 4104(c) below, a request for an exemption is made and granted by the SEF pursuant to this Rule 4104. Any Person receiving such notice shall immediately take such steps as may be necessary to liquidate such number of contracts as shall be determined by the SEF in order to cause the aggregate positions of such accounts to comply with the position limits and position accountability levels established pursuant to Rules 4101 and 4103. Notwithstanding the foregoing, the Persons may reduce the positions of such accounts by a different amounts so long as after all reductions have been accomplished, the positions comply with the position limits and position accountability levels established pursuant to Rules 4101 and 4103.
- (c) In the event a Person exceeds its position limit due to sudden unforeseen increases in its bona fide hedging needs, such Person shall not be considered in violation of the SEF Rules provided that such Person requests a hedge exemption to carry such increased position within five (5) Business Days following the day on which the Person's position limit was exceeded and provided that such exemption is granted by the SEF.
- (d) Subject to the foregoing provisions of this Rule 4104, in the event that a Person's position exceeds the position limits established pursuant to Rule 4101 or ordered by the SEF such Person shall liquidate such amount of Swaps as the SEF shall direct in order to eliminate the excess within such time as the SEF may prescribe and shall report to the SEF when such liquidations have been completed. If a Person fails so to liquidate contracts within the time prescribed by the SEF, then, in addition to any other actions the SEF may take, the SEF may take such steps as it may deem necessary or appropriate to liquidate such contracts on behalf and at the expense of such Person to the extent necessary to eliminate such excess. Without limiting the generality of the foregoing, to the extent applicable, the SEF may request the DCO to effect such liquidation in accordance with rules of the DCO. In addition, the SEF in its discretion may require any Person carrying an account for itself or a Customer or Client to obtain and hold additional original margin in such amount and form and by such time as the SEF shall specify until such excess has been eliminated.

Rule 4105 Prime Broker Transactions

(a) General.

- (1) All Prime Broker Transactions shall be executed pursuant to this Rule 4105, in addition to other applicable provisions of the SEF Rules.
- (2) A Prime Broker and each of its Prime Broker Clients must be a Participant approved by the SEF.
- (3) Each Prime Broker Client may enter Prime Brokerage Orders and execute Permitted Cross Transactions on the SEF in the name of and on behalf of the relevant Prime Broker.

(b) Prime Broker Obligations.

- (1) *Prime Broker Acknowledgment Letter.* Each Participant that desires to transact Prime Broker Transactions on the SEF as a Prime Broker Client shall cause its Prime Broker to provide to the SEF an acknowledgement letter, in a form and substance satisfactory to, and approved by, the SEF (a “Prime Broker Acknowledgement Letter”) that the Prime Broker will, subject to the terms of its Prime Broker Acknowledgement Letter, the Prime Broker’s right to cancel a Prime Broker Transaction in accordance with the provisions of Rule 5103.E and other applicable provisions of the SEF Rules, accept and be financially responsible for all Prime Broker Transactions executed in its name by such Participant.
- (2) *Cancellation of Designation of Prime Broker Client.* The designation of a Participant as a Prime Broker Client by a Prime Broker and the Prime Broker’s obligations in respect of that Prime Broker Client shall continue in full force and effect until cancelled or terminated by written notice (a “Cancellation Notice”) to the SEF in accordance with the terms of the relevant Prime Broker’s Prime Broker Acknowledgement Letter. Any such Cancellation Notice shall become effective upon receipt by the SEF. No such termination or cancellation shall in any manner affect the Prime Broker’s obligations and liabilities incurred by the Prime Broker in respect of the relevant Prime Broker Client prior to the effective date and time of the relevant Cancellation Notice.
- (3) *No Supervisory Responsibilities.* A Prime Broker has no responsibility to supervise any Prime Broker Client or any of such Prime Broker Client’s Supervised Persons.
- (4) *Prime Broker Cancellation of Prime Broker Transactions.* A Prime Broker shall have the right to cancel a Prime Broker Transaction in accordance with the provisions of Rule 5103.E within two (2) hours of the time that the SEF provides the Prime Broker with a Confirmation of such Transaction in accordance with Rule 4012.

(c) Prime Broker Client Obligations.

- (1) In advance of submitting each Prime Brokerage Order and Permitted Cross Transaction to the SEF pursuant to this Rule 4105, each Prime Broker Client shall ensure the Prime Brokerage Order or Permitted Cross Transaction complies with any relevant Prime Broker Limit then in effect.
 - (2) Upon receiving notice (whether from the SEF, its Prime Broker or otherwise) that a Prime Broker has cancelled a Participant's designation as a Prime Broker Client, such Participant shall cancel any unfilled Prime Brokerage Orders and Permitted Cross Transactions submitted in the name of and on behalf of the relevant Prime Broker and shall not submit any additional Prime Brokerage Orders or Permitted Cross Transactions in the name of and on behalf of that Prime Broker.
- (d) Fees. Fees for Prime Broker Transactions will be charged to the relevant Prime Broker Client, except for Prime Broker Transactions in which the relevant Prime Broker Client transacts through an Introducing Broker, in which case fees for such Transaction will be charged to the Prime Broker Client's Introducing Broker.

SECTION 5
CONDUCT OF PARTICIPANTS AND OTHER PERSONS

DUTIES AND OBLIGATIONS

Rule 5000 Duties and Responsibilities of Participants, Sponsored Participants, Customers and Clients

Each Participant and Sponsored Participant shall (and shall cause all of its respective Supervised Persons to) and each Customer and Client shall:

- (a) use the SEF and effect Transactions in a responsible manner and not for any improper purpose;
- (b) use the SEF only to conduct permitted activity as determined by the SEF;
- (c) comply with the SEF Rules and conduct all such activity in a manner consistent with the SEF Rules and Obligations;
- (d) comply with Applicable Law;
- (e) settle all Transactions entered into on or pursuant to the SEF Rules;
- (f) 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 activity on or through the SEF or any aspect of any business connected with or concerning the SEF;
- (g) not knowingly mislead or conceal any material fact or matter in any dealings or filings with the SEF or in response to any SEF Proceeding;
- (h) keep any User IDs, account numbers and passwords related to the SEF confidential;
- (i) employ practices to monitor and enforce compliance with risk limits established in conformance with Applicable Law; and
- (j) keep, or cause to be kept, complete and accurate books and records in accordance with Rule 8002.

Rule 5001 Required Disclosures to the SEF

- (a) Each Participant, Sponsored Participant, Customer and Client shall immediately notify the Market Regulation Department in writing at such time as it becomes aware of the occurrence of any of the following events:
 - (1) any damage to, or failure or inadequacy of, the systems, facilities or equipment of such Person to effect Transactions pursuant to the SEF Rules;

- (2) any failure to timely perform such Person's financial obligations under or in connection with Swaps of such Person (or Swaps of any Customer, Client or Sponsored Participant of such Person, as applicable);
- (3) any violation of Applicable Law in connection with such Person's access to, or activities on the SEF, including the requirements of the CFTC and, if applicable, NFA;
- (4) a Material Adverse Change in such Person's financial condition or in the financial condition of an Affiliate of such Person if such change materially impacts such Person's ability to satisfy its obligations under the SEF Rules;
- (5) any refusal of admission of such Person to any other swap execution facility, commodity or securities exchange, DCM, DCO, Self-Regulatory Organization or other business or professional association, or withdrawal by such Person of any application for participation or membership in any swap execution facility, commodity or securities exchange, DCM, DCO, Self-Regulatory Organization or other business or professional association;
- (6) the indictment or conviction of, or any confession of guilt or plea of guilty or *nolo contendere* by such Person (or, if applicable, any of its respective Supervised Persons with access to the SEF) for any felony of any nature or misdemeanor involving, arising from, or related to, the purchase or sale of any Swap or other financial instrument, or involving or arising from moral turpitude, misrepresentation, fraud, deceit, theft, embezzlement, gambling, conversion or abuse of a fiduciary relationship;
- (7) the issuance of a formal order of investigation (or its equivalent), or the commencement, by the issuance or service of a written complaint (or its equivalent), of any judicial, administrative or self-regulatory proceeding, as the case may be, against such Person (or, if applicable, any of its respective Supervised Persons) by the CFTC, the SEC, the securities commission or equivalent authority of any state, territory, the District of Columbia or foreign country, or any swap execution facility, commodity or securities exchange or related clearing organization, DCM, DCO, any Self-Regulatory Organization or other business or professional association;
- (8) the bankruptcy or insolvency of such Person or any of its Affiliates; or
- (9) any suspension, expulsion, bar, fine, censure, cease and desist order, temporary or permanent injunction, denial of Trading Privileges or any other sanction or discipline imposed on such Person (or, if applicable, any of its respective Supervised Persons), whether through an adverse determination, voluntary settlement or otherwise, by:
 - (i) a swap execution facility, commodity or securities exchange, DCM, DCO, Self-Regulatory Organization or other business or professional association;

- (ii) the SEC, the CFTC or the securities commission or equivalent authority of any state, territory, the District of Columbia or foreign country; or
 - (iii) any federal court, state court, Government Agency not mentioned above or quasi-governmental body.
- (b) Each Participant, Sponsored Participant, Customer and Client shall notify the Market Regulation Department in writing within ten (10) days of becoming aware of the occurrence of any of the following events:
 - (1) any denial or withdrawal of any application for any registration or license with respect to such Person (or, if applicable, any of its respective Supervised Persons) by or from the SEC, the CFTC or the securities commission or equivalent authority of any state, territory, the District of Columbia or foreign country, or
 - (2) the issuance of a bar by any agency of the United States from contracting with the United States.

TRADING CONDUCT

Rule 5100 Abusive Trading Practices Prohibited

- (a) No Participant or Sponsored Participant or any of its respective Supervised Persons, nor any Customer or Client, shall engage in, or attempt to engage in, any fraudulent act or engage in, or attempt to engage in, any manipulative device, scheme or artifice to defraud, deceive, trick or mislead in connection with or related to any SEF activity including, without limitation, any of the following trading practices except as otherwise authorized under the SEF Rules:
 - (1) parking;
 - (2) pre-arranged trading (it being understood that pre-arranged trading does not include Transactions resulting from pre-execution communications to the extent permitted by Rule 5203(b));
 - (3) adjusted trading or overtrading;
 - (4) front-running;
 - (5) wash trading;
 - (6) cross transactions;
 - (7) fictitious transactions;
 - (8) money passes;
 - (9) non-competitive transactions (unless otherwise exempt or excluded pursuant to the SEF Rules);

- (10) accommodation trading;
- (11) fraudulent trading; or
- (12) any other trading practices that the SEF or the CFTC deems to be abusive.

Additionally, no Participant or Sponsored Participant or any of its respective Supervised Persons, nor any Customer or Client, shall knowingly execute or accommodate the execution of any such activity by direct or indirect means.

- (b) No Participant, Sponsored Participant, Customer or Client shall trade any Swap that is not authorized to trade on the SEF.

Rule 5101 Good Faith Bids and Offers

A Participant or Sponsored Participant shall not knowingly enter, nor shall any Participant, Sponsored Participant, Customer or Client, cause to be entered, bids or offers into the SEF other than in good faith for the purpose of executing *bona fide* Transactions.

Rule 5102 Invalid Transactions

- (a) A Transaction made or purported to be made on or pursuant to the SEF Rules may be declared invalid by the SEF in the following circumstances:
 - (1) *Unrepresentative Price*. If, taking into consideration current market conditions, the SEF determines that a Transaction has taken place at an unrepresentative price, the SEF, at its absolute discretion, may declare such Transaction invalid. The SEF may take into account such information as it deems appropriate when determining whether to invalidate a Transaction, including, without limitation, the following:
 - (i) price movement of other swap contracts with similar terms;
 - (ii) current market conditions, including levels of activity and volatility;
 - (iii) time period between different quotes and between quoted and traded prices;
 - (iv) market or other information regarding price movement in related swap contracts; or
 - (v) manifest error.
 - (2) *Breach of Applicable Law*. If the SEF determines that a Transaction has been made in breach of Applicable Law, the SEF may declare the Transaction invalid.
- (b) When a Transaction is declared invalid by the SEF, the parties to the Transaction will be notified by the SEF of that fact and a message will be broadcast through the SEF announcing the Swap contract and price level of the invalid Transaction, and the invalid Transaction may be displayed on the SEF as a cancelled Transaction.

Rule 5103 Trade Cancellation, Correction, Offset and Adjustment

Rule 5103.A. SEF Authority Regarding Trade Cancellation, Correction, Offset and Adjustment

The SEF has authority to cancel, or adjust the price of, any Transaction executed on or pursuant to the SEF Rules, or to execute or require the execution of a new or offsetting Transaction:

- (a) when the SEF determines in its sole discretion such action is necessary to mitigate market disrupting events caused by the improper or erroneous use of the SEF or by system defects;
- (b) at any time the SEF determines in its sole discretion that allowing a Transaction to stand as executed may have a material adverse effect on the integrity of the market;
- (c) in accordance with Rule 4013.A. and this Rule 5103;
- (d) where the Transaction was intended to be cleared and was submitted to a DCO via an Affirmation Hub or other middleware provider but was not presented to the DCO for clearing due to a post-execution processing issue;
- (e) where the SEF determines in its sole discretion that a mistake occurred as a result of an error by an Execution Specialist; or
- (f) to comply with Applicable Law.

Rule 5103.B. Transaction Price Review

- (a) Determination to Review a Transaction's Price.
 - (1) The SEF may determine to review a Transaction's price based on its independent analysis of market activity or upon a Participant's request (including a Participant that is a Prime Broker Client).
 - (2) A Participant's request for review must be made within ten (10) minutes of execution the relevant Transaction and must include the USI for the Transaction and a statement of the grounds for the review. In the absence of a timely request for review, the SEF may determine whether or not a Transaction will be subject to review in its sole discretion. Notwithstanding the foregoing, subject to Applicable Law, the SEF shall amend the terms of, or cancel, any Transaction that the parties, together with the DCO, as applicable, mutually agree to amend or cancel, even in the event that such amendment or cancellation is not submitted to the SEF within the applicable review period specified above.
- (b) Review of a Transaction's Price.
 - (1) In reviewing a Transaction's price, the SEF shall use good faith efforts to determine the fair mid-market price for the Swap at the time the Transaction was executed. The SEF may consider any relevant information, including, but not limited to, the

last transaction price of the Swap or a better bid/offer, a more recent price for a different maturity date, the price of the same or related Swap established in another venue or another market, the market conditions at the time of the Transaction and the theoretical value of an option based on the most recent implied volatility.

- (2) Following the SEF's determination of a Transaction's fair mid-market price in accordance with Rule 5103.B.(b)(1) above, the SEF shall have the right, in its sole discretion, to cancel or adjust the price of such Transaction or to require the entry into an offsetting Transaction; *provided, however*, that the SEF shall not make any such cancellation or price adjustment or require the entry of an offsetting Transaction if such action would, in the SEF's sole discretion, (i) adversely impact market integrity, (ii) facilitate market manipulation or other illegitimate activity or (iii) otherwise violate the CEA, CFTC Regulations or the SEF Rules.
- (3) The method of adjustment or cancellation of any Cleared Swap that is adjusted or cancelled shall be the method provided for by the rules and procedures of the relevant DCO.

Rule 5103.C. Review of Transactions for Errors

- (a) If a Participant, Sponsored Participant, Client or Customer believes that any Transaction was incorrectly executed, cleared or rejected from clearing as a result of an Error (as defined in Rule 5103.C.(f) below), such Person may, within ten (10) minutes thereafter, request a review of the Transaction by providing the USI for the Transaction and stating the grounds for the disagreement.
- (b) Upon timely receipt by the SEF of a request for a Transaction review in accordance with Rule 5103.C.(a) above, or if the SEF determines on its own initiative to conduct such a review, the SEF will review its electronic audit trail and other relevant records to determine if an Error occurred. If the request for review is not timely, the SEF may, in its sole discretion, perform a review of the Transaction.
- (c) If the review described in this Rule 5103.C. reveals that the Transaction was incorrectly executed, cleared or rejected from clearing as a result of an Error, the SEF may cancel or adjust the Transaction, or execute or require the execution of a new or offsetting Transaction (in accordance with the procedures specified in Rule 4013.A. for Cleared Swaps), as appropriate; *provided, however*, that the SEF shall not take any action pursuant to this Rule 5103.C.(c) if such action would, in the SEF's sole discretion, (i) adversely impact market integrity, (ii) facilitate market manipulation or other illegitimate activity or (iii) otherwise violate the CEA, CFTC Regulations or the SEF Rules.
- (d) If the review described in this Rule 5103.C. reveals that the Transaction was not incorrectly executed, nor cleared or rejected from clearing as a result of an Error, then no adjustment shall be made.
- (e) If a Transaction is reviewable for price under Rule 5103.B., the procedures of this Rule 5103.C. shall not apply. For the avoidance of doubt, if a Transaction was correctly executed

but the reporting to the SDR was in error, Rule 8005 shall apply and this Rule 5103.C. shall not apply.

- (f) For purposes of this Rule 5103.C., an “Error” shall mean the occurrence of any of the following:
- (1) A mistake made as the result of a malfunction of the SEF or human error, including a mistake made by an Execution Specialist;
 - (2) An Order was incorrectly displayed and/or executed;
 - (3) A clerical or operational error or omission made by the SEF or a Participant (including a Prime Broker Client), Sponsored Participant, Client or Customer (or any agent of any of the foregoing) that caused a transaction to be rejected from clearing and void *ab initio*;
 - (4) A Clearing Firm or DCO rejected a leg of a Package Transaction for clearing because of the sequencing of submission for clearing of the legs of the applicable Package Transaction; or
 - (5) Where a Transaction was intended to be cleared and was submitted to a DCO via an Affirmation Hub or other middleware provider but was not presented to the DCO for clearing due to a post-execution processing issue.

Rule 5103.D. Records and Reporting of Cancellations and Price Adjustments

- (a) Cancelled Transactions and any prices that have been adjusted shall be cancelled in the SEF’s official records.
- (b) Transactions that have had their price adjusted shall be reflected in the SEF’s official records at the adjusted price.
- (c) If a Transaction is either cancelled or adjusted pursuant to Rule 5103, the SEF shall submit a cancellation or correction of the Transaction to the same SDR to which the Transaction was previously reported.

Rule 5103.E. Cancellation of Prime Brokerage Transactions

- (a) Subject to Rule 4105(b)(4), a Prime Broker shall have the right to cancel any Prime Broker Transaction within two (2) hours of the time that the SEF provides the Prime Broker with a Confirmation of such Transaction in accordance with Rule 4012 (i) that is executed in breach of a Prime Broker Limit; (ii) that was executed by a Person that was not authorized by the Prime Broker; or (iii) that was executed for an unauthorized product. The Prime Broker shall communicate the cancellation directly to the SEF and indicate the reason for the cancellation. The SEF shall be entitled to rely on the Prime Broker’s statement that any such grounds exist without inquiry and shall have no liability to the Prime Broker, the Prime Broker Client, or the counterparty to the cancelled Transaction or any other party in so doing.

- (b) If any Prime Broker Transaction is cancelled by the SEF pursuant to the provisions of this Rule 5103.E., the Prime Broker, the Prime Broker Client and the counterparty shall be liable for payments in respect of such cancellation in accordance with the terms of their agreements or as they may otherwise agree. The SEF shall have no involvement in determination of any such payments.
- (c) Notwithstanding anything to the contrary in the SEF Rules, the SEF shall have the right, in its sole discretion, to suspend, revoke, limit, condition, restrict or qualify the ability of any Participant to transact on the SEF as a Prime Broker or Prime Broker Client following the use of the cancellation right in 5103.E.(a).
- (d) Nothing in this Rule 5103.E shall restrict the rights of a Prime Broker Client to request a review of a Prime Broker Transaction pursuant to the other provisions of Rule 5103.

Rule 5104 Misuse of the SEF

Misuse of the SEF is strictly prohibited. It shall be a violation of the SEF Rules for any Person to willfully or negligently engage in unauthorized access to the SEF, to assist any Person in obtaining unauthorized access to the SEF, to trade on the SEF without the authorization of a Participant, to alter the equipment associated with the SEF, to interfere with the operation of the SEF, to use or configure a component of the SEF in a manner that does not conform to the SEF Rules, to intercept or interfere with information provided on or through the SEF, or in any way to use the SEF in a manner contrary to the SEF Rules.

VIOLATIONS

Rule 5200 Rule Violations

- (a) It shall be a violation for a Participant, Sponsored Participant, Customer or Client or any Supervised Person to violate any SEF Rule, to breach any agreement made with the SEF, to violate Applicable Law, or to engage in fraud, dishonorable conduct, or in conduct which is inconsistent with just and equitable principles of trade.
- (b) Participants, Sponsored Participants, Customers and Clients and Supervised Persons shall assist the SEF in any investigation into potential violations of Applicable Law. Such assistance must be timely and may include, but not be limited to, requiring any Participant, Sponsored Participant, Client, Customer or Supervised Person to produce documents, to answer questions from the SEF or its designee, and/or to appear in connection with an investigation.
- (c) If a Participant, Sponsored Participant, Customers or Client has actual or constructive notice of a violation in connection with the use of the SEF by a Participant, Sponsored Participant, Client, Customer or Supervised Person and such Person fails to notify the Market Regulation Department within a reasonable time, such Person may be found to have committed an act detrimental to the interest or welfare of the SEF.

Rule 5201 Fraudulent Acts Prohibited

No Participant, Sponsored Participant, Customer or Client (or any Supervised Persons) shall engage in, or attempt to engage in, any fraudulent act or engage in, or attempt to engage in, any scheme to defraud, deceive, trick or mislead in connection with or related to any SEF activity.

Rule 5202 [Reserved]

Rule 5203 Fictitious or Wash Transactions; Permitted Pre-Execution Communications

- (a) No Participant, Sponsored Participant, Customer or Client (or any Supervised Persons) shall create fictitious transactions or wash transactions. No Person shall place or accept Orders in the same Swap 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 (transactions commonly known or referred to as wash sales). 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 trades. Additionally, no Person shall knowingly execute or accommodate the execution of such Orders by direct or indirect means.
- (b) Participants, Sponsored Participants, Customers and Clients (and any of their Supervised Persons) may engage in pre-execution communications (including communications with respect to Orders) relating to:
 - (1) Permitted Cross Transactions;
 - (2) Block Trades executed pursuant to Rule 4016;
 - (3) Transactions executed pursuant to the procedures specified in Rule 4013.A.(e) and (f);
 - (4) Package Transactions (Order Book Exempt); and
 - (5) Required Cross Transactions;

provided that with respect to any pre-execution communications permitted by (1) through (5) above:

- (i) the parties to the pre-execution communications do not disclose to a non-party the details of such communications or use the information obtained in a manner contrary to Applicable Law, and
- (ii) the requirements of Rule 4011 are satisfied to the extent applicable.

Nothing contained in this Rule 5203(b) shall prevent a Person from disclosing information as may be required by legal process (including subpoena or demand for productions) or to such Person's agents or advisors (including, but not limited to, accountants and auditors and legal counsel).

Rule 5204 Market Disruptions Prohibited

Orders entered into the SEF for the purpose of upsetting the equilibrium of the market in any Swap or creating a condition in which prices do not or will not reflect fair market values are prohibited, and any Participant, Sponsored Participant, Customer or Client (or any of their respective Supervised Persons) 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 in violation of this Rule 5204.

Rule 5205 Market Manipulation Prohibited

No Participant, Sponsored Participant, Customer or Client (or any of their respective Supervised Persons) shall attempt to manipulate or manipulate the price of any Swap including, without limitation, cornering, “front-running”, “money passes”, trading ahead or against Customer Orders, combination or improper cross trading involving, for example and without limitation, a short term riskless transaction taking advantage of an incoming Order or the offset of a prior position to avoid an adverse market move.

Rule 5206 Disruptive Trading Practices Prohibited

No Participant, Sponsored Participant, Customer or Client (or any of their respective Supervised Persons) shall engage in any trading, practice or conduct that constitutes a “disruptive trading practice,” as such term is defined by the Section 4c(a)(5) of the CEA (7 U.S.C. § 6c(a)(5)) or the related CFTC Regulations.

Rule 5207 Prohibition of Misstatements

No Participant, Sponsored Participant, Customer or Client (or any of their respective Supervised Persons) shall make any knowing misstatement of a material fact to the SEF, any SEF Official, any Board committee or SEF Panel, any agent of the SEF (including the Regulatory Services Provider) or any Participant, Sponsored Participant, Customer, Client or Supervised Person. All swap data or other information submitted from time to time by any Participant, Sponsored Participant, Customer or Client (or any of their respective Supervised Persons) to the SEF, or by the SEF on behalf of any such Person, to any Clearing Firm, Affirmation Hub, DCO or SDR, shall be accurate and complete in all material respects as of the time submitted.

Rule 5208 Acts Detrimental to the SEF Prohibited

No Participant, Sponsored Participant, Customer or Client (or any of their respective Supervised Persons) shall engage in any act that is detrimental to the SEF.

Rule 5209 Adherence to Law

No Participant, Sponsored Participant, Customer or Client (or any of their respective Supervised Persons) shall engage in conduct that is a violation of the Applicable Law.

Rule 5210 Communications with the Public and Promotional Material

Promotional material and similar information issued by Participants shall comply with Applicable Law.

SUPERVISION

Rule 5300 Duty to Supervise

Each Participant shall establish, maintain and administer reasonable supervisory procedures to monitor the compliance of its Supervised Persons with the SEF's Rules and any applicable provisions of the CEA or CFTC Regulations and such Participant may be held accountable for the actions of such Supervised Persons. As set forth in Rule 4105(b)(3), a Prime Broker shall have no responsibility to supervise any Prime Broker Client or any of such Prime Broker Client's Supervised Persons.

INSPECTIONS

Rule 5400 Inspections by the SEF

- (a) The SEF and the Regulatory Services Provider (and their respective authorized representatives), shall have the right, in connection with determining whether all Obligations are being, will be, or have been complied with by a Participant, Sponsored Participant, Customer or Client, in accordance with Applicable Law:
 - (1) inspect books and records, systems, equipment and software operated by such Person in connection with any SEF activity, wherever located;
 - (2) access the systems, equipment, software and the premises on which the systems, equipment and software are located and any data stored in any of the systems or equipment, during the regular business hours and the Trading Hours of the SEF without prior notice to such Person; and/or
 - (3) remove, copy or reproduce any data to which the SEF has access under the SEF Rules.
- (b) Each such Person shall provide the Regulatory Services Provider with the same access to its books and records and offices as it is required to provide the SEF under the SEF Rules and Applicable Law.
- (c) The Market Regulation Department may require a Participant to furnish (periodically or on a particular occasion) information concerning the Participant's activity on the SEF. For a Participant, such information includes but is not limited to, the Participant's open trading positions or Swaps to which the Participant is a party.
- (d) The SEF shall provide prior notice to a Person in the event of an inspection that has been prescheduled by the SEF.

INFORMATION SHARING

Rule 5500 Information-Sharing

- (a) The SEF may enter into information-sharing agreements or other arrangements or procedures to establish and enforce rules that will allow the SEF to obtain any necessary information to perform any monitoring of trading and trade processing, provide information to the CFTC upon request and that allow the SEF to carry out such international information-sharing agreements as the CFTC may require. As part of any information-sharing agreements or other arrangements or procedures adopted pursuant to this Rule 5500, the SEF may:
 - (1) provide market surveillance reports to other markets;
 - (2) share information and documents concerning current and former Participants with other markets;
 - (3) share information and documents concerning ongoing and completed investigations with other markets; and/or
 - (4) require its current or former Participants, or their Sponsored Participants, Customers or Clients, to provide information and documents to the SEF at the request of other markets with which the SEF has an information-sharing agreement or other arrangements or procedures.
- (b) The SEF may enter into any arrangement with any Person or body (including, without limitation, the CFTC, the NFA, any Self-Regulatory Organization, any exchange, market, Swap Data Repository, reporting services 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 Applicable Law.
- (c) The SEF may disclose to any Person or entity information concerning or associated with a Participant or other Person where the SEF believes such disclosure is reasonably necessary and appropriate in exercising a legal or regulatory function.
- (d) Participants, Sponsored Participants, Customers and Clients shall provide the SEF any requested information pursuant to the SEF Rules or Applicable Law as necessary for the SEF to perform any of the functions described in these SEF Rules.

FINANCIAL REQUIREMENTS

Rule 5600 Minimum Financial and Related Reporting Requirements

- (a) Each Participant that is registered with any Government Agency, including the CFTC and the SEC, or a Self-Regulatory Organization shall comply with the provisions of Applicable Law, including, but not limited to, the rules and regulations such Government Agency or

Self-Regulatory Organization imposes on a Participant relating to minimum financial and related reporting and recordkeeping requirements.

- (b) Each Participant shall qualify as an ECP and undertake to timely update any change to the Participant's status as an ECP.
- (c) A copy of any notice or written report that a Participant is required to file with the CFTC pursuant to CFTC Regulation 1.12 shall be concurrently provided to the SEF.
- (d) A Participant who is subject to and violates CFTC Regulations 1.10, 1.12, 1.17 or 1.18 shall be deemed to have violated this Rule 5600.

Rule 5601 Confidentiality of Financial and Other Information

All information and data obtained or received by the Market Regulation 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 5601 does not supplant Rule 5500 and the SEF Rules in Section 7, Applicable Law, or any other requirement of legal process or law.

Rule 5602 Authority to Impose Restrictions

Whenever a Participant is subject to the early warning requirements set forth in CFTC Regulation 1.12, the SEF may impose such conditions or restrictions on the business and operations of such Participant as the SEF may deem necessary or appropriate for the protection of customers, other Participants, or the SEF.

Rule 5603 Additional Disclosure Requirements

Each Participant must comply with all disclosure requirements set forth in applicable CFTC and Self-Regulatory Organization rules and regulations. 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 exchange.

MISCELLANEOUS

Rule 5700 Gifts and Gratuities

Participants shall maintain and enforce gifts policies and procedures to prevent gifts in excess of one hundred dollars (\$100) to Directors, Officers and SEF employees.

Rule 5701 Anti-Money Laundering and Anti-Terrorism

It is SEF policy: (1) not to engage in or knowingly assist any money laundering or other illicit business, and (2) not to engage in or knowingly assist, or be a conduit for, terrorist financing. Participants will be required to provide sufficient information for Participants and their Customers or Clients, if applicable, for SEF to conduct restricted list searches, including, but not limited to,

searches against the Specially Designated Nationals and Blocked Persons list maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury.

Rule 5702 Market Data

- (a) All Participants, Sponsored Participants, Customers and Clients and all Supervised Persons, agents, vendors, and other Persons affiliated with the foregoing understand and acknowledge that the SEF has a proprietary interest in:
 - (1) the price and quantity data from each and every Transaction executed on the SEF or subject to the SEF Rules, including the time at which the Transaction was executed on, or submitted to, the SEF;
 - (2) the price and quantity data for each and every Order or Block Trade submitted to the SEF, including the time at which the Order was entered;
 - (3) the yield curves and reference prices prepared by the SEF;
 - (4) any data and information derived from (1), (2) and (3) and the format and presentation thereof (except a Participant's confidential information or data); and
 - (5) the transmissions and dissemination of the data and information to Participants, any publisher of the data or information with whom the SEF has a written agreement, and any other Persons.
- (b) Except with respect to such Person's confidential information or data, Participants, Sponsored Participants, Customers and Clients and Supervised Persons may not distribute, sell or retransmit any other information displayed on the SEF to any third party without the express written consent of the SEF.
- (c) The SEF may at any time restrict or establish utilization fees in respect of data described in Rule 5702(a) with respect to all or any Participants, Sponsored Participants, Customers or Clients in order to safeguard the security or operations of the SEF or to preserve market integrity, fair and orderly trading, or if otherwise in the public interest, *provided, however*, that view-only access is provided free-of-charge.

Rule 5703 Extension or Waiver of SEF 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.

SECTION 6
ENFORCEMENT OF RULES AND
DISCIPLINARY PROCEEDINGS

Rule 6000 General

- (a) All Participants, Sponsored Participants, Account Managers, Authorized Traders, Clients, Customers, Supervised Persons and any other Person using a User ID of a Participant or login credentials linked to a Participant or User ID shall be subject to the SEF's jurisdiction. Any Participant, Sponsored Participant, Account Manager, Authorized Trader, Client, Customer, Supervised Person or other Person using a User ID of a Participant or login credentials linked to a Participant or User ID is subject to this Section 6 if such Person is 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 other provision of Applicable Law for which the SEF has disciplinary jurisdiction.
- (b) The SEF, through its Market Regulation Department, Review Panels, Disciplinary Panels and Appeals Panels will conduct inquiries, investigations, disciplinary proceedings and appeals from disciplinary proceedings, summary impositions of fines, summary suspensions or other summary actions in accordance with this Section 6.
- (c) The SEF and its Regulatory Services Provider are parties to a Regulatory Service Agreement as referenced in Rule 2600, pursuant to which the Regulatory Services Provider has agreed to perform certain regulatory services described in this Section 6 on behalf of SEF. The SEF Rules that refer to the SEF, SEF staff, the Market Regulation Department and other SEF departments should be understood as also referring to the Regulatory Services Provider, the Regulatory Services Provider staff and the Regulatory Services Provider departments acting on behalf of SEF pursuant to the Regulatory Services Agreement. Notwithstanding the fact that the SEF has entered into the Regulatory Services Agreement with its Regulatory Services Provider to perform some of the SEF's functions, the SEF shall retain ultimate legal responsibility for, and control of, such functions.
- (d) No SEF Official will interfere with or attempt to influence the process or resolution of a Disciplinary Action except to the extent provided under the SEF Rules with respect to a proceeding in which the SEF Official is a member of the relevant panel.
- (e) Any Participant, Sponsored Participant, Account Manager, Authorized Trader, Client, Customer or Supervised Person may be represented by counsel during any Disciplinary Action pursuant to this Section 6.
- (f) The SEF may hold a Participant or any Customer or Client liable for, and impose sanctions against such Participant, Customer or Client, for such Participant's, Customer's or Client's own acts and omissions that constitute a violation as well as for, in the case of a Participant, the acts and omissions of each (A) Authorized Trader of such Participant, (B) other Supervised Person of such Participant, (C) other Person using a User ID of such Participant or login credentials linked to the Participant or User ID, (D) agent or representative of such

Participant, in each case, that constitute a violation as if such violation were that of the Participant, or (E) Sponsored Participant, Client or Customer of such Participant.

- (g) 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 agent or representative of such Authorized Trader that constitute a violation as if such violation were that of the Authorized Trader.

Rule 6001 Inquiries and Investigations

- (a) The Market Regulation Department shall investigate potential or alleged violations of the SEF Rules. The Market Regulation Department will commence an investigation (i) upon the receipt of a request from CFTC staff or (ii) upon the discovery or receipt of information that, in the judgment of the Market Regulation Department, indicates a reasonable basis for finding that a violation may have occurred or will occur. The Market Regulation Department will determine the nature and scope of its inquiries and investigations and will function independently of any commercial interests of the SEF.
- (b) The Market Regulation Department may:
 - (1) initiate and conduct inquiries and investigations, and engage such third-party advisors, include legal counsel, as it deems appropriate;
 - (2) prepare Investigation Reports and make recommendations concerning initiating disciplinary proceedings;
 - (3) prosecute alleged violations within the SEF's disciplinary jurisdiction; and
 - (4) represent the SEF on summary imposition of fines, summary suspension or other summary action.
- (c) Each Clearing Firm, Participant, Sponsored Participant, Account Manager, Authorized Trader, Customer, Client and Supervised Person and any other Person that is subject to the SEF's jurisdiction:
 - (1) is obligated to appear and testify and respond in writing to interrogatories within the time period required by the SEF in connection with:
 - (i) any SEF Rule or any other provision of Applicable Law for which the SEF has disciplinary jurisdiction;
 - (ii) any Disciplinary Action; or
 - (iii) any preparation for and presentation during a Disciplinary Action;

- (2) is obligated to produce books, records, papers, documents or other tangible evidence in its, his or her possession, custody or control within the time period required by the SEF in connection with:
 - (i) any SEF Rule or any other provision of Applicable Law for which the SEF has disciplinary jurisdiction;
 - (ii) any situation in which such books, records, papers, documents or other tangible evidence would be useful to the SEF in determining if a violation of a SEF Rule has occurred;
 - (iii) any Disciplinary Action; or
 - (iv) any preparation for and presentation during a Disciplinary Action; and
- (3) may not impede or delay any Disciplinary Action.
- (d) Each investigation must be completed in a timely manner. Absent mitigating factors, a timely manner is no later than twelve (12) months after the date that an investigation is opened. Mitigating factors that may reasonably justify an investigation taking longer than twelve (12) months to complete include the complexity of the investigation, the number of firms or individuals involved as potential wrongdoers, the number of potential violations to be investigated, and the volume of documents and data to be examined and analyzed by the Market Regulation Department.

Rule 6002 Reports of Investigations

- (a) The Market Regulation Department will maintain a log of all investigations and the disposition of each. The Market Regulation Department will prepare an Investigation Report, regardless of whether the evidence gathered during any inquiry or investigation forms a reasonable basis to believe that a violation within the SEF's jurisdiction has occurred or is about to occur or whether the evidence gathered results in closing the matter without further action or through summary action.
- (b) The Investigation Report will include the reasons for initiating the investigation (including a summary of the complaint, if any), all relevant facts and evidence gathered, Market Regulation Department's analysis and conclusions, the potential respondent's disciplinary history at the SEF, and the recommendation of the Market Regulation Department. For each potential respondent, the Market Regulation Department will recommend:
 - (1) closing the investigation without further action;
 - (2) settlement;
 - (3) summary action;
 - (4) the preparation and service of a Notice of Charges for initiating a disciplinary proceeding;

- (5) resolving the investigation through an informal disposition, including the issuance of a warning letter (an informal disposition (including the issuance of a warning letter) will not constitute a finding of a violation or a sanction);
 - (6) forwarding the Investigation Report to a Review Panel as discussed in Rule 6004; or
 - (7) in the case of one of the violations described in Rule 6016(a)(1) through (4), forwarding the Investigation Report to the Regulatory Oversight Committee for determination regarding whether to impose a summary fine under Rule 6016.
- (c) After reviewing the Investigation Report, the Chief Compliance Officer will:
- (1) proceed with the Market Regulation Department's recommendation;
 - (2) forward the Investigation Report to a Review Panel as discussed in Rule 6004; or
 - (3) in the case of one of the violations described in Rule 6016(a)(1) through (4), forward the Investigation Report to the Regulatory Oversight Committee for determination regarding whether to impose a summary fine under Rule 6016.

Rule 6003 Opportunity to Respond

- (a) If the Review Panel authorizes disciplinary proceedings or the Chief Compliance Officer determines to proceed with the Market Regulation Department's recommendation to initiate disciplinary proceedings, the Market Regulation Department will notify each potential respondent that the Market Regulation Department or Review Panel has recommended formal disciplinary charges against the potential respondent.
- (b) The SEF may allow a potential respondent to propose a settlement of the matter or to submit a written statement explaining why a disciplinary proceeding should not be instituted or one or more of the potential charges should not be brought. The potential respondent shall submit such written statement within the time limit established by the Market Regulation Department.

Rule 6004 Review of Investigation Reports

- (a) The Chief Compliance Officer may, in his/her discretion, convene a Review Panel to review the Investigation Report.
- (b) The Review Panel shall be appointed by the Chief Compliance Officer or the SEF's Regulatory Services Provider and shall be comprised of three individuals, at least two of whom would not be disqualified from serving as Public Directors. Each Review Panel must include members who have had relevant experience in some capacity (whether as a current or former employee, officer, director, principal, consultant, advisor, service provider or otherwise) working with or for sufficient different Membership Interests so as to ensure fairness and to prevent special treatment or preference for any Person in the conduct of the Review Panel's responsibilities, and no member of the Review Panel may be involved in

the adjudication of any other stage of the same proceeding. If a vacancy occurs on a Review Panel after it has begun a proceeding, the remaining members of the panel shall complete consideration and disposition of the matter. Once the Review Panel has provided its decision, it shall be dissolved automatically.

- (c) The Review Panel will review the Investigation Report and any reports of additional investigation or evidence provided by the Market Regulation Department pursuant to Rule 6004(c)(1) below and, within thirty (30) days of receiving the Investigation Report or report of additional investigation or evidence, as applicable, will take one of the following actions:
- (1) If the Review Panel determines that additional investigation or evidence is needed, it will promptly direct the Market Regulation Department to conduct further investigation or obtain additional evidence.
 - (2) If the Review Panel determines that no reasonable basis exists for finding a violation of the SEF Rules or any other provision of Applicable Law for which the SEF has disciplinary jurisdiction has occurred or is about to occur or that adjudication is otherwise unwarranted, it may direct that no further action be taken. Such determination will be in writing, and will include the reason the investigation was initiated, a summary of the complaint, a written statement setting forth the facts and analysis supporting the decision and, if applicable, any recommendations. The Review Panel shall also provide the written statement to any applicable Regulatory Services Provider.
 - (3) If the Review Panel determines that a reasonable basis exists for finding a violation of the SEF Rules or any other provision of Applicable Law for which the SEF has disciplinary jurisdiction has occurred or is about to occur and adjudication is warranted, the Review Panel will determine for each potential respondent whether to authorize:
 - (i) the informal disposition of the investigation (by issuing a warning letter or otherwise) because disciplinary proceedings are unwarranted, in which case the Review Panel shall provide a written explanation to any Regulatory Services Provider;
 - (ii) the closing of the investigation without any action because no reasonable basis exists to believe that a violation within the SEF's jurisdiction has occurred or is about to occur in which case the Review Panel shall provide a written explanation to any Regulatory Services Provider; or
 - (iii) the commencement of disciplinary proceedings because a reasonable basis exists to believe that a violation within the SEF's jurisdiction has occurred or is about to occur.
- (d) A failure of the Review Panel to act within the time prescribed above shall not prevent the appointment of a Disciplinary Panel. The Chief Compliance Officer shall inform the ROC of any such failure of the Review Panel to act. The ROC shall, within thirty (30) days of

the date by which the Review Panel was required to act review the failure and take appropriate action and may itself take any of the actions which the Review Panel could have taken under Rule 6004(c), including appointment of a Disciplinary Panel.

Rule 6005 Notice of Charges

- (a) If the Review Panel (or the ROC in the event of a failure of the Review Panel to act within the requisite time period) authorizes disciplinary proceedings or the Chief Compliance Officer elects to follow the recommendation of the Market Regulation Department to commence a disciplinary proceeding, the Chief Compliance Officer will appoint a Disciplinary Panel as provided in Rule 6009. In addition, the Market Regulation Department will prepare, and serve in accordance with Rule 6007, a notice of charges (a “Notice of Charges”).
- (b) A Notice of Charges will:
 - (1) state the acts, practices or conduct that the respondent is alleged to have engaged in;
 - (2) state the SEF Rule or other provision of Applicable Law alleged to have been violated or about to be violated;
 - (3) state the proposed sanctions;
 - (4) advise the respondent of its right to a hearing;
 - (5) advise the respondent of its right to be represented by legal counsel of its choosing in all succeeding stages of the disciplinary process;
 - (6) state the period of time within which the respondent can request a hearing on the Notice of Charges, which will not be less than twenty (20) days after service of the Notice of Charges;
 - (7) 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
 - (8) advise the respondent that any allegation in the Notice of Charges that is not expressly denied or answered will be deemed to be admitted.

Rule 6006 Answer to Notice of Charges

- (a) If the respondent determines to answer a Notice of Charges, the respondent must file answers within twenty (20) days after being served with such notice, or within such longer time period determined by the Disciplinary Panel in accordance with Rule 6012.

- (b) To answer a Notice of Charges, the respondent must in writing:
 - (1) specify the allegations that the respondent denies or admits;
 - (2) specify the allegations that the respondent does not have sufficient information to either deny or admit;
 - (3) specify any specific facts that contradict the Notice of Charges;
 - (4) specify any affirmative defenses to the Notice of Charges; and
 - (5) sign and serve the answer on the Disciplinary Panel.
- (c) Any failure by the respondent to timely serve an answer to a Notice of Charges will be deemed to be an admission to the allegations in such notice. 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 foregoing requirements.

Rule 6007 Service of Notice of Charges

- (a) Any Notice of Charges or other documents to be served pursuant to this Section 6 may be served on the respondent personally or may be served (and service shall be deemed complete) by leaving the same at his or her place of business, by entrusting the same to reputable overnight courier for tracked delivery, or by depositing the same in the United States mail, postage prepaid, via registered or certified mail, in either case addressed to respondent at the address as it appears on the books and records of the SEF.
- (b) Any Notice of Charges or other documents contemplated to be served pursuant to this Section 6 may also be served upon the respondent and service shall be deemed complete via electronic mail to the electronic mail address as it appears on the books and records of the SEF.

Rule 6008 Settlement Offers

- (a) A respondent or potential respondent may, at any time after completion of an Investigation Report and before disciplinary proceedings have concluded, 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 Market Regulation Department.
- (c) A respondent or potential respondent may offer to settle disciplinary proceedings without admitting or denying the findings contained in the Notice of Charges 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 Rule 6008(a) above, the Market Regulation Department will forward the offer to the Chief Compliance Officer and the Chief Compliance Officer will in turn forward the offer to the Disciplinary Panel with a recommendation on whether to accept or reject the offer.
- (e) If an offer of settlement is forwarded to it pursuant to Rule 6008(d) above, the Disciplinary Panel must review the offer of settlement within ninety (90) Business Days after receipt of the offer of settlement by the Chief Compliance Officer unless an extension has been agreed by the respondent in writing. The Disciplinary Panel may accept the offer of settlement, but may not alter the terms of a settlement offer unless the respondent agrees. A Disciplinary Panel, in its discretion, may permit the respondent to accept a sanction without admitting or denying the rule violation on which the sanction is based.
- (f) If an offer of settlement is accepted by the Disciplinary Panel, it shall issue a written decision specifying:
 - (1) the rule violations it has reason to believe were committed, including the basis or reasons for the panel's conclusions;
 - (2) any sanction to be imposed, which must include full customer restitution where customer harm is demonstrated, except where the amount of restitution or to whom it should be provided cannot be reasonably determined; and
 - (3) if applicable, that the respondent has accepted the sanctions imposed without either admitting or denying the rule violations.
- (g) In the event that the Disciplinary Panel accepts an offer of settlement without the agreement of the Chief Compliance Officer, the Disciplinary Panel's written decision must adequately support such acceptance.
- (h) If an offer of settlement is accepted and the related decision becomes final, 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.
- (i) The respondent may withdraw his, her or its offer of settlement at any time before final acceptance by the Disciplinary Panel. If an offer is withdrawn after submission, or is rejected by the Disciplinary Panel, the respondent must not be deemed to have made any admissions by reason of the offer of settlement and must not be otherwise prejudiced by having submitted the offer of settlement.
- (j) If the offer of settlement of a respondent or potential respondent is not accepted by the Disciplinary Panel, fails to become final 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 Market Regulation Department may use an unaccepted offer of settlement as an admission or in any other manner at a hearing of disciplinary proceedings.

Rule 6009 Disciplinary Panel

- (a) The Chief Compliance Officer or the SEF's Regulatory Services Provider will appoint a Disciplinary Panel (a) to conduct hearings in connection with any disciplinary proceedings authorized by the Chief Compliance Officer or a Review Panel to make findings and impose sanctions and/or (b) to review any offer of settlement made by a respondent or potential respondent after completion of an Investigation Report. The Disciplinary Panel will be comprised of three individuals, at least two of whom would not be disqualified from serving as Public Directors. In addition, each Disciplinary Panel must include members who have had relevant experience in some capacity (whether as a current or former employee, officer, director, principal, consultant, advisor, service provider or otherwise) working with or for sufficient different Membership Interests so as to ensure fairness and to prevent special treatment or preference for any Person in the conduct of the Disciplinary Panel's responsibilities. A Disciplinary Panel may not include any members of the SEF's compliance staff or any Person involved in adjudicating any other stage of the same proceeding. If a vacancy shall occur on a Disciplinary Panel after it has begun its proceedings, the remaining members shall complete consideration and disposition of the matter. Once a Disciplinary Panel has made its decision and notified all relevant parties, it shall be dissolved automatically. The chair of the Disciplinary Panel shall be appointed by the Chief Compliance Officer.
- (b) Within ten (10) days of being notified of the appointment of the Disciplinary Panel, a respondent may seek to disqualify any individual named to the Disciplinary Panel for the reasons identified in the SEF Rules or for any other reasonable grounds by serving written notice on the Chief Compliance Officer. By not timely filing a request for disqualification, the respondent will be deemed to have waived any objection to the composition of a Disciplinary Panel. The Chief Compliance Officer, in consultation with the General Counsel, of the SEF will decide the merits of any request for disqualification within his or her sole discretion. Any such decision will be final and not subject to appeal.
- (c) No Person shall serve on a Disciplinary Panel unless that Person has agreed in writing that he or she will not publish, divulge, or make known in any manner, any facts or information regarding the business of any Person or any other information which may come to his attention in his official capacity as a member of the Disciplinary Panel, except when reporting to the Board or to a committee concerned with such information or to the Market Regulation Department, when requested by the CFTC or other Government Agency or when compelled to testify in any judicial or administrative proceeding.
- (d) All information, records, materials and documents provided to the Disciplinary Panel and all deliberations, testimony, information, records, materials and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further a SEF investigation or as required by law.

Rule 6010 Convening Hearings of Disciplinary Proceedings

- (a) A hearing will be conducted privately and confidentially. Notwithstanding the confidentiality of hearings, the Disciplinary Panel may appoint an expert to attend any

hearing and assist in deliberations if such expert agrees to be subject to an appropriate confidentiality agreement.

- (b) After reasonable notice to each respondent, the Disciplinary 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 Market Regulation Department.
- (c) The chair of the Disciplinary Panel may continue, adjourn or otherwise conduct the hearing, as he or she may deem appropriate. The chair of the Disciplinary Panel will determine all procedural and evidentiary matters, including the admissibility and relevance of any evidence proffered.
- (d) In determining procedural and evidentiary matters, the chair of the Disciplinary Panel will not be bound by any evidentiary or procedural rules or law. Once admitted during the hearing, the Disciplinary Panel may consider, and attach the weight it believes appropriate to, evidence or other materials. The General Counsel of the SEF, or his or her designee, may provide guidance to the chair of the Disciplinary Panel on the conduct of the hearing.
- (e) Except for procedural and evidentiary matters decided by the chair of the Disciplinary Panel pursuant to Rule 6010(c) above and Rule 6012, unless each respondent otherwise consents, the entire Disciplinary Panel must be present during the entire hearing and any related deliberations.

Rule 6011 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 Market Regulation Department will use to support the allegations and proposed sanctions in the Notice of Charges or which the chair of the Disciplinary 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 documents that:
 - (1) are privileged or constitute attorney work product;
 - (2) were prepared by an employee of the SEF but will not be offered in evidence in the disciplinary proceedings;
 - (3) may disclose a technique or guideline used in examinations, investigations or enforcement proceedings; or
 - (4) disclose the identity of a confidential source.
- (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 Market Regulation Department, the Market

Regulation Department may redact, edit or code such information before furnishing it to the respondent.

- (c) Notwithstanding anything in Rule 6011(b) above to the contrary, the Market Regulation 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 Market Regulation Department intends to rely on to support the allegations or proposed sanctions in the Notice of Charges.
- (d) For purposes of this Rule 6011, information that could adversely affect competitive positions may include positions in Swaps or other positions currently held, trading strategies employed in establishing or liquidating positions, the identity of any Customer, Client, Sponsored Participant, Participant or Authorized Trader and the personal finances of the Person providing the information.

Rule 6012 Conducting Hearings of Disciplinary Proceedings

- (a) At a hearing conducted in connection with any disciplinary proceedings, the Market Regulation Department will present its case supporting the allegations and proposed sanctions in the Notice of Charges to the Disciplinary Panel. The respondent is entitled to attend and participate in the hearing.
- (b) At a hearing conducted in connection with any disciplinary proceedings, the Disciplinary Panel or the Market Regulation Department and each respondent may:
 - (1) present evidence and facts determined relevant and admissible by the chair of the Disciplinary Panel;
 - (2) call and examine witnesses; and
 - (3) cross-examine witnesses called by other parties.
- (c) 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 Disciplinary 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 Disciplinary Panel determines that the respondent had a compelling reason for failing to timely file an answer. If the Disciplinary Panel determines that the respondent had a compelling reason for failing to timely file an answer, the Disciplinary Panel will adjourn the hearing and direct the respondent to promptly file a written answer in accordance with Rule 6006.

- (d) If the respondent has requested a hearing on a charge that the respondent denies, or on a sanction set by the Disciplinary Panel under Rule 6014, the respondent will be given an opportunity for a hearing in accordance with the SEF Rules. Except for good cause, such hearing will be limited to addressing those charges denied by the respondent and/or sanctions set by the Disciplinary Panel under Rule 6014 for which a hearing has been requested.
- (e) Any Person entitled, or required or called upon, to attend a hearing before a Disciplinary Panel pursuant to Rule 6012(b)(2) 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 Persons subject to the SEF's jurisdiction that are called as witnesses are required to appear at the hearing and, where applicable, produce evidence. The SEF will make reasonable efforts to secure the presence of all other Persons called as witnesses whose testimony would be relevant.
- (f) If during any disciplinary proceedings the Disciplinary Panel determines that a reasonable basis exists to believe that the respondent violated or is about to violate the SEF Rules or any other provision of Applicable Law for which the SEF has disciplinary jurisdiction other than the violations alleged in the Notice of Charges, the Disciplinary Panel may consider those apparent violations after providing the respondent with an opportunity to answer the additional allegations in accordance with Rule 6006. In connection with considering apparent violations pursuant to this Rule 6012(f), the Disciplinary Panel may request that the Market Regulation Department provide the Disciplinary Panel with any additional information related to the violations at issue.
- (g) The Disciplinary Panel may provide that a sanction be summarily imposed upon any Person within its jurisdiction whose actions impede the progress of a hearing.
- (h) If the respondent has requested the hearing, a copy of the hearing must be made and must become a part of the record of the proceedings. The SEF will arrange for any hearing conducted in connection with disciplinary proceedings to be recorded verbatim, or substantially verbatim, in a manner capable of accurate transcription. If the respondent requests a copy of all or portions of the recording of a hearing, the chair of the Disciplinary Panel may within his or her sole discretion require the respondent to pay the costs for transcribing the recording of the hearing.
- (i) No interlocutory appeals of rulings of any Disciplinary Panel or chair of the Disciplinary Panel are permitted.

Rule 6013 Decision of Disciplinary Panel

- (a) Promptly following a hearing, the Disciplinary Panel will issue a written order rendering its final decision based on the weight of the evidence contained in the record of the disciplinary proceedings. A decision by a majority of the Disciplinary Panel will constitute the final decision of the Disciplinary Panel.

- (b) The Disciplinary Panel will serve a copy of the order of the disciplinary proceedings on the respondent and the Market Regulation Department. The order will include:
- (1) The name of the respondent;
 - (2) the Notice of Charges or summary of the charges;
 - (3) the answer, if any, or a summary of the answer;
 - (4) a summary of the evidence produced at the hearing or, where appropriate, incorporation by reference of the Investigation Report;
 - (5) a statement of findings of fact and conclusions with respect to each charge, including a complete explanation of the evidentiary and other basis for such findings and conclusions with respect to each charge;
 - (6) each specific SEF Rule and/or other provision of Applicable Law that the respondent was found to have violated;
 - (7) a declaration of all sanctions imposed against the respondent, if any, including the basis for such sanctions and the effective date of each sanction;
 - (8) notice of respondent's right to appeal; and
 - (9) a statement informing the respondent of the availability of CFTC review of the action pursuant to Part 9 of the CFTC Regulations.
- (c) The written decision of the Disciplinary Panel will become effective upon the expiration of fifteen (15) days after it is served on the respondent and provided to the Market Regulation Department; *provided, however*, that the SEF may cause the decision to become effective prior to that time to the extent permitted under Part 9 of the CFTC Regulations.

Rule 6014 Sanctions

- (a) After notice and opportunity for hearing in accordance with the SEF Rules, the SEF will impose sanctions on any Person subject to the SEF's jurisdiction, including any Clearing Firm, Customer, Client, Sponsored Participant, Participant, Account Manager, Authorized Trader or Supervised Person, or any Person using a Participant's User ID or login credentials linked to a Participant or User ID, if such Person is found to have violated or to have attempted to violate a SEF Rule or other provision of Applicable Law for which the SEF has disciplinary jurisdiction. All sanctions, including those 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. Any such sanction (including any fine) shall be commensurate with the violation committed and clearly sufficient to deter recidivism or similar violations by other market participants.

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 SEF, and/or other activities, functions or operations;
 - (3) suspension of Trading Privileges and/or ability to otherwise access the SEF;
 - (4) fine (subject to Rule 6014(b) below);
 - (5) restitution and/or disgorgement;
 - (6) termination of Trading Privileges and/or ability to otherwise access the SEF;
 - (7) limitation, suspension or termination of rights as a Clearing Firm; or
 - (8) any other sanction or remedy deemed to be appropriate.
- (b) The SEF may impose a fine of up to \$100,000, unless aggravating or mitigating circumstances otherwise warrant as determined by the SEF, for each violation of the SEF Rules or other provision of Applicable Law for which the SEF has disciplinary jurisdiction. The minimum fine for any one violation is \$1,000. If a fine or other amount is not paid within thirty (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 lesser of (i) the quoted prime rate plus three percent, and (ii) the maximum rate of interest permitted by Applicable Law. The SEF has sole discretion to select the bank on whose quotations it will base the prime rate. A Participant will be responsible for paying any fine or other amount imposed on, but not paid by, any of its Supervised Persons.

Rule 6015 Right to Appeal from Disciplinary Panel Decision, Summary Impositions of Fines and Other Summary Actions

- (a) Each respondent found by the Disciplinary Panel to have violated the SEF Rules or other provision of Applicable Law for which the SEF has disciplinary jurisdiction or who is subject to termination or limitation of Trading Privileges, any summary fine imposed pursuant to Rule 6016 or any other summary action may appeal the decision within twenty (20) days of receiving the order of the Disciplinary Panel or the notice of summary action, as the case may be, by filing a notice of appeal with the Chief Compliance Officer.
- (b) The SEF may appeal all or any part of a decision of the Disciplinary Panel, including any sanctions that may or may not have been imposed by the Disciplinary Panel, within twenty (20) days of receiving the order of the Disciplinary Panel, by filing a notice of appeal with the Chief Compliance Officer.
- (c) While an appeal is pending, the effect of the order of the Disciplinary Panel or the summary action (including any sanctions, remedies or costs imposed thereby) shall be suspended.

- (d) The notice of appeal must state in writing the grounds for appeal, including the findings of fact, conclusions or sanctions to which the appellant objects. An appellant may appeal the order of the Disciplinary Panel or any summary action on the grounds that:
- (1) the order or summary action was arbitrary, capricious, an abuse of discretion or not in accordance with the SEF Rules;
 - (2) the order or summary action exceeded the authority or jurisdiction of the Disciplinary Panel, the Chief Compliance Officer or the SEF;
 - (3) the order or summary action failed to observe required procedures;
 - (4) the order or summary action was unsupported by the facts or evidence; or
 - (5) the sanctions, remedies or costs imposed were inappropriate or unsupported by the record.
- (e) The Chief Compliance Officer will forward copies of any notice of appeal received by him or her to all parties to the disciplinary proceeding or summary action, as the case may be, except the appellant. On or before the twentieth (20th) day after filing a notice of appeal, the appellant must file with the Chief Compliance Officer and serve on the appellee a brief supporting the notice of appeal and documents supporting the brief. On or before the twentieth (20th) day after the date on which the appellant serves its supporting brief, the appellee must file and serve its brief in opposition on the Chief Compliance Officer and the appellant. On or before the tenth (10th) day after the date on which the appellee serves its brief in opposition, the appellant may file and serve on the SEF a brief in reply.
- (f) In connection with any appeal, the Market Regulation Department will furnish to the Chief Compliance Officer and to the appellant and appellee a transcript of the hearing and any exhibits introduced at the hearing.
- (g) No later than thirty (30) days after the last submission filed pursuant to paragraph (e) of this Rule 6015, the Chief Compliance Officer or the SEF's Regulatory Services Provider will appoint an Appeals Panel to consider and determine the appeal. An Appeals Panel shall be comprised of three individuals, none of whom shall be a member of the Market Regulation Department or have been a member of the Disciplinary Panel involved in the matters on appeal and at least two of whom would not be disqualified from serving as Public Directors. In addition, each Appeals Panel must include members who have had relevant experience in some capacity (whether as a current or former employee, officer, director, principal, consultant, advisor, service provider or otherwise) working with or for sufficient different Membership Interests so as to ensure fairness and to prevent special treatment or preference for any Person in the conduct of the Appeals Panel's responsibilities. The chair of the Appeals Panel shall be an individual who would not be disqualified from serving as a Public Director.
- (h) Within ten (10) days of being notified of the appointment of the Appeals Panel, an appellant or appellee may seek to disqualify any individual named to the Appeals Panel or any Person designated as chair thereof for the reasons identified in Rule 2500 or in the definition of

Public Director (as the case may be) or on other reasonable grounds, by serving written notice on the Chief Compliance Officer. By not timely filing a request for disqualification, the appellant or appellee will be deemed to have waived any objection to the composition of the Appeals Panel and appointment of its chair. The Chief Compliance Officer will decide the merits of any request for disqualification within his or her sole discretion. Any such decision will be final and not subject to appeal.

- (i) The Appeals Panel may hold a hearing to allow parties to present oral arguments. Any hearing will be conducted privately and confidentially. Notwithstanding the confidentiality of hearings, the Appeals Panel may appoint an expert to attend any hearing and assist in the deliberations if such individual(s) agree to be subject to appropriate confidentiality agreements. In determining procedural and evidentiary matters, the Appeals Panel will not be bound by evidentiary or procedural rules or law.
- (j) The Appeals Panel will only consider on appeal the record before the Disciplinary Panel or, in the case of a summary action, the record considered by the Chief Compliance Officer, the notice of appeal, the briefs filed in support and opposition of the appeal, and any oral arguments of the parties. The Appeals Panel may only consider new evidence when the Appeals Panel is satisfied that good cause exists for why the evidence was not introduced during the disciplinary proceeding or when imposing the summary action.
- (k) After completing its review, the Appeals Panel may affirm, modify or reverse any order of the Disciplinary Panel or summary action under appeal, in whole or in part, including increasing, decreasing or eliminating any sanction or remedy imposed, imposing any other sanction or remedy authorized by the SEF Rules, or remanding the matter to the same or a different Disciplinary Panel for further disciplinary proceedings or for reconsideration by the Chief Compliance Officer in the case of summary action. The Appeals Panel may order a new hearing for good cause or if the Appeals Panel deems it appropriate.
- (l) As promptly as reasonably possible following its review, the Appeals Panel will issue a written decision on appeal rendering its decision based on the preponderance of the evidence before the Appeals Panel and will provide a copy to the Chief Compliance Officer, the appellant and the appellee. The decision of the Appeals Panel will include a statement of findings of fact and conclusions for each finding, sanction, remedy and cost reviewed on appeal, including each specific SEF Rule and other provision of Applicable Law for which the SEF has disciplinary jurisdiction that the respondent is found to have violated, if any, and the imposition of sanctions, remedies and costs, if any, and the effective date of each sanction, remedy or cost.
- (m) The Appeals Panel's written order on appeal (including findings of fact and conclusions and the imposition of sanctions, remedies and costs, and the effective date of any sanction, remedy cost) will be the final action of the SEF and will not be subject to appeal within the SEF; *provided, however*, that any suspension, expulsion, disciplinary or access denial action or other adverse action by the SEF may (to the extent required thereby) be subject to review by the CFTC pursuant to Part 9 of the CFTC Regulations.

Rule 6016 Summary Imposition of Fines

- (a) Notwithstanding any other provision of this Chapter 6, the SEF may, based on a determination made by the Regulatory Oversight Committee and without the need for any formal disciplinary procedures, summarily impose a fine against a Participant, Sponsored Participant, Account Manager, Authorized Trader, Client, Customer, Supervised Person or any other Person using a User ID of a Participant or login credentials linked to a Participant or User ID for failure to:
- (1) comply with the requirements set forth in Rule 4013.A.(k)(1)(ii);
 - (2) make timely and accurate submissions to the SEF of notices, reports or other information required by the SEF Rules;
 - (3) make timely payments of assessments, fees, costs, charges or fines to the SEF; or
 - (4) keep any books and records required by the SEF Rules.

Investigations of possible violations of any of the foregoing shall be conducted by the Market Regulation Department in accordance with Rule 6001, but otherwise actions taken pursuant to this Rule 6016 shall be made in accordance with the procedures set forth herein rather than the procedures set forth in the remainder of this Chapter 6. The authority to impose a summary fine under this Rule 6016 does not prevent the Chief Compliance Officer from submitting any Investigation Report to a Review Panel in accordance with the formal disciplinary procedures of this Chapter 6 if the Regulatory Oversight Committee elects not to impose such a summary fine.

- (b) The Market Regulation Department will give notice of any fine determined to be imposed by the Regulatory Oversight Committee pursuant to this Rule 6016 to each Participant or other Person subject thereto. The notice will specify:
- (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.
- (c) Within twenty (20) days of serving the notice of fine, the Participant or other Person subject thereto, as the case may be, must either pay or cause the payment of the fine. If a fine or other amount is not paid within twenty (20) days of the date that it becomes payable, then interest will accrue on the sum from the date that it became payable at the lesser of (i) the quoted prime rate plus three percent, and (ii) the maximum rate of interest permitted by Applicable Law. The SEF has sole discretion to select the bank on whose quotations it will base the prime rate. A Participant will be responsible for paying any fine or other amount imposed on, but not paid by, any of its Supervised Persons.
- (d) The SEF will set the amount of any fines imposed pursuant to this Rule 6016 at no less than \$1,000 per violation, with the maximum fine for each violation not to exceed \$5,000.

Recurring violations will be subject to progressively larger fines. Summary imposition of fines pursuant to this Rule 6016 will not preclude the SEF from bringing any other action against the Participant or any other Person.

Rule 6017 Warning Letters

The SEF authorizes the Market Regulation Department to issue a warning letter to a Person or entity under investigation or to recommend that a Disciplinary Panel take such an action. A warning letter issued in accordance with this Rule 6017 is not a penalty or an indication that a finding of a violation has been made. A copy of a warning letter issued by the Market Regulation Department will be included in the Investigation Report. No more than one warning letter for the same potential violation may be issued to the same Person or entity during a rolling 12-month period.

Rule 6018 Summary Access Denial Actions

- (a) The Chief Compliance Officer, upon a good faith determination that there is a reasonable belief that such immediate action is necessary to protect the best interests of the SEF, may summarily suspend, revoke, limit, condition, restrict or qualify the Trading Privileges of a Participant, Sponsored Participant or any Supervised Person, including denial of access to the SEF.
- (b) Non-Participants, including Customers and Clients, may be denied access to the SEF by the Chief Compliance Officer upon a good faith determination that there are substantial reasons to believe that such immediate action is necessary to protect the best interests of the SEF.
- (c) If practicable, a respondent must be served with a notice before the action is taken or otherwise at the earliest possible opportunity. The notice must state the action taken, the reasons for the action, and the effective date, time and the duration of the action taken. The party shall be advised of his right to a hearing, as soon as reasonably practicable, before a Disciplinary Panel by filing notice of intent with the Market Regulation Department within ten (10) Business Days of the notice date.
- (d) Any suspension, revocation, limitation, condition, restriction or qualification imposed on any Participant, Supervised Person or non-Participant (including Sponsored Participants, Customers and Clients) pursuant to this Rule 6018 will be impartially enforced.
- (e) Any denial, conditioning or termination that represents a suspension, expulsion, disciplinary or access denial action or other adverse action within the meaning of Part 9 of the CFTC Regulations may (to the extent required thereby) be subject to review by the CFTC pursuant to Part 9 of the CFTC Regulations.

Rule 6019 Rights and Responsibilities after Suspension, Temporary Deactivation or Termination

- (a) When a Person's Trading Privileges and/or ability to otherwise access the SEF are suspended or temporarily deactivated in accordance with Rule 3105(c), none of its rights

(including the right to hold oneself out to the public as a Participant or Authorized Trader, enter Orders into the SEF, submit Block Trades to the SEF, and receive Participant rates for fees, costs, and charges) will apply during the period of the suspension or deactivation, except for the right of the Person in question to assert claims against others as provided in the SEF Rules. Any such suspension or deactivation will not affect the rights of creditors under the SEF Rules or relieve the Person in question of its, his or her obligations under the SEF Rules to perform any Swaps entered into before the suspension or deactivation, or for any SEF fees, costs, or charges incurred during the suspension or deactivation. The SEF may discipline a suspended or deactivated Person under this Section 6 for any violation of the SEF Rules or other provision of Applicable Law committed by such Person before, during or after the suspension or deactivation.

- (b) When a Person's Trading Privileges and/or ability to otherwise access the SEF are terminated, all of its related rights will terminate, except for the right of the Person 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.
- (c) When a Person's Trading Privileges and/or ability to otherwise access the SEF are terminated, such person will pay to the SEF all assessments, fees, costs, charges and fines due through the termination date (unless such Person shall have previously provided the SEF with written notice of a bona fide dispute in assessments, fees, costs and charges in which case such Person will pay all undisputed fees due through the termination date or unless any such fine is then the subject of an appeal, in which case such fine shall be due in accordance with the procedures applicable to such appeal).
- (d) The SEF will not consider the application of a terminated Participant or Authorized Trader if such Participant or Authorized Trader, 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.
- (e) A suspended, deactivated or terminated Person remains bound by the SEF Rules 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 Person prior to such suspension, deactivation or termination, and must cooperate in any inquiry, investigation, disciplinary proceeding, appeal of disciplinary proceedings, summary suspension or other summary action as if the suspended, deactivated or terminated Person still had Trading Privileges or ability to otherwise access the SEF.

Rule 6020 Notice to the Respondent, the Regulatory Services Provider and the Public; Effectiveness of Disciplinary and Access Denial Actions

- (a) The SEF will provide written notice of disciplinary proceedings and of any access denial actions pursuant to Rule 3103 or 6018 to the relevant parties and the Regulatory Services Provider consistent with applicable CFTC Regulations. Whenever the SEF suspends, expels, fines or otherwise disciplines or denies any Person access to the SEF, the SEF will make the disclosures and notifications required by Part 9 of the CFTC Regulations

(including by any of the alternative methods available thereunder) and any other applicable CFTC Regulations.

- (b) Without limiting the generality of the foregoing, the SEF shall, in accordance with the requirements of CFTC Regulation 9.11, provide written notice of its final decision regarding any disciplinary or access denial action to the Person against whom the action was taken within thirty (30) days of rendering such decision. Pursuant to CFTC Regulation 9.12, any disciplinary or access denial action taken will not become effective until at least fifteen (15) days after the written notice is delivered to the Person disciplined or denied access; *provided, however*, that the SEF may cause a Disciplinary Action to become effective prior to that time in accordance with CFTC Regulation 9.12.

Rule 6021 Costs

- (a) Regardless of the outcome of any disciplinary proceeding, the Disciplinary Panel may order a respondent to pay some or all of the costs associated with the disciplinary proceedings if the Disciplinary Panel concludes that the respondent has behaved in a manifestly unreasonable manner. Costs may include costs associated with the inquiry or investigation, the prosecution by the Market Regulation Department, legal and professional assistance, the hearing and administrative and other expenses incurred by the Disciplinary Panel.
- (b) The Disciplinary Panel may only award costs against the SEF if the panel concludes that the SEF has behaved in a manifestly unreasonable manner in the commencement or conduct of the disciplinary proceedings in question. The Disciplinary Panel must limit any award of costs against the SEF to an amount that the panel concludes is reasonable and appropriate, but does not exceed the respondent's costs for external legal or other external professional assistance.
- (c) The Disciplinary Panel may determine the amounts and allocation of costs in any manner it may deem appropriate. The SEF or the respondent will pay any costs ordered to be paid by it by the Disciplinary Panel within thirty (30) days of written notice of the amount imposed by the Disciplinary Panel. If costs are not paid within twenty (20) days of the date that it becomes payable, then interest will accrue on the sum from the date that it became payable at the lesser of (i) the quoted prime rate plus three percent and (ii) the maximum rate of interest permitted by applicable law. The SEF has sole discretion to select the bank on whose quotations it will base the prime rate. Participant will be responsible for paying any costs imposed on, but not paid by, any of its Supervised Persons.

Rule 6022 *Ex Parte* Communications

- (a) A Person subject to a disciplinary proceeding or an appeal from a disciplinary proceeding (and any counsel or representative of such Person) and the Market Regulation Department (and any counsel or representative of the Market Regulation Department) shall not knowingly make or cause to be made an *ex parte* communication relevant to the merits of a disciplinary proceeding or an appeal from a disciplinary proceeding to any member of the Disciplinary Panel or Appeals Panel hearing such proceeding.

- (b) Members of a Disciplinary Panel or an Appeals Panel shall not knowingly make or cause to be made an *ex parte* communication relevant to the merits of a disciplinary proceeding or an appeal from a disciplinary proceeding to any Person subject to such proceeding (and any counsel or representative of such Person) or the Market Regulation Department (and any counsel or representative of the Market Regulation Department).
- (c) Any Person who receives, makes or learns of any communication that is prohibited by this Rule 6022 shall promptly give notice of such communication and any response thereto to the Market Regulation Department and all parties to the proceeding to which the communication relates.
- (d) A Person shall not be deemed to have violated this Rule 6022 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 6023 [Reserved]

Rule 6024 Extension or Waiver of the SEF Rules

If necessary and expedient, the Chief Compliance Officer may, in his or her 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, CFTC Regulations or other applicable regulations.

Rule 6025 Effect of Amendment, Repeal or New SEF Rule

- (a) 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 Swap and does not affect the value of open Swaps, then the effective date of any amendment or repeal of a SEF Rule or adoption of a new SEF Rule relating to Swaps is binding on all Swaps entered into before and after the effective date of such amendment, repeal or adoption.
- (b) If an amendment or repeal of a SEF Rule or adoption of a new SEF Rule materially changes the terms or conditions of a Swap or affects the value of open Swaps, then the amendment, repeal or new SEF Rule is binding only on Swaps listed for trading after the effective date of such amendment, repeal or adoption, and Swaps 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 6026 [Reserved]

Rule 6027 Governing Law, Jurisdiction and Dispute Resolution

- (a) The law of the State of New York governs the SEF Rules regardless of the laws that would otherwise apply under applicable choice-of-law principles.
- (b) Any dispute between the SEF and a Person arising from or in connection with the SEF Rules or use of the SEF must be brought to arbitration pursuant to subsection (c) of this

Rule 6027 within two (2) years from the occurrence of the event giving rise to the dispute. This Rule 6027 shall in no way create a cause of action nor authorize an action that would otherwise be prohibited by the SEF Rules.

- (c) Any dispute between the SEF and a Person arising from or in connection with the SEF Rules will be settled by arbitration administered in New York County, New York by the American Arbitration Association (the “AAA”) under its Commercial Arbitration Rules. The dispute will be submitted to one arbitrator who will be appointed by the AAA. Any arbitrator appointed for purposes of this Rule 6027 will have experience with and knowledge of commodities, derivatives and Swaps as listed on the National Roster of Arbitrators kept in the AAA’s records. Judgment on the award rendered by the arbitrator will be binding on the parties and may be entered in any state or federal court sitting in New York County, New York, and the SEF and each Person shall be deemed to have consented to the personal jurisdiction of any such court. Each party to the dispute will bear its own costs and expenses in connection with any arbitration hereunder, as well as an equal share of the administrative fees and the fees of the arbitrator; *provided, however*, that the arbitrator will be entitled to include in any award a full reimbursement for the prevailing party’s costs and expenses, such party’s share of the administrative fees and the fees of the arbitrator, or any combination of any or all of the above. In the event that this Rule 6027 is held to be unenforceable in connection with any dispute or a claim is deemed by a court of competent jurisdiction to be not arbitrable, (i) exclusive jurisdiction for any such dispute will reside in any state or federal court sitting in New York County, New York, (ii) the SEF and the Person involved in the dispute will be presumed to have submitted to the personal jurisdiction of any such court, and (iii) an action to enforce any judgment or decision of such court may be brought in the same court or in any other court with jurisdiction or venue. Finally, all Persons unconditionally and irrevocably waive any and all right to trial by jury in connection with any such dispute.

Rule 6028 Limitation of Liability, Indemnity

- (a) UNLESS ARISING OUT OF THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD OF THE SEF, THE SEF, ITS SUBSIDIARIES AND AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS (EACH A “RELATED PARTY” AND COLLECTIVELY “RELATED PARTIES”) HAVE NO LIABILITY, CONTINGENT OR OTHERWISE, TO PARTICIPANTS OR TO THIRD PARTIES, FOR THE CORRECTNESS, QUALITY, ACCURACY, SECURITY, COMPLETENESS, RELIABILITY, PERFORMANCE, TIMELINESS, PRICING OR CONTINUED AVAILABILITY OF THE SEF SERVICES OR FOR DELAYS OR OMISSIONS OF THE SEF SERVICES, OR FOR THE FAILURE OF ANY CONNECTION OR COMMUNICATION SERVICE TO PROVIDE OR MAINTAIN PARTICIPANT ACCESS TO THE SEF SERVICES, OR FOR ANY INTERRUPTION IN OR DISRUPTION OF A PARTICIPANT’S ACCESS OR ANY ERRONEOUS COMMUNICATIONS BETWEEN THE SEF AND A PARTICIPANT. THE SEF AND ITS RELATED PARTIES ARE NOT LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHICH A PARTICIPANT OR ANY THIRD PARTY MAY INCUR OR EXPERIENCE BECAUSE THE PARTICIPANT ENTERED INTO THESE TERMS OR RELIED ON THE SEF

SERVICES, EVEN IF THE SEF KNOWS OF THE POSSIBILITY OF THOSE DAMAGES. THE SEF AND ITS RELATED PARTIES ARE NOT RESPONSIBLE FOR INFORMING A PARTICIPANT OF ANY DIFFICULTIES THE SEF OR OTHER THIRD PARTIES EXPERIENCE CONCERNING USE OF THE SEF SERVICES OR TO TAKE ANY ACTION IN CONNECTION WITH THOSE DIFFICULTIES. THE SEF AND ITS RELATED PARTIES ALSO HAVE NO DUTY OR OBLIGATION TO VERIFY, CORRECT, COMPLETE OR UPDATE ANY INFORMATION DISPLAYED IN THE SEF SERVICES. EACH PARTICIPANT IS SOLELY RESPONSIBLE FOR ANY LOSSES, DAMAGES OR COSTS RESULTING FROM THE PARTICIPANT'S RELIANCE ON ANY DATA OR INFORMATION THAT THE SEF MAY PROVIDE IN CONNECTION WITH A PARTICIPANT'S USE OF THE SEF SERVICES.

- (b) THE SEF DOES NOT MAKE ANY RECOMMENDATION AS TO THE SUITABILITY OF ANY INVESTMENT OR PROPOSED TRANSACTION. EACH PARTICIPANT ACKNOWLEDGES THAT THE SEF WILL NOT, AND ARE UNDER NO DUTY TO, PROVIDE ADVICE IN RELATION TO ANY SUCH TRANSACTION OR PROPOSED TRANSACTION THROUGH ANY SEF SERVICE. EACH PARTICIPANT AGREES THAT (i) THE SEF SERVICES ARE NOT AND WILL NOT BE THE BASIS FOR ANY OF INVESTMENT DECISIONS BY A PARTICIPANT AND (ii) PARTICIPANTS ARE SOLELY RESPONSIBLE FOR (A) ANY INVESTMENT OR TRADING DECISIONS THAT THE PARTICIPANT MAKES WITH RESPECT TO THE PRODUCTS AVAILABLE VIA ANY SEF SERVICE AND (B) DETERMINING WHETHER ANY TRANSACTION IS SUITABLE, APPROPRIATE OR ADVISABLE FOR THE PARTICIPANT OR SPONSORED PARTICIPANT OR CLIENTS OR CUSTOMERS. PROVISION OF THE SEF SERVICES DOES NOT MAKE THE SEF AN ADVISOR OR FIDUCIARY FOR A PARTICIPANT, SPONSORED PARTICIPANT, CLIENT OR CUSTOMER. THESE TERMS DO NOT CONSTITUTE AN OFFER TO SELL OR SOLICITATION OF AN OFFER TO BUY SECURITIES OR OTHER INSTRUMENTS. IN ADDITION, THE SEF SERVICES DO NOT INCLUDE ANY INVESTMENT, FINANCIAL, LEGAL OR TAX ADVICE WHICH PARTICIPANT MAY DESIRE OR NEED IN CONNECTION WITH ANY TRANSACTION. PARTICIPANTS ARE RESPONSIBLE FOR OBTAINING ANY LEGAL OR TAX ADVICE.
- (c) IF A THIRD PARTY CLAIMS THAT THE SEF SERVICES INFRINGE UPON ITS PATENT COPYRIGHT, OR TRADE SECRET, OR ANY SIMILAR INTELLECTUAL PROPERTY RIGHT, THE SEF WILL DEFEND THE PARTICIPANT AGAINST THAT CLAIM AT THE SEF'S EXPENSE AND PAY ALL DAMAGES THAT A COURT FINALLY AWARDS, PROVIDED THAT THE PARTICIPANT PROMPTLY NOTIFY THE SEF IN WRITING OF THE CLAIM AND COOPERATE WITH THE SEF IN THE DEFENSE OR ANY RELATED SETTLEMENT NEGOTIATIONS. THE SEF SHALL HAVE SOLE CONTROL OVER THE DEFENSE AND ANY NEGOTIATION FOR ITS SETTLEMENT OR COMPROMISE. IF SUCH A CLAIM IS MADE OR IS LIKELY TO BE MADE, THE SEF SHALL, AT THE SEF'S SOLE OPTION, HAVE THE RIGHT TO TAKE ONE OR MORE OF THE FOLLOWING ACTIONS AT NO ADDITIONAL COST TO THE PARTICIPANT: (i) PROCURE THE RIGHT FOR THE PARTICIPANT TO CONTINUE THE USE OF THE SEF SERVICES; (ii) REPLACE THE SEF SERVICES WITH NON-INFRINGING SOFTWARE; OR (iii) MODIFY THE SEF

SERVICES SO AS TO BE NON-INFRINGEMENT. IF THE SEF DETERMINE THAT NONE OF THESE ALTERNATIVES IS REASONABLY AVAILABLE, THE PARTICIPANT AGREES TO IMMEDIATELY TERMINATE ITS USE OF THE SEF SERVICES ON THE SEF'S WRITTEN REQUEST. HOWEVER, THE SEF HAS NO OBLIGATION FOR ANY CLAIM BASED ON THE SEF'S USE OF THE SEF SERVICES IN ANY MANNER INCONSISTENT WITH THESE TERMS, PARTICIPANT'S MODIFICATION OF THE SEF SERVICES OR PARTICIPANT'S COMBINATION, OPERATION, OR USE OF THE SEF SERVICES WITH ANY PRODUCT, DATA, OR APPARATUS NOT SPECIFIED OR PROVIDED BY THE SEF, PROVIDED THAT SUCH CLAIM SOLELY AND NECESSARILY IS BASED ON SUCH COMBINATION, OPERATION OR USE, OR FOR CONTINUED ALLEGEDLY INFRINGING ACTIVITY BY THE PARTICIPANT AFTER THE PARTICIPANT HAVE BEEN NOTIFIED OF POSSIBLE INFRINGEMENT, UNLESS APPROVED IN ADVANCE BY THE SEF. THE FOREGOING REPRESENTS THE SOLE AND EXCLUSIVE REMEDY FOR PARTICIPANTS WITH REGARD TO ANY OF THE ABOVE INFRINGEMENTS OR ALLEGED INFRINGEMENTS.

- (d) WITH THE EXCEPTION OF THE PROVISIONS OF RULE 6028(c), THE SEF'S LIABILITY AND THE COLLECTIVE LIABILITY OF THE SEF'S RELATED PARTIES AND THE THIRD PARTY SERVICE PROVIDERS SELECTED BY THE SEF, IF ANY, ARISING OUT OF ANY KIND OF LEGAL CLAIM (WHETHER IN CONTRACT, TORT, OR OTHERWISE) OR IN ANY WAY CONNECTED TO A PARTICIPANT'S USE OF THE SEF SERVICES WILL NOT EXCEED \$500,000 UNLESS CAUSED DIRECTLY BY THE SEF'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.
- (e) NONE OF THE ABOVE WILL LIMIT PARTICIPANT'S RIGHTS AND REMEDIES OTHERWISE AVAILABLE UNDER THE STATE OR FEDERAL SECURITIES LAWS, CFTC REGULATIONS OR THE CEA.

SECTION 7 EMERGENCIES

Rule 7000 Emergency Rules

- (a) During an Emergency, the Board and/or the CEO (or, if the CEO is not available, the most senior Officer that is available), in consultation with the CFTC and/or any relevant DCO, as necessary, may implement temporary emergency procedures and rules (“Emergency Rules”), subject to the applicable provisions of the CEA and CFTC Regulations. Emergency Rules may require or authorize the SEF, the Board, any committee of the Board, the CEO or any other Officer to take Emergency Action necessary or appropriate to respond to the Emergency. If applicable, the SEF may provide for the carrying out of Emergency Actions through its agreements with its Regulatory Services Provider.
- (b) Before any Emergency Rule may be adopted and enforced, a required vote of the Board must approve the enforcement of such Emergency Rule at a duly convened meeting. Directors may attend such a meeting by teleconference and such meeting may, if necessary, be conducted pursuant to Rule 2100(c). Notwithstanding, if the CEO (or, if the CEO is not available, the most senior Officer that is available) determines that Emergency Rules must be implemented with respect to an Emergency before a meeting of the Board can reasonably be convened, then the CEO (or such seniormost Officer) shall have the authority, without Board 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 CEO (or such seniormost Officer) must convene a meeting of the Board (which may, if necessary, be conducted pursuant to Rule 2100(c)) as soon as practicable thereafter. Notwithstanding that the Board does not ratify or approve extending or making permanent any Emergency Rules implemented by the CEO or seniormost Officer pending convening of the Board meeting, all actions previously taken in accordance with such Emergency Rules shall remain binding and valid.
- (c) Whenever the SEF, the Board, any committee of the Board, the CEO or any other Officer takes actions necessary or appropriate to respond to an Emergency in accordance with any Emergency Rule, a duly authorized representative of the SEF, where possible, will post an announcement in a Notice to Participants. When the Board and/or the CEO (or, if the CEO is not available, the most senior Officer that is available) determines that the Emergency has been reduced sufficiently to allow the SEF to resume normal functioning, any such actions responding to an Emergency will be terminated.
- (d) 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 as soon as possible or reasonably practicable but in all circumstances within twenty-four (24) hours of the implementation, modification or termination of such Emergency Rule.
- (e) Upon taking any action in response to an Emergency, the SEF will document the decision-making process related to such action. Such documentation will be kept for at least five (5)

years 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.

SECTION 8
RECORDKEEPING AND REPORTING

Rule 8000 Maintenance of Books and Records by the SEF

- (a) The SEF shall keep, or cause to be kept, all books and records required to be maintained by it pursuant to the CEA and the CFTC Regulations, including CFTC Regulations 37.1001 and 45.2. Such records shall include, without limitation, a complete audit trail for all Swaps executed on or subject to the SEF Rules, investigatory files and disciplinary files.
- (b) The SEF shall retain all books and records related to a Swap executed on or pursuant to the SEF Rules throughout the life of the Swap and for a period of at least five (5) years following the final termination of the Swap and shall retain all other books and records for a period of at least five (5) years, in each case, in the form and manner required under the CEA and CFTC Regulations, including CFTC Regulations 1.31, 45.2 and 37.1001.
- (c) All books and records required to be maintained by the SEF shall be open to inspection upon request by any representative of the CFTC, the United States Department of Justice or the SEC or by any representative of a prudential regulator as authorized by the CFTC. In addition, all audit trail data and reconstructions shall be made available to the CFTC or the United States Department of Justice in a form, manner and time that is acceptable to the CFTC or the United States Department of Justice, as applicable.
- (d) The SEF may disclose, to any Government Agency, Self-Regulatory Organization or other Person, information concerning or associated with a Participant or other Person if the SEF believes such disclosure 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 8001 Order Information

- (a) Each Authorized Trader entering an Order with respect to any Swap traded on or subject to the SEF Rules must include with the Order, all data required to enable the SEF to meet its reporting obligations under Parts 43 and 45 of the CFTC Regulations, including without limitation:
 - (1) the User ID;
 - (2) the Participant ID;
 - (3) the Legal Entity Identifier of the Participant and, where the Participant is acting as agent, of the Customer or Client, with respect to the Swap for which the Order is placed;
 - (4) the price or yield, quantity and maturity or expiration date of the Swap;
 - (5) side of the Order;

- (6) the Customer Type Indicator Code (as specified below);
- (7) a yes/no indication of whether the Participant, Customer or Client is a Swap Dealer;
- (8) a yes/no indication of whether the Participant, Customer or Client is a Major Swap Participant;
- (9) a yes/no indication of whether the Participant, Customer or Client is a Financial Entity;
- (10) a yes/no indication of whether the Participant, Customer or Client is a U.S. person;
- (11) if the Swap will be allocated:
 - (i) an indication that the Swap will be allocated;
 - (ii) the Legal Entity Identifier of the Account Manager acting as agent;
 - (iii) a yes/no indication of whether the Account Manager acting as agent is a U.S. person;
 - (iv) an indication of whether the Swap is a post-allocation Swap;
 - (v) if the Swap is a post-allocation Swap, the account and Legal Entity Identifier for each Client that received allocations; and
 - (vi) if the Swap is a post-allocation Swap, the USI of the original Transaction between the Reporting Counterparty and the Account Manager acting as agent;
- (12) if applicable, an indication that the Participant, Customer or Client will elect to rely on a Clearing Exception for any Swap resulting from the Order and a description of the applicable Clearing Exception;
- (13) a yes/no indication of whether the Order is part of a Package Transaction;
- (14) if the Order is part of a Package Transaction, a description of the Transaction;
- (15) an indication of whether the Order is a Prime Brokerage Order; and
- (16) if a Prime Brokerage Order, the identity of the relevant Prime Broker.

For purposes of this Rule 8001(a), the “Customer Type Indicator Codes” are as follows:

- CTI 1 – Orders for the proprietary account of a Participant that is natural person.
- CTI 2 – Orders for the proprietary account of a Participant that is not a natural person.

- CTI 3 – Order entered by a Participant for the proprietary account of another Participant or for an account which the other Participant controls or has an ownership or financial interest in.
 - CTI 4 – Any order not meeting the definition of CTI 1, 2 or 3, including those entered by Introducing Brokers on behalf of a Customer.
- (b) Participants and ISVs that operate systems that route orders to the SEF are responsible for maintaining or causing to be maintained a routing/front-end audit trail for all Orders, which shall include Order entry, modification and cancellation and any SEF responses to such messages. For executed Orders, such audit trail must record the execution time of the Transaction, along with all fill information. Participants and ISVs shall maintain audit trail information as required by Applicable Law and must have the ability to produce audit trail data in a reasonably usable format upon request of the SEF. The SEF will enforce these audit trail and recordkeeping requirements by conducting an annual review of all Participants to verify their compliance with the SEF’s audit trail and recordkeeping requirements.

Rule 8002 Books and Records

- (a) Each Member, Customer, Client and Clearing Member must prepare and keep, or cause to be kept, all books, ledgers and other records relating to its activity on the SEF required to be kept by it pursuant to Applicable Law, and must prepare and keep such other books and records relating to its SEF activity as the SEF may from time to time prescribe. Such books and records must include, as applicable, records of such Person’s trading, including records of the Person’s activity in the index or instrument used as a reference price, the underlying commodity and related derivatives markets, and records of all non-swap components of Package Transactions. Each such Person shall retain all required books and records in accordance with Applicable Law, including the applicable provisions of CFTC Regulations 1.31 and 45.2, and shall make such books and records available, upon request, to the SEF, the SEF’s Regulatory Services Provider, the CFTC or the United States Department of Justice and as otherwise required by Applicable Law.
- (b) In addition to the information required by subsection (a) of this Rule 8002, each Member must comply with all applicable requirements of CFTC Regulation 1.35.
- (c) If a Participant cannot enter an Order received from its Customer into the SEF, either directly or indirectly through an Execution Specialist, the Participant must immediately create an electronic record that includes the account identifier that relates to the Customer, time of receipt and terms of the Order.
- (d) Each Person required to keep records in accordance with this Rule 8002 shall keep all books and records in accordance with the SEF Rules for a period of five (5) years from the date on which they are first prepared unless otherwise provided in the SEF Rules or other Applicable Law. Such books and records shall be readily accessible during the first two (2) years of such five-year period, unless otherwise provided in the SEF Rules or other Applicable Law. Each such Person that is a counterparty to a Swap on the SEF or pursuant

to the SEF Rules shall retain all books and records related to such Swap for the life of the Swap and for a period of at least five (5) years following the final termination of the Swap. Each such Person that is a counterparty to an Uncleared Swap on the SEF or pursuant to the SEF Rules shall notify the SEF of any extension of the final termination of the Swap beyond the original stated maturity in order to enable the SEF to comply with Rule 8000(b) and the SEF's obligations under Applicable Law.

- (e) The SEF may require a Member, Customer or Client to furnish any information in connection with such Person's activities on the SEF including (i) information relating to Swaps executed on the SEF or pursuant to the SEF Rules, on or pursuant to the rules of other swap execution facilities, DCMs or in related derivatives markets or to transactions or positions in the products underlying, related to or indexed to those Swaps or to which those Swaps are indexed (in whole or in part), and (ii) information requested by a Government Agency relating to the SEF and/or the SEF's compliance with Applicable Law that the SEF believes is maintained by, or otherwise in the possession or control of, such Person.
- (f) Each Authorized Trader shall prepare and keep, or cause to be kept, all books, ledgers and other records relating to its activity on the SEF as may be required to enable its related Member to comply with such Member's obligations under this Rule 8002. Each Authorized Trader shall not knowingly take any action that would cause its associated Member to fail to comply with Rule 8002(d), and each Authorized Trader shall cooperate as necessary to enable its associated Member to comply with such Member's obligations under Rule 8002(e).
- (g) Without limiting the generality of the foregoing, with respect to any Swap that has been allocated following execution on the SEF or pursuant to the SEF Rules, all Members, Customers and Clients must prepare and keep, or cause to be kept, all books, ledgers and other records as may be necessary to provide relevant information with respect to such post-trade allocation and will furnish such information to the SEF if the SEF, at the request of the CFTC or otherwise, requests such information. This Rule 8002(g) is intended to comply with the conditions of the no-action relief granted by the CFTC's Division of Market Oversight in No-Action Letter 17-54, expiring at 11:59 p.m. (Eastern Time) on November 15, 2020. If such no-action relief is extended, upon and to the extent of such extension, the provisions of this Rule 8002(g) will continue apply.

Rule 8003 Recordkeeping Requirements for Block Trades

Block Trades submitted to the SEF in accordance with Rule 4016(b) must comply with the following recordkeeping requirements:

- (a) Block Trades must be submitted in the form of a written or electronic record and must include information meeting the requirements of Rule 8001, including, without limiting the generality of the foregoing, Legal Entity Identifier information required by Rule 8001(8) with respect to parties and, where required, their agents, and a timestamp reflecting the date and time that the submission was received by the SEF.

- (b) The record shall also include a timestamp reflecting the date and time that the Transaction was executed or cancelled to the nearest millisecond.

Rule 8004 Access to Position Information

Without limiting any provision of these SEF Rules, the SEF and any Regulatory Services Provider, shall have the authority to obtain from any Participant, Sponsored Participant, Account Manager, Customer or Client, or Supervised Person information with respect to positions of such Person or any Sponsored Participant, Customer or Client, or Supervised Person. This authority shall include the authority to obtain information concerning positions maintained at other firms, and it shall be the obligation of a Participant receiving such an inquiry to obtain such information from its Account Manager, Sponsored Participant, Customer, Client, or any Supervised Person. In the event a Participant Sponsored Participant, Customer, Client, or any Supervised Person fails to provide the requested information the SEF, in addition to any other remedy provided in these SEF Rules, may order that the Participant, Account Managers, Sponsored Participant, Customer, Client, or any Supervised Person liquidate the positions that are related to the inquiry.

Rule 8005 Reporting to a Swap Data Repository

- (a) The SEF will report each Swap executed on the SEF or pursuant to the SEF Rules as soon as technologically practicable after execution to an Approved SDR in compliance with Parts 43 and 45 of the CFTC Regulations. For all Swaps executed on the SEF or pursuant to the SEF Rules, the SEF will report all swap transaction and pricing data required to be reported by Part 43 of the CFTC Regulations and all “primary economic terms data” (as defined in CFTC Regulation 45.1) required by Part 45 of the CFTC Regulations. In addition, for Uncleared Swaps, the SEF will report any “confirmation data” (as defined in CFTC Regulation 45.1) that is readily available and collected by the SEF.
- (b) All Swaps executed on the SEF or pursuant to the SEF Rules will be reported to DTCC Data Repository (U.S.) LLC (“DDR”), except that Swaps in the commodities asset class will be reported to the Approved SDR selected by the parties prior to executing the relevant Swap. The SDRs that are currently “Approved SDRs” are: (i) DDR; (ii) Chicago Mercantile Exchange Inc.; and (iii) ICE Trade Vault.
- (c) The Reporting Counterparty for each Swap shall be established pursuant to CFTC Regulation 45.8. If the identity of the Reporting Counterparty cannot be established under CFTC Regulation 45.8, the ISDA Reporting Counterparty Rules shall be applied as provided in Appendix A hereto.
- (d) If at any time the Reporting Counterparty for a Transaction that was executed on the SEF or pursuant to the SEF Rules becomes aware of an error or omission in the swap transaction or pricing data that was reported with respect to such Transaction, either through its own initiative or through notice by the other party to the Transaction, such party shall promptly notify the SEF of the error and/or correction. Upon receiving a notification from the Reporting Counterparty or otherwise becoming aware of an error or omission in the swap transaction or pricing data reported with respect to a Transaction executed on the SEF or pursuant to the SEF Rules, the SEF shall promptly submit corrected data to the same Swap

Data Repository to which the Transaction was previously reported. For the avoidance of doubt, if a Transaction was incorrectly executed, Rule 5103 shall apply.

- (e) No Person shall 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 Applicable Law, including the reporting requirements set forth in Part 43 of the CFTC Regulations.

Rule 8006 Timely Publication of Trading Information

The SEF will publish trading information as required by Core Principle 9 of Part 37 and by Part 16 of the CFTC Regulations.

Mr. Christopher J. Kirkpatrick
April 29, 2020

EXHIBIT C

tpSEF Inc. Rulebook

(Marked Version)

tpSEF Inc.

Rulebook

Effective ~~March 1~~ May 14, 2020

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SECTION 1 DEFINITIONS

Rule 1000 Definitions

Unless otherwise specifically provided in the SEF Rules or the context otherwise requires, the following terms have the meanings specified herein.

“*Account Manager*” means an investment manager or other Person acting in a similar capacity that (i) is not an individual, and (ii) acts as an agent and attorney-in-fact to transact Swaps via the SEF in the name and on behalf of a Client. An Account Manager may be a Participant, a Sponsored Participant or a Customer.

“*Affected Person*” has the meaning specified in Rule 3103.

“*Affiliate*” means with respect to any Person, any Person who, directly or indirectly, controls, is controlled by or is under common control with, such other Person.

“*Affirm*” means the process by which the counterparties to a Cleared Swap verify that they agree on the details of the transaction after execution on the SEF but prior to submission to the relevant DCO, which may be done by any means acceptable to the counterparties, including the use of an Affirmation Hub.

“*Affirmation Hub*” means a third-party service designated by the SEF to route Cleared Swaps to DCOs and which may provide Participants or Customers, as applicable, with the opportunity to Affirm the Cleared Swaps.

“*Appeals Panel*” means a panel appointed by the Chief Compliance Officer pursuant to Rule 6015.

“*Applicable Law*” means, with respect to any Person, any statute, law, regulation, rule or ordinance of any governmental or self-regulatory authority applicable to such Person, including (without limitation) these SEF Rules, any DCO Rule, the CEA and CFTC Regulations.

“*Appropriate Minimum Block Size*” means the minimum notional or principal amount established from time to time by the CFTC for a category of Swap that qualifies as a block trade pursuant to CFTC Regulation 43.6. The Appropriate Minimum Block Size is published by the CFTC or its designee from time to time in accordance with CFTC Regulations 43.6 and 43.7 and are included in Appendix D hereto.

“*Approved SDR*” has the meaning specified in Rule 8005(b).

“*Authorized Representative*” means any natural Person who is employed and authorized by a Participant to represent the Participant in SEF matters pursuant to Rule 3113.

“*Authorized Trader*” means a Person who is appointed, employed or authorized by a Participant (or by a Sponsored Participant) and who has been assigned a User ID by the SEF. Each Authorized Trader: (i) must be a natural Person; (ii) must have been granted Trading Privileges

with respect to the trading activities of a Participant (or Sponsored Participant); and (iii) must satisfy any other requirements as may be prescribed by the SEF from time to time. In the case of a Prime Broker Client, each Authorized Trader designated by such Prime Broker Client shall be considered an Authorized Trader of the Prime Broker Client and not of the relevant Prime Broker.

“*Block Trade*” means a Swap that: (i) has a notional or principal amount at or above the Appropriate Minimum Block Size applicable to such Swap; (ii) is executed pursuant to the SEF Rules and (x) in the case of an Uncleared Block Trade, occurs away from a SEF trading system or platform or (y) in the case of a Cleared Block Trade, is executed on a non-Order Book trading system or platform of the SEF in accordance with Rule 4016(j); and (iii) is a publicly reportable swap transaction that is reported subject to the ~~rules~~ [SEF Rules](#) and procedures of the SEF and Part 43 of the CFTC Regulations.

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

“*Business Day*” means a day on which the SEF is open for trading as provided on the SEF website.

“*By-Laws*” means the by-laws of the SEF.

“*Cancellation Notice*” has the meaning specified in Rule 4105(b)(2).

“*CEA*” means the Commodity Exchange Act, as amended.

“*CFTC*” means the U.S. Commodity Futures Trading Commission.

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

“*Chief Compliance Officer*” means the chief compliance officer of the SEF appointed pursuant to Rule 2201.

“*Chief Executive Officer*” or “*CEO*” means the chief executive officer of the SEF appointed by the Board pursuant to Rule 2200.

“*Cleared Block Trade*” means a Block Trade in a Cleared Swap.

“*Cleared Swap*” means (i) a Swap that is subject to the Clearing Requirement, or (ii) any Swap of a type that is accepted by a DCO for clearing that the parties have elected to submit for clearing, whether or not the particular Swap is accepted or rejected.

“*Clearing Exception*” means an exception to, or an exemption from, the Clearing Requirement, which exception or exemption is set forth in Section 2(h)(7) of the CEA, CFTC Regulations or any CFTC No-Action Letter.

“*Clearing Exempt Transaction*” means a Transaction that is not subject to the Clearing Requirement due to an election by one or more counterparties to use an available Clearing Exception.

“*Clearing Firm*” means a Clearing Member that provides clearing services to one or more Participants, Sponsored Participants, Clients or Customers and has either executed a Clearing Firm Agreement or in relation to which the relevant Participant, Sponsored Participant, Client, Customer and/or Clearing Member has provided the SEF with evidence or assurances satisfactory to the SEF of the existence and scope of the clearing services provided.

“*Clearing Firm Agreement*” means an agreement between the SEF and a Clearing Firm that includes (i) a list of the DCOs of which the Clearing Firm is a member, (ii) a list of the Persons for whom the Clearing Firm provides clearing services and (iii) if the Clearing Firm does not clear at all such DCOs for all such Persons, a per-Person list of the DCOs at which it does clear for such Person. The Clearing Firm shall be entitled to update this information in its sole discretion by written notice to the SEF and upon receipt of such notice, the SEF shall take such action necessary to effect the Clearing Firm’s modifications as promptly as practicable. For the avoidance of doubt, notwithstanding that such notice has not yet been provided or such modifications made, if the Clearing Firm has ceased to provide clearing services to a Person on any or all DCOs, the Clearing Firm may reject all such Person’s trades during the pre-execution credit check described in Rule 4017.

“*Clearing Member*” means a member of a DCO that is authorized to clear Swaps for itself and/or for other Persons.

“*Clearing Requirement*” means the mandatory clearing requirement set forth in Section 2(h)(1)(A) of the CEA.

“*Client*” means a Person that granted in writing to an Account Manager investment discretion on behalf and in the name of such Person.

“*Confirmation*” means a written record of all the terms of a Transaction as required by Applicable Law.

“*Correcting Transaction*” has the meaning specified in Rule 4013.A.(f).

“*Cross Transaction*” a Permitted Cross Transaction or a Required Cross Transaction.

“*Customer*” means a Person for whom an Introducing Broker, as agent, (i) enters Orders and/or engages in Transactions on the SEF, and/or (ii) submits Uncleared Block Trades pursuant to the SEF Rules. A Customer may be a Participant acting through an Introducing Broker as agent in accordance with the foregoing sentence, including a Participant that is a Prime Broker Client acting through an Introducing Broker.

“*Customer Type Indicator Code*” has the meaning specified in Rule 8001(a).

“*DCM*” means a designated contract market as defined in CFTC Regulation 1.3(h).

“DCO” means a derivatives clearing organization as defined in Section 1a(15) of the CEA that is registered with, or has been exempted from registration by, the CFTC and that provides clearing services with respect to any Swaps traded on; [the SEF](#) or pursuant to the ~~rules of, the~~ [SEF Rules](#).

“DCO Rules” means the relevant organizational documents of a DCO and any relevant 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 DCO.

“DDR” has the meaning specified in Rule 8005(b).

“Deal Management System” means the SEF’s back-end systems that facilitate post-trade processing and that can be used to execute Permitted Cross Transactions as described in Rule 4004.

“Director” means any member of the Board.

“Disclosable Financial Interest” means the position information contained in CFTC Regulation 1.69(b)(2)(iii)(A) – (E).

“Disciplinary Action” means any inquiry, investigation, disciplinary proceeding, appeal from a disciplinary proceeding, summary imposition of fines, summary suspension or other summary action.

“Disciplinary Offense” means any of the following violations, which, in each case, arises out of a proceeding or action that is brought by the SEF, a Self-Regulatory Organization, the CFTC or any federal or state agency or other governmental body:

- (1) Any violation of the ~~rules of the~~ [SEF Rules](#) or the rules of a Self-Regulatory Organization, except those violations related to (i) decorum or attire, (ii) financial requirements or (iii) reporting or recordkeeping unless resulting in fines aggregating more than \$5,000 within any calendar year;
- (2) Any violation described in paragraph (1)(i) – (iii) immediately above that involves fraud, deceit or conversion or results in a suspension or expulsion;
- (3) Any violation of the CEA or CFTC Regulations; or
- (4) Any failure to exercise supervisory responsibility with respect to acts described in paragraphs (1) – (3) immediately above when such failure is itself a violation of the ~~rules of the~~ [SEF Rules](#), the rules of a Self-Regulatory Organization, the CEA or the CFTC Regulations.

“Disciplinary Panel” means the panel appointed by the Chief Compliance Officer to act in an adjudicative role and fulfill various adjudicative responsibilities and duties described in Section 6 of the SEF Rules.

“Displayed Order” has the meaning specified in Rule 4011(a)(2).

“ECP” means an “eligible contract participant” as defined in Section 1a(18) of the CEA and CFTC Regulations thereunder.

“Emergency” means any occurrence or circumstance that, in the opinion of the Board and/or the CEO (or, if the CEO is not available, the most senior Officer that is available), 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 DCO, including, without limitation, the following:

- (1) any manipulative or attempted manipulative activity;
- (2) any actual, attempted or threatened corner, squeeze, congestion or undue concentration of positions in a Swap or any related asset;
- (3) any circumstance that 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;
- (4) any action taken by any governmental body, or any other registered entity, board of trade, market or facility that may have a direct impact on trading or clearing and settlement of, or the legality or enforceability of, any Swap;
- (5) the imposition of any injunction or other restraint by any government agency, court or arbitrator upon a DCO which may affect the ability of a DCO to perform on a Swap;
- (6) any circumstance that may have a severe, adverse impact upon the functions and facilities of the SEF, including, but not limited to, acts of God, fire, flood or other natural disasters, bomb threats, acts of terrorism or war, severely inclement weather or failure or malfunction of all or a portion of the SEF, or other system breakdowns or interruptions such as power, computer, communication or transportation systems or the Internet;
- (7) any circumstance in which it appears to the Board and/or the CEO (or, if the CEO is not available, the most senior Officer that is available) that a DCO or any other Person:
 - (i) has failed to perform on a Swap;
 - (ii) is insolvent; or
 - (iii) is in a financial or operational condition or is conducting business such that (A) the DCO cannot be permitted to continue to clear Swaps transacted on the SEF or pursuant to the ~~rules of the~~ SEF Rules without jeopardizing the safety of Participants, the SEF or any other Person or (B) the Person cannot be permitted to continue to transact business on the SEF

without jeopardizing the safety of Participants, the SEF, any DCO or any other Person; or

- (8) any other circumstance that may have a severe, adverse effect upon the functioning of the SEF.

“*Emergency Action*” means any action taken in accordance with Rule 7000 by the SEF, the Board, any committee of the Board, the CEO or any other Officer in response to an Emergency, including, without limitation, any of the following actions:

- (1) suspending or curtailing trading or limiting trading (in whole or in part);
- (2) ordering the fixing of a settlement price, or the reduction of positions;
- (3) extending, limiting or changing the Trading Hours;
- (4) temporarily modifying or suspending any provision of the SEF Rules or Obligations;
- (5) imposing or modifying price limits;
- (6) altering any contract’s settlement terms or conditions;
- (7) imposing or modifying position limits; and/or
- (8) ordering any other action or undertaking to address or relieve the Emergency.

“*Emergency Rules*” has the meaning specified in Rule 7000.

“*Error*” has the meaning specified in Rule 5103.C.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended.

“*Execution Specialist*” means a SEF employee responsible for assisting Participants and Sponsored Participants (and any of their Supervised Persons) in entering on the SEF Orders and Transactions and receiving reports of Uncleared Block Trades.

“*Family Relationship*” means, with respect to any natural person, such natural person’s spouse, former spouse, parent, stepparent, child, stepchild, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece or in-law.

“*Financial Entity*” has the meaning set forth in [Section 2\(h\)\(7\)\(C\) of the CEA](#).

“*FCM*” means futures commission merchant as defined under Section 1a(28) of the CEA and CFTC Regulation 1.3(p).

“*Government Agency*” means any governmental entity, body or agency of any government (including the United States, a state or foreign government).

“*Instrument Reference Price*” has the meaning specified in Rule 4003.B.(d)(1)(ii).

“*Interested Person*” has the meaning specified in Rule 2500(a).

“*Introducing Broker*” is a Participant that (i) is a registered or exempt FCM or introducing broker (as defined in Section 1a(31) of the CEA and CFTC Regulation 1.3(mm)), and (ii) enters Orders or engages in Transactions on the SEF, and/or submits Uncleared Block Trades pursuant to the SEF Rules, on behalf of one or more Customers.

“*Investigation Report*” means any written report of investigation prepared by the Market Regulation Department.

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

“*ISDA Reporting Counterparty Rules*” means the rules identified in Appendix A hereto, as may be amended from time to time, for establishing a Reporting Counterparty under the circumstances where CFTC Regulation 45.8 does not determine a Reporting Counterparty (for example, because both counterparties are Swap Dealers or both counterparties are Major Swap Participants) as published by ISDA under the title “Dodd Frank Act – Swap Transaction Reporting Party Requirements” as such rules may be amended, restated, supplemented or otherwise modified or replaced from time to time.

“*ISV*” means independent software vendor.

“*Legal Entity Identifier*” has the meaning set forth in Part 45 of the CFTC Regulations.

“*Major Swap Participant*” has the meaning set forth in Section 1a(33) of the CEA and CFTC Regulations thereunder.

“*Market Regulation Department*” means the department within the SEF managed and overseen by the Chief Compliance Officer that regulates compliance with the SEF Rules. For purposes of the SEF Rules, Market Regulation Department may, as applicable, also include any Regulatory Services Provider pursuant to a Regulatory Services Agreement.

“*MAT/Agency MBS Package Transactions*” has the meaning set forth in CFTC No-Action Letter 14-137.

“*MAT/Futures Package Transactions*” has the meaning set forth in CFTC No-Action Letter 17-55.

“*MAT/MAT Cleared Package Transaction*” means a Package Transaction, all components of which are made available to trade and which is not a Clearing Exempt Transaction.

“*MAT/New Issuance Bond Package Transactions*” has the meaning set forth in CFTC No-Action Letter 17-55.

“*MAT/Non-CFTC Swap Package Transactions*” has the meaning set forth in CFTC No-Action Letter 17-55.

“*MAT/Non-MAT Cleared Package Transactions*” has the meaning set forth in CFTC No-Action Letter 15-55.

“*MAT/Non-MAT Uncleared Package Transactions*” has the meaning set forth in CFTC No-Action Letter 17-55.

“*MAT/Non-Swap Instruments Package Transactions*” has the meaning set forth in CFTC No-Action Letter 17-55, and shall, for the avoidance of doubt, exclude (1) U.S. Dollar Swap Spreads; (2) MAT/Futures Package Transactions; (3) MAT/Agency MBS Package Transactions; and (4) MAT/New Issuance Bond Package Transactions.

“*Material Adverse Change*” means a significant event that negatively affects the subject referenced.

“*Material Conflict of Interest*” has the meaning specified in Rule 2500(a).

“*Member*” has the meaning specified in Section 1a(34) of the CEA and CFTC Regulation 1.3(q), and shall include for purposes of the SEF Rules all Participants (including Sponsoring Participants) and all Sponsored Participants.

“*Membership Interests*” means financial institutions that vary as to their jurisdiction of organization, size, registration and regulatory status, primary business and business model.

“*Named Party in Interest*” means a Person that is identified by name as a subject of any matter being considered by the Board, any committee established by the Board (including the Regulatory Oversight Committee) or any SEF Panel.

“*NFA*” means the National Futures Association.

“*Non-Self-Clearing*” means, with respect to a DCO and any particular Swap, a Participant, Sponsored Participant, Client or Customer that is not a Clearing Member with respect to the related DCO and Swap.

“*Notice of Charges*” has the meaning specified in Rule 6005(a).

“*Notice to Participants*” has the meaning specified in Rule 3108.

“*Obligation*” means any and all duties and/or responsibilities arising under each SEF Rule, order or procedure issued by the SEF (including Notices to Participants) and other requirements implemented by the SEF under the SEF Rules, including the terms and conditions of each Swap, as well as any contractual obligations between a Participant and the SEF.

“*Off-Book Ticket Functionality*” means the functionality provided within the OMS that allows for the execution of Permitted Cross Transactions away from the Order Book. This functionality

is available to market participants only for Transactions in the Rates asset class and for Transactions that are non-deliverable forwards.

“*Officer*” has the meaning specified in Rule 2200.

“*Offsetting Transaction*” has the meaning specified in Rule 4013.A.(f).

“*Order*” means a firm bid or offer for a Swap.

“*Order Book*” means the trading systems operated by the SEF in which any Participant or any market participant acting through a Participant has the ability to enter multiple bids and offers, observe or receive bids and offers entered by other Participants, and transact on such bids and offers. All bids and offers on the Order Book shall be Orders (*i.e.*, firm bids or offers and not indications of interest or indicative quotes), and all Orders shall be displayed on the Order Book on an anonymous basis. Any market participant who wishes to connect to and use the Order Book may choose to do so, as more fully described in Rule 4003.B. The Order Book is available for all Swaps listed for trading by the SEF.

“*Order Book Waiver*” has the meaning specified in Rule 4003.B.(f)(2).

“*Order Management System*” or “*OMS*” means the SEF’s front-end system that houses the Order Book, as well as the SEF’s Off-Book Ticket Functionality. Market participants may connect to the OMS via a graphical user interface (GUI) or an application program interface (API), which allows third-party trading systems to interact with the OMS.

“*Package Transaction*” means a transaction involving two or more instruments: (1) that is executed between two or more counterparties; (2) that is priced or quoted as one economic transaction with simultaneous or near simultaneous execution of all components; (3) that has at least one component that is a Swap that is a Required Transaction; and (4) where the execution of each component is contingent upon the execution of all other components. No Swap is prohibited from being executed on the SEF by virtue of its being part of a Package Transaction. The categories of Package Transactions currently executed on the SEF are: (i) MAT/MAT Cleared Package Transactions; (ii) MAT/Non-MAT Cleared Package Transactions; and (iii) MAT/Non-MAT Uncleared Package Transactions. The categories of Package Transactions currently facilitated by the SEF are: (i) MAT/Non-Swap Instruments Package Transactions (MAT/Bonds only); (ii) US Dollar Swap Spreads; and (iii) MAT/Futures Package Transactions (MAT/Eurodollar Futures only). Such facilitation is done by the SEF’s providing an execution venue for the Swap legs and reference price information regarding the non-Swap legs. The reference price is made available to Participants for informational purpose only. The SEF does not execute the non-Swap legs of Package Transactions; the counterparties to any Package Transaction involving a non-Swap component must execute such non-Swap component away from the SEF.

“*Package Transaction (Order Book Exempt)*” is a Package Transaction for which the CFTC has granted currently-effective no-action relief or an exception or exemption from the requirements of Section 2(h)(8) of the CEA and/or CFTC Regulation 37.9. Pursuant to CFTC No-Action Letter 17-55, the following are Package Transactions (Order Book Exempt) until 11:59 p.m. (Eastern Time) on November 15, 2020: (a) MAT/New Issuance Bond Package Transactions; (b)

MAT/Futures Package Transactions; (c) MAT/Non-MAT Uncleared Package Transactions; (d) MAT/Non-Swap Instruments Package Transactions; and (e) MAT/Non-CFTC Swap Package Transactions. If any such no-action relief is extended, upon and to the extent of such extension, the relevant Package Transaction will continue to be a Package Transaction (Order Book Exempt) for purposes of the SEF Rules.

“*Participant*” means any Person, other than an ISV, that has been admitted by the SEF as a “Participant” and that has been granted, and continues to have, Trading Privileges.

“*Participation Criteria*” means the criteria set forth in Rule 3000(a).

“*Permitted Cross Transaction*” means a Permitted Transaction submitted to the SEF for execution either directly or via an Execution Specialist following some form of permitted pre-arrangement or pre-negotiation between or among the parties.

“*Permitted Transaction*” shall have the meaning provided in CFTC Regulation 37.9(c)(1).

“*Person*” means a natural person or an entity.

“*Personal Information*” means personally identifiable information or data concerning or relating to a Person’s employees, customers or prospective customers.

“*Prime Broker*” means a Participant that has authorized a Prime Broker Client to place Prime Brokerage Orders and execute Prime Broker Transactions on the SEF in the name of and on behalf of such Participant and that has been accepted by the SEF to act in such capacity.

“*Prime Broker Acknowledgement Letter*” shall have the meaning set forth in Rule 4105(b)(1).

“*Prime Broker Client*” means a Participant that has been identified by a Prime Broker in a Prime Broker Acknowledgment Letter to place Prime Brokerage Orders on the SEF and to execute Prime Broker Transactions in the name of and on behalf of such Prime Broker.

“*Prime Broker Limit*” means any limit, term or trading parameter established by a Prime Broker in respect of a Prime Broker Client, including credit limits and any categories of permissible Uncleared Swaps.

“*Prime Broker Transaction*” means a Permitted Cross Transaction in an Uncleared Swap executed on the SEF pursuant to Rule 4105 where one counterparty is a Prime Broker and the other is a Person (which may also be a Prime Broker) with which the Prime Broker has swap trading relationship documentation in place in accordance with the requirements of Rule 4013.B.

“*Prime Brokerage Order*” means an Order for a Prime Broker Transaction.

“*Proprietary Data*” means, with respect to any Person, any information that separately discloses business transactions, market positions or trade secrets of such Person.

“*Public Director*” means any Director who qualifies as a “Public Director” within the meaning of the By-Laws.

“*Regulatory Oversight Committee*” or “*ROC*” means the committee described in Rule 2401.

“*Regulatory Services Agreement*” means the agreement(s) between the SEF and Regulatory Services Provider(s), under which market surveillance and trade practice surveillance functions are delegated to the Regulatory Services Provider.

“*Regulatory Services Provider*” means the organization, if any, which provides regulatory services to the SEF pursuant to a Regulatory Services Agreement. The SEF’s Regulatory Services Provider is currently the NFA.

“*Related Party*” has the meaning given in Rule 6028.

“*Reporting Counterparty*” has the meaning set forth in Part 45 of the CFTC Regulations.

“*Required Cross Transaction*” means a Required Transaction (other than a Block Trade or Package Transaction (Order Book Exempt)) (x) in which a Participant acting as a broker or dealer seeks to either execute against its ~~customer’s~~ Customer’s Order or execute two of its customers’ Orders against each other, and (y) that is submitted for execution on the Order Book, either directly or via an Execution Specialist, following some form of permitted pre-arrangement or pre-negotiation.

“*Required Transaction*” shall have the meaning provided in CFTC Regulation 37.9(a)(1), as may be amended from time to time.

“*Resting Quote*” means any firm bid or offer displayed on the Order Book of the SEF.

“*Review Panel*” means a panel responsible for determining whether a reasonable basis exists for finding a violation of the SEF Rules or other provision of Applicable Law for which the SEF has disciplinary jurisdiction, 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.

“*Risk Mitigation Sessions*” has the meaning specified in Rule 4018.

“*SEC*” means the U.S. Securities and Exchange Commission.

“*SEF*” means the swap execution facility operated by tpSEF Inc. or any successor thereto.

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

“*SEF Panel*” means any Review Panel, Disciplinary Panel, Appeals Panel or any other disciplinary or oversight panel of the SEF and any subcommittee thereof.

“*SEF Proceeding*” and “*SEF Proceedings*” means any inquiry, investigation, disciplinary proceeding or any appeal from a disciplinary proceeding, summary suspension or other summary actions.

“*SEF Rules*” means the rules of the SEF as set forth herein, as may be amended from time to time by the SEF.

“*Self-Clearing*” means, as to any DCO and Swap, a Participant, Sponsored Participant, Client or Customer that is a Clearing Member of the relevant DCO with respect to such Swap.

“*Self-Regulatory Action*” means an Emergency Action or a SEF Proceeding.

“*Self-Regulatory Organization*” means the Financial Industry Regulatory Authority, the NFA or any other self-regulatory organization under the CFTC Regulations or the rules and regulations of the SEC.

“*Significant Action*” has the meaning specified in CFTC Regulation 1.69(a)(8).

“*Sponsored Participant*” means a third-party ECP that is extended Trading Privileges by a Sponsoring Participant pursuant to Rule 3110.

“*Sponsoring Participant*” means a Participant that extends Trading Privileges to a Sponsored Participant pursuant to Rule 3110.

“*Supervised Persons*” means Authorized Traders, directors, officers, employees or agents of any Participant or Sponsored Participant.

“*Swap*” means any “swap” as defined in CEA Section 1a(47) that has been listed for trading on the SEF.

“*Swap Data Repository*” or “*SDR*” has the meaning set forth in Section 1a(48) of the CEA.

“*Swap Dealer*” has the meaning set forth in Section 1a(49) of the CEA.

“*Swap Specification*” means, with respect to any Swap, the specifications for such Swap as set forth in Appendix B hereto, including any materials incorporated by reference therein.

“*TAS Cross Transaction*” has the meaning given in Rule 4003.C.(a).

“*Terms Incorporated by Reference*” has the meaning given in Rule 4012.

“*tpSEF Risk Mitigation Procedures*” means the SEF’s procedures for Risk Mitigation Sessions, which are attached hereto as Appendix C.

“*Trade Communication*” has the meaning given in Rule 4012.

“*Trading Hours*” means, for any Business Day, the hours specified in Rule 4000.A. below.

“*Trading Privileges*” means the right granted to a Participant by the SEF, or extended to a Sponsored Participant by a Sponsoring Participant, to use the SEF for execution of Swaps, in each case acting through one or more Authorized Traders.

“*Transaction*” means any Swap transacted on the SEF in accordance with the SEF Rules or, in the case of an Uncleared Block Trade, transacted away from a SEF trading system or platform in accordance with the SEF Rules.

“*Uncleared Block Trade*” means a Block Trade other than a Cleared Block Trade.

“*Uncleared Swap*” means a Swap other than a Cleared Swap.

“*User ID*” means a unique identifier issued to each Authorized Trader of a Participant that enables the SEF to identify the individual.

“*U.S. Dollar Swap Spreads*” has the meaning set forth in CFTC No-Action Letter 15-55.

“*USP*” means a unique swap identifier created by the SEF pursuant to Part 45 of the CFTC Regulations.

“*Waiting Order*” has the meaning specified in Rule 4011(a)(2).

SECTION 2 SEF GOVERNANCE

Rule 2000 The SEF

The SEF is a corporation organized under the laws of the state of Delaware. The By-Laws of the SEF govern the management and operation of the SEF.

BOARD

Rule 2100 Board

- (a) The Officers shall manage the day-to-day business operations of the SEF. The Board has the power and authority to oversee, and to affirm, modify, suspend or overrule, any and all decisions and actions of any committees of the Board or any panel of Officers related to the day-to-day business operations of the SEF.
- (b) The Board will determine which Swaps are available from time to time for trading subject to the SEF Rules, and will approve specifications for such Swaps; provided that the Board may delegate the authority to approve such rules to a SEF committee or to one or more Officers of the SEF; provided, further, that certifications or applications with respect to such rules will be submitted to the CFTC as required by the CEA and any regulations thereunder.
- (c) The Board may act only by the decision of an absolute majority in number of the Directors by vote at a meeting, by unanimous written consent without a meeting, or as otherwise set forth in the By-Laws. In the event of an Emergency, which in the judgment of the CEO (or, if the CEO is not available, the most senior Officer that is available) requires immediate action, a special meeting of the Board may be convened without notice, consisting of those Directors who are immediately available in person or by telephone and can be joined in the meeting in person or by conference telephone. The actions taken at such a meeting shall be effective if at least a quorum of the Directors participates either personally or by conference telephone.
- (d) At all times, at least 35% of the Directors shall be Public Directors. Each Director (including Public Directors) shall be appointed in accordance with the By-Laws and shall serve until his or her successor is duly appointed or until his or her earlier resignation or removal, with or without cause. The Directors shall include members who have had relevant experience in some capacity (whether as a current or former employee, officer, director, principal, consultant, advisor, service provider or otherwise) working with or for a diversity of Membership Interests.
- (e) Each Director is entitled to indemnification pursuant to the By-Laws with respect to matters relating to the SEF.

- (f) To qualify as a Director, an individual must meet the qualifications for directors set forth in the By-Laws, and to qualify as a Public Director, an individual must meet the qualifications for “Public Directors” set forth in the By-Laws.
- (g) Without limitation of any other provisions of this Rule 2100, the provisions of Article III of the By-Laws shall be deemed to be part of the SEF Rules and shall be deemed to be incorporated herein, to the same extent and with the same force and effect as if set forth herein in their entirety.

OFFICERS

Rule 2200 Officers

- (a) The Board shall appoint a Chief Executive Officer and such other officers of the SEF (each of the foregoing, an “Officer,” and collectively, the “Officers”) as it may deem necessary or appropriate from time to time, in accordance with and as required by the By-Laws.
- (b) Any Officer may also be a director, officer, partner or employee of the SEF or any of its Affiliates.
- (c) The Officers shall have such powers and duties in the management of the SEF as the Board may prescribe from time to time.
- (d) Each Officer is entitled to indemnification pursuant to the By-Laws with respect to matters relating to the SEF.

Rule 2201 Chief Compliance Officer

- (a) Either the Board or the Chief Executive Officer shall appoint a Chief Compliance Officer. The Board shall approve the compensation of the individual appointed as Chief Compliance Officer. Removal of the Chief Compliance Officer shall require the approval of a majority of the Board. 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 (2) Business Days of such removal and appointment.
- (b) The Chief Compliance Officer’s duties shall include, but are not limited to, the following:
 - (1) overseeing and reviewing the SEF’s compliance with Applicable Law, including, without limitation, Section 5h of the CEA and related CFTC Regulations;
 - (2) [enforcing the SEF Rules](#);
 - (3) ~~(2)~~ in consultation with the CEO and such others, including, without limitation, the Board and/or the Regulatory Oversight Committee, as deemed appropriate and necessary, 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 the CFTC Regulations; and
(iii) conflicts between the SEF's management and members of the Board;

- (4) ~~(3)~~ establishing and administering requisite written policies and procedures reasonably designed to prevent violations of the CEA and CFTC Regulations;
- (5) ~~(4)~~ taking reasonable steps to ensure compliance with the CEA and CFTC Regulations;
- (6) ~~(5)~~ establishing procedures for the remediation of noncompliance issues identified by the Chief Compliance Officer through compliance office reviews, look-backs, internal or external audit findings, self-reported errors or validated complaints;
- (7) ~~(6)~~ establishing and following appropriate procedures for the handling, management response, remediation, retesting and closing of noncompliance issues;
- (8) ~~(7)~~ establishing and administering a compliance manual designed to promote compliance with Applicable Law and a written code of ethics designed to prevent ethical violations and to promote honesty and ethical conduct;
- (9) ~~(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, Clients, ~~Authorized Traders~~ and other market participants (including seeking to ensure compliance with, if applicable, financial integrity, financial reporting, sales practice, recordkeeping and other requirements);
- (10) ~~(9)~~ supervising the effectiveness and sufficiency of any regulatory services provided to the SEF by a Regulatory Services Provider; and
- (11) ~~(10)~~ preparing and filing the annual compliance report as required under the CEA and applicable CFTC Regulations.

(c) The Chief Compliance Officer shall have available to him or her at all times the authority and the resources of the Market Regulation Department and such other resources as may be necessary to develop and enforce policies and procedures necessary to fulfill the duties set forth for chief compliance officers of swap execution facilities in the CEA and the CFTC Regulations. The Chief Compliance Officer shall have supervisory authority over all staff of the Market Regulation Department and all other compliance staff.

(d) The Chief Compliance Officer shall report directly to the Board. The Chief Compliance Officer shall have the authority to inspect the books and records of all Participants and the authority to require any Participant to appear before him or her and produce its books and records and answer questions regarding alleged violations of the SEF Rules or other provision of Applicable Law for which the SEF has disciplinary jurisdiction, at the time, place and in the manner it designates. The Chief Compliance Officer may also delegate

such authority to staff of the Market Regulation Department and/or the Regulatory Services Provider.

QUALIFICATIONS

Rule 2300 Qualification of Chief Compliance Officer

- (a) The Chief Compliance Officer shall have the background and skills appropriate for fulfilling the responsibilities of the position.
- (b) The Chief Compliance Officer may not be disqualified from registration pursuant to Section 8a(2) or (3) of the CEA.

Rule 2301 Qualifications of Directors, Panel Members, Committee Members and Officers

- (a) A Director or Officer must meet the qualifications set forth from time to time in the By-Laws.
- (b) An individual may not serve as a Director or an Officer, hold a 10% or more ownership interest in the SEF or serve on a committee established by the Board (including the Regulatory Oversight Committee) or any SEF Panel if the individual:
 - (1) within the prior three (3) years has been found by a final decision of the SEF, a Self-Regulatory Organization, an administrative law judge, a court of competent jurisdiction or a Government Agency 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 DCM, 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 of the SEF, a Self-Regulatory Organization, an administrative law judge, a court of competent jurisdiction or a Government Agency; 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 a Government Agency, the SEF or a Self-Regulatory Organization not to apply for registration with the Government Agency or for membership in the SEF or 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 for any reason;
 - (6) has been convicted of a felony listed in Section 8a(2)(D)(ii) through (iv) of the CEA; or
 - (7) 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 Exchange Act.
- (c) Any Director, Officer, member of a committee established by the Board, any SEF Panel member, any individual nominated to serve in any such role or any individual authorized by the Regulatory Oversight Committee to take summary action shall immediately notify the Chief Executive Officer or the Chief Compliance Officer if such individual meets one or more of the criteria in Rule 2301(b).
 - (d) For purposes of Rule 2301(b), the terms “final decision” and “settlement agreement” have the meanings set forth in CFTC Regulation 1.63(a).

BOARD COMMITTEES

Rule 2400 [Reserved]

Rule 2401 Regulatory Oversight Committee

- (a) The Regulatory Oversight Committee of the Board shall be composed entirely of Public Directors appointed by the Board.
- (b) Each member of the Regulatory Oversight Committee shall serve for a term of two (2) calendar years from the date of his or her appointment or until such Person ceases to be Public Director or until removed from the ROC by the Board. 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 that, in its judgment, will 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:
 - (1) monitor the regulatory program of the SEF for sufficiency, effectiveness, and independence; and

- (2) oversee all facets of the regulatory program, ~~including:~~
- ~~(i) trade practice and market surveillance; audits, examinations, and other regulatory responsibilities with respect to Participants (including compliance with, if applicable, financial integrity, financial reporting, sales practice, recordkeeping, and other requirements); and the conduct of investigations;~~
 - ~~(ii) reviewing the size and allocation of the regulatory budget and resources, and the number, hiring, termination and compensation of regulatory personnel;~~
 - ~~(iii) reviewing the performance of the Chief Compliance Officer of the SEF and making recommendations regarding such performance to the CEO;~~
 - ~~(iv) recommending changes that would ensure fair, vigorous, and effective regulation; and~~
 - ~~(v) reviewing all regulatory proposals prior to implementation and advising the Board as to whether and how such changes may impact regulation.~~
- (e) The Regulatory Oversight Committee reports to the Board.

CONFLICTS OF INTEREST AND CONFIDENTIAL INFORMATION

Rule 2500 Conflicts of Interest Relating to Self-Regulatory Actions

- (a) A Director, Officer, SEF Panel member or other Person authorized to exercise the SEF's authority concerning a Self-Regulatory Action who has a Material Conflict of Interest between (i) his or her exercise of authority concerning a Self-Regulatory Action, and (ii) his or her personal interests (each, an "Interested Person"), may not (x) participate in any deliberations or vote of the Board (which includes for purposes hereof a Board committee) or SEF Panel, or (y) exercise any authority, with respect to the Self-Regulatory Action involving his or her personal interest, except as described below.

For purposes of this Rule 2500, a Director, Officer, SEF Panel member or other Person has a "Material Conflict of Interest" when such Director, Officer, SEF Panel member or other Person:

- (1) is named as a respondent or potential respondent or a witness or potential witness in a Self-Regulatory Action;
- (2) is an employer, employee, fellow employee or an Affiliate of a respondent or potential respondent or a witness or potential witness in the Self-Regulatory Action;
- (3) has any significant, ongoing business relationship with a respondent or potential respondent or a witness or potential witness in the Self-Regulatory Action;

- (4) has a Family Relationship with a respondent or potential respondent or a witness or potential witness in a Self-Regulatory Action (including the individual's spouse, co-habitator, former spouse, parent, stepparent, child, step child, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece, father-in-law, mother-in-law, brother-in-law or sister-in-law); and/or
 - (5) is involved in any other circumstance that gives rise to a conflict between the Director's, Officer's, panel member's or other Person's exercise of authority concerning a Self-Regulatory Action and his or her personal interests.
- (b) Before considering any Self-Regulatory Action, an Interested Person, or a Director, Officer, SEF Panel member or other Person authorized to exercise the SEF's authority concerning a Self-Regulatory Action that believes he or she is or may be an Interested Person, must disclose in writing to the Board the material facts concerning his or her relationship or interest in the matter. Following such disclosure, the Board shall determine whether any Person that believes he or she is or may be an Interested Person actually is an Interested Person. Notwithstanding any contrary determination by the Board, any Person that believes he or she is or may be an Interested Person may recuse himself or herself from deliberations and voting or the exercise of authority pursuant to Rule 2500(a) above upon his or her election.
 - (c) Any Interested Person who would be required otherwise to abstain from deliberations and voting or the exercise of authority pursuant to Rule 2500(a) above as a result of having Material Conflict of Interest may participate in deliberations, prior to a vote on the matter, if:
 - (1) the material facts about the Interested Person's interest in the matter are disclosed or known to the Board or SEF Panel;
 - (2) the Board 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.
 - (d) If a determination is made pursuant to Rule 2500(c) 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.
 - (e) 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 (unless the Chief Executive Officer is an Interested Person, in which case the most senior Officer who is not an Interested Person) 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.

Rule 2501 Voting by Interested Parties

- (a) Relationship with Named Party in Interest.
- (1) A member of the Board, any committee established by the Board (including the ROC) or any SEF Panel must abstain from such body's deliberations and voting on any matter involving a Named Party in Interest where such member:
 - (i) is a Named Party in Interest;
 - (ii) is an employer, employee or fellow employee of a Named Party in Interest;
 - (iii) is associated with a Named Party in Interest through a "broker association" as defined in CFTC Regulation 156.1;
 - (iv) has any other significant, ongoing business relationship with a Named Party in Interest, not including relationships limited to executing futures or option transactions opposite of each other or to clearing futures or option transactions through the same clearing member; or
 - (v) has a Family Relationship with a Named Party in Interest.
 - (2) Prior to the consideration of any matter involving a Named Party in Interest, each member of the Board, any committee established by the Board (including the ROC) or any SEF Panel must disclose to the Chief Compliance Officer whether he or she is a Named Party in Interest or has one of the relationships listed in Rule 2501(a)(1)(ii)-(v) above with a Named Party in Interest.
 - (3) The following procedure will apply with respect to any matter involving a Named Party in Interest under this Rule 2501:
 - (i) In its sole discretion, the Chief Compliance Officer, in consultation with the ROC (excluding any potentially interested members of the ROC), shall determine whether any member of the Board, any committee established by the Board (including the ROC) or a SEF Panel is required to abstain from deliberations and voting on the matter.
 - (ii) The determination of the Chief Compliance Officer will take into consideration the exigency of the matter and shall be based upon: (x) information provided by the member pursuant to Rule 2501(a)(2), and (y) any other source of information that is held by and reasonably available to the SEF.
 - (4) Notwithstanding any contrary determination made in accordance with Rule 2501(a)(3), any Person that believes he or she is or may be a Named Party in Interest or has or may have one of the relationships listed in Rule 2501(a)(1)(ii)-(v) above with a Named Party in Interest may recuse himself or herself from

deliberations and voting on the relevant matter involving a Named Party in Interest.

(b) Financial Interest in Significant Action.

- (1) A member of the Board, any committee established by the Board (including the ROC) or any SEF Panel must abstain from such body's deliberations and voting on any Significant Action if the member knowingly has a direct and substantial financial interest in the result of the vote based upon either exchange or non-exchange positions that could reasonably be expected to be affected by the action.
- (2) Prior to the consideration of any Significant Action, each member of the Board, any committee established by the Board (including the ROC) or any SEF Panel must disclose to Chief Compliance Officer any Disclosable Financial Interest that is known to such member. This requirement does not apply to members who choose to abstain from deliberations and voting on the subject Significant Action.
- (3) The Chief Compliance Officer will independently require a member of the Board, any committee established by the Board (including the ROC) or any SEF Panel to abstain from both the deliberations and voting by the Board, committee or SEF Panel on any Significant Action if the Chief Compliance Officer, in consultation with the ROC (excluding any potentially interested members of the ROC), determines that the member has a direct and substantial financial interest in the result of the vote. The determination of the Chief Compliance Officer must include a review of the member's Disclosable Financial Interest, take into consideration the exigency of the Significant Action and should be based upon:
 - (x) the most recent large trader reports and clearing records available to the SEF;
 - (y) information provided by the member with respect to any Disclosable Financial Interest pursuant to Rule 2501(b)(2); and
 - (z) any other source of information that is held by and reasonably available to the SEF.
- (4) The Board, any committee established by the Board (including the ROC) or any SEF Panel may permit a member to participate in deliberations prior to a vote on a Significant Action for which deliberations such member otherwise would be required to abstain, pursuant to this Rule 2501(b), if such participation would be consistent with the public interest and the member recuses himself or herself from voting on such action.
- (5) In making a determination as to whether to permit a member to participate in deliberations on a Significant Action for which such member otherwise would be required to abstain, the deliberating body shall consider the following factors:
 - (i) Whether the member's participation in deliberations is necessary for the deliberating body to achieve a quorum in the matter, and
 - (ii) Whether the member has unique or special expertise, knowledge or experience in the matter under consideration.

Prior to making any such determination, the relevant deliberating body must fully consider the position information that is the basis for the member's direct and substantial financial interest in the result of a vote on a Significant Action.

- (6) The Board, Board committees and SEF Panels must reflect in their minutes or otherwise document that the conflicts determination procedures required by this Rule 2501 have been followed. Such records also must include:
 - (i) The names of all members who attended the meeting in person or who otherwise were present by electronic means;
 - (ii) The name of any member who voluntarily recused himself or herself or was required to abstain from deliberations and/or voting on a matter and the reason for the recusal or abstention, if stated; and
 - (iii) Information on the position information that was reviewed for each member.

Rule 2502 Restrictions on Certain Persons who Possess Confidential Information; Improper Use or Disclosure of Confidential Information

- (a) No Director, Officer, member of any committee or panel established by the Board or any employee or consultant of the SEF shall use or disclose, either during his or her association with the SEF or thereafter, for any purpose other than the performance of his or her official duties and responsibilities as a Director, Officer, committee or panel member or employee or consultant any confidential information (including any material, non-public information) obtained as a result of the individual's duties and responsibilities as a Director, Officer, committee or panel member or employee or consultant. Any Director, Officer, committee or panel member or employee or consultant 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.
- (b) Notwithstanding Rule 2500(a), a Director, Officer, member of any committee or panel established by the Board or employee or consultant of the SEF may disclose confidential information (i) in the course of his or her official duties; (ii) to any Self-Regulatory Organization, DCO, court of competent jurisdiction or representative of any agency or department of the federal or state government acting in his or her official capacity; (iii) if such information is or becomes a matter of public knowledge through no fault of the Director, Officer, member of any committee or panel established by the Board or employee or consultant; or (iv) as required pursuant to Applicable Law.
- (c) No Director, Officer, or member of any committee or panel established by the Board, no employee of the SEF and no consultant to the SEF shall:
 - (1) trade for such Person's own account, or for or on behalf of any other account, on the basis of any material, non-public information obtained through the performance of such Person's official duties;

- (2) use or disclose, for any purpose other than the performance of such Person's official duties, any confidential information obtained by such Person as a result of such Person's official duties; *provided, however*, that this Rule shall not prohibit any disclosures that are expressly permitted pursuant to Rule 2502(b); or
- (3) trade, directly or indirectly, in (i) any Swap traded on the SEF, (ii) any related commodity interest (as defined in CFTC Regulation 1.59(a)), or (iii) any commodity interest traded on any DCM or SEF or cleared by any DCO if such Person has access to material non-public information concerning such commodity interest.

SERVICE AGREEMENTS

Rule 2600 Services Agreement with a Regulatory Services Provider

- (a) The SEF may enter into a Regulatory Services Agreement with a Regulatory Services Provider to perform certain surveillance, investigative, and regulatory functions under the SEF Rules and the SEF may provide information to the Regulatory Services Provider in connection with the performance of those functions.
- (b) The SEF shall retain ultimate decision-making authority with respect to any functions that are contracted to a Regulatory Services Provider and shall remain responsible for the performance of any Regulatory Services received.

Rule 2601 Services Agreement with Other Service Providers

The SEF, in its discretion, may enter into services agreements with service providers of its choosing to perform functions under the SEF Rules, and may provide information to such service providers in connection with the performance of those functions.

Rule 2602 Prohibited Use of Data Collected for Regulatory Purposes

The SEF will 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, the SEF may use such data or information for business or marketing purposes if*~~ unless the Person from whom it collects or receives such data or information clearly consents to the SEF's use of such data or information ~~*by means of an independent, affirmative*~~ in such manner by providing a separate signed consent prior to such use. The SEF will 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 and as permitted by Applicable Law, may share such data or information with one or more DCOs, swap execution facilities or DCMs registered with the CFTC. In such an event, the SEF will request the DCO, swap execution facility or DCM to maintain the confidentiality of any such information in the same manner as the DCO, swap execution facility or DCM would protect its own proprietary data.

**SECTION 3
PARTICIPANT ACCESS RULES**

QUALIFICATIONS

Rule 3000 Qualifications

- (a) To be eligible for admission as a Participant, an applicant must satisfy the following criteria (the “Participation Criteria”):
 - (1) is an ECP;
 - (2) is of good reputation and business integrity;
 - (3) maintains adequate financial resources and credit, has adequate capacity to meet its financial obligations and has not filed for bankruptcy;
 - (4) if it is an entity, is validly organized, in good standing and authorized by its governing body and, if relevant, documents of organization, to act as a Participant and comply with its obligations under the SEF Rules and doing so will not violate any material agreement by which it is bound or require any consents not already obtained;
 - (5) is not prohibited from using the services of the SEF for any reason whatsoever;
 - (6) holds all registrations required under Applicable Law, including, without limitation, any introducing broker, futures commission merchant, and/or swap dealer registration (each as defined in the CEA and CFTC Regulations), and if required pursuant to Applicable Law, is a member of the NFA;
 - (7) is not subject to statutory disqualification under Section 8a(2) of the CEA; and
 - (8) satisfies any other criteria that the SEF may require from a Participant to enable the SEF to perform its responsibilities as a Self-Regulatory Organization, comply with Applicable Law or provide services, provided such criteria are impartial, transparent and applied in a fair and nondiscriminatory manner.
- (b) Each Participant intending to trade Cleared Swaps for its own account must either be (i) Self-Clearing with respect to the DCO where the Cleared Swaps it will trade are cleared, or (ii) if it is Non-Self-Clearing, have a clearing account with a Clearing Firm and be permitted by the related Clearing Firm to clear such Swaps at such DCO through such Clearing Firm.
- (c) Each Participant that is an Account Manager, Introducing Broker or Sponsoring Participant must ensure that each of its Clients, Customers or Sponsored Participants (as applicable) intending to trade Cleared Swaps meets the requirements of Rule 3000(b) above.

- (d) Participants are prohibited from entering Orders or Transactions in Cleared Swaps on the SEF on behalf of any party (whether the Participant itself or its Client, Customer or Sponsored Participant) that is Non-Self-Clearing unless such party has a relationship with a Clearing Firm as described in Rule 3000(b)(ii) that covers the relevant Order or Transaction.
- (e) The SEF shall ~~monitor~~ review any financial filings and notices made by its Participants ~~to ensure that pursuant to the SEF Rules to determine whether~~ they continue to qualify as ECPs. If any Client or Customer of an Account Manager or Introducing Broker is not also a Participant, the SEF shall obtain from the applicable Account Manager or Introducing Broker a representation that such Client or Customer is an ECP, which will be deemed repeated each time the applicable Account Manager or Introducing Broker transacts on the SEF on behalf of such Client or Customer.
- (f) Upon request of the SEF or its Regulatory Services Provider, each Participant (and each Authorized Trader) shall promptly provide to the Market Regulation Department or the Regulatory Services Provider (i) the names of its Customers, Client or Sponsored Participants (if applicable) and (ii) such information about Authorized Traders as the SEF requests.
- (g) The SEF may from time to time establish different categories of Participants receiving access to the SEF. Participants receiving comparable access to, or services from, the SEF will be subject to comparable fee structures.
- (h) Consistent with Applicable Law, the SEF will provide access to its trading platform and services on a fair and nondiscriminatory basis to any ECP that complies with the SEF's documentation and eligibility requirements as set forth in the SEF Rules.

PARTICIPANT APPLICATION AND ONGOING PARTICIPANT MATTERS

Rule 3100 Application Requirements

A Person that wishes to become a Participant of the SEF must:

- (a) Submit to the SEF an accurate and complete application and execute and deliver any applicable agreements and other documents as may be required by the SEF from time to time;
- (b) if it is an entity, provide a copy of all formation documents including any amendments thereto if requested by the SEF;
- (c) if it is an applicant 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;
- (d) provide such other information as may be requested by the SEF; and

- (e) provide (i) written or electronic confirmation of its status as an ECP, and (ii) with respect to any Client, Customer or Sponsored Participant that is not also a Participant and on whose behalf it wishes to trade on the SEF, a representation that such Client, Customer or Sponsored Participant is an ECP, which representation will be deemed repeated each time the Participant transacts on the SEF, whether for its own account or on behalf of such Client, Customer or Sponsored Participant.

Rule 3101 Review of Application

- (a) The SEF shall review a prospective Participant's application and may ask for and review any additional information it deems relevant.
- (b) The SEF in its discretion may conduct an investigation of any applicant.

Rule 3102 Acceptance as a SEF Participant

- (a) If the SEF decides to admit an applicant as a Participant, it shall notify the applicant and state in such notice the date on which the applicant shall become a Participant.
- (b) Once admitted, a Participant shall continue at all times to satisfy all the Participation Criteria set forth in Rule 3000(a) and all other applicable eligibility criteria the SEF may specify from time to time.
- (c) Admission as a Participant only entitles the Participant to Trading Privileges and does not confer any right of ownership in the SEF, or right to attend or vote at meetings of the SEF, or right to share in the profits of the SEF.

Rule 3103 Denial, Conditioning or Termination of Participant Status

- (a) 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 Participation Criteria or any other eligibility criteria required to become or remain a Participant or any of the representations and warranties made by the Participant is untrue;
 - (2) if such Person is unable to satisfactorily demonstrate its capacity to adhere to all applicable SEF Rules and any other Applicable Law, including those concerning recordkeeping, reporting, financial requirements and trading procedures;
 - (3) if such Person fails to comply with any limitation placed by the SEF on such Person;
 - (4) if such Person commits a violation of the SEF Rules;
 - (5) if such Person would bring the SEF into disrepute as determined by the SEF in its sole discretion; or

- (6) for such other reason the SEF may reasonably determine.
- (b) If the SEF decides to deny or condition an application for admission as a Participant, or terminate a Person's status as a Participant, the SEF shall promptly notify such Person (the "Affected Person") thereof in a writing sent to the address in the SEF application form or maintained in the SEF's records. Such Affected Person may, within seven (7) calendar days of receipt of such notification, request in writing that the SEF reconsider its determination.
- (c) Within thirty (30) calendar days of receiving the request for reconsideration, the SEF shall either confirm, reverse or modify the denial, conditioning or termination of the Affected Person as a Participant, and shall promptly notify the Affected Person accordingly in a writing sent to the address in the SEF application form or maintained in the SEF's records.
- (d) Any denials, conditionings or terminations implemented by the SEF pursuant to this Rule 3103 will be impartially enforced.
- (e) Any denial, conditioning or termination that represents a suspension, expulsion, disciplinary or access denial action or other adverse action within the meaning of Part 9 of the CFTC Regulations may (to the extent required thereby) be subject to review by the CFTC pursuant to Part 9 of the CFTC Regulations.

Rule 3104 Duty to Keep Current

- (a) If any material information in the Participant's application becomes outdated or otherwise is inaccurate or incomplete for any reason, the Participant must promptly update the application.
- (b) Within thirty (30) calendar days following the end of each calendar year, Participants shall review and revise, as necessary, all information provided in their applications and provide such revisions to the SEF.

Rule 3105 Withdrawal of Participant; Temporary Deactivation of Trading Privileges

- (a) To withdraw from the SEF, a Participant must notify the SEF of its withdrawal. Such withdrawal shall be accepted and effective immediately upon receipt of such notice by the SEF, provided that the SEF may, in its reasonable discretion, refuse to accept a Participant's withdrawal request or may postpone the effective date of withdrawal of a Participant if the SEF considers it necessary for the protection of the Participant's Customers, other Participants or otherwise in the interests of the SEF.
- (b) Upon the effectiveness of the withdrawal of a Participant, all rights and privileges of such Participant with respect to the SEF shall terminate (including, without limitation, Trading Privileges). Notwithstanding the accepted withdrawal of a Participant, the withdrawn Participant, and any Client, Customer or Sponsored Participant thereof, shall remain bound by the SEF Rules 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 Person prior to such withdrawal and must cooperate in any SEF Proceeding as if the former Participant were still a Participant.

- (c) Notwithstanding the foregoing, a Participant may request, in writing, that the SEF temporarily deactivate its Trading Privileges. The SEF may approve or deny any such request in its sole discretion, and may approve any such request on such terms as the SEF shall determine in its sole discretion. Upon approval of any such request, the Participant's Trading Privileges shall be deactivated and the Participant will not be permitted to execute Transactions on the SEF or otherwise access the SEF until its Trading Privileges have been reinstated by the SEF. The Participant shall incur no new fees during the period of its deactivation.

Rule 3106 Dissolution of Participants

Upon dissolution of a Participant, all rights and privileges of such Participant with respect to the SEF shall terminate, but all obligations of such Participant shall survive.

Rule 3107 Jurisdiction and Application of SEF Rules

- (a) Prior to obtaining access to the SEF and each time a Participant, Customer, Client, Sponsored Participant or any other Person initiates or executes a transaction on or subject to the ~~rules of the~~ SEF Rules, directly or through an intermediary, such Participant, Customer, Client, Sponsored Participant or other Person and any Supervised Person acting on its behalf shall be deemed to have expressly:
 - (1) consented 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;
 - (2) agreed to be bound by, and comply with, the SEF Rules and all Obligations, the DCO Rules and Applicable Law, in each case to the extent applicable to it;
 - (3) agreed to assist the SEF in complying with its legal and regulatory obligations, cooperate with the SEF, its Regulatory Services Provider(s) and the CFTC in any inquiry, investigation, audit, examination or proceeding, and authorizes the SEF to provide information regarding it to any Regulatory Services Provider, the CFTC or any Self-Regulatory Organization.
- (b) At the time any Clearing Firm executes a Clearing Firm Agreement, such Clearing Firm shall be deemed to have expressly:
 - (1) consented 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;
 - (2) agreed to be bound by, and comply with, the SEF Rules and all Obligations, the DCO Rules and Applicable Law, in each case to the extent applicable to it;

- (3) agreed to assist the SEF in complying with its legal and regulatory obligations, cooperate with the SEF, its Regulatory Services Provider(s) and the CFTC in any inquiry, investigation, audit, examination or proceeding, and authorizes the SEF to provide information regarding it to any Regulatory Services Provider, the CFTC or any Self-Regulatory Organization.
- (c) Any Person (including any Authorized Trader) whose access to the SEF is suspended for any period, and, if applicable, any Client, Customer or Sponsored Participant thereof, remains subject to the SEF Rules and to the jurisdiction of the SEF throughout the period of suspension and must cooperate in any SEF Proceeding. Any Person whose access to the SEF is revoked or terminated, and, if applicable, any Client, Customer or Sponsored Participant thereof, shall remain bound by the SEF Rules 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 Person prior to such revocation or termination and must cooperate in any SEF Proceeding.

Rule 3108 Notices to Participants

- (a) The SEF shall publish a notice with respect to each addition to, modification or clarification of the SEF Rules or of any action to implement any SEF Rules on the SEF's website or via an electronic mail distribution 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 3108, 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.
- (b) Any Notice to Participants published on the SEF's website or otherwise provided to Participants shall be deemed to have been made to all of a Participant's Supervised Persons, Clients, Customers and Sponsored Participants.
- (c) Each Participant is required to review the "Notices to SEF Participants" section of the SEF's website to make itself aware of material changes to the SEF Rules or other notices that may affect its rights and obligations as a Participant, and is responsible for conveying such information to its Supervised Persons, Clients, Customers and Sponsored Participants in accordance with Rule 3114(c).

Rule 3109 Authorized Traders

- (a) Each Participant shall designate one or more Authorized Trader(s), which, in the case of a Sponsoring Participant, may include any Person appointed, employed or authorized by a Sponsored Participant as provided in Rule 3110. Participants shall be responsible to the SEF for acting with reasonable care in granting Authorized Trader status to any individual.
- (b) By agreeing to become an Authorized Trader, an individual is deemed to expressly consent to the jurisdiction of the SEF and agrees to be bound by the duties and

responsibilities of an Authorized Trader and to be subject to, and comply with, the SEF Rules and Obligations. Among other duties and responsibilities that the SEF may impose, an Authorized Trader must:

- (1) have the authority, at the SEF's request, to adjust or withdraw any Order or Transaction submitted under any User ID assigned to him or her;
 - (2) conduct activity under any User ID assigned to him or her in compliance with all SEF Rules and Obligations; and
 - (3) ensure he or she has been assigned his or her own User ID.
- (c) To designate an Authorized Trader, a Participant must follow the procedures established by the SEF. The SEF may establish criteria that individuals must fulfill to become an Authorized Trader.
- (d) The SEF will maintain a list of all designated Authorized Traders for each Participant.
- (e) The SEF may, in its sole discretion, refuse to approve an Authorized Trader or revoke or suspend the designation of an individual as Authorized Trader to protect other Participants and the integrity of the SEF or for any other reason and shall promptly notify the related Participant of such action.
- (f) To request the termination of the designation of an individual as Authorized Trader, the Participant must follow the procedures established by the SEF.
- (g) Each Authorized Trader shall be identified to the SEF in the manner prescribed by the SEF and shall be subject to the SEF Rules. It is the duty of the Participant to ensure that each Authorized Trader registration is current and accurate at all times.
- (h) Without limiting the foregoing, prior to accessing the SEF each Authorized Trader consents to abide by the 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 comply with the SEF Rules and Obligations and conduct its business in accordance with Applicable Law.

Rule 3110 Sponsored Access

- (a) A Sponsoring Participant may extend Trading Privileges to one or more Sponsored Participants. If the Sponsoring Participant is not the Sponsored Participant's Clearing Firm, the Sponsoring Participant will provide all relevant clearing information to the SEF on behalf of the Sponsored Participant. Each Sponsored Participant shall designate one or more Authorized Traders to transact on the SEF.

- (b) The Sponsoring Participant is responsible for all Orders and Transactions placed by any Person acting on behalf of or in the name of the Sponsored Participant on the SEF as if such Orders or Transactions were placed by the Sponsoring Participant (whether or not the Sponsoring Participant was aware of and/or had approved the placing of such Orders or Transactions). Any execution occurring as a result of an Order or Transaction entered by a Sponsored Participant shall be binding in all respects on the Sponsoring Participant.
- (c) The Sponsoring Participant must monitor the Sponsored Participant's access to the SEF and activity on the SEF, including, but not limited to, the entry, cancellation or other processing of Orders, risk management, trade reporting, clearing and settlement of Transactions.
- (d) The Sponsored Participant is not a Participant of the SEF. The SEF has no liability to, and the SEF owes no duties or obligations to, nor has any responsibility for, the Sponsored Participant. Notwithstanding anything herein to the contrary, the Sponsored Participant and any other Person using a User ID or login credentials linked to a Participant will be subject to, and must comply with, the SEF Rules, and may be subject to Disciplinary Action by the SEF for any violation or attempted violation of the SEF Rules or provisions of Applicable Law for which the SEF has disciplinary jurisdiction. The Sponsored Participant will be deemed to have represented and warranted that it is an ECP and that it has all registrations, licenses and consents required under Applicable Law. The Sponsoring Participant further agrees to cooperate with the SEF, or any other regulator, in connection with any inquiry regarding the Sponsored Participant's access and activities relating to the SEF and, in connection with such inquiry, the Sponsoring Participant shall ensure the cooperation of the Sponsored Participant and procure that the Sponsored Participant is contractually bound to cooperate with the SEF or any other regulator.
- (e) The Sponsoring Participant shall ensure that:
 - (1) the Sponsored Participant, its directors, members, officers, employees and agents comply with Applicable Law and the policies and procedures issued or approved by the SEF and with all of the duties and/or obligations imposed on Participants under the SEF Rules as if the Sponsored Participant were a Participant for such purposes, except with respect to any such duties and/or obligations which manifestly only relate to the Sponsoring Participant;
 - (2) the Sponsored Participant takes reasonable security precautions to prevent unauthorized access to and use of the SEF, including unauthorized entry of information on the SEF and unauthorized use of information and data made available by the SEF; and
 - (3) the Sponsored Participant uses any market data for its own internal purposes only and only in accordance with the SEF Rules.

- (f) The SEF shall obtain from each Sponsoring Participant a representation that each of its Sponsored Participants will be an ECP at the time each such Sponsored Participant transacts on the SEF.
- (g) The SEF will promptly notify a Sponsoring Participant in writing of its approval, or refusal to approve, the designation of a Sponsored Participant. The SEF may, in its sole discretion, revoke, limit, restrict or suspend the designation of a Sponsored Participant, and shall notify the Participant of such action in accordance with SEF procedures.
- (h) A Sponsoring Participant that seeks to terminate the designation of a Sponsored Participant shall notify the SEF in writing, providing such information as the SEF may require. The SEF shall terminate the Sponsored Participant's access to the SEF in accordance with procedures established by the SEF.

Rule 3111 [Reserved]

Rule 3112 Introducing Brokers

- (a) An Introducing Broker will be permitted to introduce Orders and execute Transactions on the SEF on behalf of a Customer (which may include another Participant or an Account Manager acting on behalf of a Client) where such Customer has so authorized the Introducing Broker. Any time an Introducing Broker introduces an Order or Transaction on the SEF on behalf of a Customer, such Introducing Broker shall be deemed to represent that the Customer on whose behalf it is acting has granted the Introducing Broker such authorization. An Introducing Broker shall provide the SEF with such notice and/or proof of such Customer authorization as the SEF may request from time to time.
- (b) If authorized, an Introducing Broker may enter any Order, submit a Block Trade, or introduce to the SEF for execution any Transaction, permissible under the SEF Rules on behalf of such Customer.
- (c) Each Customer shall be the principal to all executed Transactions resulting from Orders submitted by an Introducing Broker to the SEF on such Customer's behalf (other than where the Customer is a Prime Broker Client executing a Prime Broker Transaction in the name of and on behalf of a Prime Broker, in which case the relevant Prime Broker shall be principal to such Transaction).

Rule 3113 Authorized Representatives

- (a) Each Participant shall designate an Authorized Representative(s) who will represent the Participant before the SEF and its committees and receive notices on behalf of the Participant.
- (b) An Authorized Representative shall be empowered by the Participant to act on its behalf and the SEF shall be entitled to rely on the actions of the Authorized Representative as binding on the Participant and each of its Authorized Traders.

- (c) 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 the Authorized Representatives.

Rule 3114 Communications between the SEF and Participants

- (a) Each Participant must provide the SEF with its current electronic mail address and telephone number and the electronic mail address and telephone number of each of its Authorized Traders and immediately (and in any event within 24 hours) update this information whenever it changes.
- (b) All communications between the SEF and the Participant will be transmitted by electronic mail and/or posted on the SEF's website, except as otherwise specified by the SEF.
- (c) Each Participant shall be responsible for conveying such communications to all of its Supervised Persons, Clients, Customers and Sponsored Participants (and Authorized Traders thereof).
- (d) 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 Supervised Persons.
- (e) All communications made to Participants shall also be deemed to have been made to all of its Supervised Persons, Clients, Customers and Sponsored Participants (and Authorized Traders thereof).

Rule 3115 Recording of Communications

The Market Regulation Department and/or Regulatory Services Provider(s) may record conversations and retain copies of electronic communications between the SEF, on one hand, and Participants, Sponsored Participants, Clients or Customers or any of their Supervised Persons or other agents, on the other hand. Any such recordings may be retained by the SEF or the Regulatory Services Provider in such manner and for such periods of time as the SEF may deem necessary or appropriate and in accordance with Applicable Law. The SEF or Regulatory Services Provider will retain such recording in compliance with CFTC Regulations.

MATERIAL CHANGES

Rule 3200 Change of Control; Non-Assignment

- (a) A Participant must provide written notice to the SEF of any of the following changes to its ownership, control or business operations prior to any such change taking effect to the extent practicable and in any event no later than 48 hours after any such change takes effect:
 - (1) a merger of the Participant with another Person, or

- (2) a transfer, issuance or other transaction that results in one Person owning 50% or more of the voting equity of the Participant or a transaction that results in the transfer of all or substantially all of the assets of the Participant.
- (b) A Participant may not assign its rights as a Participant without the written consent of the SEF, which consent shall not be unreasonably withheld.

FEES

Rule 3300 Fees

- (a) The SEF shall set the times and amounts of any assessments or fees (including access and utilization fees), costs and charges to be paid by Participants. By accessing the SEF, Participants agree to be bound by the fee schedule in effect at the time the applicable SEF services are rendered.
- (b) A Participant will be responsible for the payment of all fees charged to it with respect to any Transaction, including, without limitation, any Transaction that is (i) for any or no reason, not fully performed by the parties thereto or (ii) subsequently voided or rescinded.
- (c) Assessments, fees, costs and charges and other amounts owed to the SEF are payable upon receipt of the invoice. If a Participant fails to pay when due any assessments, fees, costs and charges owed, and such payment obligation remains unsatisfied thirty (30) days after its due date, the SEF may suspend, revoke, limit, condition, restrict or qualify the Trading Privileges of such Participant as it deems necessary or appropriate.

Rule 3301 Volume Discounts

The SEF may from time to time establish financial incentives for meeting trading volume, liquidity thresholds and/or other standards as may be established by the SEF.

INDEPENDENT SOFTWARE VENDORS

Rule 3400 ISVs

- (a) Consistent with Applicable Law, the SEF will provide access to its trading platform, services and data on a fair and nondiscriminatory basis to any ISV that complies with the SEF's documentation and eligibility requirements for ISVs as set forth in the SEF Rules.
- (b) An ISV that wishes to access the SEF must:
 - (1) consent to the jurisdiction of the SEF and agree to be bound by, and comply with, the SEF Rules and all Obligations, the DCO Rules and Applicable Law, in each case to the extent applicable to it;

- (2) execute an ISV participation agreement in the form supplied by the SEF;
 - (3) pay the monthly access fees that may be established by the SEF from time to time, which fees will be comparable for ISVs receiving comparable access to, or services from, the SEF;
 - (4) comply with the applicable technical access standards, system compatibility requirements, security protocols and technical specifications for connection to the SEF as may be specified by the SEF from time to time;
 - (5) ensure that each Person that uses the ISV to access the SEF is either a Participant or a Client or Customer of a Participant;
 - (6) in the case of any Order or Transaction submitted to the SEF through the ISV, provide sufficient detail to identify the Participant (and, if applicable, the Participant's Client or Customer) as required by the SEF; and
 - (7) satisfy any other criteria that the SEF may require to perform its responsibilities as a Self-Regulatory Organization, comply with Applicable Law or provide services, provided such criteria are impartial, transparent and applied in a fair and nondiscriminatory manner.
- (c) An ISV may provide data obtained from the SEF solely to Participants and/or Clients or Customers of a Participant in connection with such Participants' and/or Clients' or Customers' actual and proposed trading activity on the SEF, and will not provide such data to any other swap execution facility, security-based swap execution facility, DCM, national securities exchange or other trading facility or system without the prior written consent of the SEF.

BUSINESS CONDUCT REQUIREMENTS

Rule 3500 Customers and Clients

No Participant shall enter an Order or enter into a Transaction in the name of a Customer or Client, unless the Customer or Client has so authorized the Participant. Any time an Introducing Broker or Account Manager introduces an Order or Transaction on the SEF on behalf of a Customer or Client (as applicable), such Introducing Broker or Account Manager shall be deemed to represent that the Customer or Client on whose behalf it is acting has granted the Introducing Broker or Account Manager such authorization.

Rule 3501 Disclosure Requirements; Know Your Counterparty Requirements

- (a) With respect to Uncleared Swaps, Participants that are Swap Dealers or Major Swap Participants shall verify through representations or otherwise the status of each Swap counterparty as an ECP as provided in CFTC Regulations applicable to business conduct

standards for Swap Dealers and Major Swap Participants in their dealing with counterparties.

- (b) Participants that are Introducing Brokers must verify the status of each of their Customers as an ECP.
- (c) Participants that are Account Managers must verify the status of each of their Clients as an ECP.
- (d) Participants that are Sponsoring Participants must verify the status of each of their Sponsored Participants as an ECP.
- (e) Each Participant and Supervised Person, Client, Customer or Sponsored Participant of a Participant must comply with all disclosure requirements set forth in under Applicable Law including any additional disclosure requirements imposed by the SEF Rules.

SECTION 4 TRANSACTION EXECUTION

This Section 4 prescribes Rules concerning trade practices and business conduct on the SEF and applies to all Orders and Transactions.

Rule 4000.A. Trading Hours

Except with respect to Emergencies, the SEF shall determine and publish the Business Days of the SEF and the Trading Hours for each Swap. Participants are prohibited from sending any Order or entering into any Transaction or using any other facility of the SEF outside of the designated Trading Hours for the relevant Swap. The Trading Hours for each Swap shall be twenty-three (23) hours per Business Day other than between 5:30 p.m. and 6:30 p.m. (Eastern Time), in each case, subject to any variation as may be published by the SEF in a Notice to Participants or included in the relevant Swap Specification.

Rule 4000.B. Swap Specifications

- (a) Notwithstanding any provision of the SEF Rules to the contrary, the terms and conditions set forth in the Swap Specification with respect to a particular Swap shall govern the trading in such Swap on the SEF and, in the event of any conflict between the general terms of the SEF Rules excluding the Swap Specifications and the particular terms of the SEF Rules set forth in the Swap Specification, the particular terms of the SEF Rules set forth in the Swap Specification shall govern with respect to trading in the relevant Swap on the SEF.
- (b) The Swap Specification for each individual Swap may specify:
 - (1) different classes of Participants eligible to trade such Swaps. Each such class of Participants shall have the rights and obligations specified by the Swap Specification for each such Swap;
 - (2) whether such Swap may be settled via cash settlement, physical delivery of the underlying commodity, or by any other means, as applicable; and
 - (3) the method for determining settlement prices.
- (c) The SEF shall permit trading only in Swaps that are not readily susceptible to manipulation.

Rule 4001 Procedures

- (a) With respect to trading on or through the SEF or subject to the SEF Rules, the SEF may adopt, without limitation, procedures relating to Transactions in Swaps and trading on the SEF or subject to the SEF Rules, including procedures to:
 - (1) disseminate the prices of bids and offers on, and Transactions in, Swaps;

- (2) record, and account for, Swaps and SEF activity and regulate administrative matters affecting Swaps and SEF activity;
 - (3) establish daily limits (or such other frequency as may be determined from time to time by the SEF) on the notional amount and/or risk of Orders or Transactions that may be submitted by a Participant through the SEF or subject to the SEF Rules;
 - (4) establish limits on Swaps that may be held by a Participant, Customer, Client or Sponsored Participant;
 - (5) establish a limit on the maximum daily price fluctuations for any Swap and provide for any related restriction or suspension of trading in the Swap; and
 - (6) establish minimum price quoting increments for each Swap.
- (b) The SEF may, in its discretion and at any time, amend any procedures adopted pursuant to Rule 4001(a), and will publish the amendments in a Notice to Participants or in any other manner determined appropriate by the SEF.

Rule 4002 Required Identifications

- (a) Each Participant and all related Authorized Traders (including those of its Sponsored Participants) must have a User ID assigned in accordance with the procedure adopted by the SEF from time to time in order to access the SEF. The User ID assigned to an Authorized Trader may not be reassigned to another Authorized Trader.
- (b) Orders entered on the SEF must include the User ID assigned to the Authorized Trader. An Authorized Trader is prohibited from allowing any other Person to use such unique identification to enter Orders on the SEF. No Person may enter Orders on the SEF using a User ID that has not been assigned to such Person.
- (c) Each Participant shall be responsible for all Orders placed or Transactions executed using any of the User IDs assigned to its Authorized Traders or those of any of its Sponsored Participants. Prime Brokers shall be responsible for all Prime Brokerage Orders placed or Prime Broker Transactions executed by a Prime Broker Client acting in its capacity as such subject to and in accordance with the relevant Prime Broker Acknowledgement Letter and Rules 4105 and 5103.E.
- (d) Participants must terminate an Authorized Trader's access to the SEF upon termination of the Authorized Trader's employment at, or authorization or appointment by, the Participant or Sponsored Participant (as applicable).

Rule 4003.A. Execution of Transactions

- (a) No Person shall execute a Required Transaction subject to the SEF's jurisdiction other than via the Order Book unless such Transaction is a Block Trade, Package Transaction (Order Book Exempt) or a Clearing Exempt Transaction. All Required Cross

Transactions will be subject to the time delay requirement set forth in Rule 4011, including TAS Cross Transactions that are Required Cross Transactions.

- (b) No Person shall enter into a Clearing Exempt Transaction subject to the SEF's jurisdiction unless it (or, if applicable, its Customer, Client or Sponsored Participant) or the counterparty to the Swap is eligible for and elects to rely on a Clearing Exception. Upon request of the SEF, a Participant, Sponsored Participant, Customer or Client shall submit to the SEF all documentation supporting eligibility for the applicable Clearing Exception.
- (c) Permitted Transactions (including Permitted Cross Transactions) may be executed through the SEF's Order Book as described in Rule 4003.B. In addition, Permitted Cross Transactions may be executed away from the SEF's Order Book as described in Rule 4004. Certain Permitted Transactions may also be executed via Risk Mitigation Sessions as specified in Rule 4018 and the tpSEF Risk Mitigation Procedures.
- (d) Any swap component of a Package Transaction (Order Book Exempt) may be executed in the same manner as any Permitted Cross Transaction as described in Rule 4004 or, if available for execution on the SEF's Order Book, through the SEF's Order Book.
- (e) Block Trades are required to be executed in accordance with the requirements of Rule 4016.
- (f) No executed Transactions may be submitted to the SEF other than Block Trades that occur away from the SEF and that are executed in accordance with the requirements of Rule 4016.
- (g) TAS Cross Transactions must be submitted to the SEF and executed in accordance with the requirements of Rule 4003.C.
- (h) Any Order or Cross Transaction that is submitted to the SEF may be cancelled prior to execution.

Rule 4003.B. Order Book

- (a) All Orders posted to the Order Book are firm (*i.e.*, there are no indications of interest or indicative quotes allowed).
- (b) An acceptable Order must include a specific price and size, as well information meeting the requirements of Rule 8001.
- (c) Order Types.
 - (1) An acceptable Order must indicate the time in force, which may include the following:

- (i) “Day” (or “Fill-and-Store”) Orders are only good for the Business Day and applicable Trading Hours in which they are entered.
 - (ii) “Fill-or-Kill” (“FOK”) Orders must be immediately executed for the entire size of the Order or are cancelled automatically.
 - (iii) “All-or-None” (“AON”) Orders must be executed for the entire size of the Order or are cancelled automatically. AON Orders enter the Order Book as passive Orders.
 - (iv) “Immediate or Cancel” (“IOC”) Orders must be executed fully or partially and, if partially, the remaining quantity is cancelled automatically.
 - (v) “Good ‘til Time” (“GTT”) Orders are cancelled after a specified time if no matching Order is placed.
 - (vi) “Good ‘til Price” (“GTP”) Orders will be cancelled if the reference price of the specified instrument is moved up or down (depending upon whether the Order is a bid or offer).
 - (vii) “One Cancels Other” (“OCO”) Orders are paired Orders stipulating that if one of the Orders is executed, the other is automatically cancelled.
- (2) Good ‘til Time, Good ‘til Price and One Cancels Other Orders are all also Day Orders, in that they are only good for the Business Day and applicable Trading Hours in which they are entered, even if the time, price or execution conditions are not otherwise met.
- (3) Not all Orders types are available for all Swaps. The table below shows the Order types available for each asset class:

Asset Class	Day	FOK	AON	IOC	GTT	GTP	OCO
Credit	✓	✓	x	✓	✓	✓	✓
Commodities	✓	✓	x	x	✓	x	x
Rates	✓	✓	US\$ only	✓	✓	x	EUR/GBP only
Non-Deliverable Forwards	✓	✓	x	✓	✓	✓	✓
Equities	✓	✓	x	✓	✓	x	x
FX Options	✓	x	x	✓	✓	✓	✓

- (d) Pre-Trade Controls.

(1) Order Limits. The SEF may, within its sole discretion, set Order limits by product and by instrument within a particular asset class. The following types of Order limits may be imposed:

(i) Order Size Limit (OSL): This is the maximum size allowed for any single Order. Any Order submitted will be checked against the product/asset class's Order Size Limit, and if the Order exceeds this limit, such Order will be rejected and the Participant will be notified.

(ii) Order Price Limit (OPL): This is the maximum price differential allowed for any Order. Any Order submitted will be checked against the product/asset class's Order Price Limit and if the Order exceeds this limit, it will be rejected and the Participant will be notified. The price differential will be calculated as follows:

$$(\text{Order price entered}) - (\text{Instrument Reference Price}) = |\text{Price Differential}|$$

The "Instrument Reference Price" is an estimated current price for the relevant Swap, based on either current trading data for that instrument on the SEF and elsewhere, or, in the absence of current trading data for the relevant Swap, implied from current trading data for other instruments.

(2) Price Tick Deviation. If the price for any Order entered into the Order Book is greater than (i) the top contra-Order price or, if no contra-Orders exist in the Order Book, the Instrument Reference Price, plus (ii) the specified number of tick increments in the Maximum Price Tick Deviation parameter for the Swap, the Order will be rejected. The Maximum Price Tick Deviation parameter for each Swap is determined by the SEF from time to time in its sole discretion.

(3) Restriction Against Self-Trading. The Order Book system is configured to prohibit the matching of Orders placed by Authorized Traders of the same Participant.

(e) Implied Orders. The SEF offers limited implied order functionality. Under this functionality, individual separate Orders, which in aggregate would form the legs of a liquid spread trade, are displayed in the Order Book both as individual outright trades and in aggregate as a spread trade. This functionality is only made available for tenors at which spread trades are customarily transacted as determined by the SEF from time to time and displayed on the Order Book.

(f) Order Entry.

(1) Orders, including Orders for Required Cross Transactions and Permitted Cross Transactions, may be entered into the Order Book for execution either (i) directly by any Participant that has established direct connectivity to the SEF's Order Management System, or (ii) by an Execution Specialist acting on the instruction of a Participant. Order information may be communicated by Participants to

Execution Specialists via telephone and/or via electronic modes of communication such as email and instant message.

- (2) Certain Participants that have elected not to establish direct connectivity to the OMS have executed a “tpSEF Inc. Terms of Use and SEF Order Book Waiver” (the “Order Book Waiver”) in lieu of the “tpSEF Inc. Terms of Use.” During the effectiveness of its “Order Book Waiver,” a Participant must access the Order Book via an Execution Specialist both for Transactions that must be executed on Order Book pursuant to Rule 4003.A. and for Transactions voluntarily executed on the Order Book. Any such Participant may elect to establish direct connectivity to the OMS at any time by executing the “tpSEF Inc. Terms of Use” and terminating its “Order Book Waiver.” For the avoidance of doubt, all Participants, including those that have signed the “Order Book Waiver,” are required to comply with the requirements of Rule 4003.A. relating to the execution of Required Transactions.
 - (3) An Order placed on the Order Book may be cancelled provided such Order has not been executed. The price or size of an Order placed on the SEF that has not fully traded may be revised. If the size is reduced, the time priority originally assigned to the Order does not change. Revising the price or increasing the size will reset the Order’s time priority in the queue to the time the SEF receives the revision. Order cancellations or revisions may be communicated by Participants to Execution Specialists via telephone and/or via electronic modes of communication such as email and instant message.
 - (4) When an Authorized Trader logs off and any relevant time-out has expired, (i) all Orders on the Order Book submitted by that Authorized Trader may be terminated or may remain live, depending on the manner in which the Authorized Trader has configured his or her account and (ii) where the Authorized Trader has entered the Order on behalf of a Customer, all such Customer Orders will be terminated. If for any reason the connection to the SEF is lost and not-re-established within any relevant time-out period, all Orders entered from that location on the SEF are deactivated.
- (g) Order Book Display and Interaction.
- (1) Once an Order is entered into the Order Book, the Order is displayed simultaneously to all Participants that have established direct connectivity to the OMS and may be transacted on as described in Rule 4003.B.(h) below.
 - (2) All Orders will be displayed on an anonymous basis and each Order Book platform will show, in real-time, the best price and the depth per product.
 - (3) For Participants that have direct connectivity to the OMS, each Order Book platform displays all executions to all Participants, and for each individual Participant, its Order and execution history for the trading day.

- (4) The SEF's Order Book supports the following Order interactions on any active Order, which may be taken only by the Participant who submitted the Order or by an Execution Specialist acting on the Participant's instructions:
 - (i) Amend, and
 - (ii) Cancel. (If a partially executed Order is cancelled, only the balance of the Order is cancelled.)
- (5) Information regarding Orders on the Order Book will be provided upon request to any Participant by an Execution Specialist via telephone and/or via electronic modes of communication such as email and instant message.
- (h) Matching of Orders on the Order Book.

Orders may be either matched automatically or manually hit or lifted as described in this Rule 4003.B.(h). In each case, Orders will be executed using price and time priority.

- (1) Ability to Trade. In the case of either Manual Matching or Automatic Matching as described in this Rule 4003.B.(h):
 - (i) An Order for a Cleared Swap may only be hit or lifted by, or matched with a contra-Order for, a Participant (or a Participant's Customer or Client) that is, or whose Clearing Firm is, a Clearing Member at the DCO at which the Swap is to be cleared, and
 - (ii) An Order for an Uncleared Swap may only be hit or lifted by, or matched with a contra-Order for, a Participant (or a Client or Customer of a Participant) that has swap trading relationship documentation in place with the relevant counterparty and only to the extent that each counterparty has available credit line, both as described in Rule 4013.B.
- (2) Manual Matching. Subject to the requirements of Rule 4003.B.(h)(1) above, a Participant may manually hit or lift, in whole or in part, any resting Order within the Order Book that is (i) at the best price(s) within the market for the relevant product, and (ii) if there are multiple Orders at the same price(s), entered first in the Order Book.
- (3) Automatic Matching. Subject to the requirements of Rule 4003.B.(h)(1) above and depending on Order type (as described in Rule 4003.B.(c)) and the Orders resting on the Order Book, Orders entered into the Order Book will be automatically (i) matched (fully or partially) to one or more Orders within the Order Book based on price and time priority or (ii) cancelled. Certain Order Book platforms do not support Automatic Matching.

Rule 4003.C. Trade at Settlement Cross Transactions

- (a) A Participant may submit to the SEF for execution a Cross Transaction for which the fixed rate will be the ICE Swap Rate for the “USD Rates 1100” benchmark run and for the relevant tenor published by ICE Benchmark Administration Limited at 11:15 a.m. New York time on the date of the Participant’s submission (each such Cross Transaction, a “TAS Cross Transaction”). TAS Cross Transactions may be submitted to the SEF between 7 a.m. New York time and 10:59 a.m. New York time on each day the SEF is open for business.
- (b) Each TAS Cross Transaction submitted to the SEF will be held in abeyance by the SEF, and will not be deemed executed, until the relevant ICE Swap Rate has been announced and, in the case of any TAS Cross Transaction that is a Required Cross Transaction, the time delay requirement set forth in Rule 4011 has been applied as described in Rule 4003.C.(c) below.
- (c) For any TAS Cross Transaction that is a Required Cross Transaction, the time delay requirement described in Rule 4011 will be applied immediately following the announcement of the relevant ICE Swap Rate.
- (d) Once a TAS Cross Transaction has been executed: (i) the SEF will generate and send a Confirmation to each counterparty in accordance with Rule 4012; (ii) the Transaction will be reported by the SEF to an Approved SDR in accordance with Rule 8005; and (iii) if it is a Cleared Swap, the Transaction will be routed by the SEF to the relevant DCO in accordance with Rule 4013.A.

Rule 4004 Permitted Cross Transactions

- (a) Permitted Cross Transactions may either be:
 - (1) Executed through the SEF’s Order Book as described in Rule 4003.B., or
 - (2) Submitted to the SEF for execution away from the SEF’s Order Book either (i) to an Execution Specialist, or (ii) for FX options, non-deliverable forwards and Transactions in the Rates asset class, directly by Participants that have established direct connectivity to the SEF.
- (b) Permitted Cross Transactions that are submitted to an Execution Specialist for execution away from the Order Book may be executed through either (1) the SEF’s Deal Management System, or (2) if available, the OMS using Off-Book Ticket Functionality. A Participant submitting a Permitted Cross Transaction to an Execution Specialist must provide the information required by Rule 8001. Permitted Cross Transactions may be communicated to an Execution Specialist via telephone and/or via electronic modes of communication such as email and instant message.

- (c) Permitted Cross Transactions submitted directly to the SEF for execution away from the Order Book by Participants that have established direct SEF connectivity will be executed as follows:
- (1) Through the OMS using Off-Book Ticket Functionality for Permitted Cross Transactions in the Rates asset class and non-deliverable forwards, and
 - (2) Through the SEF's Deal Management System for FX options.

Rule 4005 Mishandling of Customer Orders

Any Participant that mishandles any Customer Order is responsible for all remedial actions with respect to such Order.

Rule 4006 Trading Halts

The SEF, in its sole discretion, may declare a trading halt at any time.

Rule 4007 Termination of the SEF Connection

The SEF shall have the right to summarily terminate the direct, electronic connection of any Participant to the SEF. Additionally, the SEF shall have the right to direct a Participant to immediately terminate the direct, electronic access to the SEF of any Sponsored Participant. Any such termination shall be impartially enforced and shall be invoked only for technical reasons. Any affected Participant or Sponsored Participant shall continue to have access to the SEF by means of an Execution Specialist, unless such access is denied in accordance with the procedures set forth in Rule 3103 or elsewhere in the SEF Rules.

Rule 4008 Risk Controls

- (a) The SEF may, in its sole discretion, to protect other Participants and the integrity of the SEF, reject any Order or Transaction placed or reported on the SEF.
- (b) The SEF shall have the right to take any action to [prevent or](#) reduce the potential of market disruption, including, but not limited to, market restrictions that pause or halt trading, if such action is in the best interest of the swap markets and/or the SEF.

Rule 4009 Priority of Customers' Orders

No Participant that is an Introducing Broker shall enter an Order into the SEF 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, including, without limitation, an Order allowing discretion as to time and price, when such Introducing Broker is in possession of any Order in the same Swap for its Customer that the SEF is capable of accepting.

Rule 4010 Trading Against Customers' Orders Prohibited; Withholding Orders Prohibited

- (a) No Participant in possession of a Customer's Order shall knowingly 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) The foregoing restriction shall not apply to the following:
 - (1) Block Trades, and
 - (2) Transactions where the Customer has granted prior consent and such consent is permitted under Applicable Law.
- (c) Except as otherwise explicitly permitted under this Rule 4010(c) and Rule 5203(b), no Person shall (i) disclose another Person's Order to buy or sell except to a designated SEF Official or the CFTC, (ii) solicit or induce another Person to disclose Order information or (iii) 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. Nothing contained in this Rule 4010(c) shall prevent a Person from disclosing information as may be required by legal process (including subpoena or demand for productions) or to such Person's agents or advisors (including, but not limited to, accountants and auditors and legal counsel).
- (d) Any Participant entering Orders on the SEF for its Customer or Client 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 or Client.
- (e) A Participant must immediately enter into the SEF all Orders received from its Customers that are executable immediately. If a Participant cannot immediately enter into the SEF an Order received from its Customer, the Participant must enter the Order into the SEF as soon as practicable, and must immediately create an electronic record as provided in Rule 8002.

Rule 4011 Time Delay Requirement for Required Cross Transactions

- (a) With respect to Required Cross Transactions, the following conditions must be satisfied:
 - (1) in the case of an execution by a Participant as principal/dealer against a customer Order, the ~~customer~~Customer Order shall be entered into the Order Book as a firm quote and exposed to the market for at least 15 seconds before the Participant's Order may be entered, and
 - (2) in the case of an execution by a Participant acting as broker of two customers' Orders against each other, one side of the potential Transaction (the "Displayed Order") shall be entered into the Order Book as a firm quote and exposed to the

market for at least 15 seconds before the second side of the potential Transaction (the “Waiting Order”) may be entered.

- (b) With respect to a Required Cross Transaction subject to Rule 4011(a)(2) above, any Participant, Sponsored Participant, Customer or Client whose Order is the Waiting Order shall not, directly or indirectly, execute against the Displayed Order prior to the time that entry of the Waiting Order is permitted under Rule 4011(a)(2) above.

Rule 4012 Confirmations and USIs

- (a) The SEF will generate and send a Confirmation to each counterparty to a Transaction (which, in the case of a Prime Broker Transaction, will be the relevant Prime Broker) at the time of execution of such Transaction; provided that where a counterparty to a Transaction is a Customer, the Confirmation may be provided to the Customer’s Introducing Broker in accordance with Rule 4012(f); and provided further that where a Prime Broker Client executes a Prime Broker Transaction, a copy of the Confirmation shall be sent to the Prime Broker Client ~~in addition to being sent to the Prime Broker~~. Upon receipt of a Confirmation, such counterparty, Introducing Broker or Prime Broker Client (as applicable) shall, as soon as practicable, review the contents of such Confirmation and promptly report any errors or omissions to the SEF.
- (b) The Confirmation (including, with respect to Uncleared Swaps, the Terms Incorporated by Reference as defined in Rule 4012(d)(1)) shall legally supersede any previous agreement and shall constitute a confirmation as defined in CFTC Regulation 45.1. The Confirmation shall contain, among other things:
 - (1) the USI for the Transaction; and
 - (2) the identity of the Swap Data Repository to which the Transaction is being reported.
- (c) With respect to certain products, Transactions and counterparties, a Confirmation may be provided on the SEF’s behalf by MarkitSERV’s Organized Trading Venue (OTV) Confirmation Service or other similar confirmation service. Subject to Rule 4012(d), regardless of the means of delivery, pursuant to these rules, each Participant, Sponsored Participant, Customer and Client agrees that the Confirmation represents legally binding documentation memorializing the agreement of the parties to all the terms of the Transaction.
- (d) Confirmations for Uncleared Swaps.
 - (1) With respect to any Uncleared Swap, the economic terms specific to the Transaction shall be reflected in a written communication (the “Trade Communication”) sent by the SEF to each counterparty, Introducing Broker or Prime Broker Client in accordance with Rule 4012(a). The Trade Communication, together with the documents and agreements (including, without limitation, ISDA master agreements, other master agreements, terms supplements, master confirmation agreements and incorporated industry definitions) governing

such Transaction (the “Terms Incorporated by Reference”) shall, taken together, for purposes of CFTC Regulation 37.6(b) comprise all of the terms of such Transaction and serve as a Confirmation of such Transaction. The provisions of this Rule 4012(d) relating to Terms Incorporated by Reference rely on relief granted by the CFTC’s Division of Market Oversight in No-Action Letter 17-17, which expires on the effective date of any changes to the relevant CFTC Regulations.

- (2) In satisfaction of the obligations imposed on the SEF under CFTC Regulation 37.6(b), each Trade Communication (and thus each Confirmation) is deemed to incorporate the Terms Incorporated by Reference. All Confirmations for Uncleared Swaps that are generated and issued directly by the SEF shall state that they incorporate by reference any previously-negotiated freestanding agreement of the counterparties governing such Transaction.
 - (3) In the event of any conflict or inconsistency between (i) the Trade Communication and (ii) the Terms Incorporated by Reference, the Trade Communication shall prevail to the extent of any such conflict or inconsistency, and each Trade Communication will state the same.
 - (4) For each Uncleared Swap executed on or pursuant to the ~~rules of the~~ SEF [Rules](#), each previously-negotiated freestanding agreement of the counterparties included in the Terms Incorporated by Reference must be available to the SEF and/or the CFTC staff upon request within a reasonable period of time. Any such agreements provided to the SEF in connection with a CFTC request will be furnished to the CFTC as soon as they are available.
- (e) The USI referred to in 4012(a) above shall be created by the SEF and transmitted to each counterparty as soon as technologically practicable in accordance with CFTC Rule 45.5(a)(2).
 - (f) By executing a Transaction on the SEF through an Introducing Broker, each Customer is deemed to authorize the SEF to send Confirmations of such Transactions to the applicable Introducing Broker and to authorize such Introducing Broker to accept such Confirmations on behalf of such Customer.
 - (g) By providing a Prime Broker Acknowledgement Letter to the SEF, each Prime Broker is deemed to authorize the SEF to send Confirmations of Prime Broker Transactions to the applicable Prime Broker Client and, in the case of a Prime Broker Transaction transacted through an Introducing Broker, to the applicable Introducing Broker, subject to Rule 4105(b).

Rule 4013.A. Cleared Swaps

- (a) Each Cleared Swap shall be cleared through the DCO indicated in the Swap Specification or agreed by the parties in accordance with the Applicable Law, provided that the DCO

must be one of those recognized by the SEF. The DCOs currently recognized by the SEF are:

- (1) ASX Clear (Futures) Pty Limited
- (2) Chicago Mercantile Exchange, Inc.
- (3) Eurex Clearing AG
- (4) ICE Clear Credit LLC
- (5) Japan Securities Clearing Corporation
- (6) LCH.Clearnet LLC
- (7) LCH.Clearnet Limited

The SEF may recognize additional DCOs either through amendment of this Rule 4013.A. or by issuance of a Notice to Participants.

- (b) For each Cleared Swap a Participant expects to enter into via the SEF or subject to the SEF Rules (whether for itself or for a Client, Customer or Sponsored Participant), the Participant or a Participant's Client, Customer or Sponsored Participant, as applicable, must establish a clearing account with the relevant DCO or with a Clearing Firm that is a Clearing Member of such DCO.
- (c) The SEF shall route each Cleared Swap executed on the SEF (and accepted for clearing by a Clearing Firm if the relevant party to the Transaction is Non-Self-Clearing) to the relevant DCO as soon as technologically practicable after execution, and in no event later than ten (10) minutes after execution. The SEF may do so either by submitting the Cleared Swap directly to the DCO or by routing the Cleared Swap through an Affirmation Hub or other middleware provider. A Transaction will be deemed to have been accepted for, or rejected from, clearing upon receipt of appropriate notice, in accordance with Applicable Law, from the DCO or from a third party acting on behalf of the DCO as authorized by the DCO for such purpose. The acceptance of a Transaction for clearing shall not relieve any Participant, Client or Customer of the duty to act in good faith and with reasonable care and diligence.
- (d) If a Transaction in a Cleared Swap (including a Transaction that is a component leg of a Package Transaction) is rejected by the DCO or a third party acting on behalf of the DCO, such Transaction is void *ab initio* and shall be cancelled by the SEF. Trades that are rejected from clearing may not be held in a suspended state and then re-submitted.
- (e) Rejected Transactions in Cleared Swaps.
 - (1) If the SEF determines pursuant to the procedures set forth in Rule 5103.C. that a Transaction in a Cleared Swap (including a Transaction that is a component leg of a Package Transaction) is rejected from clearing (i) because of a clerical or

operational error or omission made by the SEF or by one of the counterparties to the Transaction or its agent, or (ii) in the case of a component leg of a Package Transaction, due to the sequencing of the submission of the component legs of the Package Transaction, a new trade, with terms and conditions that match the terms and conditions of the original trade, other than any such error or omission and time of execution, may be executed on the SEF and submitted for clearing without having been executed pursuant to the methods set forth in CFTC Regulations 37.9(a)(2) or 38.500.

- (2) If the SEF identifies and determines how to correct the error or omission, it may execute the new trade without obtaining the consent of the counterparties.
 - (3) If the SEF is unable to determine how to correct the error or omission, the SEF, at its election, may either (x) seek guidance from the counterparties (and, if applicable, their agents and/or Clearing Firms) with respect to how to correct the error after which the SEF may then correct the error with the consent of both counterparties, or (y) elect not to fix the Transaction, in which case the Transaction will be treated as void *ab initio* and shall be cancelled by the SEF.
 - (4) Execution of a new trade pursuant to this Rule 4013.A.(e) must comply with the requirements specified in Rule 4017 and must occur as quickly as technologically practicable after receipt of notice of the rejection by the DCO, but, in any event, no later than sixty (60) minutes from issuance of such notice. If the resubmitted Transaction is rejected, such Transaction will be void *ab initio* and shall be cancelled by the SEF. The counterparties may not resubmit a new Transaction a second time.
 - (5) The procedure set forth in this Rule 4013.A.(e) is not available with respect to Transactions that are rejected from clearing for credit reasons.
 - (6) This Rule 4013.A.(e) relies on relief granted by the CFTC's Divisions of Market Oversight and Clearing and Risk in No-Action Letter 17-27, which expires on the effective date of revised CFTC Regulations that address clerical or operational errors.
- (f) Erroneously Cleared Transactions.
- (1) If it is determined pursuant to the procedures set forth in Rule 5103.C. that a Transaction in a Cleared Swap (including a Transaction that is a component leg of a Package Transaction) was incorrectly executed or cleared as the result of a clerical or operational error or omission, the SEF may permit the original counterparties to the Transaction to enter into a prearranged Transaction on the SEF that offsets the Transaction carried on the DCO's books (an "Offsetting Transaction"), without the Offsetting Transaction having to be executed pursuant to the methods required in CFTC Regulations 37.9(a)(2) and 38.500. The SEF may also permit the original counterparties (or, if the wrong legal entity was assigned as a counterparty to the original Transaction, the intended

counterparties) to enter into a prearranged Transaction on the SEF that corrects the errors in the original Transaction (“Correcting Transaction”), without the Correcting Transaction having to be executed pursuant to the methods required in CFTC Regulations 37.9(a)(2) and 38.500.

- (2) If the SEF identifies and determines how to correct the error or omission, it may execute the Offsetting Transaction and the corresponding Correcting Transaction without obtaining the consent of the counterparties.
 - (3) If the SEF is unable to determine how to correct the error or omission, the SEF may either (x) seek guidance from the counterparties to the Transaction and, if applicable, their agents and/or Clearing Firms, after which the SEF may then correct the error by executing an Offsetting Transaction and corresponding Correcting Transaction with the consent of both counterparties, or (y) elect not to correct the error, in which case the original Transaction shall stand as executed.
 - (4) Offsetting Transactions and Correcting Transactions executed pursuant to this Rule 4013.A.(f) must comply with the requirements specified in Rule 4017 and must be executed and cleared no later than three (3) days after the original, erroneous Transaction was executed.
 - (5) The procedure set forth in this Rule 4013.A.(f) is available only with respect to clerical or operational errors or omissions made by the SEF, a counterparty to a Transaction or an agent of a counterparty to a Transaction.
 - (6) This Rule 4013.A.(f) relies on relief granted by the CFTC’s Divisions of Market Oversight and Clearing and Risk in No-Action Letter 17-27, which expires on the effective date of revised CFTC Regulations that address clerical or operational errors.
- (g) The SEF shall have the right to (i) suspend Trading Privileges of the Participant(s) or Sponsored Participant(s) that executed one or more rejected Transactions or prohibit further trading on behalf of the Client(s) or Customer(s) on whose behalf any rejected Transaction(s) were executed, or (ii) take any other action permitted by the SEF Rules. The liability for any losses arising out of or in connection with a rejected Transaction will be determined by the parties to the Transaction. For the avoidance of doubt, the SEF will have no liability for any such losses.
 - (h) It shall not be a condition for access to the SEF that any Participant be subject to a breakage agreement. This includes breakage agreements in respect of Package Transactions.
 - (i) Each Person that is registered, or required to be registered, with the CFTC as a Swap Dealer or Major Swap Participant is responsible for compliance with the mandatory trading requirement under Section 2(h)(8) of the CEA when such Person enters into, or facilitates entry into, a Swap that is subject to the Clearing Requirement.

- (j) The clearing services provided by a DCO in respect of a Cleared Swap will be governed by the rules, policies and procedures of that DCO. In addition, with respect to any DCO that has been granted an exemption from registration as such, the clearing services provided by such DCO must comply with any terms and conditions imposed on that DCO by the CFTC in connection with the DCO's exemption from registration.
- (k) Procedures for Cleared Swaps Routed Through an Affirmation Hub.
 - (1) Each Cleared Swap that is routed to the relevant DCO through an Affirmation Hub shall be routed in accordance with the following procedures:
 - (i) (x) All Cleared Swaps resulting from Risk Mitigation Sessions, and (y) all Cleared Swaps that (A) are executed directly on the Order Book without the assistance of an Execution Specialist and (B) do not involve intermediation by an Introducing Broker, shall be automatically submitted by the Affirmation Hub to the relevant DCO as soon as technologically practicable after receipt from the SEF, without Participants or Customers being provided the opportunity to Affirm; and
 - (ii) All other Cleared Swaps must be Affirmed by Participants or Customers, as applicable, as soon as technologically practicable after execution so that each such Cleared Swap is routed to and received by the applicable DCO no later than ten (10) minutes after execution.
 - (2) Failure by a Participant or Customer to Affirm a Cleared Swap routed through an Affirmation Hub within the time frame required by Rule 4013.A.(k)(1)(ii) shall be considered a violation of the SEF Rules; *provided that*:
 - (i) Such failure shall be a violation of the SEF Rules only by the Participant(s) or Customer(s), as applicable, that failed to Affirm the Cleared Swap in accordance with Rule 4013.A.(k)(1)(ii); and
 - (ii) No such failure shall be a violation of the SEF Rules where the failure, as determined in the SEF's discretion, was substantially the result of any errors or delays caused by the SEF, any Execution Specialist, the Affirmation Hub or any event (such as loss of internet connectivity, power or other force majeure) beyond the reasonable control of the Participant or Customer.
 - (3) The Market Regulation Department shall, on a monthly basis, review the previous month's Affirmations by Participants and Customers for compliance with this Rule 4013.A.(k). Notwithstanding such regular monthly reviews, the SEF may at any time conduct investigations of possible violations of Rule 4013.A.(k)(1)(ii) in accordance with the procedures set forth in Rule 6001. The SEF, through its Market Regulation Department, shall review each possible violation of Rule 4013.A.(k)(1)(ii) in light of all the facts and circumstances, including whether any errors or delays were caused by the SEF, any Execution Specialist, the Affirmation Hub or any event (such as loss of internet connectivity, power or

other force majeure) beyond the reasonable control of the Participant or Customer.

- (4) Unless the Market Regulation Department, the Regulatory Oversight Committee or the Chief Compliance Officer determines otherwise in accordance with the provisions of Chapter 6 of the SEF Rules, upon the first violation of Rule 4013.A.(k)(1)(ii) in any rolling 12-month period a warning letter will be issued in accordance with Rule 6017, upon the second or third violation a summary fine will be imposed in accordance with Rule 6016 and upon the fourth (or higher) violation, the matter will be referred to a Disciplinary Panel for formal disciplinary proceedings.

Rule 4013.B. Uncleared Swaps

A Participant may enter into an Uncleared Swap for its own account only with a counterparty with which such Participant has swap trading relationship documentation that meets the requirements of Applicable Law. A Participant may enter into an Uncleared Swap on behalf of a Customer or Client only if such Customer (or, where the Customer is a Prime Broker Client, the related Prime Broker) or Client has swap trading relationship documentation with the relevant counterparty that meets the requirements of Applicable Law. A Participant acting as a Prime Broker Client may enter into an Uncleared Swap in the name of and on behalf of a Prime Broker only with a counterparty with which such Prime Broker has swap trading relationship documentation that meets the requirements of Applicable Law. The Participant and/or Customer or Client or Participant's Prime Broker shall provide any information requested by the SEF in the processing and settlement of such Uncleared Swaps. In addition, a Participant, for itself or on behalf of its Customer or Client may, from time to time, input onto the SEF's systems, either itself, or by instructing an Execution Specialist, the credit line for any or all parties with which it, or such Customer or Client, has such swap trading relationship documentation.

Rule 4014 Information Regarding Orders and Dissemination of Trade Data

The SEF may make information regarding Orders (including prices and amounts), Transactions and any other matters it may deem appropriate available to Participants and other Persons at such times and in such manner (whether through the SEF, a ticker, financial information services or otherwise) as it may consider necessary from time to time. In accordance with Rule 5702, each Participant or other Person receiving any such information through the SEF may redistribute such information only to such extent and in such manner as may be permitted by the SEF from time to time.

Participants are hereby notified that the SEF discloses swap transaction and pricing data for publicly reportable swap transactions executed on the Order Book prior to the public dissemination of such data by the relevant Swap Data Repository. This data is available to all Participants that have elected to obtain a connection to the Order Book and is disclosed to such Participants contemporaneously with the transmission of the data to the applicable Swap Data Repository for public dissemination.

Rule 4015 Enforceability

- (a) A Transaction entered into on or pursuant to the [SEF](#) Rules shall not be void, voidable, subject to rescission or otherwise invalidated or rendered unenforceable as a result of:
 - (1) a violation by the SEF of the provisions of Section 5h of the CEA or Part 37 of the CFTC Regulations;
 - (2) 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
 - (3) any other proceeding the effect of which is to alter, supplement or otherwise require the SEF to adopt a specific term or condition, trading rule or procedure or to take or refrain from taking a specific action.
- (b) Without limiting the generality of the foregoing, failure of the SEF to broadcast any message in respect of a Transaction made on the SEF shall not invalidate any Transaction recorded by the SEF.

Rule 4016 Block Trades

The following shall govern all Block Trades in Swaps:

- (a) All Block Trades, unless otherwise exempted by a SEF Rule, must comply with the recordkeeping requirements set forth in Rule 8003.
- (b) Block Trades that occur away from a trading system or platform of the SEF must be submitted to the SEF in a manner prescribed from time to time by the SEF. Each such submission must include all of the data required by Parts 43 and 45 of the CFTC Regulations, including without limitation (i) a notification to the SEF of the parties' election to have the Transaction treated as a Block Trade, and (ii) the actual notional or principal amount of the Transaction. The parties entering into a Block Trade must agree upon which party shall be responsible for reporting all terms of the Transaction to the SEF (which party may be an Introducing Broker), and such designated party must report the Block Trade to the SEF as soon as technologically practicable after execution, but no later than ten (10) minutes after execution. Only Block Trades that are not Cleared Swaps are permitted to occur away from a trading system or platform of the SEF.
- (c) Upon receipt of the submission of a Block Trade as required by Rule 4016(b), the SEF will review the submission, and will report the Transaction as required by Parts 43 and 45 of the CFTC Regulations as soon as technologically practicable after execution. Such report to the SDR will include among other things the actual notional or principal amount of the Transaction and a notification to the Swap Data Repository of the parties' election to have the Transaction treated as a block trade.

- (d) Swap components of Package Transactions may be executed as Block Trades, provided that each such swap component is for a quantity that is equal to or in excess the Appropriate Minimum Block Size.
- (e) A Participant transacting a Block Trade on behalf of a Client or Customer must receive prior written instruction or consent from the Client or Customer to do so.
- (f) Except as may be permitted by CFTC Regulation 43.6(h)(6), the aggregation of Orders across multiple Customers or Clients in order to meet the Appropriate Minimum Block Size is prohibited.
- (g) Each party to a Block Trade shall comply with all applicable SEF Rules and, without limiting the generality of the foregoing, each such party shall be an ECP.
- (h) Any Block Trade in violation of these requirements may constitute conduct which is inconsistent with just and equitable principles of trade.
- (i) Upon request by the SEF, each party to a Block Trade shall produce satisfactory evidence that the Block Trade meets the requirements set forth in the SEF Rules.
- (j) Cleared Block Trades must be executed on a non-Order Book trading system or platform of the SEF. Each Order underlying such a Cleared Block Trade must comply with the requirements for Order information set forth in Rule 8001 and shall include a notification to the SEF of the party's election to have the resultant publicly reportable swap transaction treated as a Block Trade. In addition, all such Cleared Block Trades must comply with the pre-execution credit check requirements set forth in Rule 4017 and all other applicable SEF Rules and CFTC Regulations. For the avoidance of doubt, all Block Trades in Cleared Swaps must be executed on a non-Order Book trading system or platform of the SEF in accordance with this Rule 4016(j) in order to facilitate compliance with Rule 4017. This Rule 4016(j) relies on relief granted by the CFTC's Division of Market Oversight in No-Action Letter 17-60, which expires at the earlier of (i) 11:59 p.m. (Eastern Time) on November 15, 2020, and (ii) the effective date of any CFTC action with respect to the issues discussed therein. If such no-action relief is extended, upon and to the extent of such extension, the provisions of this Rule 4016(j) will continue apply.

Rule 4017 Pre-Execution Credit Checks

- (a) At the time of submitting an Order for any Cleared Swap (including any Cleared Swap that is a leg of a Package Transaction) or any Cleared Block Trade, a Participant (whether for itself or for a Customer or Client) must designate a Clearing Member with regard to the Transaction, which may be either the relevant party to the Transaction if such party is Self-Clearing or a designated Clearing Firm if the relevant party to the Transaction is Non-Self-Clearing.
- (b) Prior to the execution of any Order for a Cleared Swap (including any Cleared Swap that is a leg of a Package Transaction) or any Cleared Block Trade for which the relevant party is Non-Self-Clearing, the SEF will facilitate pre-execution credit screening by or on

behalf of the designated Clearing Firm. Upon receiving confirmation that the Order or Cleared Block Trade satisfies the Clearing Firm's pre-execution limits with respect to such party, the SEF will accept the Order or Cleared Block Trade for execution. If the SEF does not promptly receive confirmation or receives confirmation that the Order or Cleared Block Trade does not satisfy the Clearing Firm's pre-execution limits with respect to such party, the SEF will cancel the Order or Cleared Block Trade.

- (c) Any party that is Self-Clearing with respect to a Transaction is deemed to represent, by submitting an Order for its proprietary account or, in the case of a Customer, causing its Introducing Broker to do so, that it has completed pre-execution screening of its internal clearing risk limits for proprietary accounts.

Rule 4018 Risk Mitigation Sessions

The SEF may conduct periodic anonymous risk mitigation sessions ("Risk Mitigation Sessions") in accordance with the tpSEF Risk Mitigation Procedures. Information on upcoming Risk Mitigation Sessions are made available by the SEF on its website. The tpSEF Risk Mitigation Procedures are attached hereto as Appendix C.

POSITION LIMITS AND POSITION ACCOUNTABILITY LEVELS

Rule 4100 SEF Rules Do Not Limit Emergency Powers

Nothing contained in the SEF Rules relating to position limits shall in any way be construed to limit the ability of the SEF to take an Emergency Action as enumerated in the SEF Rules, and, unless the Board [and/or the CEO \(or, if the CEO is not available, the most senior Officer that is available\)](#) in taking an Emergency Action shall state otherwise, any such Emergency Action shall be effective with respect to all Participants, Sponsored Participants, Clients and Customers regardless of whether an exemption from the position limits has previously been granted pursuant to these SEF Rules.

Rule 4101 Position Limits

- (a) To reduce the potential threat of market manipulation or congestion, the SEF shall adopt for each of the contracts of the SEF as is necessary and appropriate, position limits for speculators.
- (b) Except as otherwise provided by the SEF Rules, no Person, including a Participant, Sponsored Participant, Client or Customer, may hold or control a position in excess of such position limits, and no Person may maintain a position in excess of such position limits for a Client or Customer if such Person knows, or with reasonable care should know, that such position will cause such Client or Customer to exceed the applicable position limits.
- (c) Position limits shall apply to (i) all positions in accounts for which any Person, by power of attorney or otherwise, directly or indirectly holds positions or controls trading, and (ii) positions held by two or more Persons acting pursuant to an expressed or implied

agreement or understanding, as if the positions were held by, or the trading of the positions were done by, a single Person.

- (d) Each Participant required to file any report, statement, form or other information with the CFTC pursuant to CFTC Regulations concerning a position limit on any Transaction or commodity underlying a Transaction must simultaneously file a copy of such report, statement, form or other information with the SEF. Such information shall include, for Participants who are Introducing Brokers, information concerning the Customers for which Transactions are entered into on the SEF.

Rule 4102 Exemptions from Position Limits

Any Person seeking an exemption from the position limits referred to in Rule 4101 must file an application with the SEF in the manner and within the time limits prescribed by the SEF. The SEF shall notify the applicant whether the exemption has been approved and whether the SEF has imposed any limitations or conditions on the exemption. The decision of the SEF shall be final.

Rule 4103 Position Accountability

- (a) To reduce the potential threat of market manipulation or congestion, the SEF shall adopt, as is necessary and appropriate, position accountability levels for speculators for each of the contracts of the SEF. Any Person, including a Participant, Sponsored Participant, Client or Customer, who owns or controls Swaps in excess of the applicable position accountability level shall provide the SEF, at its request, any information regarding the nature of the position, trading strategy or hedging activities, if applicable, and if ordered by the SEF, shall not increase the size of any such position.
- (b) For purposes of this Rule 4103, all positions in accounts for which a Person, by power of attorney or otherwise, directly or indirectly controls trading shall be included with the positions held by such Person. The provisions of this Rule 4103 shall apply to positions held by two or more Persons acting pursuant to an expressed or implied agreement or understanding, as if the positions were held by a single Person.

Rule 4104 Enforcement of Position Limits and Position Accountability Levels

- (a) No Person may for itself or any Customer or Client maintain a combination of Swaps which is, or which when aggregated in accordance with this Rule is, in excess of the limits established pursuant to Rule 4101 (or, to the extent ordered not to increase such positions pursuant to Rule 4103, a position in excess of the relevant level).
- (b) In the event the SEF learns that a Person maintains positions in accounts with more than one (1) Person such that the aggregate position in all such accounts exceeds (i) the position limits established pursuant to Rule 4101 or (ii) to the extent such Person is ordered not to increase such positions pursuant to Rule 4103, the relevant level, the SEF may notify all Persons maintaining or carrying such accounts of the total positions in such accounts. Such notice may also instruct each such Person to reduce the positions in such accounts immediately after receipt of the notice, proportionately or otherwise so that

the aggregate positions of such accounts does not exceed the position limits and position accountability levels established pursuant to Rules 4101 and 4103, unless as provided by Rule 4104(c) below, a request for an exemption is made and granted by the SEF pursuant to this Rule 4104. Any Person receiving such notice shall immediately take such steps as may be necessary to liquidate such number of contracts as shall be determined by the SEF in order to cause the aggregate positions of such accounts to comply with the position limits and position accountability levels established pursuant to Rules 4101 and 4103. Notwithstanding the foregoing, the Persons may reduce the positions of such accounts by a different amounts so long as after all reductions have been accomplished, the positions comply with the position limits and position accountability levels established pursuant to Rules 4101 and 4103.

- (c) In the event a Person exceeds its position limit due to sudden unforeseen increases in its bona fide hedging needs, such Person shall not be considered in violation of the SEF Rules provided that such Person requests a hedge exemption to carry such increased position within five (5) Business Days following the day on which the Person's position limit was exceeded and provided that such exemption is granted by the SEF.
- (d) Subject to the foregoing provisions of this Rule 4104, in the event that a Person's position exceeds the position limits established pursuant to Rule 4101 or ordered by the SEF such Person shall liquidate such amount of Swaps as the SEF shall direct in order to eliminate the excess within such time as the SEF may prescribe and shall report to the SEF when such liquidations have been completed. If a Person fails so to liquidate contracts within the time prescribed by the SEF, then, in addition to any other actions the SEF may take, the SEF may take such steps as it may deem necessary or appropriate to liquidate such contracts on behalf and at the expense of such Person to the extent necessary to eliminate such excess. Without limiting the generality of the foregoing, to the extent applicable, the SEF may request the DCO to effect such liquidation in accordance with rules of the DCO. In addition, the SEF in its discretion may require any Person carrying an account for itself or a Customer or Client to obtain and hold additional original margin in such amount and form and by such time as the SEF shall specify until such excess has been eliminated.

Rule 4105 Prime Broker Transactions

- (a) General.
 - (1) All Prime Broker Transactions shall be executed pursuant to this Rule 4105, in addition to other applicable provisions of the SEF Rules.
 - (2) A Prime Broker and each of its Prime Broker Clients must be a Participant approved by the SEF.
 - (3) Each Prime Broker Client may enter Prime Brokerage Orders and execute Permitted Cross Transactions on the SEF in the name of and on behalf of the relevant Prime Broker.

(b) Prime Broker Obligations.

- (1) *Prime Broker Acknowledgment Letter.* Each Participant that desires to transact Prime Broker Transactions on the SEF as a Prime Broker Client shall cause its Prime Broker to provide to the SEF an acknowledgement letter, in a form and substance satisfactory to, and approved by, the SEF (a “Prime Broker Acknowledgement Letter”) that the Prime Broker will, subject to the terms of its Prime Broker Acknowledgement Letter, the Prime Broker’s right to cancel a Prime Broker Transaction in accordance with the provisions of Rule 5103.E and other applicable provisions of the SEF Rules, accept and be financially responsible for all Prime Broker Transactions executed in its name by such Participant.
- (2) *Cancellation of Designation of Prime Broker Client.* The designation of a Participant as a Prime Broker Client by a Prime Broker and the Prime Broker’s obligations in respect of that Prime Broker Client shall continue in full force and effect until cancelled or terminated by written notice (a “Cancellation Notice”) to the SEF in accordance with the terms of the relevant Prime Broker’s Prime Broker Acknowledgement Letter. Any such Cancellation Notice shall become effective upon receipt by the SEF. No such termination or cancellation shall in any manner affect the Prime Broker’s obligations and liabilities incurred by the Prime Broker in respect of the relevant Prime Broker Client prior to the effective date and time of the relevant Cancellation Notice.
- (3) *No Supervisory Responsibilities.* A Prime Broker has no responsibility to supervise any Prime Broker Client or any of such Prime Broker Client’s Supervised Persons.
- (4) *Prime Broker Cancellation of Prime Broker Transactions.* A Prime Broker shall have the right to cancel a Prime Broker Transaction in accordance with the provisions of Rule 5103.E within two (2) hours of the time that the SEF provides the Prime Broker with a Confirmation of such Transaction in accordance with Rule 4012.

(c) Prime Broker Client Obligations.

- (1) In advance of submitting each Prime Brokerage Order and Permitted Cross Transaction to the SEF pursuant to this Rule 4105, each Prime Broker Client shall ensure the Prime Brokerage Order or Permitted Cross Transaction complies with any relevant Prime Broker Limit then in effect.
- (2) Upon receiving notice (whether from the SEF, its Prime Broker or otherwise) that a Prime Broker has cancelled a Participant’s designation as a Prime Broker Client, such Participant shall cancel any unfilled Prime Brokerage Orders and Permitted Cross Transactions submitted in the name of and on behalf of the relevant Prime Broker and shall not submit any additional Prime Brokerage

Orders or Permitted Cross Transactions in the name of and on behalf of that Prime Broker.

- (d) Fees. Fees for Prime Broker Transactions will be charged to the relevant Prime Broker Client, except for Prime Broker Transactions in which the relevant Prime Broker Client transacts through an Introducing Broker, in which case fees for such Transaction will be charged to the Prime Broker Client's Introducing Broker.

SECTION 5
CONDUCT OF PARTICIPANTS AND OTHER PERSONS

DUTIES AND OBLIGATIONS

Rule 5000 Duties and Responsibilities of Participants, Sponsored Participants, Customers and Clients

Each Participant and Sponsored Participant shall (and shall cause all of its respective Supervised Persons to) and each Customer and Client shall:

- (a) use the SEF and effect Transactions in a responsible manner and not for any improper purpose;
- (b) use the SEF only to conduct permitted activity as determined by the SEF;
- (c) comply with the SEF Rules and conduct all such activity in a manner consistent with the SEF Rules and Obligations;
- (d) comply with Applicable Law;
- (e) [settle all Transactions entered into on or pursuant to the SEF Rules;](#)
- (f) ~~(e)~~ 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 activity on or through the SEF or any aspect of any business connected with or concerning the SEF;
- (g) ~~(f)~~ not knowingly mislead or conceal any material fact or matter in any dealings or filings with the SEF or in response to any SEF Proceeding;
- (h) ~~(g)~~ keep any User IDs, account numbers and passwords related to the SEF confidential;
- (i) ~~(h)~~ employ practices to monitor and enforce compliance with risk limits established in conformance with Applicable Law; and
- (j) ~~(i)~~ keep, or cause to be kept, complete and accurate books and records in accordance with Rule 8002.

Rule 5001 Required Disclosures to the SEF

- (a) Each Participant, Sponsored Participant, Customer and Client shall immediately notify the Market Regulation Department in writing at such time as it becomes aware of the occurrence of any of the following events:
 - (1) any damage to, or failure or inadequacy of, the systems, facilities or equipment of such Person to effect Transactions pursuant to the SEF Rules;

- (2) any failure to timely perform such Person's financial obligations under or in connection with Swaps of such Person (or Swaps of any Customer, Client or Sponsored Participant of such Person, as applicable);
- (3) any violation of Applicable Law in connection with such Person's access to, or activities on the SEF, including the requirements of the CFTC and, if applicable, NFA;
- (4) a Material Adverse Change in such Person's financial condition or in the financial condition of an Affiliate of such Person if such change materially impacts such Person's ability to satisfy its obligations under the SEF Rules;
- (5) any refusal of admission of such Person to any other swap execution facility, commodity or securities exchange, DCM, DCO, Self-Regulatory Organization or other business or professional association, or withdrawal by such Person of any application for participation or membership in any swap execution facility, commodity or securities exchange, DCM, DCO, Self-Regulatory Organization or other business or professional association;
- (6) the indictment or conviction of, or any confession of guilt or plea of guilty or *nolo contendere* by such Person (or, if applicable, any of its respective Supervised Persons with access to the SEF) for any felony of any nature or misdemeanor involving, arising from, or related to, the purchase or sale of any Swap or other financial instrument, or involving or arising from moral turpitude, misrepresentation, fraud, deceit, theft, embezzlement, gambling, conversion or abuse of a fiduciary relationship;
- (7) the issuance of a formal order of investigation (or its equivalent), or the commencement, by the issuance or service of a written complaint (or its equivalent), of any judicial, administrative or self-regulatory proceeding, as the case may be, against such Person (or, if applicable, any of its respective Supervised Persons) by the CFTC, the SEC, the securities commission or equivalent authority of any state, territory, the District of Columbia or foreign country, or any swap execution facility, commodity or securities exchange or related clearing organization, DCM, DCO, any Self-Regulatory Organization or other business or professional association;
- (8) the bankruptcy or insolvency of such Person or any of its Affiliates; or
- (9) any suspension, expulsion, bar, fine, censure, cease and desist order, temporary or permanent injunction, denial of Trading Privileges or any other sanction or discipline imposed on such Person (or, if applicable, any of its respective Supervised Persons), whether through an adverse determination, voluntary settlement or otherwise, by:

- (i) a swap execution facility, commodity or securities exchange, DCM, DCO, Self-Regulatory Organization or other business or professional association;
 - (ii) the SEC, the CFTC or the securities commission or equivalent authority of any state, territory, the District of Columbia or foreign country; or
 - (iii) any federal court, state court, Government Agency not mentioned above or quasi-governmental body.
- (b) Each Participant, Sponsored Participant, Customer and Client shall notify the Market Regulation Department in writing within ten (10) days of becoming aware of the occurrence of any of the following events:
- (1) any denial or withdrawal of any application for any registration or license with respect to such Person (or, if applicable, any of its respective Supervised Persons) by or from the SEC, the CFTC or the securities commission or equivalent authority of any state, territory, the District of Columbia or foreign country, or
 - (2) the issuance of a bar by any agency of the United States from contracting with the United States.

TRADING CONDUCT

Rule 5100 Abusive Trading Practices Prohibited

- (a) No Participant or Sponsored Participant or any of its respective Supervised Persons, nor any Customer or Client, shall engage in, or attempt to engage in, any fraudulent act or engage in, or attempt to engage in, any manipulative device, scheme or artifice to defraud, deceive, trick or mislead in connection with or related to any SEF activity including, without limitation, any of the following trading practices except as otherwise authorized under the SEF Rules:
- (1) ~~front-running~~ parking;
 - (2) ~~wash trading~~;
 - (2) ~~(3)~~ pre-arranged trading (it being understood that pre-arranged trading does not include Transactions resulting from pre-execution communications to the extent permitted by Rule 5203(b));
 - (3) ~~adjusted trading or overtrading~~;
 - (4) ~~fraudulent trading~~ front-running;
 - (5) ~~money passes~~ wash trading;
 - (6) ~~fictitious~~ cross transactions;

(7) [fictitious transactions](#);

(8) [money passes](#);

(9) ~~(7)~~ non-competitive transactions (unless otherwise exempt or excluded pursuant to the SEF Rules);

(10) ~~(8)~~ accommodation trading; ~~or~~

(11) [fraudulent trading](#); or

(12) ~~(9)~~ any other trading practices that the SEF or the CFTC deems to be abusive.

Additionally, no Participant or Sponsored Participant or any of its respective Supervised Persons, nor any Customer or Client, shall knowingly execute or accommodate the execution of any such activity by direct or indirect means.

- (b) No Participant, Sponsored Participant, Customer or Client shall trade any Swap that is not authorized to trade on the SEF.

Rule 5101 Good Faith Bids and Offers

A Participant or Sponsored Participant shall not knowingly enter, nor shall any Participant, Sponsored Participant, Customer or Client, cause to be entered, bids or offers into the SEF other than in good faith for the purpose of executing *bona fide* Transactions.

Rule 5102 Invalid Transactions

- (a) A Transaction made or purported to be made on or pursuant to the ~~rules of the~~ SEF [Rules](#) may be declared invalid by the SEF in the following circumstances:

(1) *Unrepresentative Price*. If, taking into consideration current market conditions, the SEF determines that a Transaction has taken place at an unrepresentative price, the SEF, at its absolute discretion, may declare such Transaction invalid. The SEF may take into account such information as it deems appropriate when determining whether to invalidate a Transaction, including, without limitation, the following:

- (i) price movement of other swap contracts with similar terms;
- (ii) current market conditions, including levels of activity and volatility;
- (iii) time period between different quotes and between quoted and traded prices;
- (iv) market or other information regarding price movement in related swap contracts; or

- (v) manifest error.
- (2) *Breach of Applicable Law.* If the SEF determines that a Transaction has been made in breach of Applicable Law, the SEF may declare the Transaction invalid.
- (b) When a Transaction is declared invalid by the SEF, the parties to the Transaction will be notified by the SEF of that fact and a message will be broadcast through the SEF announcing the Swap contract and price level of the invalid Transaction, and the invalid Transaction may be displayed on the SEF as a cancelled Transaction.

Rule 5103 Trade Cancellation, Correction, Offset and Adjustment

Rule 5103.A. SEF Authority Regarding Trade Cancellation, Correction, Offset and Adjustment

The SEF has authority to cancel, or adjust the price of, any Transaction executed on or pursuant to the ~~rules of the~~ SEF [Rules](#), or to execute or require the execution of a new or offsetting Transaction:

- (a) when the SEF determines in its sole discretion such action is necessary to mitigate market disrupting events caused by the improper or erroneous use of the SEF or by system defects;
- (b) at any time the SEF determines in its sole discretion that allowing a Transaction to stand as executed may have a material adverse effect on the integrity of the market;
- (c) in accordance with Rule 4013.A. and this Rule 5103;
- (d) where the Transaction was intended to be cleared and was submitted to a DCO via an Affirmation Hub or other middleware provider but was not presented to the DCO for clearing due to a post-execution processing issue;
- (e) where the SEF determines in its sole discretion that a mistake occurred as a result of an error by an Execution Specialist; or
- (f) to comply with Applicable Law.

Rule 5103.B. Transaction Price Review

- (a) Determination to Review a Transaction's Price.
 - (1) The SEF may determine to review a Transaction's price based on its independent analysis of market activity or upon a Participant's request (including a Participant that is a Prime Broker Client).
 - (2) A Participant's request for review must be made within ten (10) minutes of execution the relevant Transaction and must include the USI for the Transaction and a statement of the grounds for the review. In the absence of a timely request

for review, the SEF may determine whether or not a Transaction will be subject to review in its sole discretion. Notwithstanding the foregoing, subject to Applicable Law, the SEF shall amend the terms of, or cancel, any Transaction that the parties, together with the DCO, as applicable, mutually agree to amend or cancel, even in the event that such amendment or cancellation is not submitted to the SEF within the applicable review period specified above.

(b) Review of a Transaction's Price.

- (1) In reviewing a Transaction's price, the SEF shall use good faith efforts to determine the fair mid-market price for the Swap at the time the Transaction was executed. The SEF may consider any relevant information, including, but not limited to, the last transaction price of the Swap or a better bid/offer, a more recent price for a different maturity date, the price of the same or related Swap established in another venue or another market, the market conditions at the time of the Transaction and the theoretical value of an option based on the most recent implied volatility.
- (2) Following the SEF's determination of a Transaction's fair mid-market price in accordance with Rule 5103.B.(b)(1) above, the SEF shall have the right, in its sole discretion, to cancel or adjust the price of such Transaction or to require the entry into an offsetting Transaction; *provided, however*, that the SEF shall not make any such cancellation or price adjustment or require the entry of an offsetting Transaction if such action would, in the SEF's sole discretion, (i) adversely impact market integrity, (ii) facilitate market manipulation or other illegitimate activity or (iii) otherwise violate the CEA, CFTC Regulations or the SEF Rules.
- (3) The method of adjustment or cancellation of any Cleared Swap that is adjusted or cancelled shall be the method provided for by the rules and procedures of the relevant DCO.

Rule 5103.C. Review of Transactions for Errors

- (a) If a Participant, Sponsored Participant, Client or Customer believes that any Transaction was incorrectly executed, cleared or rejected from clearing as a result of an Error (as defined in Rule 5103.C.(f) below), such Person may, within ten (10) minutes thereafter, request a review of the Transaction by providing the USI for the Transaction and stating the grounds for the disagreement.
- (b) Upon timely receipt by the SEF of a request for a Transaction review in accordance with Rule 5103.C.(a) above, or if the SEF determines on its own initiative to conduct such a review, the SEF will review its electronic audit trail and other relevant records to determine if an Error occurred. If the request for review is not timely, the SEF may, in its sole discretion, perform a review of the Transaction.
- (c) If the review described in this Rule 5103.C. reveals that the Transaction was incorrectly executed, cleared or rejected from clearing as a result of an Error, the SEF may cancel or

adjust the Transaction, or execute or require the execution of a new or offsetting Transaction (in accordance with the procedures specified in Rule 4013.A. for Cleared Swaps), as appropriate; *provided, however*, that the SEF shall not take any action pursuant to this Rule 5103.C.(c) if such action would, in the SEF's sole discretion, (i) adversely impact market integrity, (ii) facilitate market manipulation or other illegitimate activity or (iii) otherwise violate the CEA, CFTC Regulations or the SEF Rules.

- (d) If the review described in this Rule 5103.C. reveals that the Transaction was not incorrectly executed, nor cleared or rejected from clearing as a result of an Error, then no adjustment shall be made.
- (e) If a Transaction is reviewable for price under Rule 5103.B., the procedures of this Rule 5103.C. shall not apply. For the avoidance of doubt, if a Transaction was correctly executed but the reporting to the SDR was in error, Rule 8005 shall apply and this Rule 5103.C. shall not apply.
- (f) For purposes of this Rule 5103.C., an "Error" shall mean the occurrence of any of the following:
 - (1) A mistake made as the result of a malfunction of the SEF or human error, including a mistake made by an Execution Specialist;
 - (2) An Order was incorrectly displayed and/or executed;
 - (3) A clerical or operational error or omission made by the SEF or a Participant (including a Prime Broker Client), Sponsored Participant, Client or Customer (or any agent of any of the foregoing) that caused a transaction to be rejected from clearing and void *ab initio*;
 - (4) A Clearing Firm or DCO rejected a leg of a Package Transaction for clearing because of the sequencing of submission for clearing of the legs of the applicable Package Transaction; or
 - (5) Where a Transaction was intended to be cleared and was submitted to a DCO via an Affirmation Hub or other middleware provider but was not presented to the DCO for clearing due to a post-execution processing issue.

Rule 5103.D. Records and Reporting of Cancellations and Price Adjustments

- (a) Cancelled Transactions and any prices that have been adjusted shall be cancelled in the SEF's official records.
- (b) Transactions that have had their price adjusted shall be reflected in the SEF's official records at the adjusted price.

- (c) If a Transaction is either cancelled or adjusted pursuant to Rule 5103, the SEF shall submit a cancellation or correction of the Transaction to the same SDR to which the Transaction was previously reported.

Rule 5103.E. Cancellation of Prime Brokerage Transactions

- (a) Subject to Rule 4105(b)(4), a Prime Broker shall have the right to cancel any Prime Broker Transaction within two (2) hours of the time that the SEF provides the Prime Broker with a Confirmation of such Transaction in accordance with Rule 4012 (i) that is executed in breach of a Prime Broker Limit; (ii) that was executed by a Person that was not authorized by the Prime Broker; or (iii) that was executed for an unauthorized product. The Prime Broker shall communicate the cancellation directly to the SEF and indicate the reason for the cancellation. The SEF shall be entitled to rely on the Prime Broker's statement that any such grounds exist without inquiry and shall have no liability to the Prime Broker, the Prime Broker Client, or the counterparty to the cancelled Transaction or any other party in so doing.
- (b) If any Prime Broker Transaction is cancelled by the SEF pursuant to the provisions of this Rule 5103.E., the Prime Broker, the Prime Broker Client and the counterparty shall be liable for payments in respect of such cancellation in accordance with the terms of their agreements or as they may otherwise agree. The SEF shall have no involvement in determination of any such payments.
- (c) Notwithstanding anything to the contrary in the SEF Rules, the SEF shall have the right, in its sole discretion, to suspend, revoke, limit, condition, restrict or qualify the ability of any Participant to transact on the SEF as a Prime Broker or Prime Broker Client following the use of the cancellation right in 5103.E.(a).
- (d) Nothing in this Rule 5103.E shall restrict the rights of a Prime Broker Client to request a review of a Prime Broker Transaction pursuant to the other provisions of Rule 5103.

Rule 5104 Misuse of the SEF

Misuse of the SEF is strictly prohibited. It shall be a violation of the SEF Rules for any Person to willfully or negligently engage in unauthorized access to the SEF, to assist any Person in obtaining unauthorized access to the SEF, to trade on the SEF without the authorization of a Participant, to alter the equipment associated with the SEF, to interfere with the operation of the SEF, to use or configure a component of the SEF in a manner that does not conform to the SEF Rules, to intercept or interfere with information provided on or through the SEF, or in any way to use the SEF in a manner contrary to the SEF Rules.

VIOLATIONS

Rule 5200 Rule Violations

- (a) It shall be a violation for a Participant, Sponsored Participant, Customer or Client or any Supervised Person to violate any SEF Rule, to breach any agreement made with the SEF,

to violate Applicable Law, or to engage in fraud, dishonorable conduct, or in conduct which is inconsistent with just and equitable principles of trade.

- (b) Participants, Sponsored Participants, Customers and Clients and Supervised Persons shall assist the SEF in any investigation into potential violations of Applicable Law. Such assistance must be timely and may include, but not be limited to, requiring any Participant, Sponsored Participant, Client, Customer or Supervised Person to produce documents, to answer questions from the SEF or its designee, and/or to appear in connection with an investigation.
- (c) If a Participant, Sponsored Participant, Customers or Client has actual or constructive notice of a violation in connection with the use of the SEF by a Participant, Sponsored Participant, Client, Customer or Supervised Person and such Person fails to notify the Market Regulation Department within a reasonable time, such Person may be found to have committed an act detrimental to the interest or welfare of the SEF.

Rule 5201 Fraudulent Acts Prohibited

No Participant, Sponsored Participant, Customer or Client (or any Supervised Persons) shall engage in, or attempt to engage in, any fraudulent act or engage in, or attempt to engage in, any scheme to defraud, deceive, trick or mislead in connection with or related to any SEF activity.

Rule 5202 [Reserved]

Rule 5203 Fictitious or Wash Transactions; Permitted Pre-Execution Communications

- (a) No Participant, Sponsored Participant, Customer or Client (or any Supervised Persons) shall create fictitious transactions or wash transactions. No Person shall place or accept Orders in the same Swap 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 (transactions commonly known or referred to as wash sales). 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 trades. Additionally, no Person shall knowingly execute or accommodate the execution of such Orders by direct or indirect means.
- (b) Participants, Sponsored Participants, Customers and Clients (and any of their Supervised Persons) may engage in pre-execution communications (including communications with respect to Orders) relating to:
 - (1) Permitted Cross Transactions;
 - (2) Block Trades executed pursuant to Rule 4016;
 - (3) Transactions executed pursuant to the procedures specified in Rule 4013.A.(e) and (f);

- (4) Package Transactions (Order Book Exempt); and
- (5) Required Cross Transactions;

provided that with respect to any pre-execution communications permitted by (1) through (5) above:

- (i) the parties to the pre-execution communications do not disclose to a non-party the details of such communications or use the information obtained in a manner contrary to Applicable Law, and
- (ii) the requirements of Rule 4011 are satisfied to the extent applicable.

Nothing contained in this Rule 5203(b) shall prevent a Person from disclosing information as may be required by legal process (including subpoena or demand for productions) or to such Person's agents or advisors (including, but not limited to, accountants and auditors and legal counsel).

Rule 5204 Market Disruptions Prohibited

Orders entered into the SEF for the purpose of upsetting the equilibrium of the market in any Swap or creating a condition in which prices do not or will not reflect fair market values are prohibited, and any Participant, Sponsored Participant, Customers or Client (or any of their respective Supervised Persons) 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 in violation of this Rule 5204.

Rule 5205 Market Manipulation Prohibited

No Participant, Sponsored Participant, Customer or Client (or any of their respective Supervised Persons) shall attempt to manipulate or manipulate the price of any Swap including, without limitation, cornering, "front-running", "money passes", trading ahead or against ~~customer~~ Customer Orders, combination or improper cross trading involving, for example and without limitation, a short term riskless transaction taking advantage of an incoming Order or the offset of a prior position to avoid an adverse market move.

Rule 5206 Disruptive Trading Practices Prohibited

No Participant, Sponsored Participant, Customer or Client (or any of their respective Supervised Persons) shall engage in any trading, practice or conduct that constitutes a "disruptive trading practice," as such term is defined by the Section 4c(a)(5) of the CEA (7 U.S.C. § 6c(a)(5)) or the related CFTC Regulations.

Rule 5207 Prohibition of Misstatements

No Participant, Sponsored Participant, Customer or Client (or any of their respective Supervised Persons) shall make any knowing misstatement of a material fact to the SEF, any SEF Official,

any Board committee or SEF Panel, any agent of the SEF (including the Regulatory Services Provider) or any Participant, Sponsored Participant, Customer, Client or Supervised Person. All swap data or other information submitted from time to time by any Participant, Sponsored Participant, Customer or Client (or any of their respective Supervised Persons) to the SEF, or by the SEF on behalf of any such Person, to any Clearing Firm, Affirmation Hub, DCO or SDR, shall be accurate and complete in all material respects as of the time submitted.

Rule 5208 Acts Detrimental to the SEF Prohibited

No Participant, Sponsored Participant, Customer or Client (or any of their respective Supervised Persons) shall engage in any act that is detrimental to the SEF.

Rule 5209 Adherence to Law

No Participant, Sponsored Participant, Customer or Client (or any of their respective Supervised Persons) shall engage in conduct that is a violation of the Applicable Law.

Rule 5210 Communications with the Public and Promotional Material

Promotional material and similar information issued by Participants shall comply with Applicable Law.

SUPERVISION

Rule 5300 Duty to Supervise

Each Participant shall establish, maintain and administer reasonable supervisory procedures to monitor the compliance of [its](#) Supervised Persons with the SEF's Rules and any applicable provisions of the CEA or CFTC Regulations and such Participant may be held accountable for the actions of such Supervised Persons. As set forth in Rule 4105(b)(3), a Prime Broker shall have no responsibility to supervise any Prime Broker Client or any of such Prime Broker Client's Supervised Persons.

INSPECTIONS

Rule 5400 Inspections by the SEF

- (a) The SEF and the Regulatory Services Provider (and their respective authorized representatives), shall have the right, in connection with determining whether all Obligations are being, will be, or have been complied with by a Participant, Sponsored Participant, Customer or Client, in accordance with Applicable Law:
- (1) inspect books and records, systems, equipment and software operated by such Person in connection with any SEF activity, wherever located;
 - (2) access the systems, equipment, software and the premises on which the systems, equipment and software are located and any data stored in any of the systems or

equipment, during the regular business hours and the Trading Hours of the SEF without prior notice to such Person; and/or

- (3) remove, copy or reproduce any data to which the SEF has access under the SEF Rules.
- (b) Each such Person shall provide the Regulatory Services Provider with the same access to its books and records and offices as it is required to provide the SEF under the SEF Rules and Applicable Law.
- (c) The Market Regulation Department may require a Participant to furnish (periodically or on a particular occasion) information concerning the Participant's activity on the SEF. For a Participant, such information includes but is not limited to, the Participant's open trading positions or Swaps to which the Participant is a party.
- (d) The SEF shall provide prior notice to a Person in the event of an inspection that has been prescheduled by the SEF.

INFORMATION SHARING

Rule 5500 Information-Sharing

- (a) The SEF may enter into information-sharing agreements or other arrangements or procedures to establish and enforce rules that will allow the SEF to obtain any necessary information to perform any monitoring of trading and trade processing, provide information to the CFTC upon request and that allow the SEF to carry out such international information-sharing agreements as the CFTC may require. As part of any information-sharing agreements or other arrangements or procedures adopted pursuant to this Rule 5500, the SEF may:
 - (1) provide market surveillance reports to other markets;
 - (2) share information and documents concerning current and former Participants with other markets;
 - (3) share information and documents concerning ongoing and completed investigations with other markets; and/or
 - (4) require its current or former Participants, or their Sponsored Participants, Customers or Clients, to provide information and documents to the SEF at the request of other markets with which the SEF has an information-sharing agreement or other arrangements or procedures.
- (b) The SEF may enter into any arrangement with any Person or body (including, without limitation, the CFTC, the NFA, any Self-Regulatory Organization, any exchange, market, Swap Data Repository, reporting services 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 Applicable Law.

- (c) The SEF may disclose to any Person or entity information concerning or associated with a Participant or other Person where the SEF believes such disclosure is reasonably necessary and appropriate in exercising a legal or regulatory function.
- (d) Participants, Sponsored Participants, Customers and Clients shall provide the SEF any requested information pursuant to the SEF Rules or Applicable Law as necessary for the SEF to perform any of the functions described in these SEF Rules.

FINANCIAL REQUIREMENTS

Rule 5600 Minimum Financial and Related Reporting Requirements

- (a) Each Participant that is registered with any Government Agency, including the CFTC and the SEC, or a Self-Regulatory Organization shall comply with the provisions of Applicable Law, including, but not limited to, the rules and regulations such Government Agency or Self-Regulatory Organization imposes on a Participant relating to minimum financial and related reporting and recordkeeping requirements.
- (b) Each Participant shall qualify as an ECP and undertake to timely update any change to the Participant's status as an ECP.
- (c) A copy of any notice or written report that a Participant is required to file with the CFTC pursuant to CFTC Regulation 1.12 shall be concurrently provided to the SEF.
- (d) A Participant who is subject to and violates CFTC Regulations 1.10, 1.12, 1.17 or 1.18 shall be deemed to have violated this Rule 5600.

Rule 5601 Confidentiality of Financial and Other Information

All information and data obtained or received by the Market Regulation 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 5601 does not supplant Rule 5500 and the SEF Rules in Section 7, Applicable Law, or any other requirement of legal process or law.

Rule 5602 Authority to Impose Restrictions

Whenever a Participant is subject to the early warning requirements set forth in CFTC Regulation 1.12, the SEF may impose such conditions or restrictions on the business and operations of such Participant as the SEF may deem necessary or appropriate for the protection of customers, other Participants, or the SEF.

Rule 5603 Additional Disclosure Requirements

Each Participant must comply with all disclosure requirements set forth in applicable CFTC and Self-Regulatory Organization rules and regulations. 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 exchange.

MISCELLANEOUS

Rule 5700 Gifts and Gratuities

Participants shall maintain and enforce gifts policies and procedures to prevent gifts in excess of one hundred dollars (\$100) to Directors, Officers and SEF employees.

Rule 5701 Anti-Money Laundering and Anti-Terrorism

It is SEF policy: (1) not to engage in or knowingly assist any money laundering or other illicit business, and (2) not to engage in or knowingly assist, or be a conduit for, terrorist financing. Participants will be required to provide sufficient information for Participants and their Customers or Clients, if applicable, for SEF to conduct restricted list searches, including, but not limited to, searches against the Specially Designated Nationals and Blocked Persons list maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury.

Rule 5702 Market Data

- (a) All Participants, Sponsored Participants, Customers and Clients and all Supervised Persons, agents, vendors, and other Persons affiliated with the foregoing understand and acknowledge that the SEF has a proprietary interest in:
- (1) the price and quantity data from each and every Transaction executed on the SEF or subject to the SEF Rules, including the time at which the Transaction was executed on, or submitted to, the SEF;
 - (2) the price and quantity data for each and every Order or Block Trade submitted to the SEF, including the time at which the Order was entered;
 - (3) the yield curves and reference prices prepared by the SEF;
 - (4) any data and information derived from (1), (2) and (3) and the format and presentation thereof (except a Participant's confidential information or data); and
 - (5) the transmissions and dissemination of the data and information to Participants, any publisher of the data or information with whom the SEF has a written agreement, and any other Persons.
- (b) Except with respect to such Person's confidential information or data, Participants, Sponsored Participants, Customers and Clients and Supervised Persons may not

distribute, sell or retransmit any other information displayed on the SEF to any third party without the express written consent of the SEF.

- (c) The SEF may at any time restrict or establish utilization fees in respect of data described in Rule 5702(a) with respect to all or any Participants, Sponsored Participants, Customers or Clients in order to safeguard the security or operations of the SEF or to preserve market integrity, fair and orderly trading, or if otherwise in the public interest, *provided, however*, that view-only access is provided free-of-charge.

Rule 5703 Extension or Waiver of SEF 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.

SECTION 6
ENFORCEMENT OF RULES AND
DISCIPLINARY PROCEEDINGS

Rule 6000 General

- (a) All Participants, Sponsored Participants, Account Managers, Authorized Traders, Clients, Customers, Supervised Persons and any other Person using a User ID of a Participant or login credentials linked to a Participant or User ID shall be subject to the SEF's jurisdiction. Any Participant, Sponsored Participant, Account Manager, Authorized Trader, Client, Customer, Supervised Person or other Person using a User ID of a Participant or login credentials linked to a Participant or User ID is subject to this Section 6 if such Person is 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 other provision of Applicable Law for which the SEF has disciplinary jurisdiction.
- (b) The SEF, through its Market Regulation Department, Review Panels, Disciplinary Panels and Appeals Panels will conduct inquiries, investigations, disciplinary proceedings and appeals from disciplinary proceedings, summary impositions of fines, summary suspensions or other summary actions in accordance with this Section 6.
- (c) The SEF and its Regulatory Services Provider are parties to a Regulatory Service Agreement as referenced in Rule 2600, pursuant to which the Regulatory Services Provider has agreed to perform certain regulatory services described in this Section 6 on behalf of SEF. The SEF Rules that refer to the SEF, SEF staff, the Market Regulation Department and other SEF departments should be understood as also referring to the Regulatory Services Provider, the Regulatory Services Provider staff and the Regulatory Services Provider departments acting on behalf of SEF pursuant to the Regulatory Services Agreement. Notwithstanding the fact that the SEF has entered into the Regulatory Services Agreement with its Regulatory Services Provider to perform some of the SEF's functions, the SEF shall retain ultimate legal responsibility for, and control of, such functions.
- (d) No SEF Official will interfere with or attempt to influence the process or resolution of a Disciplinary Action except to the extent provided under the SEF Rules with respect to a proceeding in which the SEF Official is a member of the relevant panel.
- (e) Any Participant, Sponsored Participant, Account Manager, Authorized Trader, Client, Customer or Supervised Person may be represented by counsel during any Disciplinary Action pursuant to this Section 6.
- (f) The SEF may hold a Participant or any Customer or Client liable for, and impose sanctions against such Participant, Customer or Client, for such Participant's, Customer's or Client's own acts and omissions that constitute a violation as well as for, in the case of a Participant, the acts and omissions of each (A) Authorized Trader of such Participant, (B) other Supervised Person of such Participant, (C) other Person using a User ID of such Participant or login credentials linked to the Participant or User ID, (D) agent or

representative of such Participant, in each case, that constitute a violation as if such violation were that of the Participant, or (E) Sponsored Participant, Client or Customer of such Participant.

- (g) 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 agent or representative of such Authorized Trader that constitute a violation as if such violation were that of the Authorized Trader.

Rule 6001 Inquiries and Investigations

- (a) The Market Regulation Department shall investigate potential or alleged violations of the SEF Rules. The Market Regulation Department will commence an investigation (i) upon the receipt of a request from CFTC staff or (ii) upon the discovery or receipt of information that, in the judgment of the Market Regulation Department, indicates a reasonable basis for finding that a violation may have occurred or will occur. The Market Regulation Department will determine the nature and scope of its inquiries and investigations and will function independently of any commercial interests of the SEF.
- (b) The Market Regulation Department may:
 - (1) initiate and conduct inquiries and investigations, and engage such third-party advisors, include legal counsel, as it deems appropriate;
 - (2) prepare Investigation Reports and make recommendations concerning initiating disciplinary proceedings;
 - (3) prosecute alleged violations within the SEF's disciplinary jurisdiction; and
 - (4) represent the SEF on summary imposition of fines, summary suspension or other summary action.
- (c) Each Clearing Firm, Participant, Sponsored Participant, Account Manager, Authorized Trader, Customer, Client and Supervised Person and any other Person that is subject to the SEF's jurisdiction:
 - (1) is obligated to appear and testify and respond in writing to interrogatories within the time period required by the SEF in connection with:
 - (i) any SEF Rule or any other provision of Applicable Law for which the SEF has disciplinary jurisdiction;
 - (ii) any Disciplinary Action; or
 - (iii) any preparation for and presentation during a Disciplinary Action;

- (2) is obligated to produce books, records, papers, documents or other tangible evidence in its, his or her possession, custody or control within the time period required by the SEF in connection with:
 - (i) any SEF Rule or any other provision of Applicable Law for which the SEF has disciplinary jurisdiction;
 - (ii) any situation in which such books, records, papers, documents or other tangible evidence would be useful to the SEF in determining if a violation of a SEF Rule has occurred;
 - (iii) any Disciplinary Action; or
 - (iv) any preparation for and presentation during a Disciplinary Action; and
- (3) may not impede or delay any Disciplinary Action.
- (d) Each investigation must be completed in a timely manner. Absent mitigating factors, a timely manner is no later than twelve (12) months after the date that an investigation is opened. Mitigating factors that may reasonably justify an investigation taking longer than twelve (12) months to complete include the complexity of the investigation, the number of firms or individuals involved as potential wrongdoers, the number of potential violations to be investigated, and the volume of documents and data to be examined and analyzed by the Market Regulation Department.

Rule 6002 Reports of Investigations

- (a) The Market Regulation Department will maintain a log of all investigations and the disposition of each. The Market Regulation Department will prepare an Investigation Report, regardless of whether the evidence gathered during any inquiry or investigation forms a reasonable basis to believe that a violation within the SEF's jurisdiction has occurred or is about to occur or whether the evidence gathered results in closing the matter without further action or through summary action.
- (b) The Investigation Report will include the reasons for initiating the investigation (including a summary of the complaint, if any), all relevant facts and evidence gathered, Market Regulation Department's analysis and conclusions, the potential respondent's disciplinary history at the SEF, and the recommendation of the Market Regulation Department. For each potential respondent, the Market Regulation Department will recommend:
 - (1) closing the investigation without further action;
 - (2) settlement;
 - (3) summary action;

- (4) [the preparation and service of a Notice of Charges for](#) initiating a disciplinary proceeding;
 - (5) resolving the investigation through an informal disposition, including the issuance of a warning letter (an informal disposition (including the issuance of a warning letter) will not constitute a finding of a violation or a sanction);
 - (6) forwarding the Investigation Report to a Review Panel as discussed in Rule 6004; or
 - (7) in the case of one of the violations described in Rule 6016(a)(1) through (4), forwarding the Investigation Report to the Regulatory Oversight Committee for determination regarding whether to impose a summary fine under Rule 6016.
- (c) After reviewing the Investigation Report, the Chief Compliance Officer will:
- (1) proceed with the Market Regulation Department's recommendation;
 - (2) forward the Investigation Report to a Review Panel as discussed in Rule 6004; or
 - (3) in the case of one of the violations described in Rule 6016(a)(1) through (4), forward the Investigation Report to the Regulatory Oversight Committee for determination regarding whether to impose a summary fine under Rule 6016.

Rule 6003 Opportunity to Respond

- (a) If the Review Panel authorizes disciplinary proceedings or the Chief Compliance Officer determines to proceed with the Market Regulation Department's recommendation to initiate disciplinary proceedings, the Market Regulation Department will notify each potential respondent that the Market Regulation Department or Review Panel has recommended formal disciplinary charges against the potential respondent.
- (b) The SEF may allow a potential respondent to propose a settlement of the matter or to submit a written statement explaining why a disciplinary proceeding should not be instituted or one or more of the potential charges should not be brought. The potential respondent shall submit such written statement within the time limit established by the Market Regulation Department.

Rule 6004 Review of Investigation Reports

- (a) The Chief Compliance Officer may, in his/her discretion, convene a Review Panel to review the Investigation Report.
- (b) The Review Panel shall be appointed by the Chief Compliance Officer or the SEF's Regulatory Services Provider and shall be comprised of three individuals, at least two of whom would not be disqualified from serving as Public Directors. Each Review Panel must include members who have had relevant experience in some capacity (whether as a current or former employee, officer, director, principal, consultant, advisor, service

provider or otherwise) working with or for sufficient different Membership Interests so as to ensure fairness and to prevent special treatment or preference for any Person in the conduct of the Review Panel's responsibilities, and no member of the Review Panel may be involved in the adjudication of any other stage of the same proceeding. If a vacancy occurs on a Review Panel after it has begun a proceeding, the remaining members of the panel shall complete consideration and disposition of the matter. Once the Review Panel has provided its decision, it shall be dissolved automatically.

- (c) The Review Panel will review the Investigation Report and any reports of additional investigation or evidence provided by the Market Regulation Department pursuant to Rule 6004(c)(1) below and, within thirty (30) days of receiving the Investigation Report or report of additional investigation or evidence, as applicable, will take one of the following actions:
- (1) If the Review Panel determines that additional investigation or evidence is needed, it will promptly direct the Market Regulation Department to conduct further investigation or obtain additional evidence.
 - (2) If the Review Panel determines that no reasonable basis exists for finding a violation of the SEF Rules or any other provision of Applicable Law for which the SEF has disciplinary jurisdiction has occurred or is about to occur or that adjudication is otherwise unwarranted, it may direct that no further action be taken. Such determination will be in writing, and will include the reason the investigation was initiated, a summary of the complaint, a written statement setting forth the facts and analysis supporting the decision and, if applicable, any recommendations. The Review Panel shall also provide the written statement to any applicable Regulatory Services Provider.
 - (3) If the Review Panel determines that a reasonable basis exists for finding a violation of the SEF Rules or any other provision of Applicable Law for which the SEF has disciplinary jurisdiction has occurred or is about to occur and adjudication is warranted, the Review Panel will determine for each potential respondent whether to authorize:
 - (i) the informal disposition of the investigation (by issuing a warning letter or otherwise) because disciplinary proceedings are unwarranted, in which case the Review Panel shall provide a written explanation to any Regulatory Services Provider;
 - (ii) the closing of the investigation without any action because no reasonable basis exists to believe that a violation within the SEF's jurisdiction has occurred or is about to occur in which case the Review Panel shall provide a written explanation to any Regulatory Services Provider; or
 - (iii) the commencement of disciplinary proceedings because a reasonable basis exists to believe that a violation within the SEF's jurisdiction has occurred or is about to occur.

- (d) A failure of the Review Panel to act within the time prescribed above shall not prevent the appointment of a Disciplinary Panel. The Chief Compliance Officer shall inform the ROC of any such failure of the Review Panel to act. The ROC shall, within thirty (30) days of the date by which the Review Panel was required to act review the failure and take appropriate action and may itself take any of the actions which the Review Panel could have taken under Rule 6004(c), including appointment of a Disciplinary Panel.

Rule 6005 Notice of Charges

- (a) If the Review Panel (or the ROC in the event of a failure of the Review Panel to act within the requisite time period) authorizes disciplinary proceedings or the Chief Compliance Officer elects to follow the recommendation of the Market Regulation Department to commence a disciplinary proceeding, the Chief Compliance Officer will appoint a Disciplinary Panel as provided in Rule 6009. In addition, the Market Regulation Department will prepare, and serve in accordance with Rule 6007, a notice of charges (a “Notice of Charges”).
- (b) A Notice of Charges will:
- (1) state the acts, practices or conduct that the respondent is alleged to have engaged in;
 - (2) state the SEF Rule or other provision of Applicable Law alleged to have been violated or about to be violated;
 - (3) state the proposed sanctions;
 - (4) advise the respondent of its right to a hearing;
 - (5) advise the respondent of its right to be represented by legal counsel of its choosing in all succeeding stages of the disciplinary process;
 - (6) state the period of time within which the respondent can request a hearing on the Notice of Charges, which will not be less than twenty (20) days after service of the Notice of Charges;
 - (7) 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
 - (8) advise the respondent that any allegation in the Notice of Charges that is not expressly denied or answered will be deemed to be admitted.

Rule 6006 Answer to Notice of Charges

- (a) If the respondent determines to answer a Notice of Charges, the respondent must file answers within twenty (20) days after being served with such notice, or within such longer time period determined by the Disciplinary Panel in accordance with Rule 6012.
- (b) To answer a Notice of Charges, the respondent must in writing:
 - (1) specify the allegations that the respondent denies or admits;
 - (2) specify the allegations that the respondent does not have sufficient information to either deny or admit;
 - (3) specify any specific facts that contradict the Notice of Charges;
 - (4) specify any affirmative defenses to the Notice of Charges; and
 - (5) sign and serve the answer on the Disciplinary Panel.
- (c) Any failure by the respondent to timely serve an answer to a Notice of Charges will be deemed to be an admission to the allegations in such notice. 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 foregoing requirements.

Rule 6007 Service of Notice of Charges

- (a) Any Notice of Charges or other documents to be served pursuant to this Section 6 may be served on the respondent personally or may be served (and service shall be deemed complete) by leaving the same at his or her place of business, by entrusting the same to reputable overnight courier for tracked delivery, or by depositing the same in the United States mail, postage prepaid, via registered or certified mail, in either case addressed to respondent at the address as it appears on the books and records of the SEF.
- (b) Any Notice of Charges or other documents contemplated to be served pursuant to this Section 6 may also be served upon the respondent and service shall be deemed complete via electronic mail to the electronic mail address as it appears on the books and records of the SEF.

Rule 6008 Settlement Offers

- (a) A respondent or potential respondent may, at any time after completion of an Investigation Report and before disciplinary proceedings have concluded, 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 Market Regulation Department.
- (c) A respondent or potential respondent may offer to settle disciplinary proceedings without admitting or denying the findings contained in the Notice of Charges 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 Rule 6008(a) above, the Market Regulation Department will forward the offer to the Chief Compliance Officer and the Chief Compliance Officer will in turn forward the offer to the Disciplinary Panel with a recommendation on whether to accept or reject the offer.
- (e) If an offer of settlement is forwarded to it pursuant to Rule 6008(d) above, the Disciplinary Panel must review the offer of settlement within ninety (90) Business Days after receipt of the offer of settlement by the Chief Compliance Officer unless an extension has been agreed by the respondent in writing. The Disciplinary Panel may accept the offer of settlement, but may not alter the terms of a settlement offer unless the respondent agrees. A Disciplinary Panel, in its discretion, may permit the respondent to accept a sanction without admitting or denying the rule violation on which the sanction is based.
- (f) If an offer of settlement is accepted by the Disciplinary Panel, it shall issue a written decision specifying:
 - (1) the rule violations it has reason to believe were committed, including the basis or reasons for the panel's conclusions;
 - (2) any sanction to be imposed, which must include full customer restitution where customer harm is demonstrated, except where the amount of restitution or to whom it should be provided cannot be reasonably determined; and
 - (3) if applicable, that the respondent has accepted the sanctions imposed without either admitting or denying the rule violations.
- (g) In the event that the Disciplinary Panel accepts an offer of settlement without the agreement of the Chief Compliance Officer, the Disciplinary Panel's written decision must adequately support such acceptance.
- (h) If an offer of settlement is accepted and the related decision becomes final, 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.
- (i) The respondent may withdraw his, her or its offer of settlement at any time before final acceptance by the Disciplinary Panel. If an offer is withdrawn after submission, or is rejected by the Disciplinary Panel, the respondent must not be deemed to have made any

admissions by reason of the offer of settlement and must not be otherwise prejudiced by having submitted the offer of settlement.

- (j) If the offer of settlement of a respondent or potential respondent is not accepted by the Disciplinary Panel, fails to become final 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 Market Regulation Department may use an unaccepted offer of settlement as an admission or in any other manner at a hearing of disciplinary proceedings.

Rule 6009 Disciplinary Panel

- (a) The Chief Compliance Officer or the SEF's Regulatory Services Provider will appoint a Disciplinary Panel (a) to conduct hearings in connection with any disciplinary proceedings authorized by the Chief Compliance Officer or a Review Panel to make findings and impose sanctions and/or (b) to review any offer of settlement made by a respondent or potential respondent after completion of an Investigation Report. The Disciplinary Panel will be comprised of three individuals, at least two of whom would not be disqualified from serving as Public Directors. In addition, each Disciplinary Panel must include members who have had relevant experience in some capacity (whether as a current or former employee, officer, director, principal, consultant, advisor, service provider or otherwise) working with or for sufficient different Membership Interests so as to ensure fairness and to prevent special treatment or preference for any Person in the conduct of the Disciplinary Panel's responsibilities. A Disciplinary Panel may not include any members of the SEF's compliance staff or any Person involved in adjudicating any other stage of the same proceeding. If a vacancy shall occur on a Disciplinary Panel after it has begun its proceedings, the remaining members shall complete consideration and disposition of the matter. Once a Disciplinary Panel has made its decision and notified all relevant parties, it shall be dissolved automatically. The chair of the Disciplinary Panel shall be appointed by the Chief Compliance Officer.
- (b) Within ten (10) days of being notified of the appointment of the Disciplinary Panel, a respondent may seek to disqualify any individual named to the Disciplinary Panel for the reasons identified in the SEF Rules or for any other reasonable grounds by serving written notice on the Chief Compliance Officer. By not timely filing a request for disqualification, the respondent will be deemed to have waived any objection to the composition of a Disciplinary Panel. The Chief Compliance Officer, in consultation with the General Counsel, of the SEF will decide the merits of any request for disqualification within his or her sole discretion. Any such decision will be final and not subject to appeal.
- (c) No Person shall serve on a Disciplinary Panel unless that Person has agreed in writing that he or she will not publish, divulge, or make known in any manner, any facts or information regarding the business of any Person or any other information which may come to his attention in his official capacity as a member of the Disciplinary Panel, except when reporting to the Board or to a committee concerned with such information or

to the Market Regulation Department, when requested by the CFTC or other Government Agency or when compelled to testify in any judicial or administrative proceeding.

- (d) All information, records, materials and documents provided to the Disciplinary Panel and all deliberations, testimony, information, records, materials and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further a SEF investigation or as required by law.

Rule 6010 Convening Hearings of Disciplinary Proceedings

- (a) A hearing will be conducted privately and confidentially. Notwithstanding the confidentiality of hearings, the Disciplinary Panel may appoint an expert to attend any hearing and assist in deliberations if such expert agrees to be subject to an appropriate confidentiality agreement.
- (b) After reasonable notice to each respondent, the Disciplinary 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 Market Regulation Department.
- (c) The chair of the Disciplinary Panel may continue, adjourn or otherwise conduct the hearing, as he or she may deem appropriate. The chair of the Disciplinary Panel will determine all procedural and evidentiary matters, including the admissibility and relevance of any evidence proffered.
- (d) In determining procedural and evidentiary matters, the chair of the Disciplinary Panel will not be bound by any evidentiary or procedural rules or law. Once admitted during the hearing, the Disciplinary Panel may consider, and attach the weight it believes appropriate to, evidence or other materials. The General Counsel of the SEF, or his or her designee, may provide guidance to the chair of the Disciplinary Panel on the conduct of the hearing.
- (e) Except for procedural and evidentiary matters decided by the chair of the Disciplinary Panel pursuant to Rule 6010(c) above and Rule 6012, unless each respondent otherwise consents, the entire Disciplinary Panel must be present during the entire hearing and any related deliberations.

Rule 6011 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 Market Regulation Department will use to support the allegations and proposed sanctions in the Notice of Charges or which the chair of the Disciplinary 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 documents that:

- (1) are privileged or constitute attorney work product;
 - (2) were prepared by an employee of the SEF but will not be offered in evidence in the disciplinary proceedings;
 - (3) may disclose a technique or guideline used in examinations, investigations or enforcement proceedings; or
 - (4) disclose the identity of a confidential source.
- (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 Market Regulation Department, the Market Regulation Department may redact, edit or code such information before furnishing it to the respondent.
- (c) Notwithstanding anything in Rule 6011(b) above to the contrary, the Market Regulation 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 Market Regulation Department intends to rely on to support the allegations or proposed sanctions in the Notice of Charges.
- (d) For purposes of this Rule 6011, information that could adversely affect competitive positions may include positions in Swaps or other positions currently held, trading strategies employed in establishing or liquidating positions, the identity of any Customer, Client, Sponsored Participant, Participant or Authorized Trader and the personal finances of the Person providing the information.

Rule 6012 Conducting Hearings of Disciplinary Proceedings

- (a) At a hearing conducted in connection with any disciplinary proceedings, the Market Regulation Department will present its case supporting the allegations and proposed sanctions in the Notice of Charges to the Disciplinary Panel. The respondent is entitled to attend and participate in the hearing.
- (b) At a hearing conducted in connection with any disciplinary proceedings, the Disciplinary Panel or the Market Regulation Department and each respondent may:
- (1) present evidence and facts determined relevant and admissible by the chair of the Disciplinary Panel;

- (2) call and examine witnesses; and
 - (3) cross-examine witnesses called by other parties.
- (c) 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 Disciplinary 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 Disciplinary Panel determines that the respondent had a compelling reason for failing to timely file an answer. If the Disciplinary Panel determines that the respondent had a compelling reason for failing to timely file an answer, the Disciplinary Panel will adjourn the hearing and direct the respondent to promptly file a written answer in accordance with Rule 6006.
- (d) If the respondent has requested a hearing on a charge that the respondent denies, or on a sanction set by the Disciplinary Panel under Rule 6014, the respondent will be given an opportunity for a hearing in accordance with the SEF Rules. Except for good cause, such hearing will be limited to addressing those charges denied by the respondent and/or sanctions set by the Disciplinary Panel under Rule 6014 for which a hearing has been requested.
- (e) Any Person entitled, or required or called upon, to attend a hearing before a Disciplinary Panel pursuant to Rule 6012(b)(2) 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 Persons subject to the SEF's jurisdiction that are called as witnesses are required to appear at the hearing and, where applicable, produce evidence. The SEF will make reasonable efforts to secure the presence of all other Persons called as witnesses whose testimony would be relevant.
- (f) If during any disciplinary proceedings the Disciplinary Panel determines that a reasonable basis exists to believe that the respondent violated or is about to violate the SEF Rules or any other provision of Applicable Law for which the SEF has disciplinary jurisdiction other than the violations alleged in the Notice of Charges, the Disciplinary Panel may consider those apparent violations after providing the respondent with an opportunity to answer the additional allegations in accordance with Rule 6006. In connection with considering apparent violations pursuant to this Rule 6012(f), the Disciplinary Panel may request that the Market Regulation Department provide the Disciplinary Panel with any additional information related to the violations at issue.
- (g) The Disciplinary Panel may provide that a sanction be summarily imposed upon any Person within its jurisdiction whose actions impede the progress of a hearing.
- (h) If the respondent has requested the hearing, a copy of the hearing must be made and must become a part of the record of the proceedings. The SEF will arrange for any hearing conducted in connection with disciplinary proceedings to be recorded verbatim, or

substantially verbatim, in a manner capable of accurate transcription. If the respondent requests a copy of all or portions of the recording of a hearing, the chair of the Disciplinary Panel may within his or her sole discretion require the respondent to pay the costs for transcribing the recording of the hearing.

- (i) No interlocutory appeals of rulings of any Disciplinary Panel or chair of the Disciplinary Panel are permitted.

Rule 6013 Decision of Disciplinary Panel

- (a) Promptly following a hearing, the Disciplinary Panel will issue a written order rendering its final decision based on the weight of the evidence contained in the record of the disciplinary proceedings. A decision by a majority of the Disciplinary Panel will constitute the final decision of the Disciplinary Panel.
- (b) The Disciplinary Panel will serve a copy of the order of the disciplinary proceedings on the respondent and the Market Regulation Department. The order will include:
 - (1) The name of the respondent;
 - (2) the Notice of Charges or summary of the charges;
 - (3) the answer, if any, or a summary of the answer;
 - (4) a summary of the evidence produced at the hearing or, where appropriate, incorporation by reference of the Investigation Report;
 - (5) a statement of findings of fact and conclusions with respect to each charge, including a complete explanation of the evidentiary and other basis for such findings and conclusions with respect to each charge;
 - (6) each specific SEF Rule and/or other provision of Applicable Law that the respondent was found to have violated;
 - (7) a declaration of all sanctions imposed against the respondent, if any, including the basis for such sanctions and the effective date of each sanction;
 - (8) notice of respondent's right to appeal; and
 - (9) a statement informing the respondent of the availability of CFTC review of the action pursuant to Part 9 of the CFTC Regulations.
- (c) The written decision of the Disciplinary Panel will become effective upon the expiration of fifteen (15) days after it is served on the respondent and provided to the Market Regulation Department; *provided, however*, that the SEF may cause the decision to become effective prior to that time to the extent permitted under Part 9 of the CFTC Regulations.

Rule 6014 Sanctions

- (a) After notice and opportunity for hearing in accordance with the SEF Rules, the SEF will impose sanctions on any Person subject to the SEF's jurisdiction, including any Clearing Firm, Customer, Client, Sponsored Participant, Participant, Account Manager, Authorized Trader or Supervised Person, or any Person using a Participant's User ID or login credentials linked to a Participant or User ID, if such Person is found to have violated or to have attempted to violate a SEF Rule or other provision of Applicable Law for which the SEF has disciplinary jurisdiction. All sanctions, including those 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. Any such sanction (including any fine) shall be commensurate with the violation committed and clearly sufficient to deter recidivism or similar violations by other market participants.

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 SEF, and/or other activities, functions or operations;
 - (3) suspension of Trading Privileges and/or ability to otherwise access the SEF;
 - (4) fine (subject to Rule 6014(b) below);
 - (5) restitution and/or disgorgement;
 - (6) termination of Trading Privileges and/or ability to otherwise access the SEF;
 - (7) limitation, suspension or termination of rights as a Clearing Firm; or
 - (8) any other sanction or remedy deemed to be appropriate.
- (b) The SEF may impose a fine of up to \$100,000, unless aggravating or mitigating circumstances otherwise warrant as determined by the SEF, for each violation of the SEF Rules or other provision of Applicable Law for which the SEF has disciplinary jurisdiction. The minimum fine for any one violation is \$1,000. If a fine or other amount is not paid within thirty (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 lesser of (i) the quoted prime rate plus three percent, and (ii) the maximum rate of interest permitted by Applicable Law. The SEF has sole discretion to select the bank on whose quotations it will base the prime rate. A Participant will be responsible for paying any fine or other amount imposed on, but not paid by, any of its Supervised Persons.

Rule 6015 Right to Appeal from Disciplinary Panel Decision, Summary Impositions of Fines and Other Summary Actions

- (a) Each respondent found by the Disciplinary Panel to have violated the SEF Rules or other provision of Applicable Law for which the SEF has disciplinary jurisdiction or who is subject to termination or limitation of Trading Privileges, any summary fine imposed pursuant to Rule 6016 or any other summary action may appeal the decision within twenty (20) days of receiving the order of the Disciplinary Panel or the notice of summary action, as the case may be, by filing a notice of appeal with the Chief Compliance Officer.
- (b) The SEF may appeal all or any part of a decision of the Disciplinary Panel, including any sanctions that may or may not have been imposed by the Disciplinary Panel, within twenty (20) days of receiving the order of the Disciplinary Panel, by filing a notice of appeal with the Chief Compliance Officer.
- (c) While an appeal is pending, the effect of the order of the Disciplinary Panel or the summary action (including any sanctions, remedies or costs imposed thereby) shall be suspended.
- (d) The notice of appeal must state in writing the grounds for appeal, including the findings of fact, conclusions or sanctions to which the appellant objects. An appellant may appeal the order of the Disciplinary Panel or any summary action on the grounds that:
 - (1) the order or summary action was arbitrary, capricious, an abuse of discretion or not in accordance with the SEF Rules;
 - (2) the order or summary action exceeded the authority or jurisdiction of the Disciplinary Panel, the Chief Compliance Officer or the SEF;
 - (3) the order or summary action failed to observe required procedures;
 - (4) the order or summary action was unsupported by the facts or evidence; or
 - (5) the sanctions, remedies or costs imposed were inappropriate or unsupported by the record.
- (e) The Chief Compliance Officer will forward copies of any notice of appeal received by him or her to all parties to the disciplinary proceeding or summary action, as the case may be, except the appellant. On or before the twentieth (20th) day after filing a notice of appeal, the appellant must file with the Chief Compliance Officer and serve on the appellee a brief supporting the notice of appeal and documents supporting the brief. On or before the twentieth (20th) day after the date on which the appellant serves its supporting brief, the appellee must file and serve its brief in opposition on the Chief Compliance Officer and the appellant. On or before the tenth (10th) day after the date on which the appellee serves its brief in opposition, the appellant may file and serve on the SEF a brief in reply.

- (f) In connection with any appeal, the Market Regulation Department will furnish to the Chief Compliance Officer and to the appellant and appellee a transcript of the hearing and any exhibits introduced at the hearing.
- (g) No later than thirty (30) days after the last submission filed pursuant to paragraph (e) of this Rule 6015, the Chief Compliance Officer or the SEF's Regulatory Services Provider will appoint an Appeals Panel to consider and determine the appeal. An Appeals Panel shall be comprised of three individuals, none of whom shall be a member of the Market Regulation Department or have been a member of the Disciplinary Panel involved in the matters on appeal and at least two of whom would not be disqualified from serving as Public Directors. In addition, each Appeals Panel must include members who have had relevant experience in some capacity (whether as a current or former employee, officer, director, principal, consultant, advisor, service provider or otherwise) working with or for sufficient different Membership Interests so as to ensure fairness and to prevent special treatment or preference for any Person in the conduct of the Appeals Panel's responsibilities. The chair of the Appeals Panel shall be an individual who would not be disqualified from serving as a Public Director.
- (h) Within ten (10) days of being notified of the appointment of the Appeals Panel, an appellant or appellee may seek to disqualify any individual named to the Appeals Panel or any Person designated as chair thereof for the reasons identified in Rule 2500 or in the definition of Public Director (as the case may be) or on other reasonable grounds, by serving written notice on the Chief Compliance Officer. By not timely filing a request for disqualification, the appellant or appellee will be deemed to have waived any objection to the composition of the Appeals Panel and appointment of its chair. The Chief Compliance Officer will decide the merits of any request for disqualification within his or her sole discretion. Any such decision will be final and not subject to appeal.
- (i) The Appeals Panel may hold a hearing to allow parties to present oral arguments. Any hearing will be conducted privately and confidentially. Notwithstanding the confidentiality of hearings, the Appeals Panel may appoint an expert to attend any hearing and assist in the deliberations if such individual(s) agree to be subject to appropriate confidentiality agreements. In determining procedural and evidentiary matters, the Appeals Panel will not be bound by evidentiary or procedural rules or law.
- (j) The Appeals Panel will only consider on appeal the record before the Disciplinary Panel or, in the case of a summary action, the record considered by the Chief Compliance Officer, the notice of appeal, the briefs filed in support and opposition of the appeal, and any oral arguments of the parties. The Appeals Panel may only consider new evidence when the Appeals Panel is satisfied that good cause exists for why the evidence was not introduced during the disciplinary proceeding or when imposing the summary action.
- (k) After completing its review, the Appeals Panel may affirm, modify or reverse any order of the Disciplinary Panel or summary action under appeal, in whole or in part, including increasing, decreasing or eliminating any sanction or remedy imposed, imposing any other sanction or remedy authorized by the SEF Rules, or remanding the matter to the same or a different Disciplinary Panel for further disciplinary proceedings or for

reconsideration by the Chief Compliance Officer in the case of summary action. The Appeals Panel may order a new hearing for good cause or if the Appeals Panel deems it appropriate.

- (l) As promptly as reasonably possible following its review, the Appeals Panel will issue a written decision on appeal rendering its decision based on the preponderance of the evidence before the Appeals Panel and will provide a copy to the Chief Compliance Officer, the appellant and the appellee. The decision of the Appeals Panel will include a statement of findings of fact and conclusions for each finding, sanction, remedy and cost reviewed on appeal, including each specific SEF Rule and other provision of Applicable Law for which the SEF has disciplinary jurisdiction that the respondent is found to have violated, if any, and the imposition of sanctions, remedies and costs, if any, and the effective date of each sanction, remedy or cost.
- (m) The Appeals Panel's written order on appeal (including findings of fact and conclusions and the imposition of sanctions, remedies and costs, and the effective date of any sanction, remedy cost) will be the final action of the SEF and will not be subject to appeal within the SEF; *provided, however*, that any suspension, expulsion, disciplinary or access denial action or other adverse action by the SEF may (to the extent required thereby) be subject to review by the CFTC pursuant to Part 9 of the CFTC Regulations.

Rule 6016 Summary Imposition of Fines

- (a) Notwithstanding any other provision of this Chapter 6, the SEF may, based on a determination made by the Regulatory Oversight Committee and without the need for any formal disciplinary procedures, summarily impose a fine against a Participant, Sponsored Participant, Account Manager, Authorized Trader, Client, Customer, Supervised Person or any other Person using a User ID of a Participant or login credentials linked to a Participant or User ID for failure to:
 - (1) comply with the requirements set forth in Rule 4013.A.(k)(1)(ii);
 - (2) make timely and accurate submissions to the SEF of notices, reports or other information required by the SEF Rules;
 - (3) make timely payments of assessments, fees, costs, charges or fines to the SEF; or
 - (4) keep any books and records required by the SEF Rules.

Investigations of possible violations of any of the foregoing shall be conducted by the Market Regulation Department in accordance with Rule 6001, but otherwise actions taken pursuant to this Rule 6016 shall be made in accordance with the procedures set forth herein rather than the procedures set forth in the remainder of this Chapter 6. The authority to impose a summary fine under this Rule 6016 does not prevent the Chief Compliance Officer from submitting any Investigation Report to a Review Panel in accordance with the formal disciplinary procedures of this Chapter 6 if the Regulatory Oversight Committee elects not to impose such a summary fine.

- (b) The Market Regulation Department will give notice of any fine determined to be imposed by the Regulatory Oversight Committee pursuant to this Rule 6016 to each Participant or other Person subject thereto. The notice will specify:
 - (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.
- (c) Within twenty (20) days of serving the notice of fine, the Participant or other Person subject thereto, as the case may be, must either pay or cause the payment of the fine. If a fine or other amount is not paid within twenty (20) days of the date that it becomes payable, then interest will accrue on the sum from the date that it became payable at the lesser of (i) the quoted prime rate plus three percent, and (ii) the maximum rate of interest permitted by Applicable Law. The SEF has sole discretion to select the bank on whose quotations it will base the prime rate. A Participant will be responsible for paying any fine or other amount imposed on, but not paid by, any of its Supervised Persons.
- (d) The SEF will set the amount of any fines imposed pursuant to this Rule 6016 at no less than \$1,000 per violation, with the maximum fine for each violation not to exceed \$5,000. Recurring violations will be subject to progressively larger fines. Summary imposition of fines pursuant to this Rule 6016 will not preclude the SEF from bringing any other action against the Participant or any other Person.

Rule 6017 Warning Letters

The SEF authorizes the Market Regulation Department to issue a warning letter to a Person or entity under investigation or to recommend that a Disciplinary Panel take such an action. A warning letter issued in accordance with this Rule 6017 is not a penalty or an indication that a finding of a violation has been made. A copy of a warning letter issued by the Market Regulation Department will be included in the Investigation Report. No more than one warning letter for the same potential violation may be issued to the same Person or entity during a rolling 12-month period.

Rule 6018 Summary Access Denial Actions

- (a) The Chief Compliance Officer, upon a good faith determination that there is a reasonable belief that such immediate action is necessary to protect the best interests of the SEF, may summarily suspend, revoke, limit, condition, restrict or qualify the Trading Privileges of a Participant, Sponsored Participant or any Supervised Person, including denial of access to the SEF.
- (b) Non-Participants, including Customers and Clients, may be denied access to the SEF by the Chief Compliance Officer upon a good faith determination that there are substantial reasons to believe that such immediate action is necessary to protect the best interests of the SEF.

- (c) If practicable, a respondent must be served with a notice before the action is taken or otherwise at the earliest possible opportunity. The notice must state the action taken, the reasons for the action, and the effective date, time and the duration of the action taken. The party shall be advised of his right to a hearing, as soon as reasonably practicable, before a Disciplinary Panel by filing notice of intent with the Market Regulation Department within ten (10) Business Days of the notice date.
- (d) Any suspension, revocation, limitation, condition, restriction or qualification imposed on any Participant, Supervised Person or non-Participant (including Sponsored Participants, Customers and Clients) pursuant to this Rule 6018 will be impartially enforced.
- (e) Any denial, conditioning or termination that represents a suspension, expulsion, disciplinary or access denial action or other adverse action within the meaning of Part 9 of the CFTC Regulations may (to the extent required thereby) be subject to review by the CFTC pursuant to Part 9 of the CFTC Regulations.

Rule 6019 Rights and Responsibilities after Suspension, Temporary Deactivation or Termination

- (a) When a Person's Trading Privileges and/or ability to otherwise access the SEF are suspended or temporarily deactivated in accordance with Rule 3105(c), none of its rights (including the right to hold oneself out to the public as a Participant or Authorized Trader, enter Orders into the SEF, submit Block Trades to the SEF, and receive Participant rates for fees, costs, and charges) will apply during the period of the suspension or deactivation, except for the right of the Person in question to assert claims against others as provided in the SEF Rules. Any such suspension or deactivation will not affect the rights of creditors under the SEF Rules or relieve the Person in question of its, his or her obligations under the SEF Rules to perform any Swaps entered into before the suspension or deactivation, or for any SEF fees, costs, or charges incurred during the suspension or deactivation. The SEF may discipline a suspended or deactivated Person under this Section 6 for any violation of the SEF Rules or other provision of Applicable Law committed by such Person before, during or after the suspension or deactivation.
- (b) When a Person's Trading Privileges and/or ability to otherwise access the SEF are terminated, all of its related rights will terminate, except for the right of the Person 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.
- (c) When a Person's Trading Privileges and/or ability to otherwise access the SEF are terminated, such person will pay to the SEF all assessments, fees, costs, charges and fines due through the termination date (unless such Person shall have previously provided the SEF with written notice of a bona fide dispute in assessments, fees, costs and charges in which case such Person will pay all undisputed fees due through the termination date or unless any such fine is then the subject of an appeal, in which case such fine shall be due in accordance with the procedures applicable to such appeal).

- (d) The SEF will not consider the application of a terminated Participant or Authorized Trader if such Participant or Authorized Trader, 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.
- (e) A suspended, deactivated or terminated Person remains bound by the SEF Rules 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 Person prior to such suspension, deactivation or termination, and must cooperate in any inquiry, investigation, disciplinary proceeding, appeal of disciplinary proceedings, summary suspension or other summary action as if the suspended, deactivated or terminated Person still had Trading Privileges or ability to otherwise access the SEF.

Rule 6020 Notice to the Respondent, the Regulatory Services Provider and the Public; Effectiveness of Disciplinary and Access Denial Actions

- (a) The SEF will provide written notice of disciplinary proceedings and of any access denial actions pursuant to Rule 3103 or 6018 to the relevant parties and the Regulatory Services Provider consistent with applicable CFTC Regulations. Whenever the SEF suspends, expels, fines or otherwise disciplines or denies any Person access to the SEF, the SEF will make the disclosures and notifications required by Part 9 of the CFTC Regulations (including by any of the alternative methods available thereunder) and any other applicable CFTC Regulations.
- (b) Without limiting the generality of the foregoing, the SEF shall, in accordance with the requirements of CFTC Regulation 9.11, provide written notice of its final decision regarding any disciplinary or access denial action to the Person against whom the action was taken within thirty (30) days of rendering such decision. Pursuant to CFTC Regulation 9.12, any disciplinary or access denial action taken will not become effective until at least fifteen (15) days after the written notice is delivered to the Person disciplined or denied access; *provided, however*, that the SEF may cause a Disciplinary Action to become effective prior to that time in accordance with CFTC Regulation 9.12.

Rule 6021 Costs

- (a) Regardless of the outcome of any disciplinary proceeding, the Disciplinary Panel may order a respondent to pay some or all of the costs associated with the disciplinary proceedings if the Disciplinary Panel concludes that the respondent has behaved in a manifestly unreasonable manner. Costs may include costs associated with the inquiry or investigation, the prosecution by the Market Regulation Department, legal and professional assistance, the hearing and administrative and other expenses incurred by the Disciplinary Panel.
- (b) The Disciplinary Panel may only award costs against the SEF if the panel concludes that the SEF has behaved in a manifestly unreasonable manner in the commencement or conduct of the disciplinary proceedings in question. The Disciplinary Panel must limit any award of costs against the SEF to an amount that the panel concludes is reasonable

and appropriate, but does not exceed the respondent's costs for external legal or other external professional assistance.

- (c) The Disciplinary Panel may determine the amounts and allocation of costs in any manner it may deem appropriate. The SEF or the respondent will pay any costs ordered to be paid by it by the Disciplinary Panel within thirty (30) days of written notice of the amount imposed by the Disciplinary Panel. If costs are not paid within twenty (20) days of the date that it becomes payable, then interest will accrue on the sum from the date that it became payable at the lesser of (i) the quoted prime rate plus three percent and (ii) the maximum rate of interest permitted by applicable law. The SEF has sole discretion to select the bank on whose quotations it will base the prime rate. Participant will be responsible for paying any costs imposed on, but not paid by, any of its Supervised Persons.

Rule 6022 *Ex Parte* Communications

- (a) A Person subject to a disciplinary proceeding or an appeal from a disciplinary proceeding (and any counsel or representative of such Person) and the Market Regulation Department (and any counsel or representative of the Market Regulation Department) shall not knowingly make or cause to be made an *ex parte* communication relevant to the merits of a disciplinary proceeding or an appeal from a disciplinary proceeding to any member of the Disciplinary Panel or Appeals Panel hearing such proceeding.
- (b) Members of a Disciplinary Panel or an Appeals Panel shall not knowingly make or cause to be made an *ex parte* communication relevant to the merits of a disciplinary proceeding or an appeal from a disciplinary proceeding to any Person subject to such proceeding (and any counsel or representative of such Person) or the Market Regulation Department (and any counsel or representative of the Market Regulation Department).
- (c) Any Person who receives, makes or learns of any communication that is prohibited by this Rule 6022 shall promptly give notice of such communication and any response thereto to the Market Regulation Department and all parties to the proceeding to which the communication relates.
- (d) A Person shall not be deemed to have violated this Rule 6022 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 6023 [Reserved]

Rule 6024 Extension or Waiver of the SEF Rules

If necessary and expedient, the Chief Compliance Officer may, in his or her 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, CFTC Regulations or other applicable regulations.

Rule 6025 Effect of Amendment, Repeal or New SEF Rule

- (a) 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 Swap and does not affect the value of open Swaps, then the effective date of any amendment or repeal of a SEF Rule or adoption of a new SEF Rule relating to Swaps is binding on all Swaps entered into before and after the effective date of such amendment, repeal or adoption.
- (b) If an amendment or repeal of a SEF Rule or adoption of a new SEF Rule materially changes the terms or conditions of a Swap or affects the value of open Swaps, then the amendment, repeal or new SEF Rule is binding only on Swaps listed for trading after the effective date of such amendment, repeal or adoption, and Swaps 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 6026 [Reserved]

Rule 6027 Governing Law, Jurisdiction and Dispute Resolution

- (a) The law of the State of New York governs the SEF Rules regardless of the laws that would otherwise apply under applicable choice-of-law principles.
- (b) Any dispute between the SEF and a Person arising from or in connection with the SEF Rules or use of the SEF must be brought to arbitration pursuant to subsection (c) of this Rule 6027 within two (2) years from the occurrence of the event giving rise to the dispute. This Rule 6027 shall in no way create a cause of action nor authorize an action that would otherwise be prohibited by the SEF Rules.
- (c) Any dispute between the SEF and a Person arising from or in connection with the SEF Rules will be settled by arbitration administered in New York County, New York by the American Arbitration Association (the “AAA”) under its Commercial Arbitration Rules. The dispute will be submitted to one arbitrator who will be appointed by the AAA. Any arbitrator appointed for purposes of this Rule 6027 will have experience with and knowledge of commodities, derivatives and Swaps as listed on the National Roster of Arbitrators kept in the AAA’s records. Judgment on the award rendered by the arbitrator will be binding on the parties and may be entered in any state or federal court sitting in New York County, New York, and the SEF and each Person shall be deemed to have consented to the personal jurisdiction of any such court. Each party to the dispute will bear its own costs and expenses in connection with any arbitration hereunder, as well as an equal share of the administrative fees and the fees of the arbitrator; *provided, however*, that the arbitrator will be entitled to include in any award a full reimbursement for the prevailing party’s costs and expenses, such party’s share of the administrative fees and the fees of the arbitrator, or any combination of any or all of the above. In the event that this Rule 6027 is held to be unenforceable in connection with any dispute or a claim is deemed by a court of competent jurisdiction to be not arbitrable, (i) exclusive jurisdiction for any such dispute will reside in any state or federal court sitting in New York County, New York, (ii) the SEF and the Person involved in the dispute will be presumed to have

submitted to the personal jurisdiction of any such court, and (iii) an action to enforce any judgment or decision of such court may be brought in the same court or in any other court with jurisdiction or venue. Finally, all Persons unconditionally and irrevocably waive any and all right to trial by jury in connection with any such dispute.

Rule 6028 Limitation of Liability, Indemnity

- (a) UNLESS ARISING OUT OF THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD OF THE SEF, THE SEF, ITS SUBSIDIARIES AND AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS (EACH A “RELATED PARTY” AND COLLECTIVELY “RELATED PARTIES”) HAVE NO LIABILITY, CONTINGENT OR OTHERWISE, TO PARTICIPANTS OR TO THIRD PARTIES, FOR THE CORRECTNESS, QUALITY, ACCURACY, SECURITY, COMPLETENESS, RELIABILITY, PERFORMANCE, TIMELINESS, PRICING OR CONTINUED AVAILABILITY OF THE SEF SERVICES OR FOR DELAYS OR OMISSIONS OF THE SEF SERVICES, OR FOR THE FAILURE OF ANY CONNECTION OR COMMUNICATION SERVICE TO PROVIDE OR MAINTAIN PARTICIPANT ACCESS TO THE SEF SERVICES, OR FOR ANY INTERRUPTION IN OR DISRUPTION OF A PARTICIPANT’S ACCESS OR ANY ERRONEOUS COMMUNICATIONS BETWEEN THE SEF AND A PARTICIPANT. THE SEF AND ITS RELATED PARTIES ARE NOT LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHICH A PARTICIPANT OR ANY THIRD PARTY MAY INCUR OR EXPERIENCE BECAUSE THE PARTICIPANT ENTERED INTO THESE TERMS OR RELIED ON THE SEF SERVICES, EVEN IF THE SEF KNOWS OF THE POSSIBILITY OF THOSE DAMAGES. THE SEF AND ITS RELATED PARTIES ARE NOT RESPONSIBLE FOR INFORMING A PARTICIPANT OF ANY DIFFICULTIES THE SEF OR OTHER THIRD PARTIES EXPERIENCE CONCERNING USE OF THE SEF SERVICES OR TO TAKE ANY ACTION IN CONNECTION WITH THOSE DIFFICULTIES. THE SEF AND ITS RELATED PARTIES ALSO HAVE NO DUTY OR OBLIGATION TO VERIFY, CORRECT, COMPLETE OR UPDATE ANY INFORMATION DISPLAYED IN THE SEF SERVICES. EACH PARTICIPANT IS SOLELY RESPONSIBLE FOR ANY LOSSES, DAMAGES OR COSTS RESULTING FROM THE PARTICIPANT’S RELIANCE ON ANY DATA OR INFORMATION THAT THE SEF MAY PROVIDE IN CONNECTION WITH A PARTICIPANT’S USE OF THE SEF SERVICES.

- (b) THE SEF DOES NOT MAKE ANY RECOMMENDATION AS TO THE SUITABILITY OF ANY INVESTMENT OR PROPOSED TRANSACTION. EACH PARTICIPANT ACKNOWLEDGES THAT THE SEF WILL NOT, AND ARE UNDER NO DUTY TO, PROVIDE ADVICE IN RELATION TO ANY SUCH TRANSACTION OR PROPOSED TRANSACTION THROUGH ANY SEF SERVICE. EACH PARTICIPANT AGREES THAT (i) THE SEF SERVICES ARE NOT AND WILL NOT BE THE BASIS FOR ANY OF INVESTMENT DECISIONS BY A PARTICIPANT AND (ii) PARTICIPANTS ARE SOLELY RESPONSIBLE FOR (A) ANY INVESTMENT OR TRADING DECISIONS THAT THE PARTICIPANT MAKES WITH RESPECT TO THE PRODUCTS AVAILABLE VIA ANY SEF SERVICE AND

(B) DETERMINING WHETHER ANY TRANSACTION IS SUITABLE, APPROPRIATE OR ADVISABLE FOR THE PARTICIPANT OR SPONSORED PARTICIPANT OR CLIENTS OR CUSTOMERS. PROVISION OF THE SEF SERVICES DOES NOT MAKE THE SEF AN ADVISOR OR FIDUCIARY FOR A PARTICIPANT, SPONSORED PARTICIPANT, CLIENT OR CUSTOMER. THESE TERMS DO NOT CONSTITUTE AN OFFER TO SELL OR SOLICITATION OF AN OFFER TO BUY SECURITIES OR OTHER INSTRUMENTS. IN ADDITION, THE SEF SERVICES DO NOT INCLUDE ANY INVESTMENT, FINANCIAL, LEGAL OR TAX ADVICE WHICH PARTICIPANT MAY DESIRE OR NEED IN CONNECTION WITH ANY TRANSACTION. PARTICIPANTS ARE RESPONSIBLE FOR OBTAINING ANY LEGAL OR TAX ADVICE.

- (c) IF A THIRD PARTY CLAIMS THAT THE SEF SERVICES INFRINGE UPON ITS PATENT COPYRIGHT, OR TRADE SECRET, OR ANY SIMILAR INTELLECTUAL PROPERTY RIGHT, THE SEF WILL DEFEND THE PARTICIPANT AGAINST THAT CLAIM AT THE SEF'S EXPENSE AND PAY ALL DAMAGES THAT A COURT FINALLY AWARDS, PROVIDED THAT THE PARTICIPANT PROMPTLY NOTIFY THE SEF IN WRITING OF THE CLAIM AND COOPERATE WITH THE SEF IN THE DEFENSE OR ANY RELATED SETTLEMENT NEGOTIATIONS. THE SEF SHALL HAVE SOLE CONTROL OVER THE DEFENSE AND ANY NEGOTIATION FOR ITS SETTLEMENT OR COMPROMISE. IF SUCH A CLAIM IS MADE OR IS LIKELY TO BE MADE, THE SEF SHALL, AT THE SEF'S SOLE OPTION, HAVE THE RIGHT TO TAKE ONE OR MORE OF THE FOLLOWING ACTIONS AT NO ADDITIONAL COST TO THE PARTICIPANT: (i) PROCURE THE RIGHT FOR THE PARTICIPANT TO CONTINUE THE USE OF THE SEF SERVICES; (ii) REPLACE THE SEF SERVICES WITH NON-INFRINGEMENT SOFTWARE; OR (iii) MODIFY THE SEF SERVICES SO AS TO BE NON-INFRINGEMENT. IF THE SEF DETERMINE THAT NONE OF THESE ALTERNATIVES IS REASONABLY AVAILABLE, THE PARTICIPANT AGREES TO IMMEDIATELY TERMINATE ITS USE OF THE SEF SERVICES ON THE SEF'S WRITTEN REQUEST. HOWEVER, THE SEF HAS NO OBLIGATION FOR ANY CLAIM BASED ON THE SEF'S USE OF THE SEF SERVICES IN ANY MANNER INCONSISTENT WITH THESE TERMS, PARTICIPANT'S MODIFICATION OF THE SEF SERVICES OR PARTICIPANT'S COMBINATION, OPERATION, OR USE OF THE SEF SERVICES WITH ANY PRODUCT, DATA, OR APPARATUS NOT SPECIFIED OR PROVIDED BY THE SEF, PROVIDED THAT SUCH CLAIM SOLELY AND NECESSARILY IS BASED ON SUCH COMBINATION, OPERATION OR USE, OR FOR CONTINUED ALLEGEDLY INFRINGING ACTIVITY BY THE PARTICIPANT AFTER THE PARTICIPANT HAVE BEEN NOTIFIED OF POSSIBLE INFRINGEMENT, UNLESS APPROVED IN ADVANCE BY THE SEF. THE FOREGOING REPRESENTS THE SOLE AND EXCLUSIVE REMEDY FOR PARTICIPANTS WITH REGARD TO ANY OF THE ABOVE INFRINGEMENTS OR ALLEGED INFRINGEMENTS.
- (d) WITH THE EXCEPTION OF THE PROVISIONS OF RULE 6028(c), THE SEF'S LIABILITY AND THE COLLECTIVE LIABILITY OF THE SEF'S RELATED PARTIES AND THE THIRD PARTY SERVICE PROVIDERS SELECTED BY THE

SEF, IF ANY, ARISING OUT OF ANY KIND OF LEGAL CLAIM (WHETHER IN CONTRACT, TORT, OR OTHERWISE) OR IN ANY WAY CONNECTED TO A PARTICIPANT'S USE OF THE SEF SERVICES WILL NOT EXCEED \$500,000 UNLESS CAUSED DIRECTLY BY THE SEF'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

- (e) NONE OF THE ABOVE WILL LIMIT PARTICIPANT'S RIGHTS AND REMEDIES OTHERWISE AVAILABLE UNDER THE STATE OR FEDERAL SECURITIES LAWS, CFTC REGULATIONS OR THE CEA.

SECTION 7 EMERGENCIES

Rule 7000 Emergency Rules

- (a) During an Emergency, the Board and/or the CEO (or, if the CEO is not available, the most senior Officer that is available), in consultation with the CFTC and/or any relevant DCO, as necessary, may implement temporary emergency procedures and rules (“Emergency Rules”), subject to the applicable provisions of the CEA and CFTC Regulations. Emergency Rules may require or authorize the SEF, the Board, any committee of the Board, the CEO or any other Officer to take Emergency Action necessary or appropriate to respond to the Emergency. If applicable, the SEF may provide for the carrying out of Emergency Actions through its agreements with its Regulatory Services Provider.
- (b) Before any Emergency Rule may be adopted and enforced, a required vote of the Board must approve the enforcement of such Emergency Rule at a duly convened meeting. Directors may attend such a meeting by teleconference and such meeting may, if necessary, be conducted pursuant to Rule 2100(c). Notwithstanding, if the CEO (or, if the CEO is not available, the most senior Officer that is available) determines that Emergency Rules must be implemented with respect to an Emergency before a meeting of the Board can reasonably be convened, then the CEO (or such seniormost Officer) shall have the authority, without Board 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 CEO (or such seniormost Officer) must convene a meeting of the Board (which may, if necessary, be conducted pursuant to Rule 2100(c)) as soon as practicable thereafter. Notwithstanding that the Board does not ratify or approve extending or making permanent any Emergency Rules implemented by the CEO or seniormost Officer pending convening of the Board meeting, all actions previously taken in accordance with such Emergency Rules shall remain binding and valid.
- (c) Whenever the SEF, the Board, any committee of the Board, the CEO or any other Officer takes actions necessary or appropriate to respond to an Emergency in accordance with any Emergency Rule, a duly authorized representative of the SEF, where possible, will post an announcement in a Notice to Participants. When the Board and/or the CEO (or, if the CEO is not available, the most senior Officer that is available) determines that the Emergency has been reduced sufficiently to allow the SEF to resume normal functioning, any such actions responding to an Emergency will be terminated.
- (d) 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 as soon as possible or reasonably practicable but in all circumstances within twenty-four (24) hours of the implementation, modification or termination of such Emergency Rule.

- (e) Upon taking any action in response to an Emergency, the SEF will document the decision-making process related to such action. Such documentation will be kept for at least five (5) years 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.

SECTION 8 RECORDKEEPING AND REPORTING

Rule 8000 Maintenance of Books and Records by the SEF

- (a) The SEF shall keep, or cause to be kept, all books and records required to be maintained by it pursuant to the CEA and the CFTC Regulations, including CFTC Regulations 37.1001 and 45.2. Such records shall include, without limitation, a complete audit trail for all Swaps executed on or subject to the ~~rules of the~~ SEF [Rules](#), investigatory files and disciplinary files.
- (b) The SEF shall retain all books and records related to a Swap executed on or pursuant to the ~~rules of the~~ SEF [Rules](#) throughout the life of the Swap and for a period of at least five (5) years following the final termination of the Swap and shall retain all other books and records for a period of at least five (5) years, in each case, in the form and manner required under the CEA and CFTC Regulations, including CFTC Regulations 1.31, 45.2 and 37.1001.
- (c) All books and records required to be maintained by the SEF shall be open to inspection upon request by any representative of the CFTC, the United States Department of Justice or the SEC or by any representative of a prudential regulator as authorized by the CFTC. In addition, all audit trail data and reconstructions shall be made available to the CFTC or the United States Department of Justice in a form, manner and time that is acceptable to the CFTC or the United States Department of Justice, as applicable.
- (d) The SEF may disclose, to any Government Agency, Self-Regulatory Organization or other Person, information concerning or associated with a Participant or other Person if the SEF believes such disclosure 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 8001 Order Information

- (a) Each Authorized Trader entering an Order with respect to any Swap traded on or subject to the ~~rules of the~~ SEF [Rules](#) must include with the Order, all data required to enable the SEF to meet its reporting obligations under Parts 43 and 45 of the CFTC Regulations, including without limitation:
 - (1) the User ID;
 - (2) the Participant ID;
 - (3) the Legal Entity Identifier of the Participant and, where the Participant is acting as agent, of the Customer or Client, with respect to the Swap for which the Order is placed;
 - (4) the price or yield, quantity and maturity or expiration date of the Swap;

- (5) side of the Order;
- (6) the Customer Type Indicator Code (as specified below);
- (7) a yes/no indication of whether the Participant, Customer or Client is a Swap Dealer;
- (8) a yes/no indication of whether the Participant, Customer or Client is a Major Swap Participant;
- (9) a yes/no indication of whether the Participant, Customer or Client is a Financial Entity;
- (10) a yes/no indication of whether the Participant, Customer or Client is a U.S. person;
- (11) if the Swap will be allocated:
 - (i) an indication that the Swap will be allocated;
 - (ii) the Legal Entity Identifier of the Account Manager acting as agent;
 - (iii) a yes/no indication of whether the Account Manager acting as agent is a U.S. person;
 - (iv) an indication of whether the Swap is a post-allocation Swap;
 - (v) if the Swap is a post-allocation Swap, the account and Legal Entity Identifier for each Client that received allocations; and
 - (vi) if the Swap is a post-allocation Swap, the USI of the original Transaction between the Reporting Counterparty and the Account Manager acting as agent;
- (12) if applicable, an indication that the Participant, Customer or Client will elect to rely on a Clearing Exception for any Swap resulting from the Order and a description of the applicable Clearing Exception;
- (13) a yes/no indication of whether the Order is part of a Package Transaction;
- (14) if the Order is part of a Package Transaction, a description of the Transaction;
- (15) an indication of whether the Order is a Prime Brokerage Order; and
- (16) if a Prime Brokerage Order, the identity of the relevant Prime Broker.

For purposes of this Rule 8001(a), the “Customer Type Indicator Codes” are as follows:

- CTI 1 – Orders for the proprietary account of a Participant that is natural person.

- CTI 2 – Orders for the proprietary account of a Participant that is not a natural person.
 - CTI 3 – Order entered by a Participant for the proprietary account of another Participant or for an account which the other Participant controls or has an ownership or financial interest in.
 - CTI 4 – Any order not meeting the definition of CTI 1, 2 or 3, including those entered by Introducing Brokers on behalf of a Customer.
- (b) Participants and ISVs that operate systems that route orders to the SEF are responsible for maintaining or causing to be maintained a routing/front-end audit trail for all Orders, which shall include Order entry, modification and cancellation and any SEF responses to such messages. For executed Orders, such audit trail must record the execution time of the Transaction, along with all fill information. Participants and ISVs shall maintain audit trail information as required by Applicable Law and must have the ability to produce audit trail data in a reasonably usable format upon request of the SEF. The SEF will enforce these audit trail and recordkeeping requirements by conducting an annual review of all Participants to verify their compliance with the SEF’s audit trail and recordkeeping requirements.

Rule 8002 Books and Records

- (a) Each Member, Customer, Client and Clearing Member must prepare and keep, or cause to be kept, all books, ledgers and other records relating to its activity on the SEF required to be kept by it pursuant to Applicable Law, and must prepare and keep such other books and records relating to its SEF activity as the SEF may from time to time prescribe. Such books and records must include, as applicable, records of such Person’s trading, including records of the Person’s activity in the index or instrument used as a reference price, the underlying commodity and related derivatives markets, and records of all non-swap components of Package Transactions. Each such Person shall retain all required books and records in accordance with Applicable Law, including the applicable provisions of CFTC Regulations 1.31 and 45.2, and shall make such books and records available, upon request, to the SEF, the SEF’s Regulatory Services Provider, the CFTC or the United States Department of Justice and as otherwise required by Applicable Law.
- (b) In addition to the information required by subsection (a) of this Rule 8002, each Member must comply with all applicable requirements of CFTC Regulation 1.35.
- (c) If a Participant cannot enter an Order received from its Customer into the SEF, either directly or indirectly through an Execution Specialist, the Participant must immediately create an electronic record that includes the account identifier that relates to the Customer, time of receipt and terms of the Order.
- (d) Each Person required to keep records in accordance with this Rule 8002 shall keep all books and records in accordance with the SEF Rules for a period of five (5) years from

the date on which they are first prepared unless otherwise provided in the SEF Rules or other Applicable Law. Such books and records shall be readily accessible during the first two (2) years of such five-year period, unless otherwise provided in the SEF Rules or other Applicable Law. Each such Person that is a counterparty to a Swap on the SEF or pursuant to the ~~rules of the~~ SEF Rules shall retain all books and records related to such Swap for the life of the Swap and for a period of at least five (5) years following the final termination of the Swap. Each such Person that is a counterparty to an Uncleared Swap on the SEF or pursuant to the ~~rules of the~~ SEF Rules shall notify the SEF of any extension of the final termination of the Swap beyond the original stated maturity in order to enable the SEF to comply with Rule 8000(b) and the SEF's obligations under Applicable Law.

- (e) The SEF may require a Member, Customer or Client to furnish any information in connection with such Person's activities on the SEF including (i) information relating to Swaps executed on the SEF or pursuant to the ~~rules of the~~ SEF Rules, on or pursuant to the rules of other swap execution facilities, DCMs or in related derivatives markets or to transactions or positions in the products underlying, related to or indexed to those Swaps or to which those Swaps are indexed (in whole or in part), and (ii) information requested by a Government Agency relating to the SEF and/or the SEF's compliance with Applicable Law that the SEF believes is maintained by, or otherwise in the possession or control of, such Person.
- (f) Each Authorized Trader shall prepare and keep, or cause to be kept, all books, ledgers and other records relating to its activity on the SEF as may be required to enable its related Member to comply with such Member's obligations under this Rule 8002. Each Authorized Trader shall not knowingly take any action that would cause its associated Member to fail to comply with Rule 8002(d), and each Authorized Trader shall cooperate as necessary to enable its associated Member to comply with such Member's obligations under Rule 8002(e).
- (g) Without limiting the generality of the foregoing, with respect to any Swap that has been allocated following execution on the SEF or pursuant to the ~~rules of the~~ SEF Rules, all Members, Customers and Clients must prepare and keep, or cause to be kept, all books, ledgers and other records as may be necessary to provide relevant information with respect to such post-trade allocation and will furnish such information to the SEF if the SEF, at the request of the CFTC or otherwise, requests such information. This Rule 8002(g) is intended to comply with the conditions of the no-action relief granted by the CFTC's Division of Market Oversight in No-Action Letter 17-54, expiring at 11:59 p.m. (Eastern Time) on November 15, 2020. If such no-action relief is extended, upon and to the extent of such extension, the provisions of this Rule 8002(g) will continue apply.

Rule 8003 Recordkeeping Requirements for Block Trades

Block Trades submitted to the SEF in accordance with Rule 4016(b) must comply with the following recordkeeping requirements:

- (a) Block Trades must be submitted in the form of a written or electronic record and must include information meeting the requirements of Rule 8001, including, without limiting the generality of the foregoing, Legal Entity Identifier information required by Rule 8001(8) with respect to parties and, where required, their agents, and a timestamp reflecting the date and time that the submission was received by the SEF.
- (b) The record shall also include a timestamp reflecting the date and time that the Transaction was executed or cancelled to the nearest millisecond.

Rule 8004 Access to Position Information

Without limiting any provision of these SEF Rules, the SEF and any Regulatory Services Provider, shall have the authority to obtain from any Participant, Sponsored Participant, Account Manager, Customer or Client, or Supervised Person information with respect to positions of such Person or any Sponsored Participant, Customer or Client, or Supervised Person. This authority shall include the authority to obtain information concerning positions maintained at other firms, and it shall be the obligation of a Participant receiving such an inquiry to obtain such information from its Account Manager, Sponsored Participant, Customer, Client, or any Supervised Person. In the event a Participant Sponsored Participant, Customer, Client, or any Supervised Person fails to provide the requested information the SEF, in addition to any other remedy provided in these SEF Rules, may order that the Participant, Account Managers, Sponsored Participant, Customer, Client, or any Supervised Person liquidate the positions that are related to the inquiry.

Rule 8005 Reporting to a Swap Data Repository

- (a) The SEF will report each Swap executed on, [the SEF](#) or pursuant to the ~~rules of, the~~ SEF [Rules](#) as soon as technologically practicable after execution to an Approved SDR in compliance with Parts 43 and 45 of the CFTC Regulations. For all Swaps executed on [the SEF](#) or pursuant to the ~~rules of the~~ SEF [Rules](#), the SEF will report all swap transaction and pricing data required to be reported by Part 43 of the CFTC Regulations and all “primary economic terms data” (as defined in CFTC Regulation 45.1) required by Part 45 of the CFTC Regulations. In addition, for Uncleared Swaps, the SEF will report any “confirmation data” (as defined in CFTC Regulation 45.1) that is readily available and collected by the SEF.
- (b) All Swaps executed on, [the SEF](#) or pursuant to the ~~rules of, the~~ SEF [Rules](#) will be reported to DTCC Data Repository (U.S.) LLC (“DDR”), except that Swaps in the commodities asset class will be reported to the Approved SDR selected by the parties prior to executing the relevant Swap. The SDRs that are currently “Approved SDRs” are: (i) DDR; (ii) Chicago Mercantile Exchange Inc.; and (iii) ICE Trade Vault.
- (c) The Reporting Counterparty for each Swap shall be established pursuant to CFTC Regulation 45.8. If the identity of the Reporting Counterparty cannot be established

under CFTC Regulation 45.8, the ISDA Reporting Counterparty Rules shall be applied as provided in Appendix A hereto.

- (d) If at any time the Reporting Counterparty for a Transaction that was executed on, [the SEF](#) or pursuant to the ~~rules of, the~~ SEF [Rules](#) becomes aware of an error or omission in the swap transaction or pricing data that was reported with respect to such Transaction, either through its own initiative or through notice by the other party to the Transaction, such party shall promptly notify the SEF of the error and/or correction. Upon receiving a notification from the Reporting Counterparty or otherwise becoming aware of an error or omission in the swap transaction or pricing data reported with respect to a Transaction executed on, [the SEF](#) or pursuant to the ~~rules of, the~~ SEF [Rules](#), the SEF shall promptly submit corrected data to the same Swap Data Repository to which the Transaction was previously reported. For the avoidance of doubt, if a Transaction was incorrectly executed, Rule 5103 shall apply.
- (e) No Person shall 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 Applicable Law, including the reporting requirements set forth in Part 43 of the CFTC Regulations.

Rule 8006 Timely Publication of Trading Information

The SEF will publish trading information as required by Core Principle 9 of Part 37 and by Part 16 of the CFTC Regulations.

Mr. Christopher J. Kirkpatrick
April 29, 2020

EXHIBIT E

tpSEF Inc. Compliance Manual

(Clean Version)

Mr. Christopher J. Kirkpatrick
April 29, 2020

EXHIBIT F

tpSEF Inc. Compliance Manual

(Marked Version)