

# SUBMISSION COVER SHEET

Registered Entity Identifier Code (optional)

Date:

**IMPORTANT: CHECK BOX IF CONFIDENTIAL TREATMENT IS REQUESTED.**

**ORGANIZATION**

**FILING AS A:**  **DCM**  **SEF**  **DCO**  **SDR**  **ECM/SPDC**

**TYPE OF FILING**

- **Rules and Rule Amendments**

- Certification under § 40.6 (a) or § 41.24 (a)
- “Non-Material Agricultural Rule Change” under § 40.4 (b)(5)
- Notification under § 40.6 (d)
- Request for Approval under § 40.4 (a) or § 40.5 (a)
- Made Available To Trade Determination under § 40.5 or § 40.6
- Advance Notice of SIDCO Rule Change under § 40.10 (a)

- **Products**

- Certification under § 40.2 (a) or § 41.23 (a)
- Submission under § 39.5
- Swap Class Certification under § 40.2 (d)
- Request for Approval under § 40.3 (a)
- Novel Derivative Product Notification under § 40.12 (a)

**RULE NUMBERS**

**DESCRIPTION**



June 22, 2015

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

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

Re: LatAm SEF, LLC- Rule Amendment- Amended Rulebook- Submission 15-1

Dear Ms. Jurgens

Pursuant to Section 5c(c) of the Commodity Exchange Act (the "Act") and Section 40.6(a) of the regulations of the Commodity Futures Trading Commission (the "Commission"), LatAm SEF, LLC ("LatAm SEF") hereby notifies the Commission that it has amended its Rulebook. The Rulebook has been amended in response to comments and questions received from the staff of the Commission, as well as potential users of LatAm SEF's swap execution facility ("SEF"), and to add rules regarding methods of using LatAm SEF's SEF. The amended Rulebook will become effective on July 6, 2015. Please find enclosed an explanation and analysis with two versions of the Rulebook, a clean version and a marked (Blackline) version showing amendments.

A concise explanation and analysis of the amendments to the Rulebook and their compliance with applicable provisions of the Act, including core principles and the Commission's regulations, is attached hereto as Exhibit A. A clean copy of the amended Rulebook is attached hereto as Exhibit B, and a copy of the amended Rulebook marked to show changes (blacklined) is attached hereto as Exhibit C.

LatAm SEF hereby certifies that: (i) the amended Rulebook complies with the Act and the Commission's regulations thereunder, and (ii) a notice and copy of this submission is being concurrently posted on LatAm SEF's website. There were no substantive opposing views to the amendments to the Rulebook.

Please contact the undersigned at (646) 344-3267 or via email at [sarmstrong@latamsef.com](mailto:sarmstrong@latamsef.com) with any questions regarding this matter.

Cordially,  
Sandra Armstrong



Chief Compliance Officer

Enclosures

**Exhibit A**
**Explanation and Analysis**

Summary: The Rulebook has been amended in response to comments and questions received from members and potential members of LatAm SEF, to add and clarify rules regarding methods of using LatAm SEF, and for reliance on CFTC No-Action Letters 15-24 and 15-25. A clean copy of the amended Rulebook is attached hereto as Exhibit B, and a copy of the amended Rulebook marked to show changes against the version submitted to the Commission on July 3, 2014, is attached hereto as Exhibit C.

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

<b>Amendment</b>	<b>Explanation</b>	<b>Applicable Core Principle/Commission Regulation</b>
<u>Cover Page</u> Updated version number Updated effective date	Updated to identify rulebook version and effective date.	Conforming Change
Table of Contents	Amended page references.	Conforming Change
<u>Rule 101. Defined Terms</u> Amended definition of "Cleared Swap"	Amended defined term to clarify that SEF rules related to voluntarily cleared Swaps apply only to those Swaps the SEF submits to the DCO on behalf of the Trading Privilege Holders.	§ 39.5
<u>Rule 101. Defined Terms</u> Added definition of "Correcting Transaction"	Defines a term used in Rule 601(12).	CFTC No-Action Letter 15-24, April 22, 2015
<u>Rule 101. Defined Terms</u> Amended definition of "Indicative Order"	Amended defined term for clarity and greater alignment with Rule 512.	§ 37.9(b)(2)
<u>Rule 101. Defined Terms</u> Amended definition of "Intermediary"	Amended defined term for comprehensiveness.	§ 37.200(b)
<u>Rule 101. Defined Terms</u> Added definition of "Offsetting Transaction"	Defines a term used in Rule 601(12).	CFTC No-Action Letter 15-24, April 22, 2015
<u>Rule 101. Defined Terms</u> Amended definition of "Voice Trading"	Amended defined term to clarify applicability to an Intermediary.	§ 37.9
215. Dissemination of Market Data	Amended to correct typographical error.	Grammatical Amendment
Rule 311. Notice to Trading Privilege Holders	In paragraph (3), added "a minimum of five business days in advance of the effective date, provided that the Rule amendment is not conducted as an emergency rule certification or under direction from the CFTC" to establish a notification period in conformity with CFTC regulation 40.6, and removed "For purposes of publication in accordance with this Rule, it shall be sufficient (without limiting the discretion of the SEF as to any other reasonable means of communication) if a Notice is published on the SEF's website" to establish that Trade Privilege Holders will be notified of all Rulebook revisions via electronic mail.	§ 37.201 § 40.6(a)(2)

<b>Amendment</b>	<b>Explanation</b>	<b>Applicable Core Principle/Commission Regulation</b>
Rule 403. Required Disclosures	Added "involuntary" to paragraphs (7) and (9) to clarify that required disclosures relate only to those withdrawals that are involuntary.	§ 37.404 § 37.501 § 37.502 § 37.700 § 37.703
Rule 405. Financial and Related Reporting Requirements	Added to paragraph (4), "under CFTC Regulation 1.a(18) as well as the rules and regulations of any other applicable regulatory agency" to clarify the financial requirements the notifications described in paragraph (4) relate to.	§ 37.702 § 37.703 § 37.502
509. Intermediated Transactions/Introducing Brokers	Amended to clarify Voice Trading as available execution method for Permitted Transactions.	§ 37.9 § 37.200 § 37.201
Rule 512. Execution Methods	Amended paragraph (1) to clarify (1) Central Limit Order Book display priority, (2) that pre-trade credit checks are applicable only to mandatorily cleared swaps, and (3) that only Indicative Orders are subject to negotiation.	§ 37.9 § 37.200 § 37.201
Rule 512. Execution Methods	Amended paragraph (2) to correct typographical error.	Grammatical Amendment
Rule 512. Execution Methods	Added paragraph (4) to establish Voice Execution as available execution method for Permitted Transactions.	§ 37.9 § 37.200 § 37.201
Rule 514. Cancellations	Amended to clarify (1) the SEF's authority over cancelled Transactions, (2) the SEF's requirements, procedure, timing and reporting obligations related to its decision to review a transaction, (3) the SEF's Transaction review process, (4) the SEF's Transaction review, price adjustment and cancellation procedures, (5) the SEF's policy on voluntary adjustments by Counterparty agreement, and (6) the SEF's recordkeeping obligations related to cancelled and modified trades.	Core Principles 2, 7 § 37.200 § 37.201 § 37.700
Rule 515. Confirmations	Amended paragraph (2)(c) to establish that the provision regarding conflicts between Trade Communications and Terms Incorporated by Reference will be included in all Confirmations issued by the SEF.	CFTC No-Action Letter 15-25, April 22, 2015
Rule 515. Confirmations	Added paragraph (2)(d) to establish that any previously-negotiated freestanding agreements provided to the SEF in connection with a CFTC request will be furnished to the CFTC as soon as they are available.	CFTC No-Action Letter 15-25, April 22, 2015
Rule 601. Clearing Required	Amended paragraph (5) to clarify applicability to Trading Privilege Holders.	LatAm SEF Adopted Reference
Rule 601. Clearing Required	Added paragraph (8) (and renumbered subsequent paragraphs) to establish the SEF's operational procedure for processing a Cleared Swap.	Core Principles 2, 7 § 37.200 § 37.201 § 37.203 § 37.700 § 37.701
Rule 601. Clearing Required	Amended paragraph (10) to establish that rule includes component legs of package transactions.	Core Principle 7

<b>Amendment</b>	<b>Explanation</b>	<b>Applicable Core Principle/Commission Regulation</b>
Rule 601. Clearing Required	Amended paragraph (11) to (1) establish that rule includes component legs of package transactions, (2) establish procedures for the resubmission of Transactions in Cleared Swaps rejected from clearing (i) because of clerical or operational errors or omissions, 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, and (3) modify the maximum allowed time to submit a new transaction from 30 minutes to one hour.	CFTC No-Action Letter 15-24, April 22, 2015
Rule 601. Clearing Required	Added paragraph (12) (and renumbered subsequent paragraphs) to establish the SEF's operational procedure for handling operational errors and omissions in Cleared Swaps discovered after a Transaction has been cleared.	CFTC No-Action Letter 15-24, April 22, 2015
Rule 601. Clearing Required	Added to paragraph (13) "on the SEF" to clarify that paragraph (11) applies only as a condition of trading with other Participants or Customers on LatAm SEF.	Core Principles 2, 7 § 37.200 § 37.201 § 37.203 § 37.700 § 37.701
Rule 1001. LIMITATION OF LIABILITY	Added "FRAUD" to paragraphs (1) and (4) to clarify that Rule 1001 covers fraud.	Core Principle 2 General contractual provisions

## **Exhibit B**

LatAm SEF Rulebook, Version 1.3

Clean Copy



# **LatAm SEF, LLC**

## **Swap Execution Facility Rulebook**

**Version: 1.3**

**Effective: July 7, 2015**

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# Table of Contents

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<b>CHAPTER 1.</b>	<b>DEFINITIONS .....</b>	<b>1</b>
101.	Defined Terms .....	1
102.	Compliance with CEA .....	7
103.	Rule Amendments and Certification .....	7
<b>CHAPTER 2.</b>	<b>GOVERNANCE .....</b>	<b>8</b>
201.	LatAm SEF, LLC .....	8
202.	Board .....	8
203.	Committees .....	8
204.	Participation Committee .....	9
205.	Regulatory Oversight Committee .....	9
206.	Nominating Committee .....	10
207.	Chief Compliance Officer .....	10
208.	Conflicts of Interest .....	11
209.	Emergency Actions .....	12
210.	Maintenance of Books and Records by the SEF .....	13
211.	Information-Sharing Agreements .....	13
212.	Services Agreement with a Regulatory Services Provider .....	14
213.	Services Agreement with Technology Services Providers .....	14
214.	Use of Data Collected From Trading Privilege Holders .....	15
215.	Dissemination of Market Data .....	15
<b>CHAPTER 3.</b>	<b>TRADING PRIVILEGE HOLDERS .....</b>	<b>16</b>
301.	Jurisdiction .....	16
302.	Impartial Access .....	16
303.	Eligibility Criteria .....	16
304.	Application Requirements .....	17
305.	Application Review and Determination .....	17
306.	Authorized Persons .....	18
307.	Sponsored Access Participants .....	18
308.	Intermediaries .....	19
309.	Independent Software Vendors .....	20
310.	Credit Arrangements .....	20
311.	Notice to Trading Privilege Holders .....	20
312.	Communications Between the SEF and Trading Privilege Holders .....	20
313.	Recording of Communications .....	20
314.	Dues, Assessments and Fees .....	21
315.	Activities of Voice Specialists .....	21
316.	Trading Privilege Holder Withdrawal .....	21
<b>CHAPTER 4.</b>	<b>TRADING PRIVILEGE HOLDER OBLIGATIONS .....</b>	<b>23</b>
401.	Duties and Responsibilities of Trading Privilege Holders .....	23
402.	Trading Privilege Holder Books and Records .....	23
403.	Required Disclosures .....	23
404.	Right of Inspection .....	24
405.	Financial and Related Reporting Requirements .....	24
406.	Confidentiality of Financial and Other Information .....	25
407.	Authority to Impose Restrictions .....	25
408.	System Security .....	25

409.	Books and Records of ISVs.....	26
410.	Restrictions on Activity.....	26
411.	Disaster Recovery; Business Continuity.....	26
412.	Information Regarding Orders.....	26
413.	Publication of Trade Information.....	27
414.	Anti-Money Laundering Obligations.....	27
<b>CHAPTER 5.</b>	<b>TRADING PRACTICES.....</b>	<b>28</b>
501.	Scope.....	28
502.	Calendar and Hours of Operation.....	28
503.	Swaps Traded on the SEF.....	28
504.	Procedures.....	28
505.	Order Entry.....	29
506.	Customer Type Indicator (CTI) Codes.....	30
507.	Required Transactions.....	30
508.	Permitted Transactions.....	31
509.	Intermediated Transactions/Introducing Brokers.....	31
510.	Block Trades.....	31
511.	Suspense Accounts and Orders Eligible for Post-Execution Allocation.....	33
512.	Execution Methods.....	33
513.	Error Handling.....	34
514.	Cancellations.....	34
515.	Confirmations.....	34
516.	Incentive Programs.....	37
517.	Enforceability.....	37
<b>CHAPTER 6.</b>	<b>CLEARING.....</b>	<b>38</b>
601.	Clearing Required.....	38
602.	Daily Settlement Price.....	40
<b>CHAPTER 7.</b>	<b>BUSINESS CONDUCT.....</b>	<b>42</b>
701.	Rule Violations.....	42
702.	Market Abuse Detection.....	42
703.	Supervision.....	42
704.	Just and Equitable Principles of Trade.....	42
705.	Misuse of the Platform.....	42
706.	Withholding Orders Prohibited.....	42
707.	Prohibited Trading Conduct.....	42
708.	Position Limits.....	44
<b>CHAPTER 8.</b>	<b>DISCIPLINE AND ENFORCEMENT.....</b>	<b>45</b>
801.	General.....	45
802.	Inquiries and Investigation.....	46
803.	Reports of Investigations.....	47
804.	Review Panel.....	48
805.	Notice of Charges.....	49
806.	Answer to Notice of Charges.....	49
807.	Service of Notice.....	50
808.	Settlements.....	50
809.	Disciplinary Panel.....	51
810.	Convening Hearings of Disciplinary Proceedings.....	51
811.	Respondent's Review of Evidence.....	52

812.	Conducting Hearings of Disciplinary Proceedings .....	53
813.	Decision of Disciplinary Panel .....	54
814.	Sanctions .....	54
815.	Costs.....	55
816.	Appeal From Disciplinary Panel Decision.....	55
817.	Summary Imposition of Fines Relating to Submission of Records .....	57
818.	Summary Suspensions.....	57
819.	Rights and Responsibilities After Suspension or Termination.....	58
820.	Notice to the Respondent, the CFTC, and the Public .....	58
<b>CHAPTER 9.</b>	<b>RECORDKEEPING AND REPORTING .....</b>	<b>59</b>
901.	Recordkeeping Requirements .....	59
902.	Block Trade Reporting .....	59
903.	SDR Reporting.....	60
<b>CHAPTER 10.</b>	<b>LIABILITY AND DISCLAIMERS OF LIABILITY .....</b>	<b>61</b>
1001.	LIMITATION OF LIABILITY .....	61
1002.	Force Majeure.....	62
1003.	Anti-Money Laundering.....	63
1004.	Confidentiality of LatAm SEF Intellectual Property.....	63

## Chapter 1. Definitions

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### 101. Defined Terms

Unless otherwise specifically provided in the Rules, or the context otherwise requires, the terms defined in this Chapter have the meanings specified herein for all purposes of the Rules.

**Advisory Committee** shall have the meaning specified in Rule 203(2).

**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.

**Affiliate IB** means an Introducing Broker who, directly or indirectly, controls, is controlled by or is under common control with LatAm SEF, LLC.

**Appeal Panel** means the panel appointed in accordance with Rule 801(8) to hear appeals of decisions of a Disciplinary Panel.

**Applicable Law** means, with respect to any Person, any statute, law, regulation, rule or ordinance of any Governmental Authority applicable to such Person, including, but not limited to, the CEA and Commission Regulations.

**Application Administrator** means a designated staff member of the Market Operations Group who is responsible for the creation and management of Trader IDs, Swap instruments, and clearing accounts.

**As Soon as Technologically Practicable** means as soon as possible, taking into consideration the prevalence, implementation and use of technology by comparable market participants.

**Authorized Person** means a Person who is employed by, or is an agent of, a Participant, Sponsored Access Participant, or Intermediary and who has been authorized to access the Trading System on behalf of such Participant, Sponsored Access Participant, or Intermediary pursuant to Rule 306.

**Bid** means an Order to buy a Swap.

**Block Trade** means a publicly reportable transaction in a Swap that (i) is listed on the SEF; (ii) occurs away from the SEF, is executed pursuant to the Rules, and has a notional or principal amount at or above the appropriate minimum block size applicable to such swap, as determined by the CFTC, and (iii) is reported subject to the Rules and Commission Regulations.

**Board** means the Board of Directors of the SEF.

**Broker** means a Person that is registered as an Introducing Broker, Futures Commission Merchant, Commodity Pool Operator or Commodity Trading Advisor registered as such under the CEA, or is exempt from registration, that is authorized by a Participant or Sponsored Access Participant (i) to enter Bids, Offers, or Orders in the Trading System on behalf of a Participant, (ii) to assist in the execution of Intermediated Transactions, or (iii) to assist in the arranging of Block Trades on behalf of Participants under Rule 510.

**Brokered Trade** has the meaning set forth in Rule 509.

**Business Day** means any day on which the SEF is open for trading.

**Business Hours** means the consecutive hours of one or more consecutive business days.

**CEA** means the U.S. Commodity Exchange Act, as amended from time to time.

**Central Limit Order Book** or **CLOB** means an Execution Method whereby orders entered into through an order entry ticket are subject to execution via a manually executed trading method under which Authorized Persons can post Orders and Indicative Orders, transact with Orders and initiate negotiations with respect to Indicative Orders pursuant to Rule 512(1).

**Chief Compliance Officer** or **CCO** means the Chief Compliance Officer of the SEF.

**Chief Executive Officer** or **CEO** means the Chief Executive Officer of the SEF.

**Cleared Swap** means a Swap that either is required to be cleared pursuant to Section 2(h)(2)(D) of the CEA and CFTC Regulation 39.5, or that is submitted for clearing to a DCO by the SEF on behalf of the parties to the Swap even though such Swap is not required to be cleared.

**Clearing Firm** means a Clearing Firm of a DCO that is authorized pursuant to the rules of such DCO to clear transactions in any or all Swaps.

**Clearing Firm Documentation** means the governing documents, rulebook, compliance manual, policies and procedures, and any rule, interpretation, stated policy, or instrument corresponding to any of the foregoing, however denominated in each case as adopted or amended from time to time by a Clearing Firm, setting out the rights, obligations and rules of conduct of a Person with respect to the Clearing Firm.

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

**Commission Regulation** means any rule, regulation, order, directive and any interpretation thereof promulgated by the Commission, as amended.

**Compliance Department** means all officers, employees and agents of the SEF (including the Regulatory Services Provider, if any) that assist the SEF in the implementation, surveillance and enforcement of the Rules and compliance with any other requirements imposed by the SEF.

**Confirmation** shall have the same meaning as in Commission Regulations 23.500 and 45.1.

**Confirmation Data** has the meaning set forth in CFTC Regulation 45.1.

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

**Correcting Transaction** shall have the meaning set forth in Rule 601(12).

**Counterparty** means a party to either side of a Transaction.

**Credit** means an authorized line of bilateral credit between two counterparties.

**Customer** means any Person that transacts on the SEF through a Participant or Sponsored Access Participant acting as an Intermediary, or through an Introducing Broker granted the right to access the SEF as an Intermediary.

**Customer Type Indicator Codes** or **CTI** shall have the meaning set forth in Rule 506.

**Derivatives Clearing Organization** or **DCO** means a derivatives clearing organization that is registered as such with the Commission.

**Director** means a member of the Board of the SEF as described in Rule 202.

**Disciplinary Panel** means the panel appointed pursuant to Rule 809 to conduct hearings in connection with Disciplinary Proceedings (other than summary impositions of fines pursuant to Rule 817) to make findings, render decisions and impose sanctions pursuant to Chapter 8 of the Rules.

**Disciplinary Proceeding** means any inquiry, investigation, Disciplinary Proceeding, appeal from a Disciplinary Proceeding, summary imposition of fines, summary suspension or other summary action.

**Eligible Contract Participant** or **ECP** shall have the meaning given that term in section 1a(18) of the CEA and in CFTC Regulation 1.3(m).

**Emergency** means those occurrences or events enumerated in Rule 209 or any other occurrence or circumstance that the SEF determines in its sole discretion requires immediate action and threatens or may threaten the fair and orderly trading of Swaps on the SEF.

**End-User Transaction** shall have the meaning given that term in section 2(h)(7)(A) of the CEA.

**Execution Method** means trading functionality by which trades may be consummated on the SEF.

**Expiration Day** means the day on which an Option expires.

**Financial Entity** shall have the same meaning as set forth in the CEA.

**FINRA** means the Financial Industry Regulatory Authority.

**Force Majeure Event** means a change of law or regulation which the SEF determines in its sole discretion would render participation in the SEF or a service rendered by the SEF, illegal or impractical, a delay or failure that is the result of an act of God, lightning, earthquake, fire, epidemic, landslide, drought, hurricane, tornado, storm, explosion, flood, nuclear radiation, an act of a public enemy or blockade, insurrection, riot or civil disturbance, strike or labor disturbance or any other cause beyond the SEF's reasonable control (whether or not similar to any of the foregoing).

**Futures Commission Merchant** or **FCM** shall have the same meaning given that term in section 1a(28) of the CEA.

**Governmental Authority** means any domestic or foreign government (or political subdivision), governmental or regulatory authority, agency, court, commission or other governmental or regulatory entity (including any self-regulatory association).

**Independent Software Vendor** or **ISV** means a Person that makes available to Trading Privilege Holders a system or platform offering smart order routing, front-end trading applications, an aggregator platform or a combination of the foregoing but that does not provide Trading Privilege Holders the ability to effect transactions on the Trading System.

**Indicative Order** means a quote that is subject to negotiation, modification and approval by an Authorized Person in order to become a tradeable firm Order; an Indicative Order is not automatically executable by the Trading System or other trading functionality. Indicative Orders may feature size and/or price details, or include no details on price and reflect a default size that is established in the Trading System by the SEF Market Operations Group.

**Intermediary** means a Trading Privilege Holder that is authorized to enter Bids/Offers, Indicative Orders, Voice Trades, Block Trades or RFQs into the SEF solely on behalf of Participants, Sponsored Access Participants or Customers. Intermediaries include, but are not limited to, Introducing Brokers, Futures Commission Merchants and Clearing Firms.

**Intermediated Transaction** means any transaction on the SEF conducted through an Intermediary.

**Introducing Broker** or **IB** shall have the meaning given that term in section 1a(31) of the CEA and shall include any Person required to register as such with the NFA.

**Legal Entity Identifier** or **LEI** shall have the meaning set forth in Commission Regulations.

**Major Swap Participant** shall have the meaning set forth in the CEA and Commission Regulations.

**Market Data** means all data and other information submitted for entry into the Trading System or relating in any way to a Swap, any data or other information contained in, derived from or relating to any to the foregoing, including the formation, compilation and presentation thereof, and any data or information transmitted, published or disseminated by the SEF to any Person. Any Market Data disseminated by the SEF, or any third-party service provider designated by it, shall be aggregated and disseminated in an anonymous fashion and shall not disclose the identity of any Person.

**Market Operations Group** means the Persons designated by the SEF as responsible for supporting the SEF's market operations, including managing Trading Privilege Holder access and customer support.

**NFA** means the National Futures Association.

**Nominating Committee** shall have the meaning set forth in Rule 206.

**Notice to Trading Privilege Holders** or **Notice** means a communication sent by or on behalf of the SEF to all Participants as described in Rule 311.

**Offer** means an Order to sell a Swap.

**Offsetting Transaction** shall have the meaning set forth in Rule 601(12).

**Option** means a transaction whereby one party grants to another the right, but not the obligation, to buy or sell a Swap.

**Order** means any Bid or Offer placed into the Trading System for purposes of buying or selling a Swap on or subject to the rules of the SEF.

**Order Book** means the portion of the SEF in which multiple Trading Privilege Holders in the Trading System have the ability to enter multiple Bids and Offers, observe or receive Orders entered by multiple other Trading Privilege Holders, and execute such Orders.

**Order Book Trading Session** means a Trading Session that remains open throughout the Business Day and in which the Trading System will receive, display and enable Trading Privilege Holders to execute Orders in accordance with these Rules.

**Participant** means a Trading Privilege Holder that has been granted under these Rules, (i) Trading Privileges to trade for their own account on the SEF, (ii) the right to authorize Sponsored Access Participants access to the SEF, and (iii) the right to authorize Intermediaries to act on their behalf on the SEF.

**Participation Committee** shall have the meaning set forth in Rule 204.

**Participant Data** means any and all data and other information submitted to the SEF by a Trading Privilege Holder regarding any and all transactions entered into by or on behalf of a Participant or Sponsored Access Participant.

**Participant Documentation** means such agreements, addenda or amendments (and any schedules thereto) as required from time to time by the SEF to be executed by a Trading Privilege Holder or Authorized Person for such Trading Privilege Holder or Authorized Person to obtain or maintain Trading Privileges on the SEF.

**Permitted Transaction** means any Transaction that is not a Required Transaction.

**Person** means an individual, corporation, limited liability company, partnership, trust or other entity.

**Position Limit** means the maximum position, either net long or net short, in any Swap or type of Swap that may be held or controlled by one Person, or subject to aggregation with such Person's position, as prescribed by the SEF and/or Commission.

**Primary Economic Terms** or **PET** has the meaning set forth in CFTC Regulation 45.1.

**Public Director** means an individual having the qualifications set forth in Rule 202(3).

**Quote** means a Bid or an Offer, or a Bid and an Offer.

**Recipient** means a Trading Privilege Holder who is a recipient of an RFQ.

**Regulatory Oversight Committee** shall have the meaning set forth in Rule 205.

**Regulatory Services Provider** means a third party, if any, that provides regulatory services to the SEF.

**Reporting Counterparty** means, for purposes of these Rules and Part 45 of CFTC regulations, the Participant or Sponsored Access Participant that is designated as such pursuant to Rule 903(2).

**Request for Quote** or **RFQ** means a request by one Participant or Sponsored Access Participant separate from the Order Book Trading Session for a Quote that shall constitute a Bid or Offer. For Required Transactions, the request must be made to at least such minimum number of RFQ participants as may be required by Commission Regulations from time to time.

**Required Swap Continuation Data** means the data required to be reported to a Swap Data Repository pursuant to CFTC Regulation 45.4(c).

**Required Swap Creation Data** has the meaning set forth in CFTC Regulations 45.1 and 45.3.

**Required Transaction** means any Transaction subject to the trade execution requirement in section 2(h)(8) of the CEA that is not a Block Trade.

**Responsible Person** shall have the meaning set forth in Rule 408(1).

**Review Panel** shall mean the panel described in Rule 804.

**Risk-Based Limits** means, as applicable, limits that may be established by a DCO or Clearing Firm with respect to Cleared Swaps, based on credit, position or order size, margin requirements or similar factors.

**Rule** or **Rules** means the rules, resolutions, interpretations, statements of policy, decisions, directives and orders of the SEF.

**SEF** means Swap Execution Facility as that term is defined in CEA 1a(50), and is used in this Rulebook to refer to LatAm SEF, LLC.



**SEF Intellectual Property** has the meaning given to it in Rule 1003.

**Settlement Price** means the official daily closing price for a Swap calculated each Business Day, as determined by the relevant Clearing Firms in accordance with Rule 602, and used for all open positions at the close of the daily settlement cycle.

**Source Agency** means the agency that publishes, calculates or otherwise defines the Settlement Price for any Swap.

**Sponsored Access Participant** means a Trading Privilege Holder (other than an individual or an ISV) that is authorized by a Participant to access the SEF pursuant to Rule 307. Sponsored Access takes multiple forms, including but not limited to: (a) direct market access, where the Sponsored Access Participant's orders pass through the sponsoring Participant's systems prior to reaching the Trading System, (b) sponsored access, where the Sponsored Access Participant enters orders directly into the Trading System or via a dedicated port provided by the sponsoring Participant, and (c) direct access where a service bureau or other third party provides Sponsored Access Participants with technology to access the Trading System under the auspices of and via an arrangement with the sponsoring Participant. Sponsored Access can also include the practice of permitting a Sponsored Access Participant to trade on the SEF through Voice Trading.

**SRO** means any self-regulatory organization, including but not limited to, any registered entity, as that term is defined in section 1a(40) of the CEA, the NFA, FINRA and any non-U.S. market or authority performing similar functions.

**Standing Committee** shall mean each of the Nominating Committee, the Participation Committee and the Regulatory Oversight Committee.

**Statutory Disqualification** shall have the meaning set forth under Section 8a(2) or 8a(3) of the CEA or other Applicable Law.

**Swap** shall have the meaning set forth in Section 1a(47) of the CEA and in Commission Regulations.

**Swap Data Repository** or **SDR** shall have the meaning set forth in the CEA.

**Swap Dealer** shall have the meaning set forth in the CEA and Commission Regulations.

**System Protocol** means the terms from time to time in force upon which a Trading Privilege Holder may access the Trading System, including any supplemental written guidelines provided by the SEF to the Trading Privilege Holder, as amended from time to time.

**Technology Services Provider** means a third party or affiliate that provides various technology services to the SEF.

**Trader ID** means a unique identifier code assigned by the Market Operations Group to each Authorized Person that trades on behalf of a Trading Privilege Holder.

**Trader Information** shall have the meaning set forth in Rule 408(2).

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

**Trading Privilege Holder** means any Participant, Sponsored Access Participant, or Intermediary granted the right to access the SEF pursuant to the Rules.

**Trading Privileges** means the right granted to a Participant, Sponsored Access Participant, Intermediary, or Authorized Persons of a Participant, Sponsored Access Participant, or

Intermediary to submit Orders directly to the SEF. No Person may exercise Trading Privileges during any suspension of such Person's Trading Privileges ordered by the SEF.

**Trading Session** means a specified period of time during which a particular trade Execution Method is available to Participants.

**Trading System** means the SEF's electronic system for execution of Swap transactions.

**Transaction** means any purchase or sale of any Swap made on or subject to the Rules of the SEF.

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

**Unique Swap Identifier** or **USI** has the meaning given that term in CFTC Regulation 45.5.

**Voice Specialist** means an employee or agent of the SEF that acts on behalf of one or more Participants using any means of interstate commerce: 1) to assist Trading Privilege Holders in the entry, modification and cancellation of Orders, Indicative Orders or RFQ's and execute Transactions, and negotiate and execute Block Trades as provided under Rule 510, and 2) to facilitate Voice Trading. Voice Specialists may function as members of the Market Operations Group.

**Voice Trading** means the actions taken by an Intermediary or a Voice Specialist to inform Trading Privilege Holders about the existence of trading interest in a Swap, facilitate the communication of information among Trading Privilege Holders, and assist in orderly trading on the SEF.

**Volume-Match Trading** means a Trading Session that is separate from the Order Book Trading Session and is held periodically during the Business Day during which time one or more Swap(s) can be traded at a transparent, fixed price that is determined by market survey prior to the matching session. A Volume-Match Trading Session is operated by the Market Operations Group pursuant to Rule 512(3) where all transactions will be executed at a single price and in time order of priority established prior to the Volume-Match Trading Session.

## 102. Compliance with CEA

The SEF shall comply with:

- (1) The core principles described in section 5h of the Act; and
- (2) Any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5) of the Act.

## 103. Rule Amendments and Certification

- (1) The SEF may adopt new Rules and may amend or repeal existing Rules at its discretion in accordance with CFTC and CEA regulations. All such new Rules, amendments or repeals shall become effective on the date specified by the SEF or its designee (subject to any required filing with, or approval thereof by, the CFTC).
- (2) Changes to dues, assessments and fees pursuant to Rule 314 constitute a Rule change and are subject to Rule certification pursuant to this Rule 103.
- (3) Pursuant to Rule 311, the SEF must issue a "Notice to Trading Privilege Holders" with respect to each new, amended and repealed Rule (except where such Rule amendment is being adopted in connection with an Emergency).

## Chapter 2. Governance

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### 201. LatAm SEF, LLC

LatAm SEF, LLC (“the SEF”) is a limited liability company organized under the laws of the state of Delaware. The operating agreement of the SEF governs the management and operation of the SEF.

### 202. Board

- (1) The SEF will be managed by or subject to the direction of the Board and such officers (“Officers”) as are appointed by the Board, in each case in accordance with its operating agreement (the “Operating Agreement”). Without limiting the rights, powers, privileges and obligations of the Board as set forth in the Operating Agreement, the Board has the power to review, and to approve, modify, suspend or overrule, any and all decisions of committees of the SEF and any Officers, subject to Applicable Law. Qualifications for managers will be as set forth in the Operating Agreement and hereunder. No Director may be subject to Statutory Disqualification.
- (2) At all times following the appropriate compliance date of the CFTC Regulations applicable to the SEF’s governance as a SEF, the members of the Board shall include no fewer than the minimum number or percentage of Public Directors required by such CFTC Regulations. Each Public Director shall be elected in accordance with the Operating Agreement, and shall serve for a term of 2 years from the date of his election (or the remainder of any Public Director term to which he is elected as a replacement) and until his successor is duly appointed, or until his earlier resignation, removal for cause or dismissal pursuant to the Operating Agreement.
- (3) To qualify as a Public Director, an individual must be found, by action of the Board, to have no material relationship with the SEF. The Board shall make such finding upon the nomination or appointment of the Director and as often as necessary in light of all circumstances relevant to such Director, but in no case less frequently than annually. For these purposes, a “material relationship” is one that could reasonably be expected to affect the independent judgment or decision-making of the Director. A Director shall be considered to have a “material relationship” with the SEF if any of the following circumstances exist or have existed within the past year:
  - (a) Such Director is or was an Officer or an employee of the SEF, or an officer or an employee of an Affiliate of the SEF; or
  - (b) Such Director is or was a Participant or Sponsored Access Firm, or a director, officer or employee of a Participant or Sponsored Access Firm.
  - (c) Any of the relationships set forth in paragraphs (a) and (b) apply to the “immediate family” (i.e., the spouse, parents, children, and siblings, in each case, whether by blood, marriage, or adoption) of such Director, or any person residing in the home of the Director or that of his or her “immediate family.”
- (4) The compensation of the Public Directors and other non-executive members of the Board shall not be linked to the business performance of the SEF, and in no way shall be contingent, conditioned, or revocable.

### 203. Committees

- (1) The SEF shall establish three standing committees of the Board (“Standing Committees”): the “Participation Committee,” the “Regulatory Oversight Committee” and

the “Nominating Committee”. The Board may from time to time constitute and appoint such additional Standing Committees as it may deem necessary or advisable.

- (2) The SEF may from time to time establish one or more advisory committees (“Advisory Committees”) as it may deem necessary or advisable. Each Advisory Committee may consist of Managers, Officers, representatives of Trading Privilege Holders and their Customers and other market participants, as determined by the SEF. Advisory Committees may make recommendations to the Board or SEF Officers, but will not be authorized to make decisions or act on behalf of the SEF.

## **204. Participation Committee**

- (1) The Participation Committee shall consist of three Directors appointed from time to time by the Board, two of whom shall be Public Directors at the time required under CFTC Regulations.
- (2) The Participation Committee shall:
  - (a) Determine the standards and requirements for initial and continuing Trading Privilege Holder eligibility;
  - (b) Review appeals of staff denials of Trading Privilege Holder applications; and
  - (c) Review and approve rules that would result in different categories or classes of Trading Privilege Holders receiving disparate access to the SEF.
- (3) In reviewing appeals of staff denials of Trading Privilege Holder applications, the Participation Committee shall not uphold any staff denial if the relevant application meets the standards and requirements established by the Participation Committee or the Board.
- (4) The Participation Committee shall not, and shall not permit the SEF to, restrict access or impose burdens on access in a discriminatory manner within each category or class of Participants or between similarly situated categories or classes of Trading Privilege Holders.
- (5) The Participation Committee shall report to the Board.

## **205. Regulatory Oversight Committee**

- (1) The Regulatory Oversight Committee (“ROC”) shall consist of three Directors, all of whom shall be Public Directors at the time required under CFTC regulations. The ROC shall report to the Board.
- (2) The ROC shall oversee the regulatory program of the SEF on behalf of the Board. The Board shall delegate sufficient authority, dedicate sufficient resources and allow sufficient time for the ROC to fulfill its mandate.
- (3) The ROC shall:
  - (a) Oversee all facets of the SEF’s regulatory program, including trade practice and market surveillance, audits, examinations, and other regulatory responsibilities with respect to Participants (including ensuring compliance with, if applicable, financial integrity, financial reporting, sales practice, recordkeeping and other requirements), and the conduct of investigations, including any such actions taken by a Regulatory Services Provider;

- (b) Supervise the quality and effectiveness of the Regulatory Service Provider, hold regular meetings to discuss matters of regulatory concern and conduct periodic reviews of the services provided on the SEF's behalf, which reviews shall be adequately documented and made available to the CFTC on request;
- (c) Review the size and allocation of the regulatory budget and resources, and the number, hiring, termination and compensation of regulatory personnel;
- (d) Monitor the regulatory program of the SEF for sufficiency, effectiveness and independence;
- (e) Review the performance of the Chief Compliance Officer (in accordance with Section 5h(f)(15) of the CEA) and make recommendations with respect to such performance to the Board;
- (f) Recommend changes that would ensure fair, vigorous and effective regulation; and
- (g) Review all regulatory or compliance proposals prior to implementation and advise the Board as to whether and how such changes may impact regulation or compliance, as applicable.

## **206. Nominating Committee**

- (1) The Nominating Committee shall consist of a majority of Public Directors at the time required under CFTC regulations and shall be responsible for reporting to the Board.
- (2) The Nominating Committee shall:
  - (a) Annually nominate directors for the class of directors standing for election at the annual meeting of the SEF for that year; and
  - (b) Periodically review the organization and governance structure of the SEF, and make such recommendations to the Board with respect thereto as it may deem appropriate.

## **207. Chief Compliance Officer**

- (1) The Board shall designate an individual to serve as the Chief Compliance Officer ("CCO") of the SEF. The Chief Compliance Officer shall report to, and shall be supervised by, the Chief Executive Officer.
- (2) The Chief Compliance Officer shall have the background and skills appropriate for fulfilling the responsibilities of the position.
- (3) The Chief Compliance Officer shall have the authority and resources to develop and enforce policies and procedures necessary to perform his or her duties hereunder and under the CEA and CFTC regulations. The Chief Compliance Officer shall have authority over all staff acting at his or her direction.
- (4) The Chief Compliance Officer shall be responsible for performing the following duties and functions:
  - (a) Overseeing and reviewing the SEF's compliance with Section 5h of the CEA and CFTC regulations;

- (b) In consultation with the Board or the Chief Executive Officer, resolving any conflicts of interest that may arise, including (i) conflicts between business considerations and compliance requirements; (ii) conflicts between business considerations and the requirement that the SEF provide fair, open and impartial access as set forth in CFTC Rule 37.202; and (iii) conflicts between the SEF's management and members of the Board;
- (c) Establishing and administering written policies and procedures reasonably designed to prevent violations of the CEA and the rules of the CFTC;
- (d) Taking reasonable steps to ensure compliance with the CEA and CFTC Regulations;
- (e) 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 through validated complaints;
- (f) Establishing and following appropriate procedures for the handling, management response, remediation, retesting and closing of noncompliance issues;
- (g) 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;
- (h) 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;
- (i) Supervising the effectiveness and sufficiency of any regulatory services provided to the SEF by a Regulatory Services Provider, if any, in accordance with CFTC Rule 37.204;
- (j) Preparing and submitting an annual report in accordance with CFTC Regulations; and
- (k) Performing such other duties not inconsistent with the foregoing as may be specified by the Board from time to time.

## 208. Conflicts of Interest

- (1) Named Party in Interest Conflict.
  - (a) Prohibition. No member of the Board or the Regulatory Oversight Committee will knowingly participate in such body's deliberations or voting in 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) has any other significant, ongoing business relationship with a named party in interest, or (iv) has a family relationship with a named party in interest. For purposes of this clause (1), a "family relationship" exists between a named party in interest and a member if such party is the member's spouse, former spouse, parent, stepparent, child, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece or in-law.
  - (b) Disclosure. Prior to consideration of any matter involving a named party in interest, each member of the deliberating body who does not choose to abstain from deliberations and voting will disclose to the Chief Compliance Officer

whether such member has one of the relationships listed in clause (a), above, with a named party in interest.

- (c) Procedure and Determination. The Chief Compliance Officer will determine whether any member of the relevant deliberating body who does not choose to abstain from deliberations and voting is subject to a conflicts restriction under paragraph (a), above. Such determination will be based upon a review of the following information provided by such member pursuant to clause (b) above and, where deemed by the Chief Compliance Officer, other information that is known to the SEF.
- (2) Financial Interest in a Significant Action Conflict.
- (a) Prohibition. No member of the Board, any Review Panel, Disciplinary Panel or Appeal Panel will participate in such body's deliberations and voting on any significant action if such member has a direct and substantial financial interest in the result of the vote, as determined pursuant to clause (c), below.
  - (b) Disclosure. Prior to consideration of any significant action, each member of the deliberating body who does not choose to abstain from deliberations and voting will disclose to the Chief Compliance Officer any information that may be relevant to a determination of whether such member has a direct and substantial financial interest in the result of the vote.
  - (c) Procedure and Determination. The Chief Compliance Officer will determine whether any member of the relevant deliberating body who does not choose to abstain from deliberations and voting is subject to a conflicts restriction under paragraph (a), above. Such determination will be based upon a review of the following information:
    - (i) Information provided by the member pursuant to paragraph (b), above, and
    - (ii) Any other source of information that is maintained by and reasonably available to the SEF.

## 209. Emergency Actions

- (1) The term "Emergency" shall mean any occurrence or circumstance which, in the opinion of the SEF, 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 Swaps on the SEF, including any manipulative or attempted manipulative activity; any actual, attempted, or threatened corner, squeeze, congestion, or undue concentration of positions; any circumstances which may materially affect the performance of Swaps traded on the SEF, including failure of the payment system or the bankruptcy or insolvency of any Trading Privilege Holder; any action taken by any Governmental Authority, or any other board of trade, swap execution facility, market or facility which may have a direct impact on trading on the SEF and any other circumstance which may have a severe, adverse effect upon the functioning of the SEF.
- (2) During an Emergency, the Board may take temporary emergency action and/or implement temporary emergency procedures and rules ("Emergency Actions"), subject to Applicable Law and in consultation or cooperation with the CFTC and other applicable regulatory authorities. In the event that the SEF is unable to convene a meeting of the Board reasonably promptly, the Chief Executive Officer or an officer of the SEF designated thereby may take Emergency Actions pursuant to this Rule ("Officer Emergency Action"), provided that the SEF shall convene a meeting of the Board as soon as practicable thereafter to ratify, modify or rescind such Officer Emergency Action.

- (3) Emergency Action may require or authorize the SEF, the Board, any committee of the Board, the President, or any other Officer to take actions necessary or appropriate to respond to the Emergency including, but not limited to, the following actions:
  - (a) Extend, shorten or change trading hours.
  - (b) Limit access to the Trading System by any Trading Privilege Holder, Customer, Authorized Person or ISV.
  - (c) Impose or modify position limits.
  - (d) Impose or modify price limits.
  - (e) Impose or modify intraday market restrictions.
  - (f) Order the liquidation or transfer of open positions in any Swap in consultation with relevant Derivative Clearing Organizations, if practicable.
  - (g) Order the fixing of a settlement price.
  - (h) Suspend or curtail trading in any Swap.
  - (i) Take such other actions as may be directed by the CFTC or other regulatory authority.
  - (j) If applicable, provide for the carrying out of such actions through its agreements with any third party.
- (4) The SEF will promptly notify the CFTC of any Emergency Action not later than twenty-four hours thereafter, explaining the decision-making process, the reasons for taking such action, and how conflicts of interest were minimized. Such documentation will be maintained in accordance with Applicable Law.
- (5) Upon taking any Emergency Action, the SEF will document the decision-making process related to such action. Such documentation will be kept for at least five years following the date on which the Emergency ceases to exist or to affect the SEF. All such documentation will be provided to the CFTC upon request.

## **210. Maintenance of Books and Records by the SEF**

- (1) The SEF shall keep, or cause to be kept, all books and records required to be maintained pursuant to the CEA and CFTC Regulations for at least five (5) years, and shall make such books and records readily accessible for inspection by the CFTC and the United States Department of Justice during the first two (2) years of such five-year period.
- (2) The SEF may disclose to any Person information concerning or associated with a Trading Privilege Holder or other Person that the SEF believes is necessary and appropriate in exercising a legal or regulatory function, whether or not a formal arrangement governing the disclosure exists or a request for information was made.

## **211. Information-Sharing Agreements**

- (1) The SEF may enter into information-sharing arrangements as it determines necessary or advisable for any of the following reasons:
  - (a) To obtain any necessary information to perform any monitoring of trading or trade processing.



- (b) To provide information to the CFTC upon request and to carry out such international information-sharing agreements as the CFTC may require.
  - (c) To share information with other regulatory organizations, data repositories and third-party data reporting services as required by the CFTC.
  - (d) As otherwise necessary and appropriate to fulfill the SEF's self-regulatory and reporting responsibilities. Such information shall be provided in a form and manner acceptable to the regulatory authority to which such information is being provided.
  - (e) Where the SEF determines that a governmental authority, trading facility or clearing organization exercises a legal or regulatory function under any Applicable Law or considers such arrangement to be in furtherance of the operation or duties of the SEF under Applicable Law.
- (2) The SEF may disclose to any Person or entity information concerning or associated with a Trading Privilege Holder or other Person that the SEF believes is necessary and appropriate in exercising a legal or regulatory function, whether or not a formal arrangement governing the disclosure exists or a request for information was made.

## **212. Services Agreement with a Regulatory Services Provider**

- (1) The SEF may choose to contract with a Regulatory Services Provider for the provision of services to assist in complying with the core principles, as approved by the Commission. If the SEF chooses to contract with a Regulatory Services Provider, it will ensure that the Regulatory Services Provider has the capacity and resources necessary to provide timely and effective regulatory services, including adequate staff and automated surveillance systems.
- (2) If the SEF chooses to contract with a Regulatory Services Provider, the SEF will at all times remain responsible for the performance of any regulatory services received, for compliance with the SEF's obligations under the CEA and Commission regulations, and for the Regulatory Services Provider's performance on its behalf.
- (3) If the SEF chooses to contract with a Regulatory Services Provider, the SEF will retain exclusive authority in all substantive decisions made by its Regulatory Services Provider, including but not limited to decisions involving the cancellation of trades, the issuance of disciplinary charges against Trading Privilege Holders or market participants, and denials of access to the Trading System for disciplinary reasons. The SEF shall document any instances where its actions differ from those recommended by its Regulatory Services Provider.

## **213. Services Agreement with Technology Services Providers**

- (1) The SEF has entered into agreements with Technology Services Providers to provide technology services to the SEF. In accordance with a Service Level Agreement, a Technology Services Provider may perform certain functions under the SEF Rules and the SEF will provide information to the Technology Services Provider in connection with the performance by the Technology Services Provider of those functions.
- (2) The SEF shall retain ultimate decision-making authority with respect to any functions that are contracted to a Technology Services Provider.

## **214. Use of Data Collected From Trading Privilege Holders**

- (1) The SEF shall collect and evaluate data on Trading Privilege Holder market activity on an ongoing basis and shall have the right to collect non-routine data in order to detect and prevent manipulation, price distortions, and, where possible, disruptions of the physical-delivery or cash-settlement process.
- (2) Where necessary for regulatory purposes, the SEF may share a Trading Privilege Holder's data with one or more other regulatory authorities, swap execution facilities, designated contract markets, derivatives clearing organizations or other trading facilities or clearing organizations.
- (3) Subject to the provisions of Rule 215, as applicable, the SEF shall not use for business or marketing purposes any proprietary or confidential data that the SEF collects or receives from any Trading Privilege Holder for the purposes of fulfilling the SEF's regulatory obligations unless the Trading Privilege Holder from whom it collects or receives such data consents to the SEF's use of such data in such manner. The SEF shall not condition access to the SEF or its services on a Trading Privilege Holder's consent to the SEF's use of such data for business or marketing purposes.
- (4) Nothing herein shall restrict Trading Privilege Holder with respect to the data that Trading Privilege Holder provides to the SEF.

## **215. Dissemination of Market Data**

- (1) The SEF shall be entitled, in its sole discretion, to compile and disseminate Market Data to third parties (including through a market data feed) for business purposes without further consent of any Trading Privilege Holder or other Person, and the SEF shall be entitled to any and all revenue derived therefrom. Any Market Data disseminated by the SEF, or any third-party service provider designated by it, shall be aggregated and disseminated in an anonymous fashion and shall not disclose the identity of the Person. By its use of the SEF, each Person that interacts with the SEF in any manner consents to compilation and dissemination by the SEF.
- (2) Without limiting subsection (1), each Person that interacts with the SEF acknowledges and consents to the reporting of all Market Data or other data required to be reported under Applicable Law.
- (3) The SEF shall have a non-exclusive, perpetual, transferable, royalty-free, worldwide license to such Market Data and shall own all rights in all derivative works based upon such Market Data.

## Chapter 3. Trading Privilege Holders

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### 301. Jurisdiction

EACH TRADING PRIVILEGE HOLDER, AUTHORIZED PERSON, ASSOCIATED PERSON, CUSTOMER, ISV AND OTHER PERSON ACCESSING THE SEF PURSUANT TO THE RULES (I) IS BOUND BY, AND MUST COMPLY WITH, THE RULES AND APPLICABLE LAW, IN EACH CASE TO THE EXTENT APPLICABLE TO IT; (II) CONSENTS TO AND SHALL BE SUBJECT TO THE JURISDICTION OF THE SEF WITH RESPECT TO ALL MATTERS ARISING OUT OF OR RELATING TO SUCH STATUS OR ITS ACTIONS OR OMISSIONS WITH RESPECT TO SUCH STATUS AND USE OF OR ACCESS TO THE SEF; (III) AGREES TO ASSIST THE SEF IN COMPLYING WITH ITS LEGAL AND REGULATORY OBLIGATIONS, COOPERATE WITH THE SEF AND ANY GOVERNMENTAL AUTHORITY HAVING JURISDICTION OVER THE COMPANY OR THE SEF, AS APPLICABLE, IN ANY INQUIRY, INVESTIGATION, AUDIT, EXAMINATION OR PROCEEDING, AND AUTHORIZE THE COMPANY TO PROVIDE INFORMATION REGARDING THE SEF TO THE REGULATORY SERVICES PROVIDER OR ANY SELF REGULATORY ORGANIZATION; AND (IV) AUTHORIZES THE SEF (AND ITS REGULATORY SERVICES PROVIDER, AS APPLICABLE) TO PROVIDE INFORMATION WITH RESPECT TO IT TO THE REGULATORY SERVICES PROVIDER OR ANY GOVERNMENTAL, REGULATORY OR SELF-REGULATORY ORGANIZATION.

### 302. Impartial Access

Consistent with Applicable Law, the SEF provides access to Trading Privilege Holders and ISVs on a fair, non-discriminatory and open basis. Trading Privilege Holder and ISV status, and access to, and usage of, the Trading System in such capacity is available to all market participants that meet the criteria set forth herein and validly engage in Transactions.

### 303. Eligibility Criteria

- (1) In order to be admitted as a Trading Privilege Holder, or to be permitted to remain a Trading Privilege Holder, an applicant must satisfy the following criteria:
  - (a) Deliver an executed participant agreement in which it affirms that it: (i) is an Eligible Contract Participant; and/or (ii) is an Intermediary that will act solely on behalf of Persons that are Eligible Contract Participants.
  - (b) Demonstrate business integrity and sound reputation.
  - (c) Maintain adequate financial resources and credit.
  - (d) Be validly organized, in good standing, and authorized by its governing body and, if relevant, documents of organization, to trade Swaps.
  - (e) Hold all registrations required under Applicable Law, if any, including any Swap Dealer, Major Swap Participant, Introducing Broker, Futures Commission Merchant, commodity pool operator, commodity trading advisor, associated person registration.
  - (f) Not have filed for bankruptcy.
  - (g) Not be prohibited from using the services of the SEF for any reason whatsoever.
  - (h) Not be subject to statutory disqualification under Section 8a(2) of the CEA.

- (i) Be in compliance with any financial responsibility, recordkeeping and reporting requirements set forth under Applicable Law and Rule 402.
- (j) Agree to abide by the Rules and consent to the SEF's jurisdiction.
- (2) The SEF may create different classes of Trading Privilege Holders that have different rights and obligations under the Rules pursuant to criteria that are impartial, transparent and applied in a fair and non-discriminatory manner.
- (3) Once admitted, the Trading Privilege Holder shall continue to comply with all applicable eligibility criteria in Rule 303(1).

### **304. Application Requirements**

- (1) Any Person who desires to become a Trading Privilege Holder must:
  - (a) File with the SEF an executed participant agreement provided by the SEF.
  - (b) If such Person is organized or located outside of the United States and enters into a written agreement appointing a third party as its U.S. agent for service of process for purposes of CFTC Regulation § 15.05, provide the SEF with a copy of the agreement.
  - (c) Agree to abide by the SEF Rules and Applicable Law.
  - (d) Consent to the jurisdiction of the SEF.
  - (e) Provide such information and documentation as may be requested by the SEF, and comply with the procedures established by the SEF for admission.
  - (f) Satisfy such other criteria that the SEF may require.

### **305. Application Review and Determination**

- (1) In determining whether to admit an applicant as a Trading Privilege Holder, the SEF will evaluate, among other things, the applicant's disciplinary history and financial and operational soundness.
- (2) If the SEF decides to admit an applicant as a Trading Privilege Holder, it shall promptly notify the applicant in writing and state in such notice the date on which the applicant shall become a Trading Privilege Holder. Notifications shall be sent to the address in the SEF application form or maintained in the SEF's records.
- (3) The SEF may deny an applicant the right to be a Trading Privilege Holder, or terminate an existing Trading Privilege Holder if such Person is unable to satisfactorily demonstrate a capacity to adhere to Applicable Law or the Rules or for such other cause as the SEF reasonably may determine. In such event, the SEF shall promptly notify the applicant in writing of their rejection or termination. Notifications shall be sent to the address in the SEF application form.
- (4) A Person whose application for Trading Privilege Holder status has been denied or granted conditionally pursuant to this Rule 305, and any Participant or Sponsored Access Participant of a Participant, or Intermediary of a Participant or Sponsored Access Participant, whose access to the Trading System is revoked, suspended or limited pursuant to this Rule 305, may appeal the SEF's decision in accordance with the provisions of Chapter 8. A determination of the SEF to revoke, suspend or limit a Person's access to the Trading System pursuant to this Rule 305 shall not take effect

until the review procedures under Chapter 8 have been exhausted or the time for review has expired.

### **306. Authorized Persons**

- (1) Each Trading Privilege Holder must appoint one or more individuals to act as its Authorized Person or Authorized Persons, as applicable. Each Authorized Person shall be identified to the SEF, in the manner prescribed by the SEF, and shall be subject to the Rules.
- (2) The Authorized Person shall be empowered by the Trading Privilege Holder to act on its behalf and the SEF shall be entitled to rely on the actions of the Authorized Person as binding on the Trading Privilege Holder.
- (3) By agreeing to act as an Authorized Person, an individual agrees to be bound by the duties and responsibilities of an Authorized Person and to be subject to, and comply with, the Rules.
- (4) Each Authorized Person must have and use a unique Trader ID to access the Trading System. It shall be the responsibility of an Authorized Person and its sponsoring entity to ensure that it is registered with the SEF, and that such registration is accurate at all times. In no event may a Person other than the Authorized Person to whom a Trader ID has been assigned exercise Trading Privileges or otherwise access the Trading System using such Trader ID.
- (5) Each Trading Privilege Holder must provide the SEF with current contact and other requested information for each of its Authorized Persons so that the SEF is able to immediately contact such Authorized Persons.
- (6) The SEF will promptly notify, in writing, the Trading Privilege Holder of its approval, or refusal to approve, the designation of an Authorized Person. The SEF may, in its sole discretion, revoke or suspend the designation of an individual as an Authorized Person, and shall promptly notify, in writing, the Trading Privilege Holder of such action.
- (7) A Trading Privilege Holder that seeks to terminate the designation of an individual as an Authorized Person shall notify the SEF in writing in accordance with procedures established by the SEF. The SEF shall act to terminate such Authorized Person's Trading Privileges or other use of and access to the Trading System in accordance with procedures established by the SEF.

### **307. Sponsored Access Participants**

- (1) A Participant may grant permission to one or more Sponsored Access Participants to enter Orders and Indicative Orders, issue and respond to Requests for Quotes, access the Trading System and effect transactions in Swaps in accordance with the criteria and procedures established by the SEF.
- (2) By agreeing to act as a Sponsored Access Participant, such Person agrees to be bound by the duties and responsibilities of a Sponsored Access Participant, to be subject to, and comply with, the Rules, and to be deemed to have represented and warranted to the SEF that it is an Eligible Contract Participant, that each of its customers are Eligible Contract Participants, and it has all registrations, licenses and consents required by its constituent documents and by Applicable Law to trade Swaps.
- (3) A Sponsored Access Participant must at all times:
  - (a) Agree to abide by the Rules and consent to the SEF's jurisdiction.

- (b) Effect transactions pursuant to the Rules, and permit its Authorized Persons to effect transactions pursuant to the Rules, solely from within the United States or, except as may be expressly permitted by the SEF in writing from time to time, a jurisdiction in which the SEF is permitted by Applicable Law to offer trading.
  - (c) Ensure that activity conducted under the Trader IDs assigned to it and its Authorized Persons complies with the Rules.
  - (d) Have the authority, at the SEF's request, to adjust or withdraw any Order, Indicative Order or RFQ submitted under such Trader IDs.
  - (e) Have and maintain all necessary regulatory approvals and/or licenses to operate as a Sponsored Access Participant and not be subject to any trading ban, prohibition or suspension issued by the CFTC or the NFA.
  - (f) Cooperate promptly and fully with the SEF in any investigation, inquiry, audit, examination or proceeding regarding compliance with the Rules or any the SEF disciplinary or arbitration proceeding; and
  - (g) Agree to such other terms and conditions as may be established by the SEF from time to time.
- (4) The SEF will promptly notify a Participant in writing of its approval, or refusal to approve, the designation of a Person as a Sponsored Access Participant. The SEF may, in its sole discretion, revoke or suspend the designation of a Sponsored Access Participant, and shall promptly notify the Participant of such action in accordance with procedures established by the SEF.

### **308. Intermediaries**

- (1) A Participant or Sponsored Access Participant may appoint one or more Intermediaries to act on its behalf. Any such appointment must be in writing, and the SEF shall be entitled to rely on the actions of such Intermediary as binding on the Participant or Sponsored Access Participant. In addition, each Participant and Sponsored Access Participant may grant the SEF permission to share the Participant's or Sponsored Access Participant's information with Affiliate IBs for purposes of intermediating orders on the SEF and providing other services.
- (2) Each Participant that is an Intermediary trading for the accounts of Customers that are entities may provide such a Customer with direct market access to the SEF by permitting the Customer to become a Sponsored Access Participant and by permitting one or more individuals associated with such Customer to become Authorized Persons to enter Bids/Offers and RFQs on behalf of the Customer. In such case, the Customer shall be the principal to any transactions made on its behalf by such Authorized Persons.
- (3) Each Participant and Sponsored Access Participant may provide an Introducing Broker trading for the account of the Participant or Sponsored Access Participant with access to the SEF by permitting such Introducing Broker to become an Intermediary and by permitting one or more individuals associated with such Intermediary to become Authorized Persons to enter Bids/Offers and RFQs on behalf of the Participant or Sponsored Access Participant, and to report to the SEF Block Trades executed off of the SEF on behalf of the Participant or Sponsored Access Participant. In such case, the Participant or Sponsored Access Participant shall be the principal to any transactions made on its behalf by such Sponsored Access Participant through the Authorized Persons.

### **309. Independent Software Vendors**

Each ISV that desires to access the SEF must execute the agreements specified by the SEF and satisfy the following criteria:

- (1) If required to be registered in any capacity under Applicable Law, it has duly registered in such capacity and such registration is in effect and has not lapsed or been revoked, suspended or withdrawn.
- (2) It complies with the applicable technical access standards, security protocols and technical specifications for connection to the SEF's electronic system as may be specified by the SEF from time to time.
- (3) It does not adversely affect the SEF's ability to comply with the CEA and CFTC Regulations.
- (4) It satisfies such other criteria as the SEF may specify from time to time, subject to Rule 302 and Applicable Law.

### **310. Credit Arrangements**

A Participant or Sponsored Access Participant that is party to an Uncleared Swap traded pursuant to these Rules shall do so only with a Counterparty with which it has established satisfactory credit arrangements and agreements, such as the ISDA Master Agreement, that permits and governs the exchange of collateral in accordance with applicable law.

### **311. Notice to Trading Privilege Holders**

- (1) The SEF must issue a "Notice to Trading Privilege Holders," or "Notice" with respect to each addition to, modification of, or clarification of, the SEF Rules or of any action to implement any of the SEF Rules established pursuant to Rule 103.
- (2) Such notifications are made to enable each Trading Privilege Holder 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 Trading Privilege Holders").
- (3) Notices will be published on the SEF's website and distributed via an electronic mail distribution a minimum of five business days in advance of the effective date, provided that the Rule amendment is not conducted as an emergency rule certification or under direction from the CFTC.

### **312. Communications Between the SEF and Trading Privilege Holders**

All communications between the SEF and the Trading Privilege Holder (including its Authorized Persons) will be transmitted by telephone, email and/or posted on the SEF website. Each Trading Privilege Holder (and its Authorized Persons) will be responsible for promptly reviewing and, if necessary, responding to all electronic communications from the SEF.

### **313. Recording of Communications**

Any Person may record conversations and retain copies of electronic communications between it and any other Person. Any such recordings made by the SEF 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. The SEF or Regulatory Services Provider will retain such recordings in compliance with CFTC regulations.

### **314. Dues, Assessments and Fees**

- (1) The SEF shall have the authority to set the amounts and times of payment for any dues, assessments or fees to be paid by Trading Privilege Holders, Authorized Persons and ISVs. The SEF shall charge comparable fees to Persons that receive comparable access to the SEF.
- (2) The SEF shall communicate all dues, assessments and fees to each Trading Privilege Holder and ISV pursuant to Rules 103 and 311, and such dues, assessments and fees shall be effective no less than 10 Business Days after the date of such notification.
- (3) Each Trading Privilege Holder, Authorized Person and ISV agrees to pay such dues, assessments and fees with respect to its activity on the SEF (including any activity by or on behalf of its Customers and Authorized Persons).
- (4) If a Trading Privilege Holder, Authorized Person or ISV fails to pay such amounts when due, the SEF may suspend, revoke, limit, condition, restrict or qualify the Trading Privileges of the Trading Privilege Holder, Authorized Person or ISV and its ability to otherwise access the SEF.

### **315. Activities of Voice Specialists**

- (1) A Voice Specialist shall only be entitled to act on the SEF or subject to the Rules on behalf of a Participant or Sponsored Access Participant (or its Authorized Person or Customer) where such Participant or Sponsored Access Participant has so authorized the Voice Specialist and notified the SEF in the form and manner specified by the SEF from time to time.
- (2) If so authorized, a Voice Specialist may enter an Order, Indicative Order or RFQ, submit a Block Trade or Intermediated Transaction, or execute any Transaction otherwise permissible under the Rules on behalf of such Participant or Sponsored Access Participant (or its Authorized Person or Customer).
- (3) In engaging in any such activity, a Voice Specialist shall comply with the Rules and be subject to the jurisdiction of the SEF.

### **316. Trading Privilege Holder Withdrawal**

- (1) To withdraw from the SEF, a Trading Privilege Holder may submit a written request to the SEF, specifying the effective date of the withdrawal. The effective date of the withdrawal shall not be less than 15 Business Days following the date of giving of such withdrawal notice or such other date as may be approved by the SEF.
- (2) Notwithstanding the 15 Business Day withdrawal request, a Trading Privilege Holder may voluntarily suspend its Trading Privileges immediately upon withdrawal notice and cessation of trading activities.
- (3) Effective on the date on which the SEF accepts the withdrawal of the Trading Privilege Holder, all rights and privileges of such Trading Privilege Holder shall terminate (including the Trading Privileges and ability to access the SEF).
- (4) The accepted withdrawal of a Trading Privilege Holder shall not affect the rights of the SEF under the Rules or relieve the former Trading Privilege Holder of its obligations to the SEF or any other Person (including any contractual obligations relating to any Swaps entered into by such Trading Privilege Holder, or the payment of any the SEF fees, costs, or charges incurred prior to such withdrawal). Notwithstanding the accepted withdrawal of a Trading Privilege Holder, the withdrawn Trading Privilege Holder remains subject to



the jurisdiction of the SEF for acts done and omissions made while a Trading Privilege Holder, and must cooperate in any Disciplinary Proceeding under Chapter 7 as if such withdrawal had not taken place.

## Chapter 4. Trading Privilege Holder Obligations

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### 401. Duties and Responsibilities of Trading Privilege Holders

Each Trading Privilege Holder shall, and shall cause its Authorized Persons to:

- (1) Use the SEF in a responsible manner and not for any improper purpose.
- (2) Use the SEF only to conduct LatAm SEF, LLC activity.
- (3) Ensure that all activity conducted by the Trading Privilege Holder and their Authorized Persons, on the SEF or subject to the SEF Rules is performed in a manner consistent with the Rules.
- (4) Observe high standards of market conduct, fair dealing, and just and equitable principles of trade while conducting or seeking to conduct any business connected with or concerning the SEF.
- (5) Be fully liable for all Orders and Transactions effected by the Trading Privilege Holder and its Authorized Persons on the SEF or subject to the Rules, whether for its own account or for the account of its Customer.
- (6) If such Trading Privilege Holder is a Swap Dealer or Major Swap Participant, such Trading Privilege Holder shall be responsible for compliance with the mandatory trading requirement of CEA Section 2(h)(8) with respect to any Required Transaction.
- (7) Keep all Trader IDs, account numbers and passwords related to the Trading System confidential.

### 402. Trading Privilege Holder Books and Records

Each Trading Privilege Holder shall, and shall cause its Authorized Persons, to keep books and records of its trading on the SEF (including trading on behalf of any Customer), including records of its activity in the index or instrument used as a reference price, the underlying commodity and related derivatives markets, and make such records available, upon request, to the SEF (or its Regulatory Service Provider) and the CFTC or other regulatory authority to the extent not prohibited by Applicable Law. A Trading Privilege Holder that is prohibited by Applicable Law from providing such information shall so notify the SEF promptly after being asked to do so. The SEF may, in such a case, require the Trading Privilege Holder to provide an opinion of counsel confirming the existence and effect of such prohibition.

### 403. Required Disclosures

Each Trading Privilege Holder or Authorized Person shall immediately notify the SEF upon becoming aware of any of the following events to the extent such events relate to its participation or conduct on the SEF:

- (1) Any material change to the contact information provided to the SEF.
- (2) Any appointment or resignation of an Authorized Person appointed by the Trading Privilege Holder.
- (3) Any failure of Trading Privilege Holder or Authorized Person to timely perform its obligations under or in connection with any Transactions entered into by such Trading Privilege Holder on or subject to the rules of the SEF or other swaps.

- (4) Any material system failure, or damage or inadequacy of its systems, facilities or equipment used to effect Transactions on the SEF or subject to the Rules.
- (5) Trading Privilege Holder or Authorized Person becomes subject to Statutory Disqualification.
- (6) Trading Privilege Holder ceases to be an Eligible Contract Participant.
- (7) Any denial of admission to, or involuntary withdrawal of any application for membership in, any self-regulatory organization, designated contract market, trading facility, swap execution facility or clearing organization.
- (8) The commencement of any judicial or administrative proceeding or the imposition of any fine, cease and desist order, denial of Trading Privileges, censure or other sanction or remedy (whether through an adverse determination, voluntary settlement or otherwise) imposed by any governmental or regulatory authority.
- (9) Any denial or involuntary withdrawal of any application for any registration or license by or from any Governmental Authority, and any revocation, suspension or conditioning of any registration or license granted by any Governmental Authority.
- (10) Trading Privilege Holder becomes insolvent or the subject of a voluntary or involuntary bankruptcy or similar petition or proceeding, or the appointment of a receiver, conservator, trustee or administrator for the Trading Privilege Holder or all or a substantial portion of its assets, or the presenting of a petition or passing a resolution or commencement of a proceeding for the winding up or dissolution of Trading Privilege Holder.

#### **404. Right of Inspection**

The SEF (or its representative, including the Regulatory Services Provider) shall have the right to:

- (1) Inspect systems, equipment and software operated by a Trading Privilege Holder or Authorized Person wherever located, to the extent the foregoing relate to the Trading Privilege Holder's or Authorized Person's participation or conduct on or pursuant to the Rules of the SEF.
- (2) Access the systems, equipment, software, and the premises on which the systems, equipment, and software are located, and any data stored in such systems or equipment to the extent the foregoing relate to the Trading Privilege Holder's or Authorized Person's participation or conduct on or pursuant to the Rules of the SEF.
- (3) Copy and/or reproduce such data as may be necessary to monitor such Trading Privilege Holder or Authorized Person for compliance with the requirements of this Rule to the extent such data relates to the Trading Privilege Holder's or Authorized Person's participation or conduct on or pursuant to the Rules of the SEF.
- (4) Request evidence of the Trading Privilege Holder's financial condition at such times and in such manner as shall be prescribed by the SEF.
- (5) Request sufficient written evidence that the Trading Privilege Holder continues to qualify as Eligible Contract Participants as required by CFTC Rule 37.703.

#### **405. Financial and Related Reporting Requirements**

- (1) Each Trading Privilege Holder that is registered with any Government Agency, including, but not limited to, the CFTC, the SEC or a self-regulatory organization, shall comply with

the provisions of Applicable Law, including but not limited to the rules and regulation such Government Agency imposes on a Trading Privilege Holder relating to minimum financial and related reporting and recordkeeping requirements.

- (2) Any Trading Privilege Holder that is required to register as an FCM or Introducing Broker must comply with the requirements set forth in CFTC Regulations 1.10, 1.12, 1.17 and 1.18.
- (3) Each Trading Privilege Holder shall (a) qualify as an Eligible Contract Participant, unless such Trading Privilege Holder is an Intermediary acting on behalf of Persons that are Eligible Contract Participants, and (b) immediately notify the SEF of any material change to the Trading Privilege Holder's status as an Eligible Contract Participant.
- (4) Each Trading Privilege Holder must notify the SEF immediately upon becoming aware that it fails to satisfy the minimum financial requirements applicable to it under CFTC Regulation 1.a(18) as well as the rules and regulations of any other applicable regulatory agency. A Trading Privilege Holder that is unable to demonstrate to the SEF that it is in compliance with the minimum financial requirements shall not engage in transactions subject to the Rules except for the purpose of closing open positions.

#### **406. Confidentiality of Financial and Other Information**

All information and data obtained or received by the SEF 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 does not supplant any other Rule or any other requirement of legal process or Applicable Law.

#### **407. Authority to Impose Restrictions**

Whenever a Trading Privilege Holder 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 Trading Privilege Holder as the SEF may deem necessary or appropriate for the protection of Customers, other Trading Privilege Holders, or the SEF.

#### **408. System Security**

- (1) Each Trading Privilege Holder granted access to the Trading System must at all times have at least one employee or agent (the "Responsible Person") designated as its administrator with respect to the use of the Trading System by such Trading Privilege Holder. The SEF may prescribe such qualification standards for Responsible Persons as it may from time to time determine necessary or advisable. Among other things, each Responsible Person shall (i) control access to the Trading System by the Trading Privilege Holder, and (ii) be able to access, directly or through the SEF and, if required, modify and withdraw, any and all Orders placed, or purported to be placed, by such Trading Privilege Holder. The Responsible Person or Responsible Persons of any Trading Privilege Holder will also be solely responsible for any and all communications between the SEF and such Trading Privilege Holder and any and all notices or other communications sent to such Responsible Person or Responsible Persons by the SEF will be binding on such Trading Privilege Holder. Each Trading Privilege Holder must notify the SEF promptly of any change regarding any of its Responsible Persons.
- (2) Each Trading Privilege Holder shall be solely responsible for controlling and monitoring the use of all user identification codes and passwords to access the Trading System (collectively, "Trader Information") issued to its Authorized Person or Authorized Persons by the SEF, and must notify the SEF promptly upon becoming aware of any unauthorized disclosure or use of the Trader Information or access to the Trading System or of any other reason for deactivating Trader Information. Each Trading Privilege Holder shall be

bound by any actions taken through the use of its Trader Information (other than any such actions resulting from the fault or negligence of the SEF), including the execution of transactions, whether or not such actions were authorized by such Trading Privilege Holder, or any of its directors, officers or employees until they have notified the SEF to the contrary in writing and the SEF has had a reasonable opportunity to act upon such notice.

- (3) Each Trading Privilege Holder shall be responsible for ensuring that its Authorized Persons do not grant access to the Trading System to any person located outside the United States except as otherwise expressly permitted by the SEF. To the extent necessary to ensure the operational integrity of the Trading System, the SEF may at any time restrict or limit the access of Responsible Persons to specified locations, and each Trading Privilege Holder must ensure prompt compliance with any such limitation.

#### **409. Books and Records of ISVs**

Each ISV shall keep and maintain for at least five years books and records of the access it provides to the SEF, including records of the Orders, Indicative Orders and RFQs routed by it to the SEF and make such records available, upon request, to the SEF (or its Regulatory Service Provider) and the CFTC or other Governmental Authority.

#### **410. Restrictions on Activity**

If the SEF determines that the financial or operational condition of a Trading Privilege Holder is such that to allow that Trading Privilege Holder to continue to have access to the SEF would adversely affect the SEF or the financial markets, the SEF may limit or restrict the number or type of Swaps that may be traded by such Trading Privilege Holder on the SEF or terminate the Trading Privileges of such Trading Privilege Holder as well as the Trading Privileges of its Authorized Persons.

#### **411. Disaster Recovery; Business Continuity**

- (1) Each Trading Privilege Holder shall have written disaster recovery and business continuity policies and procedures in place to ensure it is able to operate in the event of a significant internal or external interruption to its operations. At a minimum, each Trading Privilege Holder must have procedures in place to allow it to continue to operate during periods of stress or to transfer accounts to another fully operational Trading Privilege Holder with minimal disruption to the SEF.
- (2) The SEF may prescribe additional and/or alternative requirements for a Trading Privilege Holder's compliance with this Rule.

#### **412. Information Regarding Orders**

- (1) The SEF will make information regarding Orders (including prices bid or offered), Transactions and any other matters it may deem appropriate available to Trading Privilege Holders and other Persons at such times and in such manner (whether through the Trading System, a ticker, financial information service or otherwise) as it may consider necessary or advisable from time to time.
- (2) Each Trading Privilege Holder or other Person receiving any such information through the Trading System may redistribute such information only to such extent and in such manner as may be permitted by the SEF from time to time.

#### **413. Publication of Trade Information**

The SEF shall publish information on its website daily regarding volume, price ranges, open interest and settlement prices (based on non-cancelled Bids, non-cancelled Offers, and sales) subject to such prices accurately reflecting market conditions within the discretion of the SEF. The SEF shall also publish on its website on a daily basis the total quantity of Block Trades that are included in the total volume of trading. Information on settlement prices and open interest shall be provided, as applicable, by the relevant DCO.

#### **414. Anti-Money Laundering Obligations**

Each Trading Privilege Holder will be deemed to have made the following representations, warranties and covenants to the SEF, on behalf of itself and its respective Authorized Persons and Customers, each time it makes use of the Trading System:

- (1) Such Trading Privilege Holder is in compliance with all laws, rules and regulations applicable to it pertaining to anti-money laundering and anti-terrorism, including those related to sanctions screening and customer identification and verification. Such Trading Privilege Holder shall provide to the SEF, upon request, so long as permitted by Applicable Law, including those pertaining to data privacy, any documents and other information reasonably requested by the SEF in order to satisfy any anti-money laundering, anti-terrorism, sanctions screening or other customer identification and verification laws, rules and regulations applicable to the SEF; and
- (2) To the extent that such Trading Privilege Holder or any of its respective Authorized Persons or Customers, is located within the United States, or is otherwise subject to the jurisdiction of the United States, such Trading Privilege Holder, Authorized Person, or Customer is a U.S. person as defined by applicable regulations administered and enforced by the Office of Foreign Assets Control ("OFAC"), is subject to such regulations, and has implemented a program reasonably designed to comply with such regulations. As part of its OFAC compliance program, such Trading Privilege Holder, Authorized Person, or Customer, as applicable, has screened and will continue periodically to screen against the most recent version of OFAC's List of Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, Specially Designated Global Terrorists, Foreign Terrorist Organizations and Specially Designated Narcotics Traffickers, the name and address of any counterparty to a transaction it executed or that was executed on its behalf on the Trading System.

## Chapter 5. Trading Practices

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### 501. Scope

This Chapter 5 applies to all transactions in Swaps, except as otherwise specifically provided in these Rules.

### 502. Calendar and Hours of Operation

The SEF shall from time to time determine the Business Days and Business Hours during any particular calendar year and the Trading Hours in respect of each Swap. Calendar and hours of operation shall be published on the SEF's website. Except as may be otherwise expressly provided in these Rules, all references to times in these Rules shall be to the local time prevailing in New York, New York.

### 503. Swaps Traded on the SEF

- (1) The SEF shall determine which Swaps can be traded from time to time pursuant to these Rules, provided that any determination in respect of listing a Swap for trading pursuant to these Rules shall be submitted to the CFTC as required by the CEA and CFTC Regulations.
- (2) Subject to compliance with the CEA and CFTC Regulations, Swaps traded on the SEF may be Cleared Swaps or Uncleared Swaps.
- (3) For each Swap executed on the SEF, the SEF shall generate and assign a USI according to the format set forth in CFTC Regulation 45.5(b)(1) at, or as soon as technologically practicable following, the time of execution of the swap. The SEF shall transmit the unique swap identifier electronically to:
  - (a) The SDR to which the SEF reports Required Swap Creation Data for the swap;
  - (b) Each counterparty to the swap, as soon as technologically practicable after execution of the swap;
  - (c) The derivatives clearing organization, if any, to which the swap is submitted for clearing, as part of the Required Swap Creation Data transmitted to the derivatives clearing organization for clearing purposes.

### 504. Procedures

- (1) With respect to trading on or through the SEF, the SEF may adopt, without limitation, procedures relating to transactions in Swaps on the SEF and trading on the Trading System, including procedures to:
  - (a) Disseminate the prices of Bids and Offers on, and information regarding Trades in, Swaps.
  - (b) Record and account for Swaps.
  - (c) Perform market surveillance and regulation on matters affecting Swaps.
  - (d) Establish limits on the number and/or size of Orders that may be submitted by a Participant or Sponsored Access Participant or Authorized Person through the Trading System.

- (e) Establish limits on the number of Swaps that may be traded by a Participant, Customer or Sponsored Access Participant through the Trading System.
  - (f) Establish limits on the maximum daily price fluctuations for Swaps and provide for any related restriction or suspension of trading in such Swaps.
  - (g) Establish limits on how frequently a Participant or Sponsored Access Participant may refresh its Bid or Offer.
  - (h) Establish a minimum tick increment.
- (2) The SEF may, at its discretion and at any time, amend any procedures adopted pursuant to Rule 504(1). The SEF shall communicate all such amendments to each Trading Privilege Holder and ISV pursuant to Rules 103 and 311.
  - (3) Each Participant and Sponsored Access Participant is responsible for the accuracy of the information and prices it inputs or instructs others to input into the Trading System.
  - (4) Each Participant and Sponsored Access Participant is obligated to settle all Transactions executed pursuant to the Rules.

## 505. Order Entry

- (1) As applicable by Swap transaction type (Required Transaction or Permitted Transaction) and Execution Method, Orders may be entered electronically or, as agreed in advance with an employee of the SEF, submitted by telephone, email, instant message or through such other medium as may be agreed from time to time.
- (2) Each Trading Privilege Holder and Authorized Person that submits an Order into the Trading System must include with the Order the following details:
  - (a) Trader ID
  - (b) Trading Privilege Holder ID
  - (c) Price or yield, quantity, maturity or expiration date
  - (d) Price and quantity of the Swap
  - (e) Side of the Order
  - (f) CTI code
  - (g) Trading account and other relevant account
  - (h) Legal Entity Identifier of the Participant or Sponsored Access Participant
  - (i) Yes/no indication of whether the Participant, Sponsored Access Participant, or Customer is a Swap Dealer for the Swap the Order pertains to
  - (j) Yes/no indication of whether the Participant, Sponsored Access Participant, or Customer is a Major Swap Participant for the Swap the Order pertains to
  - (k) Yes/no indication of whether the Participant, Sponsored Access Participant, or Customer is a Financial Entity



- (l) Yes/no indication of whether the Participant, Sponsored Access Participant, or Customer is a U.S. Person
- (m) If the Swap will be allocated:
  - (i) An indication that the Swap will be allocated
  - (ii) The Legal Entity Identifier of the agent
  - (iii) An indication of whether the Swap is a post-allocation swap
  - (iv) If the Swap is a post-allocation swap, the Unique Swap Identifier of the original Transaction between the reporting Counterparty and the agent

## 506. Customer Type Indicator (CTI) Codes

As required in Rule 505(2)(f), each Trading Privilege Holder and Authorized Person must include the correct CTI code with each Transaction executed or submitted for execution on the SEF to the extent that the CTI code is not already included by the Trading System. For purposes of this Rule 506, the CTI codes are as follows:

- CTI 1 – Bid/Offer for the proprietary account of a Person that is a natural person.
- CTI 2 – Bid/Offer for the proprietary account of a Person that is not a natural person.
- CTI 3 – Bid/Offer which a Person executes for the proprietary account of another Person or for an account which the other Person controls or has an ownership or financial interest in.
- CTI 4 – Any Bid/Offer not meeting the definition of CTI 1, 2 or 3, including those entered on behalf of Customers.

## 507. Required Transactions

- (1) The SEF may offer execution services in Required Transactions, as that term is defined by CFTC Regulations.
- (2) No Trading Privilege Holder or Authorized Person shall execute a Required Transaction (other than a Block Trade) in a method other than the following Execution Methods:
  - (a) Central Limit Order Book Hit/Lift Click Trading, as described in Rule 512(1); or
  - (b) Request for Quote in conjunction with Order Book, as described in Rule 512(2) if offered by the SEF as an Execution Method for the Swap; or
  - (c) Volume-Matching Trading, as described in Rule 512(3) if offered by the SEF as an Execution Method for the Swap.
- (3) Trading Privilege Holders having the authority and ability to execute against a Customer's Order or to execute two Customer Orders against each other must expose one side of the Transaction as a firm quote on the Order Book for a minimum of 15 seconds to the other Trading Privilege Holders before the second side of the Transaction (whether for the Trading Privilege Holder's own account or for a second Customer) can be submitted for execution. The foregoing restriction shall not apply to Permitted Transactions.

## 508. Permitted Transactions

- (1) The SEF may offer execution services in Permitted Transactions, as that term is defined by CFTC Regulations.
- (2) A Permitted Transaction can be executed using any method agreed by the parties. A Permitted Transaction will be deemed executed when the SEF provides a written record of the terms of the executed Transaction to each Counterparty as provided herein.
- (3) Upon execution of a Permitted Transaction on the SEF, the SEF will report the Transaction to an SDR as soon as technologically practicable after such execution.
- (4) Each Trading Privilege Holder that is party to, or Intermediary in, a Permitted Transaction executed pursuant to section (2) of this Rule 508 must record the following details of the Transaction: the Swap (including the Delivery Month) to which such Transaction relates; the number of Swaps traded; the price of execution or premium; the identity of the Counterparty; and, if applicable, details regarding the Customer for which the Transaction was executed, as well as, if applicable, the underlying interest and whether the Transaction involved a put or a call and the strike price. Upon request by the SEF, such Trading Privilege Holder must produce satisfactory evidence that the Transaction meets the requirements set forth in this Rule.

## 509. Intermediated Transactions/Introducing Brokers

- (1) With respect to a Permitted Transaction, an Introducing Broker may arrange a Transaction off the Trading System between two parties, each of which is a Participant or Sponsored Access Participant (or a Customer thereof), to be executed under the Rules of the SEF ("Brokered Trades").
- (2) Subject to Rule 308, Trading Privilege Holders who are Intermediaries shall immediately enter into the SEF all executable Orders and RFQs received from their Customers, and report to the SEF all Voice Trades and Block Trades executed off of the SEF on behalf of their Customers. If an Order or RFQ cannot be immediately entered into a Trading System, an electronic record which includes the account identifier that relates to the account owner, time of receipt, and terms of the Order or RFQ must immediately be created, and the Order or RFQ must be entered into a Trading System as soon as practicable.
- (3) Priority of Execution. Non-discretionary executable Customer Orders received by a Trading Privilege Holder who is an Intermediary shall be entered into the SEF in the sequence received. Non-discretionary Orders that cannot be immediately entered must be entered when the Orders become executable, in the sequence in which the Orders were received.
- (4) The SEF shall provide all Confirmations of Intermediated Transactions to the Intermediary. Any Trading Privilege Holder that transacts as an Intermediary for any Customer shall be responsible for ensuring that such Customers receive all Confirmations of Swaps entered into on behalf of such Customers.

## 510. Block Trades

Participants and Sponsored Access Participants may enter into Block Trades off of the SEF, at prices mutually agreed, with regard to Swaps that have been designated by the SEF for such purpose, provided all of the following conditions are satisfied:

- (1) Each Block Trade must be for a notional or principal quantity that is equal to or exceeds the appropriate minimum block size specified by the CFTC.

- (2) Trading Privilege Holders that are party to a Block Trade shall comply with any applicable CFTC regulations governing Block Trades. A Trading Privilege Holder must receive instructions from a Customer or obtain the Customer's prior written consent before entering into a Block Trade with that Customer.
- (3) Each Block Trade shall be subject to the following:
  - (a) Trading Privilege Holders are not permitted to aggregate Orders across multiple accounts or multiple Participants or Sponsored Access Participants in order to meet any applicable minimum size for a Block Trade, except that eligible account managers can aggregate orders for accounts for which they have been granted written investment discretion to the extent permitted under CFTC Regulations and any interpretations issued thereunder.
  - (b) The parties to a publicly reportable Transaction that as a notional or principal amount that equals or exceeds the appropriate minimum block size shall notify the SEF of their election to have such Transaction treated as a Block Trade.
  - (c) The price at which a Block Trade is executed must be fair and reasonable in light of:
    - (i) The size of the Block Trade
    - (ii) The prices and sizes of other transactions in the same Swap at the relevant time
    - (iii) The prices and sizes of transactions in other relevant markets at the relevant time
    - (iv) The circumstances of the markets or the Participants to the Block Trade
  - (d) Persons entering into a Block Trade under the Rules must agree upon which party to the Block Trade shall be responsible for reporting all of the terms of the Block Trade to the SEF as soon as practicable after execution of the Block Trade, unless the Block Trade is an Intermediated Transaction, in which case the Trading Privilege Holder acting as Intermediary shall be responsible for reporting all of the terms of the Block Trade to the SEF.
  - (e) Block Trades must be reported to the SEF as soon as technologically practicable by completing and submitting an electronic trade entry ticket in the Trading System, or by contacting the SEF's Market Operations Group. Reported block trades must include the information required by Rule 505(2), together with such other information as the SEF may require.
  - (f) Participants and Sponsored Access Participants involved in the execution of Block Trades must comply with the recordkeeping requirements set forth in Rule 402.
  - (g) The SEF will report a Block Trade to an SDR as soon as technologically practicable after the execution thereof. The SEF shall timestamp a Block Trade at the time it is reported to the SEF and at the time it reports the Block Trade to an SDR.
  - (h) Parties involved in the solicitation or negotiation of a Block Trade and parties that are privy to non-public information regarding a consummated Block Trade may not disclose such information to any other party prior to the public report of the Block Trade by the SEF and may not trade in the same product or closely-related product for the purpose of taking advantage of such information.

- (i) Pre-hedging or anticipatory hedging of any portion of a Block Trade in the same product or a closely related product based upon a solicitation to participate in a Block Trade is not permitted. A closely related product is a product that is highly correlated to, serves as a substitute for, or is the functional economic equivalent of the product being traded as a Block Trade. Counterparties to a Block Trade are permitted to initiate trades to hedge or offset the risk associated with the Block Trade following the consummation of the Block Trade, including during the period preceding the public report of the Block Trade by the SEF.

## 511. Suspense Accounts and Orders Eligible for Post-Execution Allocation

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

## 512. Execution Methods

The following Execution Methods are available on the Trading System. Execution Methods are enabled by Swap transaction type (Required Transaction or Permitted Transaction) at the discretion of the SEF, with the exception of Hit/Lift Click Trading, which is available for all Swaps.

- (1) Central Limit Order Book. The Central Limit Order Book is a database of Orders entered on the Trading System through an order entry ticket. Orders for a Swap in the Central Limit Order Book are displayed in price/time priority, placing (a) Orders with the best price above those at the next-best price; and (b) Orders with the same price in order of time received from oldest to most recent. Orders for mandatorily cleared swaps in the Central Limit Order Book are subject to pre-trade credit checks, and execution via a manually executed trading method under which Authorized Persons can post Orders and Indicative Orders, transact with Orders and initiate negotiations with respect to Indicative Orders. Indicative Orders may either feature size and/or price details or include no details on price and reflect a default size that is established by the Trading System. Indicative Orders must be subject to negotiation, modification and approval by an Authorized Person in order to become tradeable firm Orders.
- (2) Request for Quote. A Request for Quote is a price discovery method whereby an Authorized Person solicits firm and executable quotes for a Swap. Recipients can be selected from a list of other Authorized Persons currently logged on to the Trading System, the number of which must be equal to or greater than the minimum number of market participants required by and counted according to CFTC Regulations. Each recipient shall be given equal priority in receiving requests for quotes and in transmitting and displaying for execution responsive quotes. Market participant responses are optional and voluntary. Responses are displayed to the quote solicitor along with any firm resting Bid or Offer in the same instrument from the Trading System's Central Limit Order Book. Quote solicitors can execute against market participant responses and against any firm bid or offer in the same instrument resting on the SEF's Central Limit Order Book.
- (3) Volume-Match Trading. Volume-Match Trading is an execution method whereby, over a fixed-length session, one or more Swap(s) can be traded at a transparent, fixed price that is determined by market survey prior to the matching session. In a Volume-Matching session, Authorized Persons can enter Order size and side. Orders are matched utilizing a non-discretionary automated trade matching algorithm. Prior to the matching auction, one of the following automated trade matching algorithms will be disclosed to Trading

Privilege Holders and then applied to the auction. Once the auction is initiated, the matching algorithm cannot be changed.

- (a) Real-time matching based on time priority (First In, First Out, or “FIFO”).
  - (b) Real-time matching based on volume priority. In the event that a stack of Orders exists on one side of the market, they are matched against new Orders on the other side of the market in order of largest to smallest.
  - (c) End-of-session matching based on time priority (First In, First Out, or “FIFO”).
  - (d) End-of-session matching based on volume priority in order of largest to smallest.
- (4) Voice Trading. An execution method whereby an Introducing Broker that is a SEF Intermediary arranges trades between SEF Participants that have authorized the Introducing Broker to place orders and report trades to the SEF on their behalf, then submits those trades to the SEF’s Trading System. Voice Execution is available only for Permitted Transactions, as that term is defined in Rule 508 and by CFTC Regulations.

### 513. Error Handling

- (1) If a Trading Privilege Holder believes that a Bid/Offer or RFQ to transact in one or more Swaps was incorrectly displayed, executed or reported, or if a Trading Privilege Holder believes that a Block Trade was incorrectly reported, that Trading Privilege Holder shall submit corrected data to the SEF and request that the SEF review the Bid/Offer, RFQ or Transaction.
- (2) A request for review that is made by a Trading Privilege Holder must be made as soon as practicable but in no event after the end of the Business Day in which such Transaction took place. Upon receipt of a request for review of a Bid/Offer or RFQ, the SEF will review its records to determine if the Trading System correctly displayed and/or executed the Bid/Offer or RFQ.
- (3) If the review described in this Rule reveals that the Trading System or a Voice Specialist made a material mistake or that a mistake occurred as a result of a malfunction in the Trading System or by human error, the Transaction will be canceled or adjusted, as appropriate.
- (4) If the review described in this Rule reveals that neither the Trading System nor a Voice Specialist made a mistake, the SEF will inform the Trading Privilege Holder who requested the review that the SEF has determined that the Bid/Offer was properly handled, the evidence supporting that determination, and that an adjustment will not be made.
- (5) The SEF will document in writing all requests for review of Bids/Offers received by the SEF, the time and manner in which SEF reviewed its electronic audit trail in response to the request, the outcome of that review, and the action or actions taken by the SEF in response to that review.

### 514. Cancellations

- (1) SEF Authority.

The SEF may, at its sole discretion, cancel any Transaction that it believes allowing to stand as executed could have a material, adverse effect on the integrity of the market or is necessary to mitigate market disrupting events caused by the improper or erroneous use of the Trading System or by system defects. All decisions of the SEF to cancel a

Transaction shall be final. The SEF shall not have any liability for losses resulting from Transaction cancellations under this Rule. The SEF retains exclusive authority over all decisions involving the cancellation of Transactions.

- (2) Decision to Review Transaction.
  - (a) The SEF may determine to review a Transaction based on its independent analysis of market activity or upon request for review by a Trading Privilege Holder or Authorized Person of the SEF. A request for review that is made by a Trading Privilege Holder must be made 30 minutes of the execution of the Transaction. The SEF shall determine whether or not a Transaction will be subject to review at its sole discretion. Upon deciding to review a Transaction, the SEF will promptly issue an alert to involved Trading Privilege Holders via the Trading System or electronic mail indicating that the Transaction is under review.
  - (b) A decision by the SEF to review a Transaction will be made as soon as practicable, and the SEF shall notify Trading Privilege Holders and the Swap Data Repository of any such decision.
- (3) Transaction Review.
  - (a) If the SEF decides to review a Transaction, the SEF shall complete such review within one Business Day after it accepts such request unless it notifies involved Trading Privilege Holders that it is unable to complete its review during this time period.
  - (b) In reviewing a Transaction, the SEF shall determine the fair value price for the Swap at the time the Transaction under review occurred. 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 volatility of the market, market conditions at the time of the Transaction, the prices of related instruments in other markets, any other factors that the SEF deems relevant.
- (4) Transaction Review, Price Adjustment and Cancellation Procedures.
  - (a) If the SEF determines that a Transaction has been executed at a price that is representative of the market for the Swap, the SEF will issue a notification to Trading Privilege Holders that the Transaction shall stand as executed.
  - (b) If the SEF determines that a Transaction has been executed at a price that is not representative of the market for the Swap, the SEF shall have the right, in its sole discretion, to cancel or adjust the price of such Transaction. Cancelled Transactions shall be cancelled in the SEF's official records; Transactions that have had their price adjusted shall be cancelled in the SEF's official records and shall be inserted in the SEF's official records at the adjusted price; all cancelled and adjusted Transactions shall be reported to the relevant SDR.
- (5) Voluntary Adjustment by Counterparty Agreement.
  - (a) With the approval of the SEF, parties to a Transaction that is under review or that has had its price adjusted may instead mutually agree to cancel or to adjust the price of the Transaction.
  - (b) With the approval of the SEF, Counterparties to a Transaction that is cancelled may instead mutually agree to adjust the price of such Transaction to a fair value price.

- (c) Subject to clauses (5)(a) and (5)(b), parties to a trade that is cancelled or that has had its price adjusted may mutually agree to a cash adjustment.
  - (d) Any cancellation or adjustment made pursuant to this paragraph (5) must immediately be reported by the Counterparties to the SEF, which shall report such cancellation or adjustment to the SDR. The parties shall maintain a record of such cancellation or adjustment, including a record of their report of the same to the SEF.
- (6) SEF Recordkeeping.

In accordance with the provisions of Rule 901, all cancelled and modified Transactions shall be captured and retained in the SEF's official records.

## 515. Confirmations

The SEF shall provide each Counterparty to a Swap with a written record of all of the terms of the Swap which shall serve as a Confirmation of the Swap. With respect to certain products, Transactions and Trading Privilege Holders, such Confirmation may be provided on the SEF's behalf by MarketSERV's Organized Trading Venue (OTV) Confirmation Service or other similar confirmation services.

- (1) Cleared Swaps
  - (a) For Cleared Swaps, the SEF will provide the Trading Privilege Holder a Confirmation of all the terms of each transaction executed on the SEF at the same time as the swap transaction is accepted for clearing, as defined in CFTC Regulation § 23.501(4)(ii), provided that where a Trading Privilege Holder is a Customer in an Intermediated Transaction, the confirmation will be provided to the Intermediary in accordance with paragraph (3). The Confirmation provided by the SEF for Cleared Swaps will be the final legally binding confirmation of the terms of any transaction executed on the SEF and will supersede any conflicting confirmation or agreement provided to, or between, as applicable, Participants and Customers, regardless of when such other confirmation is provided.
  - (b) A Swap that is effected as a Block Trade shall be confirmed by the SEF promptly after it is reported to the SEF pursuant to Rule 510(3)(e) and cleared pursuant to Rule 601.
- (2) Uncleared Swaps
  - (a) The economic terms specific to the Transaction agreed by Participants and/or Sponsored Access Participants with respect to an Uncleared Swap shall be reflected by the SEF in a written communication (the "Trade Communication") sent to the applicable Trading Privilege Holders that are party to such Uncleared Swap, provided that where a Trading Privilege Holder is a Customer in an Intermediated Transaction, the confirmation will be provided to the Intermediary in accordance with paragraph (3). 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 Uncleared Swap existing at the time of such commitment to which such Participants and/or Sponsored Access Participants are party (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 Trade Communication and Terms Incorporated by Reference, together, the "Confirmation").

- (b) In satisfaction of the obligations imposed on the SEF under CFTC Regulation 37.6(b), (i) each Trade Communication is deemed to incorporate the Terms Incorporated by Reference set forth in this Rule 515, and (ii) the Participants and/or Sponsored Access Participants that are party to the Uncleared Swap referenced in such Trade Communication hereby agree that the provisions of paragraph (3) shall govern any conflicting terms.
  - (c) In the event of any conflict between (x) the Trade Communication and (y) the Terms Incorporated by Reference, the Trade Communication shall prevail to the extent of the inconsistency, and the SEF's Trade Communication shall state the same.
  - (d) For each Uncleared Swap executed on or pursuant to the rules of the SEF, 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.
- (3) Intermediated Transactions. Each Trading Privilege Holder authorizes the SEF to send Confirmations of Swaps that are effected through an Intermediary to such Intermediary and authorizes such Intermediary to accept such Confirmations on behalf of the Trading Privilege Holder.

## 516. Incentive Programs

- (1) The SEF may establish programs for Trading Privilege Holders that provide financial incentives for meeting trading volume or revenue thresholds, as established by the SEF.
- (2) All Trading Privilege Holders are eligible for discounts, provided that they meet the terms of the relevant program.

## 517. Enforceability

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

- (1) A violation by the SEF of the provisions of section 5h of the Act or this part;
- (2) Any Commission proceeding to alter or supplement a rule, term, or condition under section 8a(7) of the Act or to declare an emergency under section 8a(9) of the Act; or
- (3) Any other proceeding the effect of which is to:
  - (a) Alter or supplement a specific term or condition or trading rule or procedure; or
  - (b) Require the SEF to adopt a specific term or condition, trading rule or procedure, or to take or refrain from taking a specific action.



## Chapter 6. Clearing

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### 601. Clearing Required

- (1) All Participants and Sponsored Access Participants must clear all Swaps that are required to be cleared under Section 2(h)(1) of the CEA and CFTC Regulation § 39.5; provided, however, the clearing requirement in this Rule 601 will not apply if at least one Participant or Sponsored Access Participant that is a Counterparty to a Transaction is an end-user and that party elects the end-user exception from mandatory clearing that is available under the CEA.
- (2) Each Participant and each Sponsored Access Participant shall be responsible for determining whether any Swap it enters into is subject to the mandatory clearing requirements of Section 2(h)(1) of the Act.
- (3) The SEF shall have no responsibility for determining whether a Swap is subject to mandatory clearing or whether an exemption from such a requirement is available, and no conclusion as to either matter should be made as a result of the SEF allowing a Swap transaction to be executed on the Trading System.
- (4) Each Participant and Sponsored Access Participant that is neither a Clearing Firm nor an Intermediary must obtain prior authorization from a Clearing Firm that will guarantee the Participant's or Sponsored Access Participant's Transactions in Cleared Swaps, or enter into an appropriate arrangement with a Person that has such an authorization from a Clearing Firm. Where such Participant or Sponsored Access Participant utilizes the services of multiple Clearing Firms, a Clearing Firm shall only be responsible to the extent that it has been designated to clear a particular Cleared Swap.
- (5) Each Trading Privilege Holder that is an Intermediary shall obtain from each Customer for whom it is acting, confirmation from such Customer that it is a Clearing Firm or that it has obtained prior authorization from a Clearing Firm that will guarantee Customer's Transactions in Cleared Swaps or enter into an appropriate arrangement with a Person that has such an authorization from a Clearing Firm. Where a Customer uses the services of multiple Clearing Firms, a Clearing Firm shall be responsible only to the extent that it has been designated by such Customer to clear a particular Cleared Swap.
- (6) A Clearing Firm may at any time revoke any authorization granted and guarantee made by it by providing written notice of such revocation to the SEF.
- (7) A Participant or Sponsored Access Participant will only execute a Cleared Swap on the Trading System if the Participant or Sponsored Access Participant has delivered to the SEF all information necessary to permit the SEF to submit the Swap for clearing.
- (8) Promptly upon the execution of each Transaction in a Cleared Swap, the SEF shall submit the Transaction (which may include submission through a middleware provider) to the relevant DCO. 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 Trading Privilege Holder of the duty to act in good faith and with reasonable care and diligence.
- (9) The SEF will facilitate pre-execution checks by Clearing Firms for compliance with Risk-Based Limits, and will issue notices to Clearing Firms, Participants and Sponsored Access Participants relating thereto.

- (a) Consistent with and to the extent required by CFTC Regulations (including CFTC Regulations 1.73 and 23.609):
    - (i) Each Clearing Firm that is a Participant or Sponsored Access Participant shall establish Risk-Based Limits in its proprietary account;
    - (ii) Each Clearing Firm, whether or not a Participant or Sponsored Access Participant, shall establish Risk-Based Limits in each of its Customer accounts; and
    - (iii) Each Clearing Firm shall to the extent practicable use automated means to screen Orders that it has authorized a Participant or Sponsored Access Participant to execute electronically and shall establish and maintain systems of risk controls reasonably designed to ensure compliance with Risk-Based Limits for all other Orders.
  - (b) Prior to entering any Order for a Cleared Swap, each Participant or Sponsored Access Participant that is acting as principal shall take reasonable steps to verify that such Order, if executed, would not exceed the Risk-Based Limits established by the Participant or Sponsored Access Participant's Clearing Firm.
  - (c) Prior to entering any Order for a Customer for a Cleared Swap, each Participant that is acting as Broker shall require its Customer to take reasonable steps to verify that such Order, if executed, would not exceed the Risk-Based Limits established by the Customer's Clearing Firm.
- (10) Failure to Clear – Risk-Based Limits. Upon receipt by the SEF of notice from a Derivatives Clearing Organization that a Swap (including a Transaction that is a component leg of a Package Transaction), whether or not subject to mandatory clearing, has been rejected for clearing for violation of a Risk-Based Limit, the Swap will be deemed to be void *ab initio* under these Rules and the SEF will promptly notify the parties to such Swap.
- (11) Failure to Clear – Other Causes. Upon receipt by the SEF of notice from a DCO that a Swap (including a Transaction that is a component leg of a Package Transaction), whether or not subject to mandatory clearing, has been rejected (i) because of a clerical or operational error or omission resulting in a mismatch of the terms of the Cleared Contract, 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 and submitted for clearing without having been executed pursuant to the methods set forth in CFTC Regulations 37.9(a)(2) or 38.500. If the SEF is able to identify and determine how to correct the error or omission, it may execute the new trade without obtaining the consent of the Counterparties. If the SEF is unable to determine how to correct the error or omission, the SEF will promptly notify the parties to such Swap and disclose to each party the identities of its Counterparty and the Counterparty's Clearing Firm. The parties and their Clearing Firms may in such a case (and after obtaining the consent of their Customers, if applicable) resubmit the Swap to the DCO for clearing provided the following conditions are met:
- (a) The parties and their Clearing Firms (after obtaining the consent of their Customers, if applicable) must agree to submit the new trade.
  - (b) The clearing member cannot require a Customer to agree in advance to consent to the submission. The consent must be sought on a case-by-case basis, after the trade has been rejected.

- (c) The new trade must be submitted as soon as technologically practicable after receipt by the parties and their Clearing Firms of a notice of rejection by the DCO to the clearing members, but in any case no later than one hour from the issuance.
  - (d) Both the original trade and the new trade must be subject to pre-execution credit checks.
  - (e) The new trade must be submitted with terms and conditions matching those of the original trade other than any such error as identified by the DCO in the original trade rejection.
  - (f) LatAm SEF will report Required Swap Creation Data to the relevant SDR as soon as technologically practicable after the original trade is rejected by the DCO, including: (i) a part 43 cancellation for the original trade; (ii) a part 45 termination indicating that the original trade is void ab initio; (iii) swap transaction data linking the original canceled trade to the new trade pursuant to Parts 43 and 45 of the Commission Regulations.
  - (g) If, after such resubmission, the DCO notifies the parties and their Clearing Firms that the Swap that has been resubmitted will not be accepted for clearing, the parties and their Clearing Firms shall so notify the SEF, no further resubmissions may be made and the Swap shall be deemed to be void ab initio under these Rules.
- (12) Erroneous Cleared Swaps. If a clerical or operational error or omission is not discovered until after a Transaction has been cleared, the SEF may permit the original Counterparties to the Transaction to enter into a prearranged Transaction 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 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. Offsetting Transactions and Correcting Transactions executed pursuant to this Rule 601(12) must be executed and cleared no later than three days after the original, erroneous Transaction was executed.
- (13) Participants, Sponsored Access Participants and Customers are prohibited from requiring a Breakage Agreement from any other Participant, Sponsored Access Participant or Customer as a condition of trading swaps intended for clearing with that other Participant or Customer on the SEF.

## 602. Daily Settlement Price

- (1) Daily Settlement Prices shall be determined each Business Day for each Swap pursuant to one or more of the procedures set forth in this Rule 602. The procedure used to determine the Settlement Price of a Swap will depend on the product group, level of activity and liquidity during the defined closing time period, and/or the Source Agency used to derive the Settlement Price.
  - (a) Derivatives Clearing Organization: The daily Settlement Price of certain Swaps may be determined pursuant to the rules of the relevant DCO.
  - (b) Source Agency: The daily Settlement Price of certain Swaps may be determined by an identified Source Agency.

- (c) Midpoint of Closing Range: In Swaps that use this procedure, the first trade and all subsequent trades, higher Bids and lower Offers that are quoted during the established closing time periods for a particular Swap will be included in the closing range. The midpoint of the high and low quotes in the closing range will be the Settlement Price. If no trade occurs during the defined closing period, the last quote of the day (trade, higher Bid, lower Offer) will be the Settlement Price. In the event that there are no valid quotes during the day, the Settlement Price will be the prior day's Settlement Price.
  - (d) Bid/Ask Midpoint at the Close. In Swaps that use this procedure, the midpoint of the Bid/Offer at the defined closing time will be the Settlement Price.
- (2) Notwithstanding anything to the contrary herein, if a Settlement Price in any product, as derived by the normal methodology used for a particular Swap, is inconsistent with trades, Bids or Offers in other relevant markets, or if there is no relevant market activity, the Chief Executive Officer or his or her designee, may establish a Settlement Price that best reflects the true market valuation at the time of the close.

## Chapter 7. Business Conduct

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### 701. Rule Violations

It shall be a violation of these Rules for a Trading Privilege Holder or Authorized Person to violate any agreement made with the SEF.

### 702. Market Abuse Detection

The SEF has systems and measures in place to monitor compliance with the Rules, including, but not limited to disorderly trading conditions and conduct that may involve market abuse. A Trading Privilege Holder or Authorized Person demonstrating improper trading activity or attempts to manipulate the market may be suspended or excluded from using the SEF.

### 703. Supervision

Each Trading Privilege Holder shall be responsible for establishing, maintaining and administering supervisory procedures that are reasonably designed to ensure that its Authorized Persons and its associated persons, if any, comply with these Rules, and may be held accountable for the actions of such Authorized Persons and associated persons.

### 704. Just and Equitable Principles of Trade

It shall be a violation of these Rules for a Trading Privilege Holder or Authorized Person to engage in conduct inconsistent with just and equitable principles of trade.

### 705. Misuse of the Platform

Misuse of the Trading System is prohibited. It shall be deemed an act detrimental to the welfare of the SEF to engage in unauthorized use of the Trading System, to assist any Person in obtaining unauthorized access to the SEF Trading System, to alter the equipment associated with the Trading System, to interfere with the operation of the Trading System, to intercept or interfere with information provided thereby, or in any way to use the SEF in a manner contrary to the Rules.

### 706. Withholding Orders Prohibited

Any Trading Privilege Holder or Authorized Person entering Orders on the SEF for a Customer shall not withhold or withdraw from the market any Order, or any part of an Order, for the benefit of any Person other than such Customer. A Trading Privilege Holder or Authorized Person must enter into the Trading System all Orders and RFQs received from its Customers that are immediately executable as soon as practicable following receipt.

### 707. Prohibited Trading Conduct

It shall be a violation of these Rules for a Trading Privilege Holder to engage in any of the following prohibited trading conduct:

- (1) Fraudulent Acts. No Trading Privilege Holder or Authorized Person shall engage in any fraudulent act or engage in any scheme to defraud, deceive, trick or mislead another Person in connection with or related to any Trade on or other activity related to the SEF.
- (2) Fictitious Transactions. No Trading Privilege Holder or Authorized Person shall engage in fictitious transactions, improper cross-trading, accommodation trading or execute any such Order with knowledge of its nature as any of the foregoing.

- (3) Market Disruption. 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 Trading Privilege Holder or Authorized Person 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.
- (4) Market Manipulation. No Trading Privilege Holder or Authorized Person shall manipulate or attempt to manipulate the market in any Swap.
- (5) Disruptive Trading Practices. No Trading Privilege Holder or Authorized Person shall engage in any trading practice or conduct that constitutes a “disruptive trading practice,” as such term is described in Section 4c(a)(5) of the CEA, CFTC Regulations and any interpretations issued thereunder.
- (6) Misstatements of Material Fact. It shall be a violation of these Rules for a Trading Privilege Holder or Authorized Person to make any knowing misstatement of a material fact to the SEF or knowingly to omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which they were made, not misleading.
- (7) Disclosing Orders. Except as otherwise permitted by these Rules, no Trading Privilege Holder or Authorized Person shall disclose to any Person the terms of any Order prior to its entry into the SEF, except to (a) an employee or agent of the same Trading Privilege Holder for the sole purpose of executing or recording such Order, (b) a SEF official, or (c) any regulatory or self-regulatory organization with jurisdiction over the SEF or such Trading Privilege Holder.
- (8) Front-Running. No Trading Privilege Holder or Authorized Person shall enter an Order into the SEF for its own account when such Trading Privilege Holder or Authorized Person knows that he is in possession of an Order for the same instrument that has not been executed, cancelled or expired.
- (9) Wash Sales. No Trading Privilege Holder or Authorized Person shall buy and sell a Swap, place or accept buy and sell Orders in the same Instrument, or knowingly execute or accommodate the execution of such Orders by direct or indirect means, if the Trading Privilege Holder or Authorized Person knows or reasonably should know that the purpose of the Transaction is to avoid taking a bona fide market position exposed to market risk. Buy and sell Orders for different Customers with common Beneficial Ownership that are entered with the intent to negate market risk or price competition shall also be deemed to violate this Rule.
- (10) “Money passing,” Pre-Arranged, Pre-Negotiated and Noncompetitive Transactions. (a) No Trading Privilege Holder or Authorized Person may enter an Order for the purpose of entering into the position without a net change in either party’s open positions but a resulting profit to one party and a loss to the other party, commonly known as a “money pass,” and (b) no Trading Privilege Holder or Authorized Person shall pre-arrange or pre-negotiate any purchase or sale or noncompetitively execute any Required Transaction other than a Block Trade that is executed in accordance with Rule 510, or any Permitted Transaction that is executed in accordance with Rule 508.
- (11) Trading Against Customer Orders. No Trading Privilege Holder or Authorized Person in possession of a Customer 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.

## 708. Position Limits

- (1) The SEF may set and enforce such position limits or position accountability levels with respect to each Swap executed on or pursuant to the Rules as the SEF deems necessary to reduce the threat of market manipulation or congestion.
- (2) The SEF hereby adopts the Commission's position limits for any Swap for which the Commission has adopted a Position Limit. In no event will the SEF set its position limits at a level higher than the Commission's Position Limits.
- (3) For Permitted Transactions, the SEF may set and enforce position accountability levels or send the Commission a list of the Permitted Transactions transacted on the SEF.
- (4) All Trading Privilege Holders and Authorized Persons must comply with all SEF and Commission requirements regarding Position Limits or position accountability levels.
- (5) Each Trading Privilege Holder and each Authorized Person required to file any report, statement, form or other information with the Commission pursuant to Commission Regulations concerning any Swap or commodity underlying a Swap of or relating to the SEF must simultaneously file a copy of such report, statement, form or other information with the SEF. Such information shall include, for Trading Privilege Holders who are Intermediaries, information concerning the Customers for which Transactions are made on the SEF.
- (6) Any Trading Privilege Holder or Authorized Person who exceeds a SEF or Commission position limit by entering into a Transaction on the SEF shall be deemed in violation of the Rules of the SEF. In addition, any Trading Privilege Holder, Authorized Person, or Customer entering Bids or Offers, if accepted, which would cause that Trading Privilege Holder, Authorized Person, or Customer to exceed the applicable SEF or Commission position limit, shall be in violation of the Rules of the SEF.
- (7) Without limiting any provision of these Rules, the SEF shall have the authority to obtain from any Trading Privilege Holder or their Authorized Persons on request, information with respect to all positions of such Trading Privilege Holder or Customer in Swaps which are equivalent, for purposes of SEF or Commission position limits, to those transacted in by the Trading Privilege Holder on the SEF.
- (8) For purposes of this Rule 708, positions in Swaps shall be aggregated in accordance with CFTC regulations.

## Chapter 8. Discipline and Enforcement

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### 801. General

- (1) Trading Privilege Holders and other Persons within the SEF's jurisdiction are subject to this Chapter 8 if they are alleged to have violated, to have aided and abetted a violation of, to be violating, or to be about to violate, any Rule of the SEF or any provision of Applicable Law for which the SEF possesses disciplinary jurisdiction.
- (2) Except when the Board reserves responsibility for an inquiry or investigation to itself or delegates its responsibility to a committee of the Board, the SEF 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 Chapter 8.
- (3) The SEF may delegate any or all of its powers or responsibilities under this Chapter 8 to the Compliance Department, which may take any actions on behalf of the SEF that the SEF is permitted to take hereunder. In the event of any such delegation, references to the SEF in this Chapter 8 shall be construed to be references to the Compliance Department. The Compliance Department will maintain an enforcement staff that will effectively and promptly prosecute violations in accordance with this Chapter 8. The enforcement staff may not include Persons that are associated with Trading Privilege Holders or with Persons whose interests conflict with their enforcement duties. Further, a member of the enforcement staff may not operate under the direction or control of any Person with Trading Privileges. Any reference to the Compliance Department in this Chapter 8 shall also be a reference to the enforcement staff.
- (4) Any member of the Compliance Department must promptly recuse himself or herself and notify the Chief Compliance Officer of the recusal if such member has a relationship of a type listed in Rule 208(1)(a) with a potential respondent in an investigative report.
- (5) No member of the staff of the SEF will interfere with or attempt to influence the process or resolution of any inquiry, investigation, Disciplinary Proceeding, appeal from a Disciplinary Proceeding, summary imposition of fines, summary suspension or other summary action. No member of the Board will interfere with or attempt to influence the process or resolution of any inquiry, investigation, Disciplinary Proceeding, appeal from a Disciplinary Proceeding, summary imposition of fines, summary suspension or other summary action with respect to which the Board member is not a member of the relevant Review Panel, Disciplinary Panel or Appeal Panel.
- (6) Upon being served with a notice of charges, the respondent may be represented by counsel or any other representative of its choosing, at its own expense, in all succeeding stages of the disciplinary process pursuant to this Chapter 8.
- (7) Pursuant to this Chapter 8, the SEF may hold:
  - (a) A Participant liable, and impose sanctions against such Participant, for such Participant's own acts and omissions that constitute a violation of Applicable Law;
  - (b) A Participant liable, and impose sanctions against such Participant, for the acts and omissions of each Sponsored Access Participant or other agent or representative of such Participant that constitute a violation of Applicable Law as if such violation were that of the Participant;
  - (c) A Sponsored Access Participant or Authorized Person liable, and impose sanctions against such Person, for such Sponsored Access Participant's or



Authorized Person's own acts and omissions that constitute a violation of Applicable Law; and

- (d) A Sponsored Access Participant liable, and impose sanctions against it for the acts and omissions of each agent or representative of such Sponsored Access Participant that constitute a violation of Applicable Law as if such violation were that of the Sponsored Access Participant or Authorized Person.
- (8) The Board shall appoint individuals at the recommendation of the Chief Compliance Officer to serve for a term of one year subject to reappointment, removal or replacement by the Board, as potential participants on Review Panels, Disciplinary Panels and Appeal Panels. The term of an individual selected as a member of a Review Panel, Disciplinary Panel or an Appeal Panel will not expire until the relevant Disciplinary Proceedings are complete. No member of the Compliance Department may be a participant on a Review Panel, Disciplinary Panel or Appeal Panel.

## **802. Inquiries and Investigation**

- (1) The Compliance Department will investigate any matter within the SEF's disciplinary jurisdiction that is brought to the attention of the Compliance Department. An investigation must be commenced upon the receipt of a request from the CFTC staff or upon the discovery or receipt of information by the SEF that, in the judgment of the Compliance Department, indicates a reasonable basis for finding that a violation has occurred or will occur. The Compliance Department will determine the nature and scope of its inquiries and investigations within its sole discretion.
- (2) The Compliance Department has the authority to:
  - (a) Initiate and conduct inquiries and investigations;
  - (b) Prepare investigative reports and make recommendations concerning the initiation of Disciplinary Proceedings; and
  - (c) Prosecute alleged violations within the SEF's disciplinary jurisdiction; and
  - (d) Represent the SEF on appeal from any Disciplinary Proceeding, summary imposition of fines, summary suspension or other summary action.
- (3) Each Trading Privilege Holder or other Person subject to the SEF's jurisdiction:
  - (a) Is obligated to appear and testify and respond in writing to inquiries within the time period required by the Compliance Department in connection with (i) any Rule of the SEF; (ii) any inquiry or investigation; or (iii) any preparation by and presentation during a Disciplinary Proceeding or appeal from a decision in a Disciplinary Proceeding, summary imposition of fines, summary suspension or other summary action by the SEF;
  - (b) 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 Compliance Department in connection with (i) any Rule of the SEF; (ii) any inquiry or investigation; or (iii) any preparation by and presentation during a Disciplinary Proceeding or appeal from a decision in any Disciplinary Proceeding, summary imposition of fines, summary suspension or other summary action by the SEF; and
  - (c) May not impede or delay any inquiry, investigation, Disciplinary Proceeding, appeal from a Disciplinary Proceeding, summary imposition of fines, summary suspension or other summary action.

### 803. Reports of Investigations

- (1) The Compliance Department will maintain a log of all investigations and their disposition. Any member of the Compliance Department must promptly recuse himself or herself and notify the Chief Compliance Officer of the recusal if such member has a relationship of a type listed in Rule 208(1)(2) with a potential respondent named in an investigative report. The Compliance Department will prepare a written report of an investigation for the Chief Compliance Officer when 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. Any such written investigation report will include the following information:
  - (a) The reason(s) for initiating the investigation;
  - (b) A summary of the complaint, if any;
  - (c) All relevant facts and evidence gathered;
  - (d) The Compliance Department's analysis and conclusions; and
  - (e) The recommendation of the Compliance Department as to whether disciplinary action should be pursued.
- (2) For each potential respondent, the Compliance Department will recommend any one of the following actions:
  - (a) Closing the investigation without further action;
  - (b) Resolving the investigation through an informal disposition, including the issuance of a warning letter; or
  - (c) Initiating Disciplinary Proceedings.
- (3) If the Compliance Department determines that no reasonable basis exists for finding a violation, then the written investigation report will include the following information:
  - (a) The reasons for initiating the investigation;
  - (b) A summary of the complaint, if any;
  - (c) All relevant facts and evidence gathered;
  - (d) The Compliance Department's analysis and conclusions; and
  - (e) A copy of any recommended warning letter as well as the Trading Privilege Holder's disciplinary history at the SEF.
- (4) After reviewing the Compliance Department's written investigation report, the Chief Compliance Officer will either:
  - (a) Determine to proceed with the Compliance Department's recommendation to close the investigation without further action, or to resolve the investigation through an informal disposition, if such a recommendation has been made;
  - (b) Forward the investigation report to a Review Panel to determine whether further action with respect to the matters discussed therein is warranted; or

- (c) Determine to proceed with the Compliance Department's recommendation to initiate Disciplinary Proceedings, if such a recommendation has been made.
- (5) Each Compliance Department investigation must be completed in a timely manner. Absent mitigating factors, a timely manner is no later than 12 months after the date that an investigation is opened. Mitigating factors that may reasonably justify an investigation taking longer than 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. The SEF shall maintain investigatory files and disciplinary files in a form and manner acceptable to the Commission, for a period of at least five years, in accordance with CFTC Regulation 1.31 and Part 45 of CFTC regulations.
- (6) In addition to any of the actions permitted pursuant to this Rule 803, the Compliance Department may issue a warning letter to the potential respondent. Such warning letter, if issued, shall not be construed as a penalty or an indication that a finding of a violation has been made. No more than one warning letter for the same potential violation may be issued to the same potential respondent during any rolling 12-month period.

#### **804. Review Panel**

- (1) The Chief Compliance Officer may, at his or her discretion, convene a Review Panel to review an investigation report submitted by the Compliance Department to determine whether (i) a reasonable basis exists to believe that a violation of the Rules has occurred, and (ii) commencing Disciplinary Proceedings in respect of such potential violation is warranted. The chairman of the Review Panel shall be appointed by the Chief Compliance Officer.
- (2) The Review Panel will review the completed investigation report promptly after receipt thereof and, within 20 Business Days of such receipt, take one of the following actions:
  - (a) If the Review Panel determines that additional investigation or evidence is needed, the Review Panel shall promptly direct the Compliance Department to conduct such further investigation;
  - (b) If the Review Panel determines that no reasonable basis exists for finding a violation or that prosecution is otherwise unwarranted, the Review Panel may direct that no further action be taken. Such determination must be in writing, and must include a written statement setting forth the facts and analysis supporting the decision; or
  - (c) If the Review Panel determines that a reasonable basis exists for finding a violation and adjudication is warranted, it must direct that the person or entity alleged to have committed the violation be served with a notice of charges.
- (3) Any member of the Review Panel must promptly recuse himself or herself and notify the Chief Regulatory Officer of the recusal if such member has a relationship of a type listed in Rule 208(1)(2) with a potential respondent in an investigative report.
- (4) The Review Panel shall be comprised of three individuals, at least one of whom would qualify to serve as a Public Director under CFTC Regulations. In forming a Review Panel, the Chief Compliance Officer shall draw panel members from the individuals appointed by the Board as potential members of Review Panels. No group or class of Trading Privilege Holders may dominate or exercise disproportionate influence on a Review Panel, and no member of the Review Panel may participate in deliberations or voting on any matter in which he or she has a financial, personal or other direct interest. A Review Panel may not include any person involved in adjudicating any other stage of the same proceeding. If a vacancy shall occur on a Review Panel after it has begun its

proceedings, the remaining members shall complete consideration and disposition of the matter. Once a Review Panel has determined the matter for which it was appointed and has notified the Chief Compliance Officer in writing of its decision, it shall be dissolved automatically. The Regulatory Oversight Committee may, at any time, remove any member of a Review Panel for cause.

## **805. Notice of Charges**

- (1) If the Chief Compliance Officer or Review Panel authorizes the initiation of Disciplinary Proceedings, the Compliance Department will prepare, and serve in accordance with Rule 807, a notice of charges.
- (2) A notice of charges must:
  - (a) Adequately state the acts, practices or conduct that the respondent is alleged to have engaged in;
  - (b) State the Rule(s) or provision(s) of Applicable Law alleged to have been violated or about to be violated;
  - (c) Advise the respondent of its right to a hearing;
  - (d) State the period of time within which the respondent can request a hearing on the notice of charges, which will not be less than 20 Business Days after service of the notice of charges;
  - (e) 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
  - (f) Advise the respondent that a failure to answer or to expressly deny a charge may be deemed to be an admission of such charge.
- (3) Upon being served with a notice of charges, the respondent has the right to be represented by legal counsel or any other representative of its choosing in all succeeding stages of the Disciplinary Proceedings, other than a Board member, Director, member of an applicable Disciplinary Panel, SEF employee or other person substantially related to the underlying investigation.

## **806. Answer to Notice of Charges**

- (1) If the respondent determines to answer a notice of charges, the respondent must file a written answer within 20 Business Days after being served with such notice, or within such later time period determined appropriate by the Chairman of the Disciplinary Panel.
- (2) To answer a notice of charges, the respondent must in writing:
  - (a) Specify the allegations that the respondent denies or admits;
  - (b) Specify the allegations that the respondent does not have sufficient information to either deny or admit;
  - (c) Specify any specific facts that contradict the notice of charges;
  - (d) Specify any affirmative defenses to the notice of charges; and
  - (e) Sign and serve the answer to the Disciplinary Panel.

- (3) Any failure by the respondent to timely serve a written 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 or expressly deny one or more allegations in a notice of charges will be deemed to be an admission of that allegation or those allegations. A general denial by the respondent, without more, will not satisfy the foregoing requirements.
- (4) If a respondent admits or fails to specifically deny any of the allegations in the notice of charges, the Disciplinary Panel shall find that the violations set forth in such allegations have been committed and shall impose a sanction for each such violation. The Disciplinary Panel shall promptly notify the respondent in writing of any sanction to be imposed pursuant to this Rule 806(4) and advise the respondent that it may request a hearing on such sanction within the time period specified in the notice. The failure to request such a hearing within such time period shall be deemed to constitute an acceptance of such sanction. Any hearing pursuant to this Rule 806(4) shall be concerned only with the sanction(s) imposed by the Disciplinary Panel pursuant to this Rule 806(4).

### **807. Service of Notice**

Any notice of charges or other documents contemplated to be served pursuant to this Chapter 8 may be served upon the respondent either personally or by leaving the same at the respondent's place of business during Business Hours or by deposit with the United States post office, postage prepaid via registered or certified mail, or by overnight delivery, addressed to the respondent at the respondent's last known place of business or residence.

### **808. Settlements**

- (1) At any time after a notice of charges has been issued, the respondent may propose in writing an offer of settlement to anticipated or instituted Disciplinary Proceedings. Any offer of settlement must contain proposed findings and sanctions and be signed by the respondent or potential respondent and submitted to the Compliance Department. A respondent or potential respondent may offer to settle Disciplinary Proceedings without admitting or denying the findings contained in the order of the Disciplinary Proceedings, but must accept the jurisdiction of the SEF over it and over the subject matter of the proceedings and consent to the entry of the findings and sanctions imposed under such offer of settlement.
- (2) The Disciplinary Panel may accept the offer of settlement, but may not alter the terms of a settlement offer unless the respondent or potential respondent agrees.
- (3) If an offer of settlement is accepted, the Disciplinary Panel must issue a written decision specifying the rule violations that the presiding panel has reason to believe were committed, including the basis or reasons for the presiding panel's conclusions, and any sanction to be imposed, which shall include full Customer restitution where Customer harm is demonstrated. Should an offer of settlement be accepted by the Disciplinary Panel without the agreement of the Compliance Department, such written decision must adequately support the Disciplinary Panel's acceptance of the settlement. If applicable, such written decision must also include a statement that the respondent has accepted the sanctions imposed without either admitting or denying the rule violations.
- (4) The respondent or potential respondent may withdraw his or her offer of settlement at any time before final acceptance by the presiding panel.
- (5) If the offer of settlement of a respondent or potential respondent is not accepted, fails to become final or is withdrawn before final acceptance by the presiding panel, 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 the respondent, the potential respondent, nor the Compliance Department may use an unaccepted offer of settlement as an

admission or in any other manner at a hearing of, or appeal from, any Disciplinary Proceedings.

- (6) Any accepted settlement agreement shall include a waiver by the respondent of all rights to appeal or otherwise challenge or contest the validity of the settlement offer.

## **809. Disciplinary Panel**

- (1) The Chief Compliance Officer will appoint a Disciplinary Panel 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 pursuant to this Chapter 8.
- (2) The Disciplinary Panel shall be comprised of three individuals, at least one of whom would qualify to serve as a Public Director in accordance with CFTC Regulations. In forming a Disciplinary Panel, the Chief Compliance Officer shall draw panel members from the individuals appointed by the Board as potential members of Disciplinary Panels. The chairman of the Disciplinary Panel shall be appointed by the Chief Compliance Officer. No group or class of Trading Privilege Holders may dominate or exercise disproportionate influence on a Disciplinary Panel, and no member of the Disciplinary Panel may participate in deliberations or voting on any matter in which he or she has a financial, personal or other direct interest. A Disciplinary Panel may not include 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 determined the matter for which it was appointed and has notified the secretary in writing of its decision, it shall be dissolved automatically. The Board may, at any time, remove any member of a Disciplinary Panel for cause.
- (3) Any of the functions of the SEF or the Disciplinary Panel under this Chapter 8 may be performed by a Regulatory Services Provider pursuant to a delegation of such functions by the SEF, and references to the Disciplinary Panel or the Compliance Department, as appropriate, shall be deemed to be references to such Regulatory Service Provider. Nevertheless, the SEF will retain exclusive authority in all substantive decisions made by the Regulatory Service Provider, including, but not limited to, denials of access to the Trading System for disciplinary reasons. The SEF will document any instances where its actions differ from those recommended by the Regulatory Services Provider.
- (4) Within ten Business Days of being notified of the appointment of a Disciplinary Panel, a respondent may seek to disqualify any individual named to the Disciplinary Panel for the reasons identified in Rule 208(1)(2) or for any other reasonable grounds, by serving written notice on the SEF's General Counsel and providing a copy thereof to the Disciplinary Panel. 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 general counsel 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.

## **810. Convening Hearings of Disciplinary Proceedings**

- (1) All Disciplinary Proceedings (except for summary impositions of fines pursuant to Rule 817) will be conducted at a hearing before a Disciplinary Panel. A hearing will be conducted privately and confidentially unless the Disciplinary Panel decides that the hearing, or any part of it, should be held in public after giving each respondent the opportunity to present its, his or her views on holding a public hearing. Notwithstanding the confidentiality of hearings, a 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.

- (2) After reasonable notice to each respondent, the Disciplinary Panel will promptly convene a hearing to conduct Disciplinary Proceedings with respect to such respondent. Parties to a Disciplinary Proceeding include each respondent and the Compliance Department. The hearing shall be conducted before members of the Disciplinary Panel.
- (3) The chairman of the Disciplinary Panel may continue, adjourn or otherwise conduct the hearing as he or she may deem appropriate. The chairman of the Disciplinary Panel will determine all procedural and evidentiary matters, including any pre-hearing motions and the admissibility and relevance of any evidence proffered. In determining procedural and evidentiary matters, the chairman of the Disciplinary Panel will not be bound by any evidentiary or procedural rules or law; nevertheless, the procedures for the hearing may not be so informal as to deny a fair hearing. Once admitted during the hearing, the Disciplinary Panel may consider, and attach the weight it believes appropriate to, evidence or other materials. The SEF will provide guidance to the chairman of the Disciplinary Panel on the conduct of the hearing.
- (4) Except for procedural and evidentiary matters decided by the chairman of the Disciplinary Panel pursuant to paragraph (3) above and Rule 811, unless each respondent otherwise consents, the entire Disciplinary Panel must be present (either in person or telephonically) during the entire hearing and any related deliberations.

#### **811. Respondent's Review of Evidence**

- (1) 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 evidence in the possession or under the control of the SEF that the Compliance Department will use to support the allegations and proposed sanctions in the notice of charges or which the chairman of the Disciplinary Panel deems relevant to those charges. Notwithstanding the foregoing, no respondent will have the right to review, and the SEF will have no obligation to disclose, any information that (i) is protected by attorney-client privilege or the work product doctrine; (ii) was prepared by the Compliance Department or an employee of the SEF but will not be offered in evidence in the Disciplinary Proceedings; (iii) may disclose a technique or guideline used in examinations, investigations or enforcement proceedings; or (iv) discloses the identity of a confidential source.
- (2) If any books, records, documents, papers, transcripts of testimony or other tangible evidence contain information that could adversely affect the competitive position of the Person providing the information or if such information might compromise other investigations being conducted by the Compliance Department, the Compliance Department may redact, edit or code such information before furnishing it to the respondent.
- (3) Notwithstanding anything in paragraph (2) above to the contrary, the Compliance Department:
  - (a) 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
  - (b) Will provide the respondent with access to the information and portions of the documents that the Compliance Department intends to rely on to support the allegations or proposed sanctions in the notice of charges or that are relevant to those charges.
- (4) For purposes of this Rule 811, information that could adversely affect competitive positions includes positions in Swaps currently held, trading strategies employed in

establishing or liquidating positions, the identity of Trading Privilege Holders or Customers, and the personal finances of the Person providing the information.

- (5) Unless indicated otherwise by the chairman of the Disciplinary Panel, all such requests for access to information identified in Rule 811(1) must be made not less than ten Business Days prior to the scheduled hearing date.

## **812. Conducting Hearings of Disciplinary Proceedings**

- (1) At a hearing conducted with a Disciplinary Panel, the Compliance 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 appear personally and participate in the hearing.
- (2) At a hearing conducted with a Disciplinary Panel, the Compliance Department and each respondent may:
  - (a) Present evidence and facts deemed relevant and admissible by the chairman of the Disciplinary Panel;
  - (b) Call and examine witnesses (including, but not limited to, employees or agents of the SEF that form part of the Compliance Department); and
  - (c) Cross-examine witnesses called by other parties.
- (3) If a respondent has failed to timely file a written answer to a notice of charges but appears at the hearing, the respondent may not participate in the hearing (except for a hearing pursuant to Rule 806(4)) 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 806.
- (4) Any person entitled, required, or called upon to attend a hearing before a Disciplinary Panel pursuant to paragraph (2)(b) above will be given reasonable notice, confirmed in writing, specifying the date, time, and place of the hearing, and the caption of the Disciplinary Proceedings. The SEF will require persons within its jurisdiction that are called as witnesses to appear at the hearing and produce evidence, and will make reasonable efforts to secure the presence of all other persons called as witnesses whose testimony would be relevant.
- (5) If, during any Disciplinary Proceedings, the Disciplinary Panel determines that a reasonable basis exists to believe that the respondent violated, or is about to violate, a Rule of the SEF or a provision of Applicable Law other than the violations alleged in the notice of charges, the Disciplinary Panel may consider those apparent violations after providing the respondent with an opportunity to answer the additional allegations in accordance with Rule 806. In connection with considering apparent violations pursuant to this paragraph (5), the Disciplinary Panel may request that the Compliance Department provide the Disciplinary Panel with any additional information.
- (6) The Disciplinary Panel may summarily impose sanctions on any Trading Privilege Holder or other Person within the SEF's jurisdiction whose actions impede the progress of a hearing.
- (7) 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, and a copy of such recordings shall become a part of the record of such proceedings. If the respondent requests a copy of all or portions of the recording of



a hearing, the chairman of the Disciplinary Panel may, within his or her sole discretion, order the respondent to pay the costs for transcribing the recording of the hearing.

- (8) No interlocutory appeals of rulings of any Disciplinary Panel, or chairman of the Disciplinary Panel, are permitted.

### **813. Decision of Disciplinary Panel**

- (1) Promptly following a hearing, the Disciplinary Panel will render a written 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 decision of the Disciplinary Panel.
- (2) The SEF will serve a copy of the written decision on the respondent and the Compliance Department. The written decision will include the following information:
  - (a) The notice of charges or a summary of the charges;
  - (b) The answer, if any, or a summary of the answer;
  - (c) A summary of the evidence introduced at the hearing or, where appropriate, incorporation by reference of the investigation report;
  - (d) A statement of findings and conclusions with respect to each charge, and a complete explanation of the evidentiary and other basis for such findings and conclusions with respect to each charge;
  - (e) An indication of each specific rule that the respondent was found to have violated; and
  - (f) A declaration of all sanctions imposed against the respondent, including the basis for such sanctions and the effective date of such sanctions.
- (3) Unless a timely notice of appeal is filed pursuant to Rule 816, the order of the Disciplinary Proceedings will become final upon the expiration of 20 Business Days after the order is served on the respondent and a copy thereof is provided to the Compliance Department.

### **814. Sanctions**

- (1) After notice and opportunity for hearing in accordance with these Rules, the SEF will impose sanctions if a Trading Privilege Holder or other Person within the SEF's jurisdiction is found to have violated any Applicable Law. Disciplinary sanctions imposed by the SEF shall be commensurate with the violations committed, and shall be clearly sufficient to deter recidivism or similar violations by other market participants. In addition, the respondent's disciplinary history will be taken into account in determining the appropriate sanction.
- (2) The SEF may impose one or more of the following sanctions or remedies:
  - (a) A warning letter, provided that no more than one warning letter may be issued to the same respondent found to have committed the same rule violation within a rolling twelve month period;
  - (b) Censure;
  - (c) Limitation on the Trading Privilege Holder's right to access all or part of the Trading System;

- (d) Suspension of the Trading Privilege Holder's right to access all or part of the Trading System for a period not to exceed 12 months;
  - (e) Fine (subject to paragraph (3) below);
  - (f) Restitution or disgorgement;
  - (g) Expulsion or termination of a Trading Privilege Holder or other Person within the SEF's jurisdiction; or
  - (h) Any other sanction or remedy deemed to be appropriate.
- (3) The SEF may impose a fine of up to \$100,000 for each violation. Each Participant will be responsible for paying any fine or other amount imposed on, but not paid by, any Sponsored Access Participant or other agent or representative of such Participant.

### **815. Costs**

A Disciplinary Panel may order a respondent who has been found to have violated the Rules to pay costs associated with the Disciplinary Proceedings, including costs that the Disciplinary Panel believes were unnecessarily caused by the respondent, in addition to any fine or other penalty which may be imposed on such respondent. Costs may include costs associated with the inquiry or investigation, the prosecution by the Compliance Department, legal and professional assistance, the hearing, and administrative and other expenses incurred by the Disciplinary Panel.

### **816. Appeal From Disciplinary Panel Decision**

- (1) Parties to a Disciplinary Proceeding may appeal the decision of the Disciplinary Panel within 20 Business Days of receiving the order of the Disciplinary Proceedings by filing a notice of appeal with the Chief Compliance Officer. While an appeal is pending, the effect of the written decision issued by the Disciplinary Panel (including any sanctions, remedies, or costs imposed thereby) shall be suspended.
- (2) In a notice of appeal, the appellant must state in writing the grounds for appeal, including the findings of fact, conclusions, or sanctions to which the appellant objects. A written request for an appeal must specify the grounds for the appeal and the specific error or impropriety of the original decision. An appellant may appeal the written decision of a Disciplinary Panel on the grounds that (i) the decision was arbitrary, capricious, an abuse of discretion, or not in accordance with the Rules, or (ii) the decision exceeded the authority or jurisdiction of the Disciplinary Panel or the SEF.
- (3) The Chief Compliance Officer will forward copies of any notice of appeals received by him or her to all parties to the Disciplinary Proceedings in question other than the appellant. On or before the 20th Business Day after filing a notice of appeal, the appellant must file with the Chief Compliance Officer and serve the Compliance Department a brief supporting the notice of appeal and documents supporting the brief.
- (4) Within 20 Business Days after the last submission filed pursuant to paragraph (3) above, the Chief Compliance Officer shall appoint an Appeal Panel to consider and determine the appeal. The Appeal Panel shall be comprised of three individuals appointed by the Board as potential members of Appeal Panels, one of whom shall be appointed by the Chief Compliance Officer to serve as chairman of the Appeal Panel. The Appeal Panel must include at least one person who is qualified to serve as a Public Director under CFTC Regulations. No group or class of Trading Privilege Holders may dominate or exercise disproportionate influence on an Appeal Panel. An individual may not serve on an Appeal Panel if the individual has a relationship of a type described in Rule 208(1)(2)

or was involved in the adjudication of any other stage of the same proceeding. The appeals proceeding shall be conducted before all members of the Appeal Panel.

- (5) Within ten Business Days of being notified of the appointment of an Appeal Panel, either party may seek to disqualify any individual named to the Appeal Panel for the reasons listed in Rule 208(1)(2) or for any other reasonable grounds, by serving written notice on the Chief Compliance Officer. By not timely filing a request for disqualification, the parties will be deemed to have waived any objection to the composition of the Appeal Panel. The chief legal officer will decide the merits of any such objection in his or her sole discretion. Any such decision will be final and not subject to appeal.
- (6) The Appeal Panel, by a majority vote, shall determine whether sufficient grounds exist to hold a hearing on the appeal. The Appeal Panel may only determine that sufficient grounds exist if there is a reasonable basis to conclude that the appellant may be able to demonstrate that the decision was arbitrary, capricious, an abuse of discretion, or not in accordance with the Rules, or that the decision exceeded the authority or jurisdiction of the Disciplinary Panel or the SEF. The Appeal Panel's determination shall be based solely upon the materials submitted by the appellant pursuant to paragraph (3). The Appeal Panel's determination of whether to hold a hearing on an appeal shall be final. If the Appeal Panel grants the appellant's request for a hearing, the appellee may file and serve its brief in opposition not more than 20 Business Days after the issuance of the determination of the Appeal Panel.
- (7) An Appeal Panel may hold a hearing to allow parties to present oral arguments. Any hearing will be conducted privately and confidentially unless the chairman of the Appeal Panel decides that the hearing, or any part of it, should be held in public after giving each appellant the opportunity to present its, his, or her views on holding a public hearing. Notwithstanding the confidentiality of hearings, an Appeal Panel may appoint individuals to attend any hearing and assist in the deliberations if such individuals agree to be subject to appropriate confidentiality agreements. In determining procedural and evidentiary matters, the Appeal Panel will not be bound by any evidentiary or procedural rules or law.
- (8) Except for good cause, the Appeal Panel will only consider on appeal the record before the Disciplinary Panel, the written exceptions filed by the parties, and the oral or written arguments of the parties. The Appeal Panel may only consider new evidence when it is satisfied that good cause exists as to why the evidence was not introduced during a prior stage of the Disciplinary Proceeding. In connection with any appeal, the Compliance Department will furnish to the Appeal Panel a transcript of the hearing, any exhibits introduced at the hearing, the notice of appeal, and briefs filed to support and oppose the appeal.
- (9) After completing its review, the Appeal Panel may affirm, modify, or reverse any order of Disciplinary Proceedings under appeal in whole or in part, including increasing, decreasing, or eliminating any sanction or remedy imposed; imposing any other sanction or remedy authorized by the Rules; or remanding the matter to the same or a different Disciplinary Panel for further Disciplinary Proceedings. The Appeal Panel may order a new hearing for good cause, or if the Appeal Panel deems it appropriate.
- (10) Promptly following the appeal proceeding, the Appeal Panel will issue a written decision and provide a copy to the parties. The written decision issued by the Appeal Panel must adhere to all the requirements of Rule 813(2), to the extent that a different conclusion is reached from that issued by the Disciplinary Panel. A decision by a majority of the Appeal Panel will constitute the decision of the Appeal Panel.
- (11) An Appeal Panel's written decision on appeal (including findings of fact and conclusions and the imposition of sanctions, remedies, and costs, and the effective date of any sanction, remedy, or cost) will be the final action of the SEF, and will not be subject to

appeal within the SEF. Disciplinary sanctions imposed by the SEF shall be commensurate with the violations committed, and shall be clearly sufficient to deter recidivism or similar violations by other market participants. In addition, the respondent's disciplinary history will be taken into account in determining the appropriate sanction.

### **817. Summary Imposition of Fines Relating to Submission of Records**

- (1) The SEF may fine a Trading Privilege Holder or any other Person subject to the SEF's jurisdiction using a summary fine schedule for a violation of Rules regarding timely submission of accurate records.
- (2) A warning letter may be issued for first-time violations, provided that no more than one warning letter may be issued per any rolling 12-month period for the same violation.

### **818. Summary Suspensions**

- (1) Notwithstanding anything in the Rules to the contrary, the Chief Compliance Officer, or his or her designee, may summarily suspend a Participant's right to access the Trading System or the association of a Sponsored Access Participant, Intermediary or any other Person with a Participant, or take other summary action against any Trading Privilege Holder or any Person subject to the SEF's jurisdiction, or suspend access to the Trading System of any other Person subject to the SEF's jurisdiction, if the SEF reasonably believes such immediate action is necessary to protect the best interest of the marketplace.
- (2) Whenever summary action pursuant to paragraph (1) above is proposed, the SEF will, if practicable, serve the party against whom the action is contemplated with written notice. If prior notice is not practicable, the SEF will give notice at the earliest possible opportunity to the respondent against whom the action is brought. The notice will be prepared by the Compliance Department, and such notice will state the action, briefly state the reasons for the action, and state the effective time, date, and duration of the action taken. The notice shall be served on the respondent in accordance with Rule 807.
- (3) The respondent shall be advised of its right to a hearing before a Disciplinary Panel pursuant to Rules 809-813, by filing a notice of intent with the Compliance Department within ten Business Days of service of notice. Filing of a notice of intent pursuant to this Rule shall not stay the Chief Compliance Officer's decision to deny access. The respondent shall have the right to be represented by legal counsel, or any other representative of its choosing and at its own expense.
- (4) Promptly but no later than 20 Business Days after filing of a notice of intent, a Disciplinary Panel will conduct a hearing concerning the summary suspension. Promptly after such hearing, the Disciplinary Panel will render a written decision based on the weight of the evidence contained in the record of the proceeding. The decision of a majority of the Disciplinary Panel will be the decision of the Disciplinary Panel. The SEF will serve copies of the written decision of the Disciplinary Panel on the respondent and the Compliance Department. The written decision will include the following information:
  - (a) A description of, and reasons for, the summary action taken;
  - (b) A summary of the evidence produced at the hearing;
  - (c) A statement of findings of fact and conclusions;
  - (d) A determination that the summary action should be affirmed, modified, or reversed; and

- (e) A declaration of any action to be taken pursuant to the determination, and the effective date and duration of such action.
- (5) Any decision of a Disciplinary Panel pursuant to this Rule 818 will be the final action of the SEF, and not subject to appeal within the SEF upon serving the respondent with a copy of the decision.
- (6) At the request of the SEF, a respondent who is summarily suspended pursuant to this Rule 818 must provide access to and/or copies of books and records over which the respondent has access or control, and must furnish information to, or appear or testify before, the SEF in connection with the enforcement of any Rule of the SEF.

## **819. Rights and Responsibilities After Suspension or Termination**

- (1) When the right of a Person to access the SEF is suspended for a period of 12 months or less, none of its rights will apply during the period of the suspension, except for (i) any right such Person may have to receive rebates or similar payments that were earned, prior to the suspension period, provided that such rebates or payments are not directly related to conduct giving rise to such suspension; or (ii) the right of the Person to assert claims against others as provided in the Rules. Any such suspension will not relieve such Person of its obligations under the Rules to perform any transactions entered into before the suspension, or for any SEF fees, costs, or charges incurred during the suspension. The SEF may discipline a suspended Person under this Chapter 8 for any violation of Applicable Law committed by it before, during, or after the suspension.
- (2) When the right of a Person to access the Trading System is terminated, all of its rights will terminate, except for the right of the Person in question to assert claims against others, as provided in the Rules. A terminated Trading Privilege Holder or other Person may only seek to reinstate its right to access the SEF by filing an application for participation in the SEF. The SEF will not consider the application of a terminated Person if such Person has failed to appear at Disciplinary Proceedings without good cause, or has impeded the progress of Disciplinary Proceedings.
- (3) A suspended or terminated Person remains subject to the Rules and the jurisdiction of the SEF for acts and omissions prior to the suspension or termination, and must cooperate in any inquiry, investigation, Disciplinary Proceeding, appeal of Disciplinary Proceedings, summary suspension, or other summary action as if the suspended or terminated Person still had the right to access the SEF.

## **820. Notice to the Respondent, the CFTC, and the Public**

The SEF will provide written notice of Disciplinary Proceedings to the parties and the CFTC consistent with CFTC Regulations. Requests for correspondence related to the aforementioned, such as tapes, transcripts and other related documents will be provided at the expense of the respondent. Any such requests from the CFTC will be provided gratis. Whenever the SEF suspends, expels, fines, or otherwise disciplines, or denies any Person access to the SEF, the SEF will make the public disclosures required by CFTC Regulations.

## Chapter 9. Recordkeeping and Reporting

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### 901. Recordkeeping Requirements

- (1) The SEF will capture and retain all transaction data, so as to be able to reconstruct all Indicative Orders, Requests for Quotes, Orders, and Transactions within a reasonable period of time and to provide evidence of any Rule violations.
- (2) The SEF will retain unalterable, sequentially identified records for all Transactions executed on the SEF. This includes all Bids/Offers, whether accepted, unaccepted, canceled or modified, and all acceptances of Bids/Offers.
- (3) The SEF shall maintain an electronic transaction history database, which includes a history of all Bids/Offers and Transactions, and also includes:
  - (a) All data that are input into the order entry system;
  - (b) The categories of Trading Privilege Holders for which each Transaction is executed, and by which each Transaction is executed, including whether the Trading Privilege Holder executed the Transaction for its own account;
  - (c) Timing and sequencing data adequate to reconstruct trading activity; and
  - (d) Identification of each Trading Privilege Holder to which fills are allocated.
- (4) The SEF will use the electronic transaction history database to reconstruct trading and identify possible Rule violations. The SEF will conduct an annual review of compliance with its audit trail and recordkeeping requirements and will identify Trading Privilege Holders that may have failed to comply with such requirements. Such Persons will be subject to investigation by the Compliance Department for possible disciplinary action. The annual review must include, but is not limited to, reviews of randomly selected samples of front-end audit trail data for order routing systems; a review of the process by which user identifications are assigned and user identification records are maintained; a review of usage patterns associated with user identifications to monitor for violations of user identification requirements; and reviews of account numbers and Customer Type Indicator Codes in transaction records to test for accuracy and improper use.
- (5) The SEF will safely store all data retained in the transaction history database in a manner that protects it from unauthorized alteration, as well as from accidental erasure or other loss.

### 902. Block Trade Reporting

Trades executed in accordance with Rule 510, unless otherwise exempted by a Rule, must comply with the following recordkeeping requirements:

- (1) Trading Privilege Holders involved in the execution of Block Trades must maintain written or electronic records of all such Block Trades, including an electronic timestamp reflecting the date and time each such Order was received as well as an electronic timestamp reflecting the date and time such Order was executed or cancelled.
- (2) As soon as technologically practicable after execution, the Reporting Party for the Block Trade must transmit to the SEF an electronic trade entry ticket that includes:
  - (a) Transaction details meeting the requirements of Rule 505(2);

- (b) The identity of the Counterparty or, if the Transaction was Intermediated, Counterparties;
- (c) Details regarding the Customer(s) for which the Transaction was executed, if applicable; and
- (d) A timestamp reflecting the date and time that such Transaction was executed.

### 903. SDR Reporting

- (1) The SEF will report Required Swap Creation Data to a Swap Data Repository for each Swap executed on or pursuant to the Rules of the SEF as soon as technologically practicable after execution. Required Swap Creation Data includes the Primary Economic Terms (PET) and Confirmation Data. The SEF may provide such Required Swap Creation Data to Trading Privilege Holders no earlier than the time it transmits such information to a Swap Data Repository and in a form that does not disclose the identities, or otherwise facilitate identification, of the parties to the Swap.
- (2) The Reporting Counterparty for each Swap executed on the Trading System shall be established pursuant to CFTC Regulation 45.8. If both Counterparties are equal in the hierarchy set out in CFTC Regulation 45.8 (for example, both are swap dealers), the Reporting Counterparty for such Swap shall be determined in accordance with Dodd Frank Act - Swap Transaction Reporting Party Requirements (version December 16, 2013 or such successor version as may be adopted from time to time), published by the International Swaps and Derivatives Association Inc.
- (3) The SEF shall from time to time designate a Swap Data Repository in respect of one or more Swaps in accordance with the Notice provisions of Rule 311.
- (4) Each Trading Privilege Holder and Authorized Person:
  - (a) Authorizes the SEF to send Required Swap Creation Data on its behalf and, if applicable, on behalf of its Customers to the relevant Swap Data Repository designated in accordance with Rule 903(3) and further agrees to take all such actions as are deemed necessary or required by such Swap Data Repository to facilitate or confirm such authorization; and
  - (b) Consents to the maintenance of such Required Swap Creation Data by the relevant Swap Data Repository designated in accordance with Rule 903(3).
- (5) The Reporting Counterparty for any uncleared Transaction, whether or not the Transaction is executed on the SEF, is responsible for reporting Required Swap Continuation Data to the relevant Swap Data Repository pursuant to CFTC Regulation 45.4(c). The SEF will have no obligation to fulfill any requirements to report Continuation Data for any Trading Privilege Holder, including valuation data.

## Chapter 10. Liability and Disclaimers of Liability

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### 1001. LIMITATION OF LIABILITY

- (1) EXCEPT TO THE EXTENT THAT A COURT OF COMPETENT JURISDICTION HAS FOUND IN A FINAL ADJUDICATION THAT ANY OF THE FOLLOWING PERSONS HAS ENGAGED IN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, THE SEF, ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS AND LICENSORS, SHALL NOT BE LIABLE TO ANY PERSON FOR ANY LOSSES, DAMAGES, COSTS OR EXPENSES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF USE, AND DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES) IN CONTRACT, TORT, NEGLIGENCE, FRAUD, STRICT LIABILITY, CONTRIBUTION OR OTHERWISE AND WHETHER THE CLAIM IS BROUGHT DIRECTLY OR AS A THIRD PARTY CLAIM, ARISING FROM:
  - (a) ANY FAILURE, MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION, TERMINATION, OR ANY OTHER CAUSE, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF ANY OF THE SYSTEMS AND SERVICES OF THE SEF (INCLUDING SUBSIDIARIES AND AFFILIATES), OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS AND SERVICES, INCLUDING WITHOUT LIMITATION ELECTRONIC ORDER ENTRY/DELIVERY, TRADING THROUGH ANY ELECTRONIC MEANS, ELECTRONIC COMMUNICATION OF MARKET DATA OR INFORMATION, WORKSTATIONS USED BY TRADING PRIVILEGE HOLDERS, PRICE REPORTING SYSTEMS AND ANY AND ALL TERMINALS, COMMUNICATIONS NETWORKS, CENTRAL COMPUTERS, SOFTWARE, HARDWARE, FIRMWARE AND PRINTERS RELATING THERETO; OR
  - (b) ANY FAILURE OR MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION OR TERMINATION, OR ANY OTHER CAUSE, OF ANY SYSTEM OR SERVICE OF THE SEF (INCLUDING SUBSIDIARIES AND AFFILIATES), OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, CAUSED BY ANY THIRD PARTIES INCLUDING, BUT NOT LIMITED TO, INDEPENDENT SOFTWARE VENDORS AND NETWORK PROVIDERS; OR
  - (c) ANY ERRORS OR INACCURACIES IN INFORMATION PROVIDED BY THE SEF (INCLUDING SUBSIDIARIES AND AFFILIATES) OR ANY SEF (INCLUDING SUBSIDIARIES AND AFFILIATES) SYSTEMS, SERVICES OR FACILITIES; EXCEPT FOR INCORRECT ORDER STATUS; OR
  - (d) ANY UNAUTHORIZED ACCESS TO OR UNAUTHORIZED USE OF ANY SEF (INCLUDING SUBSIDIARIES AND AFFILIATES) SYSTEMS, SERVICES OR FACILITIES BY ANY PERSON.
- (2) NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS (INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE) ARE PROVIDED BY THE SEF (INCLUDING SUBSIDIARIES AND AFFILIATES), ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS, OR LICENSORS RELATING TO ANY SYSTEMS OR SERVICES OF THE SEF (INCLUDING SUBSIDIARIES AND AFFILIATES) OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, INCLUDING, WITHOUT LIMITATION, THE TRADING SYSTEM.



- (3) ANY DISPUTE ARISING OUT OF THE USE OF SYSTEMS OR SERVICES OF THE SEF (INCLUDING SUBSIDIARIES AND AFFILIATES) OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES IN WHICH THE SEF (INCLUDING SUBSIDIARIES AND AFFILIATES), OR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS OR LICENSORS IS A PARTY MUST BE BROUGHT WITHIN ONE YEAR FROM THE TIME THAT A CAUSE OF ACTION HAS ACCRUED. ANY SUCH DISPUTE MAY ONLY BE LITIGATED IN THE COUNTY OF NEW YORK IN THE STATE OF NEW YORK AND WILL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO ANY PROVISIONS OF NEW YORK LAW THAT WOULD APPLY THE SUBSTANTIVE LAW OF A DIFFERENT JURISDICTION. THIS PARAGRAPH (3) SHALL IN NO WAY BE CONSTRUED TO CREATE A CAUSE OF ACTION AND SHALL NOT AUTHORIZE AN ACTION THAT WOULD OTHERWISE BE PROHIBITED BY THE RULES.
- (4) EXCEPT IN THE CASE OF GROSS NEGLIGENCE, WILLFUL MISCONDUCT, FRAUD, OBLIGATIONS TO MAINTAIN CONFIDENTIALITY, OR INDEMNIFICATIONS IN RESPECT OF INTELLECTUAL PROPERTY MATTERS, IN NO EVENT SHALL THE SEF'S (INCLUDING SUBSIDIARIES AND AFFILIATES) TOTAL COMBINED AGGREGATE LIABILITY FOR ALL CLAIMS ARISING OUT OF ANY NEGLIGENCE, FAILURES, MALFUNCTIONS, FAULTS IN DELIVERY, DELAYS, OMISSIONS, SUSPENSIONS, INACCURACIES, INTERRUPTIONS, TERMINATIONS, ORDER STATUS ERRORS OR ANY OTHER CAUSES, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF ANY OF THE SEF'S (INCLUDING SUBSIDIARIES AND AFFILIATES) SYSTEMS OR SERVICES, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS AND SERVICES, OR THE NEGLIGENCE OF SEF (INCLUDING SUBSIDIARIES AND AFFILIATES) STAFF, EXCEED \$25,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED BY ALL PERSONS ON A SINGLE DAY; \$100,000 FOR ALL LOSSES SUFFERED BY ALL PERSONS FROM ALL CAUSES IN A SINGLE CALENDAR MONTH; AND \$250,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED BY ALL PERSONS IN A SINGLE CALENDAR YEAR.
- (5) A CLAIM AGAINST THE SEF (INCLUDING EACH OF THEIR RESPECTIVE SUBSIDIARIES AND AFFILIATES), ARISING OUT OF ANY FAILURE OR MALFUNCTION SHALL ONLY BE ALLOWED IF SUCH CLAIM IS BROUGHT IN ACCORDANCE WITH THIS RULE.
- (6) NOTWITHSTANDING THE FOREGOING, THE LIMITATION OF LIABILITY PURSUANT TO THIS RULE 1001 IS LIMITED TO CLAIMS ARISING OUT OF THE SEF'S (INCLUDING SUBSIDIARIES AND AFFILIATES) OPERATION OF THE SEF AND/OR PROVISION OF SERVICES TO THE SEF AND, FOR THE AVOIDANCE OF DOUBT, SHALL NOT LIMIT ANY PARTY'S LIABILITY AS PRINCIPAL TO TRADES EXECUTED ON THE SEF.

## **1002. Force Majeure**

The SEF shall not be liable for any failure, hindrance or delay in performance in whole or in part of its obligations under the Rules or (subject to the terms of the relevant Swap) of any Swap if such failure, hindrance or delay arises out of events or circumstances beyond its control. Such events or circumstances may include, but are not limited to, a change of law or regulation which in the SEF's opinion would render a Trading Privilege Holder's or Customer's participation in the SEF or service rendered by the SEF, illegal or impractical or adversely affect the ability of such Trading Privilege Holder or Customer to perform its obligations under the Rules or a Swap, acts of God or a public enemy, acts of a civil or military authority, embargoes, fire, flood, labor dispute, unavailability or restriction of computer or data processing facilities, energy supplies, settlement systems or of bank transfer systems or wires, and any other causes beyond the parties' reasonable control.

### **1003. Anti-Money Laundering**

It is LatAm 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.

### **1004. Confidentiality of LatAm SEF Intellectual Property**

Each Trading Privilege Holder hereby acknowledges and agrees that the SEF owns and shall retain all right, title and interest in and to the Trading System, all components thereof, including without limitation all related applications, all application programming interfaces, user interface designs, software and source code and any and all intellectual property rights therein, including, without limitation all registered or unregistered, as applicable copyright, trade mark, service mark, trade secret, trade name, data or database rights, design rights, moral rights, inventions, whether or not capable of protection by patent or registration, rights in commercial information or technical information, including know-how, research and development data and manufacturing methods, patent, and other intellectual property and ownership rights, including applications for the grant of any of the same, in or to the Trading Platform and all other related proprietary rights of the SEF and/or any of its Affiliates (together, with any and all enhancements, corrections, bug fixes, updates and other modifications to any of the foregoing and any and all data or information of any kind, other than proprietary data, confidential data, and Participant Data, transmitted by means of any of the foregoing, "SEF Intellectual Property"). Each Trading Privilege Holder, on behalf of itself and each of its Affiliates and other Persons affiliated with any of the foregoing, further acknowledges and agrees that the SEF Intellectual Property is the exclusive, valuable and confidential property of the SEF. Each Trading Privilege Holder acknowledges and agrees that it shall not and shall not permit its Affiliates, Authorized Persons and other Persons affiliated with any of the foregoing to, reverse engineer, copy, bug fix, correct, update, transfer, reproduce, republish, broadcast, create derivative works based on or otherwise modify, in any manner, all or any part of the Trading System or the SEF Intellectual Property. Each Trading Privilege Holder, further agrees to and to cause each of its Affiliates, Authorized Persons and other Persons affiliated with any of the foregoing, to keep the SEF Intellectual Property confidential and not to transfer, rent, lease, loan, sell or distribute, directly or indirectly, all or any portion of the Trading System or any SEF Intellectual Property.



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## **Exhibit C**

LatAm SEF Rulebook, Version 1.3

Marked Copy



# LatAm SEF, LLC

## Swap Execution Facility Rulebook

Version: 1.23

Effective: ~~July 18, 2014~~ July 7, 2015

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# Table of Contents

<b>CHAPTER 1.</b>	<b>DEFINITIONS .....</b>	<b><u>14</u></b>
101.	Defined Terms .....	<u>14</u>
102.	Compliance with CEA .....	<u>77</u>
103.	Rule Amendments and Certification .....	<u>77</u>
<b>CHAPTER 2.</b>	<b>GOVERNANCE .....</b>	<b><u>88</u></b>
201.	LatAm SEF, LLC .....	<u>88</u>
202.	Board .....	<u>88</u>
203.	Committees .....	<u>88</u>
204.	Participation Committee .....	<u>99</u>
205.	Regulatory Oversight Committee .....	<u>99</u>
206.	Nominating Committee .....	<u>1040</u>
207.	Chief Compliance Officer .....	<u>1040</u>
208.	Conflicts of Interest .....	<u>1144</u>
209.	Emergency Actions .....	<u>1242</u>
210.	Maintenance of Books and Records by the SEF .....	<u>1343</u>
211.	Information-Sharing Agreements .....	<u>1343</u>
212.	Services Agreement with a Regulatory Services Provider .....	<u>1444</u>
213.	Services Agreement with Technology Services Providers .....	<u>1444</u>
214.	Use of Data Collected From Trading Privilege Holders .....	<u>1545</u>
215.	Dissemination of Market Data .....	<u>1545</u>
<b>CHAPTER 3.</b>	<b>TRADING PRIVILEGE HOLDERS .....</b>	<b><u>1646</u></b>
301.	Jurisdiction .....	<u>1646</u>
302.	Impartial Access .....	<u>1646</u>
303.	Eligibility Criteria .....	<u>1646</u>
304.	Application Requirements .....	<u>1747</u>
305.	Application Review and Determination .....	<u>1747</u>
306.	Authorized Persons .....	<u>1848</u>
307.	Sponsored Access Participants .....	<u>1848</u>
308.	Intermediaries .....	<u>1949</u>
309.	Independent Software Vendors .....	<u>2020</u>
310.	Credit Arrangements .....	<u>2020</u>
311.	Notice to Trading Privilege Holders .....	<u>2020</u>
312.	Communications Between the SEF and Trading Privilege Holders .....	<u>2020</u>
313.	Recording of Communications .....	<u>2020</u>
314.	Dues, Assessments and Fees .....	<u>2124</u>
315.	Activities of Voice Specialists .....	<u>2124</u>
316.	Trading Privilege Holder Withdrawal .....	<u>2124</u>
<b>CHAPTER 4.</b>	<b>TRADING PRIVILEGE HOLDER OBLIGATIONS .....</b>	<b><u>2323</u></b>
401.	Duties and Responsibilities of Trading Privilege Holders .....	<u>2323</u>
402.	Trading Privilege Holder Books and Records .....	<u>2323</u>
403.	Required Disclosures .....	<u>2323</u>
404.	Right of Inspection .....	<u>2424</u>
405.	Financial and Related Reporting Requirements .....	<u>2424</u>
406.	Confidentiality of Financial and Other Information .....	<u>2525</u>
407.	Authority to Impose Restrictions .....	<u>2525</u>
408.	System Security .....	<u>2525</u>

409.	Books and Records of ISVs.....	<u>2626</u>
410.	Restrictions on Activity.....	<u>2626</u>
411.	Disaster Recovery; Business Continuity.....	<u>2626</u>
412.	Information Regarding Orders.....	<u>2626</u>
413.	Publication of Trade Information.....	<u>2726</u>
414.	Anti-Money Laundering Obligations.....	<u>2727</u>
<b>CHAPTER 5.</b>	<b>TRADING PRACTICES.....</b>	<b><u>2828</u></b>
501.	Scope.....	<u>2828</u>
502.	Calendar and Hours of Operation.....	<u>2828</u>
503.	Swaps Traded on the SEF.....	<u>2828</u>
504.	Procedures.....	<u>2828</u>
505.	Order Entry.....	<u>2929</u>
506.	Customer Type Indicator (CTI) Codes.....	<u>3030</u>
507.	Required Transactions.....	<u>3030</u>
508.	Permitted Transactions.....	<u>3134</u>
509.	Intermediated Transactions/Introducing Brokers.....	<u>3134</u>
510.	Block Trades.....	<u>3134</u>
511.	Suspense Accounts and Orders Eligible for Post-Execution Allocation.....	<u>3333</u>
512.	Execution Methods.....	<u>3333</u>
513.	Error Handling.....	<u>3434</u>
514.	Cancellations.....	<u>3434</u>
515.	Confirmations.....	<u>3435</u>
516.	Incentive Programs.....	<u>3736</u>
517.	Enforceability.....	<u>3736</u>
<b>CHAPTER 6.</b>	<b>CLEARING.....</b>	<b><u>3937</u></b>
601.	Clearing Required.....	<u>3937</u>
602.	Daily Settlement Price.....	<u>4139</u>
<b>CHAPTER 7.</b>	<b>BUSINESS CONDUCT.....</b>	<b><u>4340</u></b>
701.	Rule Violations.....	<u>4340</u>
702.	Market Abuse Detection.....	<u>4340</u>
703.	Supervision.....	<u>4340</u>
704.	Just and Equitable Principles of Trade.....	<u>4340</u>
705.	Misuse of the Platform.....	<u>4340</u>
706.	Withholding Orders Prohibited.....	<u>4340</u>
707.	Prohibited Trading Conduct.....	<u>4340</u>
708.	Position Limits.....	<u>4542</u>
<b>CHAPTER 8.</b>	<b>DISCIPLINE AND ENFORCEMENT.....</b>	<b><u>4643</u></b>
801.	General.....	<u>4643</u>
802.	Inquiries and Investigation.....	<u>4744</u>
803.	Reports of Investigations.....	<u>4845</u>
804.	Review Panel.....	<u>4946</u>
805.	Notice of Charges.....	<u>5047</u>
806.	Answer to Notice of Charges.....	<u>5047</u>
807.	Service of Notice.....	<u>5148</u>
808.	Settlements.....	<u>5148</u>
809.	Disciplinary Panel.....	<u>5249</u>
810.	Convening Hearings of Disciplinary Proceedings.....	<u>5249</u>
811.	Respondent's Review of Evidence.....	<u>5350</u>



812.	Conducting Hearings of Disciplinary Proceedings .....	<u>5451</u>
813.	Decision of Disciplinary Panel .....	<u>5552</u>
814.	Sanctions .....	<u>5552</u>
815.	Costs.....	<u>5653</u>
816.	Appeal From Disciplinary Panel Decision.....	<u>5653</u>
817.	Summary Imposition of Fines Relating to Submission of Records .....	<u>5855</u>
818.	Summary Suspensions.....	<u>5855</u>
819.	Rights and Responsibilities After Suspension or Termination.....	<u>5956</u>
820.	Notice to the Respondent, the CFTC, and the Public .....	<u>5956</u>
<b>CHAPTER 9.</b>	<b>RECORDKEEPING AND REPORTING .....</b>	<b><u>6057</u></b>
901.	Recordkeeping Requirements .....	<u>6057</u>
902.	Block Trade Reporting .....	<u>6057</u>
903.	SDR Reporting.....	<u>6158</u>
<b>CHAPTER 10.</b>	<b>LIABILITY AND DISCLAIMERS OF LIABILITY .....</b>	<b><u>6259</u></b>
1001.	LIMITATION OF LIABILITY .....	<u>6259</u>
1002.	Force Majeure.....	<u>6360</u>
1003.	Anti-Money Laundering.....	<u>6461</u>
1004.	Confidentiality of LatAm SEF Intellectual Property.....	<u>6461</u>

## Chapter 1. Definitions

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### 101. Defined Terms

Unless otherwise specifically provided in the Rules, or the context otherwise requires, the terms defined in this Chapter have the meanings specified herein for all purposes of the Rules.

**Advisory Committee** shall have the meaning specified in Rule 203(2).

**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.

**Affiliate IB** means an Introducing Broker who, directly or indirectly, controls, is controlled by or is under common control with LatAm SEF, LLC.

**Appeal Panel** means the panel appointed in accordance with Rule 801(8) to hear appeals of decisions of a Disciplinary Panel.

**Applicable Law** means, with respect to any Person, any statute, law, regulation, rule or ordinance of any Governmental Authority applicable to such Person, including, but not limited to, the CEA and Commission Regulations.

**Application Administrator** means a designated staff member of the Market Operations Group who is responsible for the creation and management of Trader IDs, Swap instruments, and clearing accounts.

**As Soon as Technologically Practicable** means as soon as possible, taking into consideration the prevalence, implementation and use of technology by comparable market participants.

**Authorized Person** means a Person who is employed by, or is an agent of, a Participant, Sponsored Access Participant, or Intermediary and who has been authorized to access the Trading System on behalf of such Participant, Sponsored Access Participant, or Intermediary pursuant to Rule 306.

**Bid** means an Order to buy a Swap.

**Block Trade** means a publicly reportable transaction in a Swap that (i) is listed on the SEF; (ii) occurs away from the SEF, is executed pursuant to the Rules, and has a notional or principal amount at or above the appropriate minimum block size applicable to such swap, as determined by the CFTC, and (iii) is reported subject to the Rules and Commission Regulations.

**Board** means the Board of Directors of the SEF.

**Broker** means a Person that is registered as an Introducing Broker, Futures Commission Merchant, Commodity Pool Operator or Commodity Trading Advisor registered as such under the CEA, or is exempt from registration, that is authorized by a Participant or Sponsored Access Participant (i) to enter Bids, Offers, or Orders in the Trading System on behalf of a Participant, (ii) to assist in the execution of Intermediated Transactions, or (iii) to assist in the arranging of Block Trades on behalf of Participants under Rule 510.

**Brokered Trade** has the meaning set forth in Rule 509.

**Business Day** means any day on which the SEF is open for trading.

**Business Hours** means the consecutive hours of one or more consecutive business days.

**CEA** means the U.S. Commodity Exchange Act, as amended from time to time.

**Central Limit Order Book** or **CLOB** means an Execution Method whereby orders entered into through an order entry ticket are subject to execution via a manually executed trading method under which Authorized Persons can post Orders and Indicative Orders, transact with Orders and initiate negotiations with respect to Indicative Orders pursuant to Rule 512(1).

**Chief Compliance Officer** or **CCO** means the Chief Compliance Officer of the SEF.

**Chief Executive Officer** or **CEO** means the Chief Executive Officer of the SEF.

**Cleared Swap** means a Swap that either is required to be cleared pursuant to Section 2(h)(2)(D) of the CEA and CFTC Regulation 39.5, or that is submitted for clearing to a DCO by the SEF or on behalf of the parties to the Swap even though such Swap is not required to be cleared.

**Clearing Firm** means a Clearing Firm of a DCO that is authorized pursuant to the rules of such DCO to clear transactions in any or all Swaps.

**Clearing Firm Documentation** means the governing documents, rulebook, compliance manual, policies and procedures, and any rule, interpretation, stated policy, or instrument corresponding to any of the foregoing, however denominated in each case as adopted or amended from time to time by a Clearing Firm, setting out the rights, obligations and rules of conduct of a Person with respect to the Clearing Firm.

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

**Commission Regulation** means any rule, regulation, order, directive and any interpretation thereof promulgated by the Commission, as amended.

**Compliance Department** means all officers, employees and agents of the SEF (including the Regulatory Services Provider, if any) that assist the SEF in the implementation, surveillance and enforcement of the Rules and compliance with any other requirements imposed by the SEF.

**Confirmation** shall have the same meaning as in Commission Regulations 23.500 and 45.1.

**Confirmation Data** has the meaning set forth in CFTC Regulation 45.1.

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

**Correcting Transaction** shall have the meaning set forth in Rule 601(12).

**Counterparty** means a party to either side of a Transaction.

**Credit** means an authorized line of bilateral credit between two counterparties.

**Customer** means any Person that transacts on the SEF through a Participant or Sponsored Access Participant acting as an Intermediary, or through an Introducing Broker granted the right to access the SEF as an Intermediary.

**Customer Type Indicator Codes** or **CTI** shall have the meaning set forth in Rule 506.

**Derivatives Clearing Organization** or **DCO** means a derivatives clearing organization that is registered as such with the Commission.

**Director** means a member of the Board of the SEF as described in Rule 202.

**Disciplinary Panel** means the panel appointed pursuant to Rule 809 to conduct hearings in connection with Disciplinary Proceedings (other than summary impositions of fines pursuant to Rule 817) to make findings, render decisions and impose sanctions pursuant to Chapter 8 of the Rules.

**Disciplinary Proceeding** means any inquiry, investigation, Disciplinary Proceeding, appeal from a Disciplinary Proceeding, summary imposition of fines, summary suspension or other summary action.

**Eligible Contract Participant** or **ECP** shall have the meaning given that term in section 1a(18) of the CEA and in CFTC Regulation 1.3(m).

**Emergency** means those occurrences or events enumerated in Rule 209 or any other occurrence or circumstance that the SEF determines in its sole discretion requires immediate action and threatens or may threaten the fair and orderly trading of Swaps on the SEF.

**End-User Transaction** shall have the meaning given that term in section 2(h)(7)(A) of the CEA.

**Execution Method** means trading functionality by which trades may be consummated on the SEF.

**Expiration Day** means the day on which an Option expires.

**Financial Entity** shall have the same meaning as set forth in the CEA.

**FINRA** means the Financial Industry Regulatory Authority.

**Force Majeure Event** means a change of law or regulation which the SEF determines in its sole discretion would render participation in the SEF or a service rendered by the SEF, illegal or impractical, a delay or failure that is the result of an act of God, lightning, earthquake, fire, epidemic, landslide, drought, hurricane, tornado, storm, explosion, flood, nuclear radiation, an act of a public enemy or blockade, insurrection, riot or civil disturbance, strike or labor disturbance or any other cause beyond the SEF's reasonable control (whether or not similar to any of the foregoing).

**Futures Commission Merchant** or **FCM** shall have the same meaning given that term in section 1a(28) of the CEA.

**Governmental Authority** means any domestic or foreign government (or political subdivision), governmental or regulatory authority, agency, court, commission or other governmental or regulatory entity (including any self-regulatory association).

**Independent Software Vendor** or **ISV** means a Person that makes available to Trading Privilege Holders a system or platform offering smart order routing, front-end trading applications, an aggregator platform or a combination of the foregoing but that does not provide Trading Privilege Holders the ability to effect transactions on the Trading System.

**Indicative Order** means a quote that is subject to negotiation, modification and approval by an Authorized Person in order to become a tradeable firm Order; an Indicative Order which provides pricing information but which is not automatically executable by the Trading System or other trading functionality. Indicative Orders may feature size and/or price details, or include no details on price and reflect a default size that is established in the Trading System by the SEF Market Operations Group.

**Intermediary** means a Trading Privilege Holder that is authorized to enter Bids/Offers, Indicative Orders, Voice Trades, Block Trades or RFQs into the SEF solely on behalf of Participants, Sponsored Access Participants or Customers. Intermediaries include, but are not limited to, Introducing Brokers, Futures Commission Merchants and Clearing Firms.

**Intermediated Transaction** means any transaction on the SEF conducted through an Intermediary.

**Introducing Broker** or **IB** shall have the meaning given that term in section 1a(31) of the CEA and shall include any Person required to register as such with the NFA.

**Legal Entity Identifier** or **LEI** shall have the meaning set forth in Commission Regulations.

**Major Swap Participant** shall have the meaning set forth in the CEA and Commission Regulations.

**Market Data** means all data and other information submitted for entry into the Trading System or relating in any way to a Swap, any data or other information contained in, derived from or relating to any to the foregoing, including the formation, compilation and presentation thereof, and any data or information transmitted, published or disseminated by the SEF to any Person. Any Market Data disseminated by the SEF, or any third-party service provider designated by it, shall be aggregated and disseminated in an anonymous fashion and shall not disclose the identity of any Person.

**Market Operations Group** means the Persons designated by the SEF as responsible for supporting the SEF's market operations, including managing Trading Privilege Holder access and customer support.

**NFA** means the National Futures Association.

**Nominating Committee** shall have the meaning set forth in Rule 206.

**Notice to Trading Privilege Holders** or **Notice** means a communication sent by or on behalf of the SEF to all Participants as described in Rule 311.

**Offer** means an Order to sell a Swap.

**Offsetting Transaction** shall have the meaning set forth in Rule 601(12).

**Option** means a transaction whereby one party grants to another the right, but not the obligation, to buy or sell a Swap.

**Order** means any Bid or Offer placed into the Trading System for purposes of buying or selling a Swap on or subject to the rules of the SEF.

**Order Book** means the portion of the SEF in which multiple Trading Privilege Holders in the Trading System have the ability to enter multiple Bids and Offers, observe or receive Orders entered by multiple other Trading Privilege Holders, and execute such Orders.

**Order Book Trading Session** means a Trading Session that remains open throughout the Business Day and in which the Trading System will receive, display and enable Trading Privilege Holders to execute Orders in accordance with these Rules.

**Participant** means a Trading Privilege Holder that has been granted under these Rules, (i) Trading Privileges to trade for their own account on the SEF, (ii) the right to authorize Sponsored Access Participants access to the SEF, and (iii) the right to authorize Intermediaries to act on their behalf on the SEF.

**Participation Committee** shall have the meaning set forth in Rule 204.

**Participant Data** means any and all data and other information submitted to the SEF by a Trading Privilege Holder regarding any and all transactions entered into by or on behalf of a Participant or Sponsored Access Participant.

**Participant Documentation** means such agreements, addenda or amendments (and any schedules thereto) as required from time to time by the SEF to be executed by a Trading Privilege Holder or Authorized Person for such Trading Privilege Holder or Authorized Person to obtain or maintain Trading Privileges on the SEF.

**Permitted Transaction** means any Transaction that is not a Required Transaction.

**Person** means an individual, corporation, limited liability company, partnership, trust or other entity.

**Position Limit** means the maximum position, either net long or net short, in any Swap or type of Swap that may be held or controlled by one Person, or subject to aggregation with such Person's position, as prescribed by the SEF and/or Commission.

**Primary Economic Terms** or **PET** has the meaning set forth in CFTC Regulation 45.1.

**Public Director** means an individual having the qualifications set forth in Rule 202(3).

**Quote** means a Bid or an Offer, or a Bid and an Offer.

**Recipient** means a Trading Privilege Holder who is a recipient of an RFQ.

**Regulatory Oversight Committee** shall have the meaning set forth in Rule 205.

**Regulatory Services Provider** means a third party, if any, that provides regulatory services to the SEF.

**Reporting Counterparty** means, for purposes of these Rules and Part 45 of CFTC regulations, the Participant or Sponsored Access Participant that is designated as such pursuant to Rule 903(2).

**Request for Quote** or **RFQ** means a request by one Participant or Sponsored Access Participant separate from the Order Book Trading Session for a Quote that shall constitute a Bid or Offer. For Required Transactions, the request must be made to at least such minimum number of RFQ participants as may be required by Commission Regulations from time to time.

**Required Swap Continuation Data** means the data required to be reported to a Swap Data Repository pursuant to CFTC Regulation 45.4(c).

**Required Swap Creation Data** has the meaning set forth in CFTC Regulations 45.1 and 45.3.

**Required Transaction** means any Transaction subject to the trade execution requirement in section 2(h)(8) of the CEA that is not a Block Trade.

**Responsible Person** shall have the meaning set forth in Rule 408(1).

**Review Panel** shall mean the panel described in Rule 804.

**Risk-Based Limits** means, as applicable, limits that may be established by a DCO or Clearing Firm with respect to Cleared Swaps, based on credit, position or order size, margin requirements or similar factors.

**Rule** or **Rules** means the rules, resolutions, interpretations, statements of policy, decisions, directives and orders of the SEF.

**SEF** means Swap Execution Facility as that term is defined in CEA 1a(50), and is used in this Rulebook to refer to LatAm SEF, LLC.

**SEF Intellectual Property** has the meaning given to it in Rule 1003.

**Settlement Price** means the official daily closing price for a Swap calculated each Business Day, as determined by the relevant Clearing Firms in accordance with Rule 602, and used for all open positions at the close of the daily settlement cycle.

**Source Agency** means the agency that publishes, calculates or otherwise defines the Settlement Price for any Swap.

**Sponsored Access Participant** means a Trading Privilege Holder (other than an individual or an ISV) that is authorized by a Participant to access the SEF pursuant to Rule 307. Sponsored Access takes multiple forms, including but not limited to: (a) direct market access, where the Sponsored Access Participant's orders pass through the sponsoring Participant's systems prior to reaching the Trading System, (b) sponsored access, where the Sponsored Access Participant enters orders directly into the Trading System or via a dedicated port provided by the sponsoring Participant, and (c) direct access where a service bureau or other third party provides Sponsored Access Participants with technology to access the Trading System under the auspices of and via an arrangement with the sponsoring Participant. Sponsored Access can also include the practice of permitting a Sponsored Access Participant to trade on the SEF through Voice Trading.

**SRO** means any self-regulatory organization, including but not limited to, any registered entity, as that term is defined in section 1a(40) of the CEA, the NFA, FINRA and any non-U.S. market or authority performing similar functions.

**Standing Committee** shall mean each of the Nominating Committee, the Participation Committee and the Regulatory Oversight Committee.

**Statutory Disqualification** shall have the meaning set forth under Section 8a(2) or 8a(3) of the CEA or other Applicable Law.

**Swap** shall have the meaning set forth in Section 1a(47) of the CEA and in Commission Regulations.

**Swap Data Repository** or **SDR** shall have the meaning set forth in the CEA.

**Swap Dealer** shall have the meaning set forth in the CEA and Commission Regulations.

**System Protocol** means the terms from time to time in force upon which a Trading Privilege Holder may access the Trading System, including any supplemental written guidelines provided by the SEF to the Trading Privilege Holder, as amended from time to time.

**Technology Services Provider** means a third party or affiliate that provides various technology services to the SEF.

**Trader ID** means a unique identifier code assigned by the Market Operations Group to each Authorized Person that trades on behalf of a Trading Privilege Holder.

**Trader Information** shall have the meaning set forth in Rule 408(2).

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

**Trading Privilege Holder** means any Participant, Sponsored Access Participant, or Intermediary granted the right to access the SEF pursuant to the Rules.

**Trading Privileges** means the right granted to a Participant, Sponsored Access Participant, Intermediary, or Authorized Persons of a Participant, Sponsored Access Participant, or

Intermediary to submit Orders directly to the SEF. No Person may exercise Trading Privileges during any suspension of such Person's Trading Privileges ordered by the SEF.

**Trading Session** means a specified period of time during which a particular trade Execution Method is available to Participants.

**Trading System** means the SEF's electronic system for execution of Swap transactions.

**Transaction** means any purchase or sale of any Swap made on or subject to the Rules of the SEF.

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

**Unique Swap Identifier** or **USI** has the meaning given that term in CFTC Regulation 45.5.

**Voice Specialist** means an employee or agent of the SEF that acts on behalf of one or more Participants using any means of interstate commerce: 1) to assist Trading Privilege Holders in the entry, modification and cancellation of Orders, Indicative Orders or RFQ's and execute Transactions, and negotiate and execute Block Trades as provided under Rule 510, and 2) to facilitate Voice Trading. Voice Specialists may function as members of the Market Operations Group.

**Voice Trading** means the actions taken by an Intermediary or a Voice Specialist to inform Trading Privilege Holders about the existence of trading interest in a Swap, facilitate the communication of information among Trading Privilege Holders, and assist in orderly trading on the SEF.

**Volume-Match Trading** means a Trading Session that is separate from the Order Book Trading Session and is held periodically during the Business Day during which time one or more Swap(s) can be traded at a transparent, fixed price that is determined by market survey prior to the matching session. A Volume-Match Trading Session is operated by the Market Operations Group pursuant to Rule 512(3) where all transactions will be executed at a single price and in time order of priority established prior to the Volume-Match Trading Session.

## 102. Compliance with CEA

The SEF shall comply with:

- (1) The core principles described in section 5h of the Act; and
- (2) Any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5) of the Act.

## 103. Rule Amendments and Certification

- (1) The SEF may adopt new Rules and may amend or repeal existing Rules at its discretion in accordance with CFTC and CEA regulations. All such new Rules, amendments or repeals shall become effective on the date specified by the SEF or its designee (subject to any required filing with, or approval thereof by, the CFTC).
- (2) Changes to dues, assessments and fees pursuant to Rule 314 constitute a Rule change and are subject to Rule certification pursuant to this Rule 103.
- (3) Pursuant to Rule 311, the SEF must issue a "Notice to Trading Privilege Holders" with respect to each new, amended and repealed Rule (except where such Rule amendment is being adopted in connection with an Emergency).



## Chapter 2. Governance

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### 201. LatAm SEF, LLC

LatAm SEF, LLC (“the SEF”) is a limited liability company organized under the laws of the state of Delaware. The operating agreement of the SEF governs the management and operation of the SEF.

### 202. Board

- (1) The SEF will be managed by or subject to the direction of the Board and such officers (“Officers”) as are appointed by the Board, in each case in accordance with its operating agreement (the “Operating Agreement”). Without limiting the rights, powers, privileges and obligations of the Board as set forth in the Operating Agreement, the Board has the power to review, and to approve, modify, suspend or overrule, any and all decisions of committees of the SEF and any Officers, subject to Applicable Law. Qualifications for managers will be as set forth in the Operating Agreement and hereunder. No Director may be subject to Statutory Disqualification.
- (2) At all times following the appropriate compliance date of the CFTC Regulations applicable to the SEF’s governance as a SEF, the members of the Board shall include no fewer than the minimum number or percentage of Public Directors required by such CFTC Regulations. Each Public Director shall be elected in accordance with the Operating Agreement, and shall serve for a term of 2 years from the date of his election (or the remainder of any Public Director term to which he is elected as a replacement) and until his successor is duly appointed, or until his earlier resignation, removal for cause or dismissal pursuant to the Operating Agreement.
- (3) To qualify as a Public Director, an individual must be found, by action of the Board, to have no material relationship with the SEF. The Board shall make such finding upon the nomination or appointment of the Director and as often as necessary in light of all circumstances relevant to such Director, but in no case less frequently than annually. For these purposes, a “material relationship” is one that could reasonably be expected to affect the independent judgment or decision-making of the Director. A Director shall be considered to have a “material relationship” with the SEF if any of the following circumstances exist or have existed within the past year:
  - (a) Such Director is or was an Officer or an employee of the SEF, or an officer or an employee of an Affiliate of the SEF; or
  - (b) Such Director is or was a Participant or Sponsored Access Firm, or a director, officer or employee of a Participant or Sponsored Access Firm.
  - (c) Any of the relationships set forth in paragraphs (a) and (b) apply to the “immediate family” (i.e., the spouse, parents, children, and siblings, in each case, whether by blood, marriage, or adoption) of such Director, or any person residing in the home of the Director or that of his or her “immediate family.”
- (4) The compensation of the Public Directors and other non-executive members of the Board shall not be linked to the business performance of the SEF, and in no way shall be contingent, conditioned, or revocable.

### 203. Committees

- (1) The SEF shall establish three standing committees of the Board (“Standing Committees”): the “Participation Committee,” the “Regulatory Oversight Committee” and

the “Nominating Committee”. The Board may from time to time constitute and appoint such additional Standing Committees as it may deem necessary or advisable.

- (2) The SEF may from time to time establish one or more advisory committees (“Advisory Committees”) as it may deem necessary or advisable. Each Advisory Committee may consist of Managers, Officers, representatives of Trading Privilege Holders and their Customers and other market participants, as determined by the SEF. Advisory Committees may make recommendations to the Board or SEF Officers, but will not be authorized to make decisions or act on behalf of the SEF.

## **204. Participation Committee**

- (1) The Participation Committee shall consist of three Directors appointed from time to time by the Board, two of whom shall be Public Directors at the time required under CFTC Regulations.
- (2) The Participation Committee shall:
  - (a) Determine the standards and requirements for initial and continuing Trading Privilege Holder eligibility;
  - (b) Review appeals of staff denials of Trading Privilege Holder applications; and
  - (c) Review and approve rules that would result in different categories or classes of Trading Privilege Holders receiving disparate access to the SEF.
- (3) In reviewing appeals of staff denials of Trading Privilege Holder applications, the Participation Committee shall not uphold any staff denial if the relevant application meets the standards and requirements established by the Participation Committee or the Board.
- (4) The Participation Committee shall not, and shall not permit the SEF to, restrict access or impose burdens on access in a discriminatory manner within each category or class of Participants or between similarly situated categories or classes of Trading Privilege Holders.
- (5) The Participation Committee shall report to the Board.

## **205. Regulatory Oversight Committee**

- (1) The Regulatory Oversight Committee (“ROC”) shall consist of three Directors, all of whom shall be Public Directors at the time required under CFTC regulations. The ROC shall report to the Board.
- (2) The ROC shall oversee the regulatory program of the SEF on behalf of the Board. The Board shall delegate sufficient authority, dedicate sufficient resources and allow sufficient time for the ROC to fulfill its mandate.
- (3) The ROC shall:
  - (a) Oversee all facets of the SEF’s regulatory program, including trade practice and market surveillance, audits, examinations, and other regulatory responsibilities with respect to Participants (including ensuring compliance with, if applicable, financial integrity, financial reporting, sales practice, recordkeeping and other requirements), and the conduct of investigations, including any such actions taken by a Regulatory Services Provider;

- (b) Supervise the quality and effectiveness of the Regulatory Service Provider, hold regular meetings to discuss matters of regulatory concern and conduct periodic reviews of the services provided on the SEF's behalf, which reviews shall be adequately documented and made available to the CFTC on request;
- (c) Review the size and allocation of the regulatory budget and resources, and the number, hiring, termination and compensation of regulatory personnel;
- (d) Monitor the regulatory program of the SEF for sufficiency, effectiveness and independence;
- (e) Review the performance of the Chief Compliance Officer (in accordance with Section 5h(f)(15) of the CEA) and make recommendations with respect to such performance to the Board;
- (f) Recommend changes that would ensure fair, vigorous and effective regulation; and
- (g) Review all regulatory or compliance proposals prior to implementation and advise the Board as to whether and how such changes may impact regulation or compliance, as applicable.

## **206. Nominating Committee**

- (1) The Nominating Committee shall consist of a majority of Public Directors at the time required under CFTC regulations and shall be responsible for reporting to the Board.
- (2) The Nominating Committee shall:
  - (a) Annually nominate directors for the class of directors standing for election at the annual meeting of the SEF for that year; and
  - (b) Periodically review the organization and governance structure of the SEF, and make such recommendations to the Board with respect thereto as it may deem appropriate.

## **207. Chief Compliance Officer**

- (1) The Board shall designate an individual to serve as the Chief Compliance Officer ("CCO") of the SEF. The Chief Compliance Officer shall report to, and shall be supervised by, the Chief Executive Officer.
- (2) The Chief Compliance Officer shall have the background and skills appropriate for fulfilling the responsibilities of the position.
- (3) The Chief Compliance Officer shall have the authority and resources to develop and enforce policies and procedures necessary to perform his or her duties hereunder and under the CEA and CFTC regulations. The Chief Compliance Officer shall have authority over all staff acting at his or her direction.
- (4) The Chief Compliance Officer shall be responsible for performing the following duties and functions:
  - (a) Overseeing and reviewing the SEF's compliance with Section 5h of the CEA and CFTC regulations;

- (b) In consultation with the Board or the Chief Executive Officer, resolving any conflicts of interest that may arise, including (i) conflicts between business considerations and compliance requirements; (ii) conflicts between business considerations and the requirement that the SEF provide fair, open and impartial access as set forth in CFTC Rule 37.202; and (iii) conflicts between the SEF's management and members of the Board;
- (c) Establishing and administering written policies and procedures reasonably designed to prevent violations of the CEA and the rules of the CFTC;
- (d) Taking reasonable steps to ensure compliance with the CEA and CFTC Regulations;
- (e) 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 through validated complaints;
- (f) Establishing and following appropriate procedures for the handling, management response, remediation, retesting and closing of noncompliance issues;
- (g) 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;
- (h) 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;
- (i) Supervising the effectiveness and sufficiency of any regulatory services provided to the SEF by a Regulatory Services Provider, if any, in accordance with CFTC Rule 37.204;
- (j) Preparing and submitting an annual report in accordance with CFTC Regulations; and
- (k) Performing such other duties not inconsistent with the foregoing as may be specified by the Board from time to time.

## 208. Conflicts of Interest

- (1) Named Party in Interest Conflict.
  - (a) Prohibition. No member of the Board or the Regulatory Oversight Committee will knowingly participate in such body's deliberations or voting in 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) has any other significant, ongoing business relationship with a named party in interest, or (iv) has a family relationship with a named party in interest. For purposes of this clause (1), a "family relationship" exists between a named party in interest and a member if such party is the member's spouse, former spouse, parent, stepparent, child, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece or in-law.
  - (b) Disclosure. Prior to consideration of any matter involving a named party in interest, each member of the deliberating body who does not choose to abstain from deliberations and voting will disclose to the Chief Compliance Officer

whether such member has one of the relationships listed in clause (a), above, with a named party in interest.

- (c) Procedure and Determination. The Chief Compliance Officer will determine whether any member of the relevant deliberating body who does not choose to abstain from deliberations and voting is subject to a conflicts restriction under paragraph (a), above. Such determination will be based upon a review of the following information provided by such member pursuant to clause (b) above and, where deemed by the Chief Compliance Officer, other information that is known to the SEF.
- (2) Financial Interest in a Significant Action Conflict.
- (a) Prohibition. No member of the Board, any Review Panel, Disciplinary Panel or Appeal Panel will participate in such body's deliberations and voting on any significant action if such member has a direct and substantial financial interest in the result of the vote, as determined pursuant to clause (c), below.
  - (b) Disclosure. Prior to consideration of any significant action, each member of the deliberating body who does not choose to abstain from deliberations and voting will disclose to the Chief Compliance Officer any information that may be relevant to a determination of whether such member has a direct and substantial financial interest in the result of the vote.
  - (c) Procedure and Determination. The Chief Compliance Officer will determine whether any member of the relevant deliberating body who does not choose to abstain from deliberations and voting is subject to a conflicts restriction under paragraph (a), above. Such determination will be based upon a review of the following information:
    - (i) Information provided by the member pursuant to paragraph (b), above, and
    - (ii) Any other source of information that is maintained by and reasonably available to the SEF.

## 209. Emergency Actions

- (1) The term "Emergency" shall mean any occurrence or circumstance which, in the opinion of the SEF, 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 Swaps on the SEF, including any manipulative or attempted manipulative activity; any actual, attempted, or threatened corner, squeeze, congestion, or undue concentration of positions; any circumstances which may materially affect the performance of Swaps traded on the SEF, including failure of the payment system or the bankruptcy or insolvency of any Trading Privilege Holder; any action taken by any Governmental Authority, or any other board of trade, swap execution facility, market or facility which may have a direct impact on trading on the SEF and any other circumstance which may have a severe, adverse effect upon the functioning of the SEF.
- (2) During an Emergency, the Board may take temporary emergency action and/or implement temporary emergency procedures and rules ("Emergency Actions"), subject to Applicable Law and in consultation or cooperation with the CFTC and other applicable regulatory authorities. In the event that the SEF is unable to convene a meeting of the Board reasonably promptly, the Chief Executive Officer or an officer of the SEF designated thereby may take Emergency Actions pursuant to this Rule ("Officer Emergency Action"), provided that the SEF shall convene a meeting of the Board as soon as practicable thereafter to ratify, modify or rescind such Officer Emergency Action.

- (3) Emergency Action may require or authorize the SEF, the Board, any committee of the Board, the President, or any other Officer to take actions necessary or appropriate to respond to the Emergency including, but not limited to, the following actions:
  - (a) Extend, shorten or change trading hours.
  - (b) Limit access to the Trading System by any Trading Privilege Holder, Customer, Authorized Person or ISV.
  - (c) Impose or modify position limits.
  - (d) Impose or modify price limits.
  - (e) Impose or modify intraday market restrictions.
  - (f) Order the liquidation or transfer of open positions in any Swap in consultation with relevant Derivative Clearing Organizations, if practicable.
  - (g) Order the fixing of a settlement price.
  - (h) Suspend or curtail trading in any Swap.
  - (i) Take such other actions as may be directed by the CFTC or other regulatory authority.
  - (j) If applicable, provide for the carrying out of such actions through its agreements with any third party.
- (4) The SEF will promptly notify the CFTC of any Emergency Action not later than twenty-four hours thereafter, explaining the decision-making process, the reasons for taking such action, and how conflicts of interest were minimized. Such documentation will be maintained in accordance with Applicable Law.
- (5) Upon taking any Emergency Action, the SEF will document the decision-making process related to such action. Such documentation will be kept for at least five years following the date on which the Emergency ceases to exist or to affect the SEF. All such documentation will be provided to the CFTC upon request.

## **210. Maintenance of Books and Records by the SEF**

- (1) The SEF shall keep, or cause to be kept, all books and records required to be maintained pursuant to the CEA and CFTC Regulations for at least five (5) years, and shall make such books and records readily accessible for inspection by the CFTC and the United States Department of Justice during the first two (2) years of such five-year period.
- (2) The SEF may disclose to any Person information concerning or associated with a Trading Privilege Holder or other Person that the SEF believes is necessary and appropriate in exercising a legal or regulatory function, whether or not a formal arrangement governing the disclosure exists or a request for information was made.

## **211. Information-Sharing Agreements**

- (1) The SEF may enter into information-sharing arrangements as it determines necessary or advisable for any of the following reasons:
  - (a) To obtain any necessary information to perform any monitoring of trading or trade processing.

- (b) To provide information to the CFTC upon request and to carry out such international information-sharing agreements as the CFTC may require.
  - (c) To share information with other regulatory organizations, data repositories and third-party data reporting services as required by the CFTC.
  - (d) As otherwise necessary and appropriate to fulfill the SEF's self-regulatory and reporting responsibilities. Such information shall be provided in a form and manner acceptable to the regulatory authority to which such information is being provided.
  - (e) Where the SEF determines that a governmental authority, trading facility or clearing organization exercises a legal or regulatory function under any Applicable Law or considers such arrangement to be in furtherance of the operation or duties of the SEF under Applicable Law.
- (2) The SEF may disclose to any Person or entity information concerning or associated with a Trading Privilege Holder or other Person that the SEF believes is necessary and appropriate in exercising a legal or regulatory function, whether or not a formal arrangement governing the disclosure exists or a request for information was made.

## **212. Services Agreement with a Regulatory Services Provider**

- (1) The SEF may choose to contract with a Regulatory Services Provider for the provision of services to assist in complying with the core principles, as approved by the Commission. If the SEF chooses to contract with a Regulatory Services Provider, it will ensure that the Regulatory Services Provider has the capacity and resources necessary to provide timely and effective regulatory services, including adequate staff and automated surveillance systems.
- (2) If the SEF chooses to contract with a Regulatory Services Provider, the SEF will at all times remain responsible for the performance of any regulatory services received, for compliance with the SEF's obligations under the CEA and Commission regulations, and for the Regulatory Services Provider's performance on its behalf.
- (3) If the SEF chooses to contract with a Regulatory Services Provider, the SEF will retain exclusive authority in all substantive decisions made by its Regulatory Services Provider, including but not limited to decisions involving the cancellation of trades, the issuance of disciplinary charges against Trading Privilege Holders or market participants, and denials of access to the Trading System for disciplinary reasons. The SEF shall document any instances where its actions differ from those recommended by its Regulatory Services Provider.

## **213. Services Agreement with Technology Services Providers**

- (1) The SEF has entered into agreements with Technology Services Providers to provide technology services to the SEF. In accordance with a Service Level Agreement, a Technology Services Provider may perform certain functions under the SEF Rules and the SEF will provide information to the Technology Services Provider in connection with the performance by the Technology Services Provider of those functions.
- (2) The SEF shall retain ultimate decision-making authority with respect to any functions that are contracted to a Technology Services Provider.

## 214. Use of Data Collected From Trading Privilege Holders

- (1) The SEF shall collect and evaluate data on Trading Privilege Holder market activity on an ongoing basis and shall have the right to collect non-routine data in order to detect and prevent manipulation, price distortions, and, where possible, disruptions of the physical-delivery or cash-settlement process.
- (2) Where necessary for regulatory purposes, the SEF may share a Trading Privilege Holder's data with one or more other regulatory authorities, swap execution facilities, designated contract markets, derivatives clearing organizations or other trading facilities or clearing organizations.
- (3) Subject to the provisions of Rule 215, as applicable, the SEF shall not use for business or marketing purposes any proprietary or confidential data that the SEF collects or receives from any Trading Privilege Holder for the purposes of fulfilling the SEF's regulatory obligations unless the Trading Privilege Holder from whom it collects or receives such data consents to the SEF's use of such data in such manner. The SEF shall not condition access to the SEF or its services on a Trading Privilege Holder's consent to the SEF's use of such data for business or marketing purposes.
- (4) Nothing herein shall restrict Trading Privilege Holder with respect to the data that Trading Privilege Holder provides to the SEF.

## 215. Dissemination of Market Data

- (1) The SEF shall be entitled, in its sole discretion, to compile and disseminate Market Data to third parties (including through a market data feed) for business purposes without further consent of any Trading Privilege Holder or other Person, and the SEF shall be entitled to any and all revenue derived therefrom. Any Market Data disseminated by the SEF, or any third-party service provider designated by it, shall be aggregated and disseminated in an anonymous fashion and shall not disclose the identity of the Person. By its use of the SEF, each Person that interacts with the SEF in any manner consents to compilation and dissemination by the SEF.
- (2) Without limiting subsection (1), each Person that interacts with the SEF acknowledges and consents to the reporting of all Market Data or other data required to be reported under Applicable Law.
- (3) The SEF shall have a non-exclusive, perpetual, transferable, royalty-free, worldwide license to such Market Data and shall own all rights in all derivative works based upon such Market Data.



## Chapter 3. Trading Privilege Holders

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### 301. Jurisdiction

EACH TRADING PRIVILEGE HOLDER, AUTHORIZED PERSON, ASSOCIATED PERSON, CUSTOMER, ISV AND OTHER PERSON ACCESSING THE SEF PURSUANT TO THE RULES (I) IS BOUND BY, AND MUST COMPLY WITH, THE RULES AND APPLICABLE LAW, IN EACH CASE TO THE EXTENT APPLICABLE TO IT; (II) CONSENTS TO AND SHALL BE SUBJECT TO THE JURISDICTION OF THE SEF WITH RESPECT TO ALL MATTERS ARISING OUT OF OR RELATING TO SUCH STATUS OR ITS ACTIONS OR OMISSIONS WITH RESPECT TO SUCH STATUS AND USE OF OR ACCESS TO THE SEF; (III) AGREES TO ASSIST THE SEF IN COMPLYING WITH ITS LEGAL AND REGULATORY OBLIGATIONS, COOPERATE WITH THE SEF AND ANY GOVERNMENTAL AUTHORITY HAVING JURISDICTION OVER THE COMPANY OR THE SEF, AS APPLICABLE, IN ANY INQUIRY, INVESTIGATION, AUDIT, EXAMINATION OR PROCEEDING, AND AUTHORIZE THE COMPANY TO PROVIDE INFORMATION REGARDING THE SEF TO THE REGULATORY SERVICES PROVIDER OR ANY SELF REGULATORY ORGANIZATION; AND (IV) AUTHORIZES THE SEF (AND ITS REGULATORY SERVICES PROVIDER, AS APPLICABLE) TO PROVIDE INFORMATION WITH RESPECT TO IT TO THE REGULATORY SERVICES PROVIDER OR ANY GOVERNMENTAL, REGULATORY OR SELF-REGULATORY ORGANIZATION.

### 302. Impartial Access

Consistent with Applicable Law, the SEF provides access to Trading Privilege Holders and ISVs on a fair, non-discriminatory and open basis. Trading Privilege Holder and ISV status, and access to, and usage of, the Trading System in such capacity is available to all market participants that meet the criteria set forth herein and validly engage in Transactions.

### 303. Eligibility Criteria

- (1) In order to be admitted as a Trading Privilege Holder, or to be permitted to remain a Trading Privilege Holder, an applicant must satisfy the following criteria:
  - (a) Deliver an executed participant agreement in which it affirms that it: (i) is an Eligible Contract Participant; and/or (ii) is an Intermediary that will act solely on behalf of Persons that are Eligible Contract Participants.
  - (b) Demonstrate business integrity and sound reputation.
  - (c) Maintain adequate financial resources and credit.
  - (d) Be validly organized, in good standing, and authorized by its governing body and, if relevant, documents of organization, to trade Swaps.
  - (e) Hold all registrations required under Applicable Law, if any, including any Swap Dealer, Major Swap Participant, Introducing Broker, Futures Commission Merchant, commodity pool operator, commodity trading advisor, associated person registration.
  - (f) Not have filed for bankruptcy.
  - (g) Not be prohibited from using the services of the SEF for any reason whatsoever.
  - (h) Not be subject to statutory disqualification under Section 8a(2) of the CEA.

- (i) Be in compliance with any financial responsibility, recordkeeping and reporting requirements set forth under Applicable Law and Rule 402.
  - (j) Agree to abide by the Rules and consent to the SEF's jurisdiction.
- (2) The SEF may create different classes of Trading Privilege Holders that have different rights and obligations under the Rules pursuant to criteria that are impartial, transparent and applied in a fair and non-discriminatory manner.
- (3) Once admitted, the Trading Privilege Holder shall continue to comply with all applicable eligibility criteria in Rule 303(1).

### **304. Application Requirements**

- (1) Any Person who desires to become a Trading Privilege Holder must:
- (a) File with the SEF an executed participant agreement provided by the SEF.
  - (b) If such Person is organized or located outside of the United States and enters into a written agreement appointing a third party as its U.S. agent for service of process for purposes of CFTC Regulation § 15.05, provide the SEF with a copy of the agreement.
  - (c) Agree to abide by the SEF Rules and Applicable Law.
  - (d) Consent to the jurisdiction of the SEF.
  - (e) Provide such information and documentation as may be requested by the SEF, and comply with the procedures established by the SEF for admission.
  - (f) Satisfy such other criteria that the SEF may require.

### **305. Application Review and Determination**

- (1) In determining whether to admit an applicant as a Trading Privilege Holder, the SEF will evaluate, among other things, the applicant's disciplinary history and financial and operational soundness.
- (2) If the SEF decides to admit an applicant as a Trading Privilege Holder, it shall promptly notify the applicant in writing and state in such notice the date on which the applicant shall become a Trading Privilege Holder. Notifications shall be sent to the address in the SEF application form or maintained in the SEF's records.
- (3) The SEF may deny an applicant the right to be a Trading Privilege Holder, or terminate an existing Trading Privilege Holder if such Person is unable to satisfactorily demonstrate a capacity to adhere to Applicable Law or the Rules or for such other cause as the SEF reasonably may determine. In such event, the SEF shall promptly notify the applicant in writing of their rejection or termination. Notifications shall be sent to the address in the SEF application form.
- (4) A Person whose application for Trading Privilege Holder status has been denied or granted conditionally pursuant to this Rule 305, and any Participant or Sponsored Access Participant of a Participant, or Intermediary of a Participant or Sponsored Access Participant, whose access to the Trading System is revoked, suspended or limited pursuant to this Rule 305, may appeal the SEF's decision in accordance with the provisions of Chapter 8. A determination of the SEF to revoke, suspend or limit a Person's access to the Trading System pursuant to this Rule 305 shall not take effect

until the review procedures under Chapter 8 have been exhausted or the time for review has expired.

### **306. Authorized Persons**

- (1) Each Trading Privilege Holder must appoint one or more individuals to act as its Authorized Person or Authorized Persons, as applicable. Each Authorized Person shall be identified to the SEF, in the manner prescribed by the SEF, and shall be subject to the Rules.
- (2) The Authorized Person shall be empowered by the Trading Privilege Holder to act on its behalf and the SEF shall be entitled to rely on the actions of the Authorized Person as binding on the Trading Privilege Holder.
- (3) By agreeing to act as an Authorized Person, an individual agrees to be bound by the duties and responsibilities of an Authorized Person and to be subject to, and comply with, the Rules.
- (4) Each Authorized Person must have and use a unique Trader ID to access the Trading System. It shall be the responsibility of an Authorized Person and its sponsoring entity to ensure that it is registered with the SEF, and that such registration is accurate at all times. In no event may a Person other than the Authorized Person to whom a Trader ID has been assigned exercise Trading Privileges or otherwise access the Trading System using such Trader ID.
- (5) Each Trading Privilege Holder must provide the SEF with current contact and other requested information for each of its Authorized Persons so that the SEF is able to immediately contact such Authorized Persons.
- (6) The SEF will promptly notify, in writing, the Trading Privilege Holder of its approval, or refusal to approve, the designation of an Authorized Person. The SEF may, in its sole discretion, revoke or suspend the designation of an individual as an Authorized Person, and shall promptly notify, in writing, the Trading Privilege Holder of such action.
- (7) A Trading Privilege Holder that seeks to terminate the designation of an individual as an Authorized Person shall notify the SEF in writing in accordance with procedures established by the SEF. The SEF shall act to terminate such Authorized Person's Trading Privileges or other use of and access to the Trading System in accordance with procedures established by the SEF.

### **307. Sponsored Access Participants**

- (1) A Participant may grant permission to one or more Sponsored Access Participants to enter Orders and Indicative Orders, issue and respond to Requests for Quotes, access the Trading System and effect transactions in Swaps in accordance with the criteria and procedures established by the SEF.
- (2) By agreeing to act as a Sponsored Access Participant, such Person agrees to be bound by the duties and responsibilities of a Sponsored Access Participant, to be subject to, and comply with, the Rules, and to be deemed to have represented and warranted to the SEF that it is an Eligible Contract Participant, that each of its customers are Eligible Contract Participants, and it has all registrations, licenses and consents required by its constituent documents and by Applicable Law to trade Swaps.
- (3) A Sponsored Access Participant must at all times:
  - (a) Agree to abide by the Rules and consent to the SEF's jurisdiction.

- (b) Effect transactions pursuant to the Rules, and permit its Authorized Persons to effect transactions pursuant to the Rules, solely from within the United States or, except as may be expressly permitted by the SEF in writing from time to time, a jurisdiction in which the SEF is permitted by Applicable Law to offer trading.
  - (c) Ensure that activity conducted under the Trader IDs assigned to it and its Authorized Persons complies with the Rules.
  - (d) Have the authority, at the SEF's request, to adjust or withdraw any Order, Indicative Order or RFQ submitted under such Trader IDs.
  - (e) Have and maintain all necessary regulatory approvals and/or licenses to operate as a Sponsored Access Participant and not be subject to any trading ban, prohibition or suspension issued by the CFTC or the NFA.
  - (f) Cooperate promptly and fully with the SEF in any investigation, inquiry, audit, examination or proceeding regarding compliance with the Rules or any the SEF disciplinary or arbitration proceeding; and
  - (g) Agree to such other terms and conditions as may be established by the SEF from time to time.
- (4) The SEF will promptly notify a Participant in writing of its approval, or refusal to approve, the designation of a Person as a Sponsored Access Participant. The SEF may, in its sole discretion, revoke or suspend the designation of a Sponsored Access Participant, and shall promptly notify the Participant of such action in accordance with procedures established by the SEF.

### **308. Intermediaries**

- (1) A Participant or Sponsored Access Participant may appoint one or more Intermediaries to act on its behalf. Any such appointment must be in writing, and the SEF shall be entitled to rely on the actions of such Intermediary as binding on the Participant or Sponsored Access Participant. In addition, each Participant and Sponsored Access Participant may grant the SEF permission to share the Participant's or Sponsored Access Participant's information with Affiliate IBs for purposes of intermediating orders on the SEF and providing other services.
- (2) Each Participant that is an Intermediary trading for the accounts of Customers that are entities may provide such a Customer with direct market access to the SEF by permitting the Customer to become a Sponsored Access Participant and by permitting one or more individuals associated with such Customer to become Authorized Persons to enter Bids/Offers and RFQs on behalf of the Customer. In such case, the Customer shall be the principal to any transactions made on its behalf by such Authorized Persons.
- (3) Each Participant and Sponsored Access Participant may provide an Introducing Broker trading for the account of the Participant or Sponsored Access Participant with access to the SEF by permitting such Introducing Broker to become an Intermediary and by permitting one or more individuals associated with such Intermediary to become Authorized Persons to enter Bids/Offers and RFQs on behalf of the Participant or Sponsored Access Participant, and to report to the SEF Block Trades executed off of the SEF on behalf of the Participant or Sponsored Access Participant. In such case, the Participant or Sponsored Access Participant shall be the principal to any transactions made on its behalf by such Sponsored Access Participant through the Authorized Persons.

### 309. Independent Software Vendors

Each ISV that desires to access the SEF must execute the agreements specified by the SEF and satisfy the following criteria:

- (1) If required to be registered in any capacity under Applicable Law, it has duly registered in such capacity and such registration is in effect and has not lapsed or been revoked, suspended or withdrawn.
- (2) It complies with the applicable technical access standards, security protocols and technical specifications for connection to the SEF's electronic system as may be specified by the SEF from time to time.
- (3) It does not adversely affect the SEF's ability to comply with the CEA and CFTC Regulations.
- (4) It satisfies such other criteria as the SEF may specify from time to time, subject to Rule 302 and Applicable Law.

### 310. Credit Arrangements

A Participant or Sponsored Access Participant that is party to an Uncleared Swap traded pursuant to these Rules shall do so only with a Counterparty with which it has established satisfactory credit arrangements and agreements, such as the ISDA Master Agreement, that permits and governs the exchange of collateral in accordance with applicable law.

### 311. Notice to Trading Privilege Holders

- (1) The SEF must issue a "Notice to Trading Privilege Holders," or "Notice" with respect to each addition to, modification of, or clarification of, the SEF Rules or of any action to implement any of the SEF Rules established pursuant to Rule 103.
- (2) Such notifications are made to enable each Trading Privilege Holder 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 Trading Privilege Holders").
- (3) Notices will be published on the SEF's website and distributed via an electronic mail distribution a minimum of five business days in advance of the effective date, provided that the Rule amendment is not conducted as an emergency rule certification or under direction from the CFTC. ~~For purposes of publication in accordance with this Rule, it shall be sufficient (without limiting the discretion of the SEF as to any other reasonable means of communication) if a Notice is published on the SEF's website.~~

### 312. Communications Between the SEF and Trading Privilege Holders

All communications between the SEF and the Trading Privilege Holder (including its Authorized Persons) will be transmitted by telephone, email and/or posted on the SEF website. Each Trading Privilege Holder (and its Authorized Persons) will be responsible for promptly reviewing and, if necessary, responding to all electronic communications from the SEF.

### 313. Recording of Communications

Any Person may record conversations and retain copies of electronic communications between it and any other Person. Any such recordings made by the SEF 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. The SEF or Regulatory Services Provider will retain such recordings in compliance with CFTC regulations.

### **314. Dues, Assessments and Fees**

- (1) The SEF shall have the authority to set the amounts and times of payment for any dues, assessments or fees to be paid by Trading Privilege Holders, Authorized Persons and ISVs. The SEF shall charge comparable fees to Persons that receive comparable access to the SEF.
- (2) The SEF shall communicate all dues, assessments and fees to each Trading Privilege Holder and ISV pursuant to Rules 103 and 311, and such dues, assessments and fees shall be effective no less than 10 Business Days after the date of such notification.
- (3) Each Trading Privilege Holder, Authorized Person and ISV agrees to pay such dues, assessments and fees with respect to its activity on the SEF (including any activity by or on behalf of its Customers and Authorized Persons).
- (4) If a Trading Privilege Holder, Authorized Person or ISV fails to pay such amounts when due, the SEF may suspend, revoke, limit, condition, restrict or qualify the Trading Privileges of the Trading Privilege Holder, Authorized Person or ISV and its ability to otherwise access the SEF.

### **315. Activities of Voice Specialists**

- (1) A Voice Specialist shall only be entitled to act on the SEF or subject to the Rules on behalf of a Participant or Sponsored Access Participant (or its Authorized Person or Customer) where such Participant or Sponsored Access Participant has so authorized the Voice Specialist and notified the SEF in the form and manner specified by the SEF from time to time.
- (2) If so authorized, a Voice Specialist may enter an Order, Indicative Order or RFQ, submit a Block Trade or Intermediated Transaction, or execute any Transaction otherwise permissible under the Rules on behalf of such Participant or Sponsored Access Participant (or its Authorized Person or Customer).
- (3) In engaging in any such activity, a Voice Specialist shall comply with the Rules and be subject to the jurisdiction of the SEF.

### **316. Trading Privilege Holder Withdrawal**

- (1) To withdraw from the SEF, a Trading Privilege Holder may submit a written request to the SEF, specifying the effective date of the withdrawal. The effective date of the withdrawal shall not be less than 15 Business Days following the date of giving of such withdrawal notice or such other date as may be approved by the SEF.
- (2) Notwithstanding the 15 Business Day withdrawal request, a Trading Privilege Holder may voluntarily suspend its Trading Privileges immediately upon withdrawal notice and cessation of trading activities.
- (3) Effective on the date on which the SEF accepts the withdrawal of the Trading Privilege Holder, all rights and privileges of such Trading Privilege Holder shall terminate (including the Trading Privileges and ability to access the SEF).
- (4) The accepted withdrawal of a Trading Privilege Holder shall not affect the rights of the SEF under the Rules or relieve the former Trading Privilege Holder of its obligations to the SEF or any other Person (including any contractual obligations relating to any Swaps

entered into by such Trading Privilege Holder, or the payment of any the SEF fees, costs, or charges incurred prior to such withdrawal). Notwithstanding the accepted withdrawal of a Trading Privilege Holder, the withdrawn Trading Privilege Holder remains subject to the jurisdiction of the SEF for acts done and omissions made while a Trading Privilege Holder, and must cooperate in any Disciplinary Proceeding under Chapter 7 as if such withdrawal had not taken place.

## Chapter 4. Trading Privilege Holder Obligations

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### 401. Duties and Responsibilities of Trading Privilege Holders

Each Trading Privilege Holder shall, and shall cause its Authorized Persons to:

- (1) Use the SEF in a responsible manner and not for any improper purpose.
- (2) Use the SEF only to conduct LatAm SEF, LLC activity.
- (3) Ensure that all activity conducted by the Trading Privilege Holder and their Authorized Persons, on the SEF or subject to the SEF Rules is performed in a manner consistent with the Rules.
- (4) Observe high standards of market conduct, fair dealing, and just and equitable principles of trade while conducting or seeking to conduct any business connected with or concerning the SEF.
- (5) Be fully liable for all Orders and Transactions effected by the Trading Privilege Holder and its Authorized Persons on the SEF or subject to the Rules, whether for its own account or for the account of its Customer.
- (6) If such Trading Privilege Holder is a Swap Dealer or Major Swap Participant, such Trading Privilege Holder shall be responsible for compliance with the mandatory trading requirement of CEA Section 2(h)(8) with respect to any Required Transaction.
- (7) Keep all Trader IDs, account numbers and passwords related to the Trading System confidential.

### 402. Trading Privilege Holder Books and Records

Each Trading Privilege Holder shall, and shall cause its Authorized Persons, to keep books and records of its trading on the SEF (including trading on behalf of any Customer), including records of its activity in the index or instrument used as a reference price, the underlying commodity and related derivatives markets, and make such records available, upon request, to the SEF (or its Regulatory Service Provider) and the CFTC or other regulatory authority to the extent not prohibited by Applicable Law. A Trading Privilege Holder that is prohibited by Applicable Law from providing such information shall so notify the SEF promptly after being asked to do so. The SEF may, in such a case, require the Trading Privilege Holder to provide an opinion of counsel confirming the existence and effect of such prohibition.

### 403. Required Disclosures

Each Trading Privilege Holder or Authorized Person shall immediately notify the SEF upon becoming aware of any of the following events to the extent such events relate to its participation or conduct on the SEF:

- (1) Any material change to the contact information provided to the SEF.
- (2) Any appointment or resignation of an Authorized Person appointed by the Trading Privilege Holder.
- (3) Any failure of Trading Privilege Holder or Authorized Person to timely perform its obligations under or in connection with any Transactions entered into by such Trading Privilege Holder on or subject to the rules of the SEF or other swaps.



- (4) Any material system failure, or damage or inadequacy of its systems, facilities or equipment used to effect Transactions on the SEF or subject to the Rules.
- (5) Trading Privilege Holder or Authorized Person becomes subject to Statutory Disqualification.
- (6) Trading Privilege Holder ceases to be an Eligible Contract Participant.
- (7) Any denial of admission to, or involuntary withdrawal of any application for membership in, any self-regulatory organization, designated contract market, trading facility, swap execution facility or clearing organization.
- (8) The commencement of any judicial or administrative proceeding or the imposition of any fine, cease and desist order, denial of Trading Privileges, censure or other sanction or remedy (whether through an adverse determination, voluntary settlement or otherwise) imposed by any governmental or regulatory authority.
- (9) Any denial or involuntary withdrawal of any application for any registration or license by or from any Governmental Authority, and any revocation, suspension or conditioning of any registration or license granted by any Governmental Authority.
- (10) Trading Privilege Holder becomes insolvent or the subject of a voluntary or involuntary bankruptcy or similar petition or proceeding, or the appointment of a receiver, conservator, trustee or administrator for the Trading Privilege Holder or all or a substantial portion of its assets, or the presenting of a petition or passing a resolution or commencement of a proceeding for the winding up or dissolution of Trading Privilege Holder.

#### **404. Right of Inspection**

The SEF (or its representative, including the Regulatory Services Provider) shall have the right to:

- (1) Inspect systems, equipment and software operated by a Trading Privilege Holder or Authorized Person wherever located, to the extent the foregoing relate to the Trading Privilege Holder's or Authorized Person's participation or conduct on or pursuant to the Rules of the SEF.
- (2) Access the systems, equipment, software, and the premises on which the systems, equipment, and software are located, and any data stored in such systems or equipment to the extent the foregoing relate to the Trading Privilege Holder's or Authorized Person's participation or conduct on or pursuant to the Rules of the SEF.
- (3) Copy and/or reproduce such data as may be necessary to monitor such Trading Privilege Holder or Authorized Person for compliance with the requirements of this Rule to the extent such data relates to the Trading Privilege Holder's or Authorized Person's participation or conduct on or pursuant to the Rules of the SEF.
- (4) Request evidence of the Trading Privilege Holder's financial condition at such times and in such manner as shall be prescribed by the SEF.
- (5) Request sufficient written evidence that the Trading Privilege Holder continues to qualify as Eligible Contract Participants as required by CFTC Rule 37.703.

#### **405. Financial and Related Reporting Requirements**

- (1) Each Trading Privilege Holder that is registered with any Government Agency, including, but not limited to, the CFTC, the SEC or a self-regulatory organization, shall comply with

the provisions of Applicable Law, including but not limited to the rules and regulation such Government Agency imposes on a Trading Privilege Holder relating to minimum financial and related reporting and recordkeeping requirements.

- (2) Any Trading Privilege Holder that is required to register as an FCM or Introducing Broker must comply with the requirements set forth in CFTC Regulations 1.10, 1.12, 1.17 and 1.18.
- (3) Each Trading Privilege Holder shall (a) qualify as an Eligible Contract Participant, unless such Trading Privilege Holder is an Intermediary acting on behalf of Persons that are Eligible Contract Participants, and (b) immediately notify the SEF of any material change to the Trading Privilege Holder's status as an Eligible Contract Participant.
- (4) Each Trading Privilege Holder must notify the SEF immediately upon becoming aware that it fails to satisfy the minimum financial requirements applicable to it under CFTC Regulation 1.a(18) as well as the rules and regulations of any other applicable regulatory agency. A Trading Privilege Holder that is unable to demonstrate to the SEF that it is in compliance with the minimum financial requirements shall not engage in transactions subject to the Rules except for the purpose of closing open positions.

#### **406. Confidentiality of Financial and Other Information**

All information and data obtained or received by the SEF 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 does not supplant any other Rule or any other requirement of legal process or Applicable Law.

#### **407. Authority to Impose Restrictions**

Whenever a Trading Privilege Holder 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 Trading Privilege Holder as the SEF may deem necessary or appropriate for the protection of Customers, other Trading Privilege Holders, or the SEF.

#### **408. System Security**

- (1) Each Trading Privilege Holder granted access to the Trading System must at all times have at least one employee or agent (the "Responsible Person") designated as its administrator with respect to the use of the Trading System by such Trading Privilege Holder. The SEF may prescribe such qualification standards for Responsible Persons as it may from time to time determine necessary or advisable. Among other things, each Responsible Person shall (i) control access to the Trading System by the Trading Privilege Holder, and (ii) be able to access, directly or through the SEF and, if required, modify and withdraw, any and all Orders placed, or purported to be placed, by such Trading Privilege Holder. The Responsible Person or Responsible Persons of any Trading Privilege Holder will also be solely responsible for any and all communications between the SEF and such Trading Privilege Holder and any and all notices or other communications sent to such Responsible Person or Responsible Persons by the SEF will be binding on such Trading Privilege Holder. Each Trading Privilege Holder must notify the SEF promptly of any change regarding any of its Responsible Persons.
- (2) Each Trading Privilege Holder shall be solely responsible for controlling and monitoring the use of all user identification codes and passwords to access the Trading System (collectively, "Trader Information") issued to its Authorized Person or Authorized Persons by the SEF, and must notify the SEF promptly upon becoming aware of any unauthorized disclosure or use of the Trader Information or access to the Trading System or of any other reason for deactivating Trader Information. Each Trading Privilege Holder shall be

bound by any actions taken through the use of its Trader Information (other than any such actions resulting from the fault or negligence of the SEF), including the execution of transactions, whether or not such actions were authorized by such Trading Privilege Holder, or any of its directors, officers or employees until they have notified the SEF to the contrary in writing and the SEF has had a reasonable opportunity to act upon such notice.

- (3) Each Trading Privilege Holder shall be responsible for ensuring that its Authorized Persons do not grant access to the Trading System to any person located outside the United States except as otherwise expressly permitted by the SEF. To the extent necessary to ensure the operational integrity of the Trading System, the SEF may at any time restrict or limit the access of Responsible Persons to specified locations, and each Trading Privilege Holder must ensure prompt compliance with any such limitation.

#### **409. Books and Records of ISVs**

Each ISV shall keep and maintain for at least five years books and records of the access it provides to the SEF, including records of the Orders, Indicative Orders and RFQs routed by it to the SEF and make such records available, upon request, to the SEF (or its Regulatory Service Provider) and the CFTC or other Governmental Authority.

#### **410. Restrictions on Activity**

If the SEF determines that the financial or operational condition of a Trading Privilege Holder is such that to allow that Trading Privilege Holder to continue to have access to the SEF would adversely affect the SEF or the financial markets, the SEF may limit or restrict the number or type of Swaps that may be traded by such Trading Privilege Holder on the SEF or terminate the Trading Privileges of such Trading Privilege Holder as well as the Trading Privileges of its Authorized Persons.

#### **411. Disaster Recovery; Business Continuity**

- (1) Each Trading Privilege Holder shall have written disaster recovery and business continuity policies and procedures in place to ensure it is able to operate in the event of a significant internal or external interruption to its operations. At a minimum, each Trading Privilege Holder must have procedures in place to allow it to continue to operate during periods of stress or to transfer accounts to another fully operational Trading Privilege Holder with minimal disruption to the SEF.
- (2) The SEF may prescribe additional and/or alternative requirements for a Trading Privilege Holder's compliance with this Rule.

#### **412. Information Regarding Orders**

- (1) The SEF will make information regarding Orders (including prices bid or offered), Transactions and any other matters it may deem appropriate available to Trading Privilege Holders and other Persons at such times and in such manner (whether through the Trading System, a ticker, financial information service or otherwise) as it may consider necessary or advisable from time to time.
- (2) Each Trading Privilege Holder or other Person receiving any such information through the Trading System may redistribute such information only to such extent and in such manner as may be permitted by the SEF from time to time.

#### **413. Publication of Trade Information**

The SEF shall publish information on its website daily regarding volume, price ranges, open interest and settlement prices (based on non-cancelled Bids, non-cancelled Offers, and sales) subject to such prices accurately reflecting market conditions within the discretion of the SEF. The SEF shall also publish on its website on a daily basis the total quantity of Block Trades that are included in the total volume of trading. Information on settlement prices and open interest shall be provided, as applicable, by the relevant DCO.

#### **414. Anti-Money Laundering Obligations**

Each Trading Privilege Holder will be deemed to have made the following representations, warranties and covenants to the SEF, on behalf of itself and its respective Authorized Persons and Customers, each time it makes use of the Trading System:

- (1) Such Trading Privilege Holder is in compliance with all laws, rules and regulations applicable to it pertaining to anti-money laundering and anti-terrorism, including those related to sanctions screening and customer identification and verification. Such Trading Privilege Holder shall provide to the SEF, upon request, so long as permitted by Applicable Law, including those pertaining to data privacy, any documents and other information reasonably requested by the SEF in order to satisfy any anti-money laundering, anti-terrorism, sanctions screening or other customer identification and verification laws, rules and regulations applicable to the SEF; and
- (2) To the extent that such Trading Privilege Holder or any of its respective Authorized Persons or Customers, is located within the United States, or is otherwise subject to the jurisdiction of the United States, such Trading Privilege Holder, Authorized Person, or Customer is a U.S. person as defined by applicable regulations administered and enforced by the Office of Foreign Assets Control ("OFAC"), is subject to such regulations, and has implemented a program reasonably designed to comply with such regulations. As part of its OFAC compliance program, such Trading Privilege Holder, Authorized Person, or Customer, as applicable, has screened and will continue periodically to screen against the most recent version of OFAC's List of Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, Specially Designated Global Terrorists, Foreign Terrorist Organizations and Specially Designated Narcotics Traffickers, the name and address of any counterparty to a transaction it executed or that was executed on its behalf on the Trading System.

## Chapter 5. Trading Practices

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### 501. Scope

This Chapter 5 applies to all transactions in Swaps, except as otherwise specifically provided in these Rules.

### 502. Calendar and Hours of Operation

The SEF shall from time to time determine the Business Days and Business Hours during any particular calendar year and the Trading Hours in respect of each Swap. Calendar and hours of operation shall be published on the SEF's website. Except as may be otherwise expressly provided in these Rules, all references to times in these Rules shall be to the local time prevailing in New York, New York.

### 503. Swaps Traded on the SEF

- (1) The SEF shall determine which Swaps can be traded from time to time pursuant to these Rules, provided that any determination in respect of listing a Swap for trading pursuant to these Rules shall be submitted to the CFTC as required by the CEA and CFTC Regulations.
- (2) Subject to compliance with the CEA and CFTC Regulations, Swaps traded on the SEF may be Cleared Swaps or Uncleared Swaps.
- (3) For each Swap executed on the SEF, the SEF shall generate and assign a USI according to the format set forth in CFTC Regulation 45.5(b)(1) at, or as soon as technologically practicable following, the time of execution of the swap. The SEF shall transmit the unique swap identifier electronically to:
  - (a) The SDR to which the SEF reports Required Swap Creation Data for the swap;
  - (b) Each counterparty to the swap, as soon as technologically practicable after execution of the swap;
  - (c) The derivatives clearing organization, if any, to which the swap is submitted for clearing, as part of the Required Swap Creation Data transmitted to the derivatives clearing organization for clearing purposes.

### 504. Procedures

- (1) With respect to trading on or through the SEF, the SEF may adopt, without limitation, procedures relating to transactions in Swaps on the SEF and trading on the Trading System, including procedures to:
  - (a) Disseminate the prices of Bids and Offers on, and information regarding Trades in, Swaps.
  - (b) Record and account for Swaps.
  - (c) Perform market surveillance and regulation on matters affecting Swaps.
  - (d) Establish limits on the number and/or size of Orders that may be submitted by a Participant or Sponsored Access Participant or Authorized Person through the Trading System.

- (e) Establish limits on the number of Swaps that may be traded by a Participant, Customer or Sponsored Access Participant through the Trading System.
  - (f) Establish limits on the maximum daily price fluctuations for Swaps and provide for any related restriction or suspension of trading in such Swaps.
  - (g) Establish limits on how frequently a Participant or Sponsored Access Participant may refresh its Bid or Offer.
  - (h) Establish a minimum tick increment.
- (2) The SEF may, at its discretion and at any time, amend any procedures adopted pursuant to Rule 504(1). The SEF shall communicate all such amendments to each Trading Privilege Holder and ISV pursuant to Rules 103 and 311.
  - (3) Each Participant and Sponsored Access Participant is responsible for the accuracy of the information and prices it inputs or instructs others to input into the Trading System.
  - (4) Each Participant and Sponsored Access Participant is obligated to settle all Transactions executed pursuant to the Rules.

## 505. Order Entry

- (1) As applicable by Swap transaction type (Required Transaction or Permitted Transaction) and Execution Method, Orders may be entered electronically or, as agreed in advance with an employee of the SEF, submitted by telephone, email, instant message or through such other medium as may be agreed from time to time.
- (2) Each Trading Privilege Holder and Authorized Person that submits an Order into the Trading System must include with the Order the following details:
  - (a) Trader ID
  - (b) Trading Privilege Holder ID
  - (c) Price or yield, quantity, maturity or expiration date
  - (d) Price and quantity of the Swap
  - (e) Side of the Order
  - (f) CTI code
  - (g) Trading account and other relevant account
  - (h) Legal Entity Identifier of the Participant or Sponsored Access Participant
  - (i) Yes/no indication of whether the Participant, Sponsored Access Participant, or Customer is a Swap Dealer for the Swap the Order pertains to
  - (j) Yes/no indication of whether the Participant, Sponsored Access Participant, or Customer is a Major Swap Participant for the Swap the Order pertains to
  - (k) Yes/no indication of whether the Participant, Sponsored Access Participant, or Customer is a Financial Entity

- (l) Yes/no indication of whether the Participant, Sponsored Access Participant, or Customer is a U.S. Person
- (m) If the Swap will be allocated:
  - (i) An indication that the Swap will be allocated
  - (ii) The Legal Entity Identifier of the agent
  - (iii) An indication of whether the Swap is a post-allocation swap
  - (iv) If the Swap is a post-allocation swap, the Unique Swap Identifier of the original Transaction between the reporting Counterparty and the agent

## 506. Customer Type Indicator (CTI) Codes

As required in Rule 505(2)(f), each Trading Privilege Holder and Authorized Person must include the correct CTI code with each Transaction executed or submitted for execution on the SEF to the extent that the CTI code is not already included by the Trading System. For purposes of this Rule 506, the CTI codes are as follows:

- CTI 1 – Bid/Offer for the proprietary account of a Person that is a natural person.
- CTI 2 – Bid/Offer for the proprietary account of a Person that is not a natural person.
- CTI 3 – Bid/Offer which a Person executes for the proprietary account of another Person or for an account which the other Person controls or has an ownership or financial interest in.
- CTI 4 – Any Bid/Offer not meeting the definition of CTI 1, 2 or 3, including those entered on behalf of Customers.

## 507. Required Transactions

- (1) The SEF may offer execution services in Required Transactions, as that term is defined by CFTC Regulations.
- (2) No Trading Privilege Holder or Authorized Person shall execute a Required Transaction (other than a Block Trade) in a method other than the following Execution Methods:
  - (a) Central Limit Order Book Hit/Lift Click Trading, as described in Rule 512(1); or
  - (b) Request for Quote in conjunction with Order Book, as described in Rule 512(2) if offered by the SEF as an Execution Method for the Swap; or
  - (c) Volume-Matching Trading, as described in Rule 512(3) if offered by the SEF as an Execution Method for the Swap.
- (3) Trading Privilege Holders having the authority and ability to execute against a Customer's Order or to execute two Customer Orders against each other must expose one side of the Transaction as a firm quote on the Order Book for a minimum of 15 seconds to the other Trading Privilege Holders before the second side of the Transaction (whether for the Trading Privilege Holder's own account or for a second Customer) can be submitted for execution. The foregoing restriction shall not apply to Permitted Transactions.

## 508. Permitted Transactions

- (1) The SEF may offer execution services in Permitted Transactions, as that term is defined by CFTC Regulations.
- (2) A Permitted Transaction can be executed using any method agreed by the parties. A Permitted Transaction will be deemed executed when the SEF provides a written record of the terms of the executed Transaction to each Counterparty as provided herein.
- (3) Upon execution of a Permitted Transaction on the SEF, the SEF will report the Transaction to an SDR as soon as technologically practicable after such execution.
- (4) Each Trading Privilege Holder that is party to, or Intermediary in, a Permitted Transaction executed pursuant to section (2) of this Rule 508 must record the following details of the Transaction: the Swap (including the Delivery Month) to which such Transaction relates; the number of Swaps traded; the price of execution or premium; the identity of the Counterparty; and, if applicable, details regarding the Customer for which the Transaction was executed, as well as, if applicable, the underlying interest and whether the Transaction involved a put or a call and the strike price. Upon request by the SEF, such Trading Privilege Holder must produce satisfactory evidence that the Transaction meets the requirements set forth in this Rule.

## 509. Intermediated Transactions/Introducing Brokers

- (1) With respect to a Permitted Transaction, an Introducing Broker may arrange a Transaction off the Trading System between two parties, each of which is a Participant or Sponsored Access Participant (or a Customer thereof), to be executed under the Rules of the SEF ("Brokered Trades").
- (2) Subject to Rule 308, Trading Privilege Holders who are Intermediaries shall immediately enter into the SEF all executable Orders and RFQs received from their Customers, and report to the SEF all Voice Trades and Block Trades executed off of the SEF on behalf of their Customers. If an Order or RFQ cannot be immediately entered into a Trading System, an electronic record which includes the account identifier that relates to the account owner, time of receipt, and terms of the Order or RFQ must immediately be created, and the Order or RFQ must be entered into a Trading System as soon as practicable.
- (3) Priority of Execution. Non-discretionary executable Customer Orders received by a Trading Privilege Holder who is an Intermediary shall be entered into the SEF in the sequence received. Non-discretionary Orders that cannot be immediately entered must be entered when the Orders become executable, in the sequence in which the Orders were received.
- (4) The SEF shall provide all Confirmations of Intermediated Transactions to the Intermediary. Any Trading Privilege Holder that transacts as an Intermediary for any Customer shall be responsible for ensuring that such Customers receive all Confirmations of Swaps entered into on behalf of such Customers.

## 510. Block Trades

Participants and Sponsored Access Participants may enter into Block Trades off of the SEF, at prices mutually agreed, with regard to Swaps that have been designated by the SEF for such purpose, provided all of the following conditions are satisfied:

- (1) Each Block Trade must be for a notional or principal quantity that is equal to or exceeds the appropriate minimum block size specified by the CFTC.



- (2) Trading Privilege Holders that are party to a Block Trade shall comply with any applicable CFTC regulations governing Block Trades. A Trading Privilege Holder must receive instructions from a Customer or obtain the Customer's prior written consent before entering into a Block Trade with that Customer.
- (3) Each Block Trade shall be subject to the following:
  - (a) Trading Privilege Holders are not permitted to aggregate Orders across multiple accounts or multiple Participants or Sponsored Access Participants in order to meet any applicable minimum size for a Block Trade, except that eligible account managers can aggregate orders for accounts for which they have been granted written investment discretion to the extent permitted under CFTC Regulations and any interpretations issued thereunder.
  - (b) The parties to a publicly reportable Transaction that as a notional or principal amount that equals or exceeds the appropriate minimum block size shall notify the SEF of their election to have such Transaction treated as a Block Trade.
  - (c) The price at which a Block Trade is executed must be fair and reasonable in light of:
    - (i) The size of the Block Trade
    - (ii) The prices and sizes of other transactions in the same Swap at the relevant time
    - (iii) The prices and sizes of transactions in other relevant markets at the relevant time
    - (iv) The circumstances of the markets or the Participants to the Block Trade
  - (d) Persons entering into a Block Trade under the Rules must agree upon which party to the Block Trade shall be responsible for reporting all of the terms of the Block Trade to the SEF as soon as practicable after execution of the Block Trade, unless the Block Trade is an Intermediated Transaction, in which case the Trading Privilege Holder acting as Intermediary shall be responsible for reporting all of the terms of the Block Trade to the SEF.
  - (e) Block Trades must be reported to the SEF as soon as technologically practicable by completing and submitting an electronic trade entry ticket in the Trading System, or by contacting the SEF's Market Operations Group. Reported block trades must include the information required by Rule 505(2), together with such other information as the SEF may require.
  - (f) Participants and Sponsored Access Participants involved in the execution of Block Trades must comply with the recordkeeping requirements set forth in Rule 402.
  - (g) The SEF will report a Block Trade to an SDR as soon as technologically practicable after the execution thereof. The SEF shall timestamp a Block Trade at the time it is reported to the SEF and at the time it reports the Block Trade to an SDR.
  - (h) Parties involved in the solicitation or negotiation of a Block Trade and parties that are privy to non-public information regarding a consummated Block Trade may not disclose such information to any other party prior to the public report of the Block Trade by the SEF and may not trade in the same product or closely-related product for the purpose of taking advantage of such information.

- (i) Pre-hedging or anticipatory hedging of any portion of a Block Trade in the same product or a closely related product based upon a solicitation to participate in a Block Trade is not permitted. A closely related product is a product that is highly correlated to, serves as a substitute for, or is the functional economic equivalent of the product being traded as a Block Trade. Counterparties to a Block Trade are permitted to initiate trades to hedge or offset the risk associated with the Block Trade following the consummation of the Block Trade, including during the period preceding the public report of the Block Trade by the SEF.

## 511. Suspense Accounts and Orders Eligible for Post-Execution Allocation

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

## 512. Execution Methods

The following Execution Methods are available on the Trading System. Execution Methods are enabled by Swap transaction type (Required Transaction or Permitted Transaction) at the discretion of the SEF, with the exception of Hit/Lift Click Trading, which is available for all Swaps.

- (1) Central Limit Order Book. The Central Limit Order Book is a database of Orders entered on the Trading System through an order entry ticket. Orders for a Swap in the Central Limit Order Book are displayed in price/time priority, placing (a) Orders with the best price above those at the next-best price; and (b) Orders with the same price in order of time received from oldest to most recent. Orders for mandatorily cleared swaps in the Central Limit Order Book are subject to pre-trade credit checks, and execution via a manually executed trading method under which Authorized Persons can post Orders and Indicative Orders, transact with Orders and initiate negotiations with respect to Indicative Orders. ~~Orders for a Swap in the Central Limit Order Book are displayed in price/time priority, placing (a) Orders with the best price above those at the next-best price; and (b) Orders with the same price in order of time received from oldest to most recent.~~ Indicative Orders may either feature size and/or price details or include no details on price and reflect a default size that is established by the Trading System. Indicative Orders and ~~Orders~~ must be subject to negotiation, modification and approval by an Authorized Person in order to become tradeable firm Orders.
- (2) Request for Quote. A Request for Quote is a price discovery method whereby an Authorized Person solicits firm and executable quotes for a Swap. Recipients can be selected from a list of other Authorized Persons currently logged on to the Trading System, the number of which must be equal to or greater than the minimum number of market participants required by and counted according to CFTC Regulations. Each recipient shall be given equal priority in receiving requests for quotes and in transmitting and displaying for execution responsive quotes. Market participant responses are optional and voluntarily. Responses are displayed to the quote solicitor along with any firm resting Bid or Offer in the same instrument from the Trading System's Central Limit Order Book. Quote solicitors can execute against market participant responses and against any firm bid or offer in the same instrument resting on the SEF's Central Limit Order Book.
- (3) Volume-Match Trading. Volume-Match Trading is an execution method whereby, over a fixed-length session, one or more Swap(s) can be traded at a transparent, fixed price that is determined by market survey prior to the matching session. In a Volume-Matching session, Authorized Persons can enter Order size and side. Orders are matched utilizing

a non-discretionary automated trade matching algorithm. Prior to the matching auction, one of the following automated trade matching algorithms will be disclosed to Trading Privilege Holders and then applied to the auction. Once the auction is initiated, the matching algorithm cannot be changed.

- (a) Real-time matching based on time priority (First In, First Out, or “FIFO”).
  - (b) Real-time matching based on volume priority. In the event that a stack of Orders exists on one side of the market, they are matched against new Orders on the other side of the market in order of largest to smallest.
  - (c) End-of-session matching based on time priority (First In, First Out, or “FIFO”).
  - (d) End-of-session matching based on volume priority in order of largest to smallest.
- (4) Voice Trading. An execution method whereby an Introducing Broker that is a SEF Intermediary arranges trades between SEF Participants that have authorized the Introducing Broker to place orders and report trades to the SEF on their behalf, then submits those trades to the SEF’s Trading System. Voice Execution is available only for Permitted Transactions, as that term is defined in Rule 508 and by CFTC Regulations.

### 513. Error Handling

- (1) If a Trading Privilege Holder believes that a Bid/Offer or RFQ to transact in one or more Swaps was incorrectly displayed, executed or reported, or if a Trading Privilege Holder believes that a Block Trade was incorrectly reported, that Trading Privilege Holder shall submit corrected data to the SEF and request that the SEF review the Bid/Offer, RFQ or Transaction.
- (2) A request for review that is made by a Trading Privilege Holder must be made as soon as practicable but in no event after the end of the Business Day in which such Transaction took place. Upon receipt of a request for review of a Bid/Offer or RFQ, the SEF will review its records to determine if the Trading System correctly displayed and/or executed the Bid/Offer or RFQ.
- (3) If the review described in this Rule reveals that the Trading System or a Voice Specialist made a material mistake or that a mistake occurred as a result of a malfunction in the Trading System or by human error, the Transaction will be canceled or adjusted, as appropriate.
- (4) If the review described in this Rule reveals that neither the Trading System nor a Voice Specialist made a mistake, the SEF will inform the Trading Privilege Holder who requested the review that the SEF has determined that the Bid/Offer was properly handled, the evidence supporting that determination, and that an adjustment will not be made.
- (5) The SEF will document in writing all requests for review of Bids/Offers received by the SEF, the time and manner in which SEF reviewed its electronic audit trail in response to the request, the outcome of that review, and the action or actions taken by the SEF in response to that review.

### 514. Cancellations

- (1) SEF Authority.

The SEF may, at its sole discretion, cancel any Transaction that it believes allowing to stand as executed could have a material, adverse effect on the integrity of the market or

is necessary to mitigate market disrupting events caused by the improper or erroneous use of the Trading System or by system defects. All decisions of the SEF to cancel a Transaction shall be final. The SEF shall not have any liability for losses resulting from Transaction cancellations under this Rule. The SEF retains exclusive authority over all decisions involving the cancellation of Transactions.

(2) Decision to Review Transaction.

- (a) The SEF may determine to review a Transaction based on its independent analysis of market activity or upon request for review by a Trading Privilege Holder or Authorized Person of the SEF. A request for review that is made by a Trading Privilege Holder must be made 30 minutes of the execution of the Transaction as soon as practicable but in no event after the end of the Business Day in which such Transaction took place. The SEF shall determine whether or not a Transaction will be subject to review at its sole discretion. Upon deciding to review a Transaction, the SEF will promptly issue an alert to involved Trading Privilege Holders via the Trading System or electronic mail indicating that the Transaction is under review.
- (b) A decision by the SEF to review a Transaction will be made as soon as practicable, and the SEF shall notify Trading Privilege Holders and the Swap Data Repository of any such decision.

(3) Transaction Review.

- (a) If the SEF decides to review a Transaction, the SEF shall complete such review within one Business Day after it accepts such request unless it notifies involved Trading Privilege Holders that it is unable to complete its review during this time period.
- (b) In reviewing a Transaction, the SEF shall determine the fair value price for the Swap at the time the Transaction under review occurred. 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 volatility of the market, market conditions at the time of the Transaction, the prices of related instruments in other markets, any other factors that the SEF deems relevant.

(4) Transaction Review, Price Adjustment and Cancellation Procedures.

- (a) If the SEF determines that a Transaction has been executed at a price that is representative of the market for the Swap, the SEF will issue a notification to Trading Privilege Holders that the Transaction shall stand as executed.
- (b) If the SEF determines that a Transaction has been executed at a price that is not representative of the market for the Swap, the SEF shall have the right, in its sole discretion, to cancel or adjust the price of such Transaction. Cancelled Transactions shall be cancelled in the SEF's official records; Transactions that have had their price adjusted shall be cancelled in the SEF's official records and shall be inserted in the SEF's official records at the adjusted price; all cancelled and adjusted Transactions shall be reported to the relevant SDR.

(5) Voluntary Adjustment by Counterparty Agreement.

- (a) With the approval of the SEF, parties to a Transaction that is under review or that has had its price adjusted may instead mutually agree to cancel or to adjust the price of the Transaction.

- ~~(b) With the approval of the SEF, Counterparties to a Transaction that is cancelled may instead mutually agree to adjust the price of such Transaction to a fair value price.~~
- ~~(c) Subject to clauses (5)(a) and (5)(b), parties to a trade that is cancelled or that has had its price adjusted may mutually agree to a cash adjustment.~~
- ~~(d) Any cancellation or adjustment made pursuant to this paragraph (5) must immediately be reported by the Counterparties to the SEF, which shall report such cancellation or adjustment to the SDR. The parties shall maintain a record of such cancellation or adjustment, including a record of their report of the same to the SEF.~~

~~(6) SEF Recordkeeping.~~

~~In accordance with the provisions of Rule 901, all cancelled and modified Transactions shall be captured and retained in the SEF's official records.~~

- ~~(3) If the SEF determines that a Transaction has been executed at a price that is not representative of the market for the Swap, the SEF may declare the Transaction invalid.~~
- ~~(4) A decision by the SEF to cancel a Transaction will be made as soon as practicable, and the SEF shall notify Trading Privilege Holders and the Swap Data Repository of any such decision.~~

## 515. Confirmations

The SEF shall provide each Counterparty to a Swap with a written record of all of the terms of the Swap which shall serve as a Confirmation of the Swap. With respect to certain products, Transactions and Trading Privilege Holders, such Confirmation may be provided on the SEF's behalf by MarketSERV's Organized Trading Venue (OTV) Confirmation Service or other similar confirmation services.

(1) Cleared Swaps

- (a) For Cleared Swaps, the SEF will provide the Trading Privilege Holder a Confirmation of all the terms of each transaction executed on the SEF at the same time as the swap transaction is accepted for clearing, as defined in CFTC Regulation § 23.501(4)(ii), provided that where a Trading Privilege Holder is a Customer in an Intermediated Transaction, the confirmation will be provided to the Intermediary in accordance with paragraph (3). The Confirmation provided by the SEF for Cleared Swaps will be the final legally binding confirmation of the terms of any transaction executed on the SEF and will supersede any conflicting confirmation or agreement provided to, or between, as applicable, Participants and Customers, regardless of when such other confirmation is provided.
- (b) A Swap that is effected as a Block Trade shall be confirmed by the SEF promptly after it is reported to the SEF pursuant to Rule 510(3)(e) and cleared pursuant to Rule 601.

(2) Uncleared Swaps

- (a) The economic terms specific to the Transaction agreed by Participants and/or Sponsored Access Participants with respect to an Uncleared Swap shall be reflected by the SEF in a written communication (the "Trade Communication") sent to the applicable Trading Privilege Holders that are party to such Uncleared Swap, provided that where a Trading Privilege Holder is a Customer in an Intermediated Transaction, the confirmation will be provided to the Intermediary

in accordance with paragraph (3). 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 Uncleared Swap existing at the time of such commitment to which such Participants and/or Sponsored Access Participants are party (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 Trade Communication and Terms Incorporated by Reference, together, the “Confirmation”).

- (b) In satisfaction of the obligations imposed on the SEF under CFTC Regulation 37.6(b), (i) each Trade Communication is deemed to incorporate the Terms Incorporated by Reference set forth in this Rule 515, and (ii) the Participants and/or Sponsored Access Participants that are party to the Uncleared Swap referenced in such Trade Communication hereby agree that the provisions of paragraph (3) shall govern any conflicting terms.
- (c) In the event of any conflict between (x) the Trade Communication and (y) the Terms Incorporated by Reference, the Trade Communication shall prevail to the extent of the inconsistency, and the SEF’s Trade Communication shall state the same.
- (d) For each Uncleared Swap executed on or pursuant to the rules of the SEF, 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.

- (3) Intermediated Transactions. Each Trading Privilege Holder authorizes the SEF to send Confirmations of Swaps that are effected through an Intermediary to such Intermediary and authorizes such Intermediary to accept such Confirmations on behalf of the Trading Privilege Holder.

## 516. Incentive Programs

- (1) The SEF may establish programs for Trading Privilege Holders that provide financial incentives for meeting trading volume or revenue thresholds, as established by the SEF.
- (2) All Trading Privilege Holders are eligible for discounts, provided that they meet the terms of the relevant program.

## 517. Enforceability

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

- (1) A violation by the SEF of the provisions of section 5h of the Act or this part;
- (2) Any Commission proceeding to alter or supplement a rule, term, or condition under section 8a(7) of the Act or to declare an emergency under section 8a(9) of the Act; or
- (3) Any other proceeding the effect of which is to:
  - (a) Alter or supplement a specific term or condition or trading rule or procedure; or

- (b) Require the SEF to adopt a specific term or condition, trading rule or procedure, or to take or refrain from taking a specific action.

## Chapter 6. Clearing

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### 601. Clearing Required

- (1) All Participants and Sponsored Access Participants must clear all Swaps that are required to be cleared under Section 2(h)(1) of the CEA and CFTC Regulation § 39.5; provided, however, the clearing requirement in this Rule 601 will not apply if at least one Participant or Sponsored Access Participant that is a Counterparty to a Transaction is an end-user and that party elects the end-user exception from mandatory clearing that is available under the CEA.
- (2) Each Participant and each Sponsored Access Participant shall be responsible for determining whether any Swap it enters into is subject to the mandatory clearing requirements of Section 2(h)(1) of the Act.
- (3) The SEF shall have no responsibility for determining whether a Swap is subject to mandatory clearing or whether an exemption from such a requirement is available, and no conclusion as to either matter should be made as a result of the SEF allowing a Swap transaction to be executed on the Trading System.
- (4) Each Participant and Sponsored Access Participant that is neither a Clearing Firm nor an Intermediary must obtain prior authorization from a Clearing Firm that will guarantee the Participant's or Sponsored Access Participant's Transactions in Cleared Swaps, or enter into an appropriate arrangement with a Person that has such an authorization from a Clearing Firm. Where such Participant or Sponsored Access Participant utilizes the services of multiple Clearing Firms, a Clearing Firm shall only be responsible to the extent that it has been designated to clear a particular Cleared Swap.
- (5) Each ~~Participant~~ Trading Privilege Holder that is an Intermediary shall obtain from each Customer for whom it is acting, confirmation from such Customer that it is a Clearing Firm or that it has obtained prior authorization from a Clearing Firm that will guarantee Customer's Transactions in Cleared Swaps or enter into an appropriate arrangement with a Person that has such an authorization from a Clearing Firm. Where a Customer uses the services of multiple Clearing Firms, a Clearing Firm shall be responsible only to the extent that it has been designated by such Customer to clear a particular Cleared Swap.
- (6) A Clearing Firm may at any time revoke any authorization granted and guarantee made by it by providing written notice of such revocation to the SEF.
- (7) A Participant or Sponsored Access Participant will only execute a Cleared Swap on the Trading System if the Participant or Sponsored Access Participant has delivered to the SEF all information necessary to permit the SEF to submit the Swap for clearing.
- (8) Promptly upon the execution of each Transaction in a Cleared Swap, the SEF shall submit the Transaction (which may include submission through a middleware provider) to the relevant DCO. 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 Trading Privilege Holder of the duty to act in good faith and with reasonable care and diligence.
- ~~(8)~~(9) The SEF will facilitate pre-execution checks by Clearing Firms for compliance with Risk-Based Limits, and will issue notices to Clearing Firms, Participants and Sponsored Access Participants relating thereto.



- (a) Consistent with and to the extent required by CFTC Regulations (including CFTC Regulations 1.73 and 23.609):
  - (i) Each Clearing Firm that is a Participant or Sponsored Access Participant shall establish Risk-Based Limits in its proprietary account;
  - (ii) Each Clearing Firm, whether or not a Participant or Sponsored Access Participant, shall establish Risk-Based Limits in each of its Customer accounts; and
  - (iii) Each Clearing Firm shall to the extent practicable use automated means to screen Orders that it has authorized a Participant or Sponsored Access Participant to execute electronically and shall establish and maintain systems of risk controls reasonably designed to ensure compliance with Risk-Based Limits for all other Orders.
- (b) Prior to entering any Order for a Cleared Swap, each Participant or Sponsored Access Participant that is acting as principal shall take reasonable steps to verify that such Order, if executed, would not exceed the Risk-Based Limits established by the Participant or Sponsored Access Participant's Clearing Firm.
- (c) Prior to entering any Order for a Customer for a Cleared Swap, each Participant that is acting as Broker shall require its Customer to take reasonable steps to verify that such Order, if executed, would not exceed the Risk-Based Limits established by the Customer's Clearing Firm.

~~(9)~~(10) Failure to Clear – Risk-Based Limits. Upon receipt by the SEF of notice from a Derivatives Clearing Organization that a Swap (including a Transaction that is a component leg of a Package Transaction), whether or not subject to mandatory clearing, has been rejected for clearing for violation of a Risk-Based Limit, the Swap will be deemed to be void *ab initio* under these Rules and the SEF will promptly notify the parties to such Swap.

~~(10)~~(11) Failure to Clear – Other Causes. Upon receipt by the SEF of notice from a DCO that a Swap (including a Transaction that is a component leg of a Package Transaction), whether or not subject to mandatory clearing, has been rejected (i) because of a clerical or operational error or omission resulting in a mismatch of the terms of the Cleared Contract, 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 and submitted for clearing without having been executed pursuant to the methods set forth in CFTC Regulations 37.9(a)(2) or 38.500. If the SEF is able to identify and determine how to correct the error or omission, it may execute the new trade without obtaining the consent of the Counterparties. If the SEF is unable to determine how to correct the error or omission, the SEF will promptly notify the parties to such Swap and disclose to each party the identities of its Counterparty and the Counterparty's Clearing Firm. The parties and their Clearing Firms may in such a case (and after obtaining the consent of their Customers, if applicable) resubmit the Swap to the DCO for clearing provided the following conditions are met:

- (a) The parties and their Clearing Firms (after obtaining the consent of their Customers, if applicable) must agree to submit the new trade.
- (b) The clearing member cannot require a Customer to agree in advance to consent to the submission. The consent must be sought on a case-by-case basis, after the trade has been rejected.

- (c) The new trade must be submitted as soon as technologically practicable after receipt by the parties and their Clearing Firms of a notice of rejection by the DCO to the clearing members, but in any case no later than one hour~~30 minutes~~ from the issuance.
- (d) Both the original trade and the new trade must be subject to pre-execution credit checks.
- (e) The new trade must be submitted with terms and conditions matching those of the original trade other than any such error as identified by the DCO in the original trade rejection.
- (f) LatAm SEF will report Required Swap Creation Data to the relevant SDR as soon as technologically practicable after the original trade is rejected by the DCO, including: (i) a part 43 cancellation for the original trade; (ii) a part 45 termination indicating that the original trade is void ab initio; (iii) swap transaction data linking the original canceled trade to the new trade pursuant to Parts 43 and 45 of the Commission Regulations.
- (g) If, after such resubmission, the DCO notifies the parties and their Clearing Firms that the Swap that has been resubmitted will not be accepted for clearing, the parties and their Clearing Firms shall so notify the SEF, no further resubmissions may be made and the Swap shall be deemed to be void ab initio under these Rules.

(12) Erroneous Cleared Swaps. If a clerical or operational error or omission is not discovered until after a Transaction has been cleared, the SEF may permit the original Counterparties to the Transaction to enter into a prearranged Transaction 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 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. Offsetting Transactions and Correcting Transactions executed pursuant to this Rule 601(12) must be executed and cleared no later than three days after the original, erroneous Transaction was executed.

~~(44)~~(13) Participants, Sponsored Access Participants and Customers are prohibited from requiring a Breakage Agreement from any other Participant, Sponsored Access Participant or Customer as a condition of trading swaps intended for clearing with that other Participant or Customer on the SEF.

## 602. Daily Settlement Price

- (1) Daily Settlement Prices shall be determined each Business Day for each Swap pursuant to one or more of the procedures set forth in this Rule 602. The procedure used to determine the Settlement Price of a Swap will depend on the product group, level of activity and liquidity during the defined closing time period, and/or the Source Agency used to derive the Settlement Price.
  - (a) Derivatives Clearing Organization: The daily Settlement Price of certain Swaps may be determined pursuant to the rules of the relevant DCO.
  - (b) Source Agency: The daily Settlement Price of certain Swaps may be determined by an identified Source Agency.

- (c) Midpoint of Closing Range: In Swaps that use this procedure, the first trade and all subsequent trades, higher Bids and lower Offers that are quoted during the established closing time periods for a particular Swap will be included in the closing range. The midpoint of the high and low quotes in the closing range will be the Settlement Price. If no trade occurs during the defined closing period, the last quote of the day (trade, higher Bid, lower Offer) will be the Settlement Price. In the event that there are no valid quotes during the day, the Settlement Price will be the prior day's Settlement Price.
  - (d) Bid/Ask Midpoint at the Close. In Swaps that use this procedure, the midpoint of the Bid/Offer at the defined closing time will be the Settlement Price.
- (2) Notwithstanding anything to the contrary herein, if a Settlement Price in any product, as derived by the normal methodology used for a particular Swap, is inconsistent with trades, Bids or Offers in other relevant markets, or if there is no relevant market activity, the Chief Executive Officer or his or her designee, may establish a Settlement Price that best reflects the true market valuation at the time of the close.

## Chapter 7. Business Conduct

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### 701. Rule Violations

It shall be a violation of these Rules for a Trading Privilege Holder or Authorized Person to violate any agreement made with the SEF.

### 702. Market Abuse Detection

The SEF has systems and measures in place to monitor compliance with the Rules, including, but not limited to disorderly trading conditions and conduct that may involve market abuse. A Trading Privilege Holder or Authorized Person demonstrating improper trading activity or attempts to manipulate the market may be suspended or excluded from using the SEF.

### 703. Supervision

Each Trading Privilege Holder shall be responsible for establishing, maintaining and administering supervisory procedures that are reasonably designed to ensure that its Authorized Persons and its associated persons, if any, comply with these Rules, and may be held accountable for the actions of such Authorized Persons and associated persons.

### 704. Just and Equitable Principles of Trade

It shall be a violation of these Rules for a Trading Privilege Holder or Authorized Person to engage in conduct inconsistent with just and equitable principles of trade.

### 705. Misuse of the Platform

Misuse of the Trading System is prohibited. It shall be deemed an act detrimental to the welfare of the SEF to engage in unauthorized use of the Trading System, to assist any Person in obtaining unauthorized access to the SEF Trading System, to alter the equipment associated with the Trading System, to interfere with the operation of the Trading System, to intercept or interfere with information provided thereby, or in any way to use the SEF in a manner contrary to the Rules.

### 706. Withholding Orders Prohibited

Any Trading Privilege Holder or Authorized Person entering Orders on the SEF for a Customer shall not withhold or withdraw from the market any Order, or any part of an Order, for the benefit of any Person other than such Customer. A Trading Privilege Holder or Authorized Person must enter into the Trading System all Orders and RFQs received from its Customers that are immediately executable as soon as practicable following receipt.

### 707. Prohibited Trading Conduct

It shall be a violation of these Rules for a Trading Privilege Holder to engage in any of the following prohibited trading conduct:

- (1) Fraudulent Acts. No Trading Privilege Holder or Authorized Person shall engage in any fraudulent act or engage in any scheme to defraud, deceive, trick or mislead another Person in connection with or related to any Trade on or other activity related to the SEF.
- (2) Fictitious Transactions. No Trading Privilege Holder or Authorized Person shall engage in fictitious transactions, improper cross-trading, accommodation trading or execute any such Order with knowledge of its nature as any of the foregoing.

- (3) Market Disruption. 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 Trading Privilege Holder or Authorized Person 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.
- (4) Market Manipulation. No Trading Privilege Holder or Authorized Person shall manipulate or attempt to manipulate the market in any Swap.
- (5) Disruptive Trading Practices. No Trading Privilege Holder or Authorized Person shall engage in any trading practice or conduct that constitutes a “disruptive trading practice,” as such term is described in Section 4c(a)(5) of the CEA, CFTC Regulations and any interpretations issued thereunder.
- (6) Misstatements of Material Fact. It shall be a violation of these Rules for a Trading Privilege Holder or Authorized Person to make any knowing misstatement of a material fact to the SEF or knowingly to omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which they were made, not misleading.
- (7) Disclosing Orders. Except as otherwise permitted by these Rules, no Trading Privilege Holder or Authorized Person shall disclose to any Person the terms of any Order prior to its entry into the SEF, except to (a) an employee or agent of the same Trading Privilege Holder for the sole purpose of executing or recording such Order, (b) a SEF official, or (c) any regulatory or self-regulatory organization with jurisdiction over the SEF or such Trading Privilege Holder.
- (8) Front-Running. No Trading Privilege Holder or Authorized Person shall enter an Order into the SEF for its own account when such Trading Privilege Holder or Authorized Person knows that he is in possession of an Order for the same instrument that has not been executed, cancelled or expired.
- (9) Wash Sales. No Trading Privilege Holder or Authorized Person shall buy and sell a Swap, place or accept buy and sell Orders in the same Instrument, or knowingly execute or accommodate the execution of such Orders by direct or indirect means, if the Trading Privilege Holder or Authorized Person knows or reasonably should know that the purpose of the Transaction is to avoid taking a bona fide market position exposed to market risk. Buy and sell Orders for different Customers with common Beneficial Ownership that are entered with the intent to negate market risk or price competition shall also be deemed to violate this Rule.
- (10) “Money passing,” Pre-Arranged, Pre-Negotiated and Noncompetitive Transactions. (a) No Trading Privilege Holder or Authorized Person may enter an Order for the purpose of entering into the position without a net change in either party’s open positions but a resulting profit to one party and a loss to the other party, commonly known as a “money pass,” and (b) no Trading Privilege Holder or Authorized Person shall pre-arrange or pre-negotiate any purchase or sale or noncompetitively execute any Required Transaction other than a Block Trade that is executed in accordance with Rule 510, or any Permitted Transaction that is executed in accordance with Rule 508.
- (11) Trading Against Customer Orders. No Trading Privilege Holder or Authorized Person in possession of a Customer 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.

## 708. Position Limits

- (1) The SEF may set and enforce such position limits or position accountability levels with respect to each Swap executed on or pursuant to the Rules as the SEF deems necessary to reduce the threat of market manipulation or congestion.
- (2) The SEF hereby adopts the Commission's position limits for any Swap for which the Commission has adopted a Position Limit. In no event will the SEF set its position limits at a level higher than the Commission's Position Limits.
- (3) For Permitted Transactions, the SEF may set and enforce position accountability levels or send the Commission a list of the Permitted Transactions transacted on the SEF.
- (4) All Trading Privilege Holders and Authorized Persons must comply with all SEF and Commission requirements regarding Position Limits or position accountability levels.
- (5) Each Trading Privilege Holder and each Authorized Person required to file any report, statement, form or other information with the Commission pursuant to Commission Regulations concerning any Swap or commodity underlying a Swap of or relating to the SEF must simultaneously file a copy of such report, statement, form or other information with the SEF. Such information shall include, for Trading Privilege Holders who are Intermediaries, information concerning the Customers for which Transactions are made on the SEF.
- (6) Any Trading Privilege Holder or Authorized Person who exceeds a SEF or Commission position limit by entering into a Transaction on the SEF shall be deemed in violation of the Rules of the SEF. In addition, any Trading Privilege Holder, Authorized Person, or Customer entering Bids or Offers, if accepted, which would cause that Trading Privilege Holder, Authorized Person, or Customer to exceed the applicable SEF or Commission position limit, shall be in violation of the Rules of the SEF.
- (7) Without limiting any provision of these Rules, the SEF shall have the authority to obtain from any Trading Privilege Holder or their Authorized Persons on request, information with respect to all positions of such Trading Privilege Holder or Customer in Swaps which are equivalent, for purposes of SEF or Commission position limits, to those transacted in by the Trading Privilege Holder on the SEF.
- (8) For purposes of this Rule 708, positions in Swaps shall be aggregated in accordance with CFTC regulations.

## Chapter 8. Discipline and Enforcement

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### 801. General

- (1) Trading Privilege Holders and other Persons within the SEF's jurisdiction are subject to this Chapter 8 if they are alleged to have violated, to have aided and abetted a violation of, to be violating, or to be about to violate, any Rule of the SEF or any provision of Applicable Law for which the SEF possesses disciplinary jurisdiction.
- (2) Except when the Board reserves responsibility for an inquiry or investigation to itself or delegates its responsibility to a committee of the Board, the SEF 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 Chapter 8.
- (3) The SEF may delegate any or all of its powers or responsibilities under this Chapter 8 to the Compliance Department, which may take any actions on behalf of the SEF that the SEF is permitted to take hereunder. In the event of any such delegation, references to the SEF in this Chapter 8 shall be construed to be references to the Compliance Department. The Compliance Department will maintain an enforcement staff that will effectively and promptly prosecute violations in accordance with this Chapter 8. The enforcement staff may not include Persons that are associated with Trading Privilege Holders or with Persons whose interests conflict with their enforcement duties. Further, a member of the enforcement staff may not operate under the direction or control of any Person with Trading Privileges. Any reference to the Compliance Department in this Chapter 8 shall also be a reference to the enforcement staff.
- (4) Any member of the Compliance Department must promptly recuse himself or herself and notify the Chief Compliance Officer of the recusal if such member has a relationship of a type listed in Rule 208(1)(a) with a potential respondent in an investigative report.
- (5) No member of the staff of the SEF will interfere with or attempt to influence the process or resolution of any inquiry, investigation, Disciplinary Proceeding, appeal from a Disciplinary Proceeding, summary imposition of fines, summary suspension or other summary action. No member of the Board will interfere with or attempt to influence the process or resolution of any inquiry, investigation, Disciplinary Proceeding, appeal from a Disciplinary Proceeding, summary imposition of fines, summary suspension or other summary action with respect to which the Board member is not a member of the relevant Review Panel, Disciplinary Panel or Appeal Panel.
- (6) Upon being served with a notice of charges, the respondent may be represented by counsel or any other representative of its choosing, at its own expense, in all succeeding stages of the disciplinary process pursuant to this Chapter 8.
- (7) Pursuant to this Chapter 8, the SEF may hold:
  - (a) A Participant liable, and impose sanctions against such Participant, for such Participant's own acts and omissions that constitute a violation of Applicable Law;
  - (b) A Participant liable, and impose sanctions against such Participant, for the acts and omissions of each Sponsored Access Participant or other agent or representative of such Participant that constitute a violation of Applicable Law as if such violation were that of the Participant;
  - (c) A Sponsored Access Participant or Authorized Person liable, and impose sanctions against such Person, for such Sponsored Access Participant's or

Authorized Person's own acts and omissions that constitute a violation of Applicable Law; and

- (d) A Sponsored Access Participant liable, and impose sanctions against it for the acts and omissions of each agent or representative of such Sponsored Access Participant that constitute a violation of Applicable Law as if such violation were that of the Sponsored Access Participant or Authorized Person.
- (8) The Board shall appoint individuals at the recommendation of the Chief Compliance Officer to serve for a term of one year subject to reappointment, removal or replacement by the Board, as potential participants on Review Panels, Disciplinary Panels and Appeal Panels. The term of an individual selected as a member of a Review Panel, Disciplinary Panel or an Appeal Panel will not expire until the relevant Disciplinary Proceedings are complete. No member of the Compliance Department may be a participant on a Review Panel, Disciplinary Panel or Appeal Panel.

## 802. Inquiries and Investigation

- (1) The Compliance Department will investigate any matter within the SEF's disciplinary jurisdiction that is brought to the attention of the Compliance Department. An investigation must be commenced upon the receipt of a request from the CFTC staff or upon the discovery or receipt of information by the SEF that, in the judgment of the Compliance Department, indicates a reasonable basis for finding that a violation has occurred or will occur. The Compliance Department will determine the nature and scope of its inquiries and investigations within its sole discretion.
- (2) The Compliance Department has the authority to:
  - (a) Initiate and conduct inquiries and investigations;
  - (b) Prepare investigative reports and make recommendations concerning the initiation of Disciplinary Proceedings; and
  - (c) Prosecute alleged violations within the SEF's disciplinary jurisdiction; and
  - (d) Represent the SEF on appeal from any Disciplinary Proceeding, summary imposition of fines, summary suspension or other summary action.
- (3) Each Trading Privilege Holder or other Person subject to the SEF's jurisdiction:
  - (a) Is obligated to appear and testify and respond in writing to inquiries within the time period required by the Compliance Department in connection with (i) any Rule of the SEF; (ii) any inquiry or investigation; or (iii) any preparation by and presentation during a Disciplinary Proceeding or appeal from a decision in a Disciplinary Proceeding, summary imposition of fines, summary suspension or other summary action by the SEF;
  - (b) 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 Compliance Department in connection with (i) any Rule of the SEF; (ii) any inquiry or investigation; or (iii) any preparation by and presentation during a Disciplinary Proceeding or appeal from a decision in any Disciplinary Proceeding, summary imposition of fines, summary suspension or other summary action by the SEF; and
  - (c) May not impede or delay any inquiry, investigation, Disciplinary Proceeding, appeal from a Disciplinary Proceeding, summary imposition of fines, summary suspension or other summary action.



### 803. Reports of Investigations

- (1) The Compliance Department will maintain a log of all investigations and their disposition. Any member of the Compliance Department must promptly recuse himself or herself and notify the Chief Compliance Officer of the recusal if such member has a relationship of a type listed in Rule 208(1)(2) with a potential respondent named in an investigative report. The Compliance Department will prepare a written report of an investigation for the Chief Compliance Officer when 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. Any such written investigation report will include the following information:
  - (a) The reason(s) for initiating the investigation;
  - (b) A summary of the complaint, if any;
  - (c) All relevant facts and evidence gathered;
  - (d) The Compliance Department's analysis and conclusions; and
  - (e) The recommendation of the Compliance Department as to whether disciplinary action should be pursued.
- (2) For each potential respondent, the Compliance Department will recommend any one of the following actions:
  - (a) Closing the investigation without further action;
  - (b) Resolving the investigation through an informal disposition, including the issuance of a warning letter; or
  - (c) Initiating Disciplinary Proceedings.
- (3) If the Compliance Department determines that no reasonable basis exists for finding a violation, then the written investigation report will include the following information:
  - (a) The reasons for initiating the investigation;
  - (b) A summary of the complaint, if any;
  - (c) All relevant facts and evidence gathered;
  - (d) The Compliance Department's analysis and conclusions; and
  - (e) A copy of any recommended warning letter as well as the Trading Privilege Holder's disciplinary history at the SEF.
- (4) After reviewing the Compliance Department's written investigation report, the Chief Compliance Officer will either:
  - (a) Determine to proceed with the Compliance Department's recommendation to close the investigation without further action, or to resolve the investigation through an informal disposition, if such a recommendation has been made;
  - (b) Forward the investigation report to a Review Panel to determine whether further action with respect to the matters discussed therein is warranted; or

- (c) Determine to proceed with the Compliance Department's recommendation to initiate Disciplinary Proceedings, if such a recommendation has been made.
- (5) Each Compliance Department investigation must be completed in a timely manner. Absent mitigating factors, a timely manner is no later than 12 months after the date that an investigation is opened. Mitigating factors that may reasonably justify an investigation taking longer than 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. The SEF shall maintain investigatory files and disciplinary files in a form and manner acceptable to the Commission, for a period of at least five years, in accordance with CFTC Regulation 1.31 and Part 45 of CFTC regulations.
- (6) In addition to any of the actions permitted pursuant to this Rule 803, the Compliance Department may issue a warning letter to the potential respondent. Such warning letter, if issued, shall not be construed as a penalty or an indication that a finding of a violation has been made. No more than one warning letter for the same potential violation may be issued to the same potential respondent during any rolling 12-month period.

#### **804. Review Panel**

- (1) The Chief Compliance Officer may, at his or her discretion, convene a Review Panel to review an investigation report submitted by the Compliance Department to determine whether (i) a reasonable basis exists to believe that a violation of the Rules has occurred, and (ii) commencing Disciplinary Proceedings in respect of such potential violation is warranted. The chairman of the Review Panel shall be appointed by the Chief Compliance Officer.
- (2) The Review Panel will review the completed investigation report promptly after receipt thereof and, within 20 Business Days of such receipt, take one of the following actions:
  - (a) If the Review Panel determines that additional investigation or evidence is needed, the Review Panel shall promptly direct the Compliance Department to conduct such further investigation;
  - (b) If the Review Panel determines that no reasonable basis exists for finding a violation or that prosecution is otherwise unwarranted, the Review Panel may direct that no further action be taken. Such determination must be in writing, and must include a written statement setting forth the facts and analysis supporting the decision; or
  - (c) If the Review Panel determines that a reasonable basis exists for finding a violation and adjudication is warranted, it must direct that the person or entity alleged to have committed the violation be served with a notice of charges.
- (3) Any member of the Review Panel must promptly recuse himself or herself and notify the Chief Regulatory Officer of the recusal if such member has a relationship of a type listed in Rule 208(1)(2) with a potential respondent in an investigative report.
- (4) The Review Panel shall be comprised of three individuals, at least one of whom would qualify to serve as a Public Director under CFTC Regulations. In forming a Review Panel, the Chief Compliance Officer shall draw panel members from the individuals appointed by the Board as potential members of Review Panels. No group or class of Trading Privilege Holders may dominate or exercise disproportionate influence on a Review Panel, and no member of the Review Panel may participate in deliberations or voting on any matter in which he or she has a financial, personal or other direct interest. A Review Panel may not include any person involved in adjudicating any other stage of the same proceeding. If a vacancy shall occur on a Review Panel after it has begun its

proceedings, the remaining members shall complete consideration and disposition of the matter. Once a Review Panel has determined the matter for which it was appointed and has notified the Chief Compliance Officer in writing of its decision, it shall be dissolved automatically. The Regulatory Oversight Committee may, at any time, remove any member of a Review Panel for cause.

## **805. Notice of Charges**

- (1) If the Chief Compliance Officer or Review Panel authorizes the initiation of Disciplinary Proceedings, the Compliance Department will prepare, and serve in accordance with Rule 807, a notice of charges.
- (2) A notice of charges must:
  - (a) Adequately state the acts, practices or conduct that the respondent is alleged to have engaged in;
  - (b) State the Rule(s) or provision(s) of Applicable Law alleged to have been violated or about to be violated;
  - (c) Advise the respondent of its right to a hearing;
  - (d) State the period of time within which the respondent can request a hearing on the notice of charges, which will not be less than 20 Business Days after service of the notice of charges;
  - (e) 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
  - (f) Advise the respondent that a failure to answer or to expressly deny a charge may be deemed to be an admission of such charge.
- (3) Upon being served with a notice of charges, the respondent has the right to be represented by legal counsel or any other representative of its choosing in all succeeding stages of the Disciplinary Proceedings, other than a Board member, Director, member of an applicable Disciplinary Panel, SEF employee or other person substantially related to the underlying investigation.

## **806. Answer to Notice of Charges**

- (1) If the respondent determines to answer a notice of charges, the respondent must file a written answer within 20 Business Days after being served with such notice, or within such later time period determined appropriate by the Chairman of the Disciplinary Panel.
- (2) To answer a notice of charges, the respondent must in writing:
  - (a) Specify the allegations that the respondent denies or admits;
  - (b) Specify the allegations that the respondent does not have sufficient information to either deny or admit;
  - (c) Specify any specific facts that contradict the notice of charges;
  - (d) Specify any affirmative defenses to the notice of charges; and
  - (e) Sign and serve the answer to the Disciplinary Panel.

- (3) Any failure by the respondent to timely serve a written 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 or expressly deny one or more allegations in a notice of charges will be deemed to be an admission of that allegation or those allegations. A general denial by the respondent, without more, will not satisfy the foregoing requirements.
- (4) If a respondent admits or fails to specifically deny any of the allegations in the notice of charges, the Disciplinary Panel shall find that the violations set forth in such allegations have been committed and shall impose a sanction for each such violation. The Disciplinary Panel shall promptly notify the respondent in writing of any sanction to be imposed pursuant to this Rule 806(4) and advise the respondent that it may request a hearing on such sanction within the time period specified in the notice. The failure to request such a hearing within such time period shall be deemed to constitute an acceptance of such sanction. Any hearing pursuant to this Rule 806(4) shall be concerned only with the sanction(s) imposed by the Disciplinary Panel pursuant to this Rule 806(4).

### **807. Service of Notice**

Any notice of charges or other documents contemplated to be served pursuant to this Chapter 8 may be served upon the respondent either personally or by leaving the same at the respondent's place of business during Business Hours or by deposit with the United States post office, postage prepaid via registered or certified mail, or by overnight delivery, addressed to the respondent at the respondent's last known place of business or residence.

### **808. Settlements**

- (1) At any time after a notice of charges has been issued, the respondent may propose in writing an offer of settlement to anticipated or instituted Disciplinary Proceedings. Any offer of settlement must contain proposed findings and sanctions and be signed by the respondent or potential respondent and submitted to the Compliance Department. A respondent or potential respondent may offer to settle Disciplinary Proceedings without admitting or denying the findings contained in the order of the Disciplinary Proceedings, but must accept the jurisdiction of the SEF over it and over the subject matter of the proceedings and consent to the entry of the findings and sanctions imposed under such offer of settlement.
- (2) The Disciplinary Panel may accept the offer of settlement, but may not alter the terms of a settlement offer unless the respondent or potential respondent agrees.
- (3) If an offer of settlement is accepted, the Disciplinary Panel must issue a written decision specifying the rule violations that the presiding panel has reason to believe were committed, including the basis or reasons for the presiding panel's conclusions, and any sanction to be imposed, which shall include full Customer restitution where Customer harm is demonstrated. Should an offer of settlement be accepted by the Disciplinary Panel without the agreement of the Compliance Department, such written decision must adequately support the Disciplinary Panel's acceptance of the settlement. If applicable, such written decision must also include a statement that the respondent has accepted the sanctions imposed without either admitting or denying the rule violations.
- (4) The respondent or potential respondent may withdraw his or her offer of settlement at any time before final acceptance by the presiding panel.
- (5) If the offer of settlement of a respondent or potential respondent is not accepted, fails to become final or is withdrawn before final acceptance by the presiding panel, 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 the respondent, the potential respondent, nor the Compliance Department may use an unaccepted offer of settlement as an

admission or in any other manner at a hearing of, or appeal from, any Disciplinary Proceedings.

- (6) Any accepted settlement agreement shall include a waiver by the respondent of all rights to appeal or otherwise challenge or contest the validity of the settlement offer.

## **809. Disciplinary Panel**

- (1) The Chief Compliance Officer will appoint a Disciplinary Panel 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 pursuant to this Chapter 8.
- (2) The Disciplinary Panel shall be comprised of three individuals, at least one of whom would qualify to serve as a Public Director in accordance with CFTC Regulations. In forming a Disciplinary Panel, the Chief Compliance Officer shall draw panel members from the individuals appointed by the Board as potential members of Disciplinary Panels. The chairman of the Disciplinary Panel shall be appointed by the Chief Compliance Officer. No group or class of Trading Privilege Holders may dominate or exercise disproportionate influence on a Disciplinary Panel, and no member of the Disciplinary Panel may participate in deliberations or voting on any matter in which he or she has a financial, personal or other direct interest. A Disciplinary Panel may not include 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 determined the matter for which it was appointed and has notified the secretary in writing of its decision, it shall be dissolved automatically. The Board may, at any time, remove any member of a Disciplinary Panel for cause.
- (3) Any of the functions of the SEF or the Disciplinary Panel under this Chapter 8 may be performed by a Regulatory Services Provider pursuant to a delegation of such functions by the SEF, and references to the Disciplinary Panel or the Compliance Department, as appropriate, shall be deemed to be references to such Regulatory Service Provider. Nevertheless, the SEF will retain exclusive authority in all substantive decisions made by the Regulatory Service Provider, including, but not limited to, denials of access to the Trading System for disciplinary reasons. The SEF will document any instances where its actions differ from those recommended by the Regulatory Services Provider.
- (4) Within ten Business Days of being notified of the appointment of a Disciplinary Panel, a respondent may seek to disqualify any individual named to the Disciplinary Panel for the reasons identified in Rule 208(1)(2) or for any other reasonable grounds, by serving written notice on the SEF's General Counsel and providing a copy thereof to the Disciplinary Panel. 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 general counsel 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.

## **810. Convening Hearings of Disciplinary Proceedings**

- (1) All Disciplinary Proceedings (except for summary impositions of fines pursuant to Rule 817) will be conducted at a hearing before a Disciplinary Panel. A hearing will be conducted privately and confidentially unless the Disciplinary Panel decides that the hearing, or any part of it, should be held in public after giving each respondent the opportunity to present its, his or her views on holding a public hearing. Notwithstanding the confidentiality of hearings, a 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.

- (2) After reasonable notice to each respondent, the Disciplinary Panel will promptly convene a hearing to conduct Disciplinary Proceedings with respect to such respondent. Parties to a Disciplinary Proceeding include each respondent and the Compliance Department. The hearing shall be conducted before members of the Disciplinary Panel.
- (3) The chairman of the Disciplinary Panel may continue, adjourn or otherwise conduct the hearing as he or she may deem appropriate. The chairman of the Disciplinary Panel will determine all procedural and evidentiary matters, including any pre-hearing motions and the admissibility and relevance of any evidence proffered. In determining procedural and evidentiary matters, the chairman of the Disciplinary Panel will not be bound by any evidentiary or procedural rules or law; nevertheless, the procedures for the hearing may not be so informal as to deny a fair hearing. Once admitted during the hearing, the Disciplinary Panel may consider, and attach the weight it believes appropriate to, evidence or other materials. The SEF will provide guidance to the chairman of the Disciplinary Panel on the conduct of the hearing.
- (4) Except for procedural and evidentiary matters decided by the chairman of the Disciplinary Panel pursuant to paragraph (3) above and Rule 811, unless each respondent otherwise consents, the entire Disciplinary Panel must be present (either in person or telephonically) during the entire hearing and any related deliberations.

## **811. Respondent's Review of Evidence**

- (1) 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 evidence in the possession or under the control of the SEF that the Compliance Department will use to support the allegations and proposed sanctions in the notice of charges or which the chairman of the Disciplinary Panel deems relevant to those charges. Notwithstanding the foregoing, no respondent will have the right to review, and the SEF will have no obligation to disclose, any information that (i) is protected by attorney-client privilege or the work product doctrine; (ii) was prepared by the Compliance Department or an employee of the SEF but will not be offered in evidence in the Disciplinary Proceedings; (iii) may disclose a technique or guideline used in examinations, investigations or enforcement proceedings; or (iv) discloses the identity of a confidential source.
- (2) If any books, records, documents, papers, transcripts of testimony or other tangible evidence contain information that could adversely affect the competitive position of the Person providing the information or if such information might compromise other investigations being conducted by the Compliance Department, the Compliance Department may redact, edit or code such information before furnishing it to the respondent.
- (3) Notwithstanding anything in paragraph (2) above to the contrary, the Compliance Department:
  - (a) 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
  - (b) Will provide the respondent with access to the information and portions of the documents that the Compliance Department intends to rely on to support the allegations or proposed sanctions in the notice of charges or that are relevant to those charges.
- (4) For purposes of this Rule 811, information that could adversely affect competitive positions includes positions in Swaps currently held, trading strategies employed in

establishing or liquidating positions, the identity of Trading Privilege Holders or Customers, and the personal finances of the Person providing the information.

- (5) Unless indicated otherwise by the chairman of the Disciplinary Panel, all such requests for access to information identified in Rule 811(1) must be made not less than ten Business Days prior to the scheduled hearing date.

## **812. Conducting Hearings of Disciplinary Proceedings**

- (1) At a hearing conducted with a Disciplinary Panel, the Compliance 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 appear personally and participate in the hearing.
- (2) At a hearing conducted with a Disciplinary Panel, the Compliance Department and each respondent may:
  - (a) Present evidence and facts deemed relevant and admissible by the chairman of the Disciplinary Panel;
  - (b) Call and examine witnesses (including, but not limited to, employees or agents of the SEF that form part of the Compliance Department); and
  - (c) Cross-examine witnesses called by other parties.
- (3) If a respondent has failed to timely file a written answer to a notice of charges but appears at the hearing, the respondent may not participate in the hearing (except for a hearing pursuant to Rule 806(4)) 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 806.
- (4) Any person entitled, required, or called upon to attend a hearing before a Disciplinary Panel pursuant to paragraph (2)(b) above will be given reasonable notice, confirmed in writing, specifying the date, time, and place of the hearing, and the caption of the Disciplinary Proceedings. The SEF will require persons within its jurisdiction that are called as witnesses to appear at the hearing and produce evidence, and will make reasonable efforts to secure the presence of all other persons called as witnesses whose testimony would be relevant.
- (5) If, during any Disciplinary Proceedings, the Disciplinary Panel determines that a reasonable basis exists to believe that the respondent violated, or is about to violate, a Rule of the SEF or a provision of Applicable Law other than the violations alleged in the notice of charges, the Disciplinary Panel may consider those apparent violations after providing the respondent with an opportunity to answer the additional allegations in accordance with Rule 806. In connection with considering apparent violations pursuant to this paragraph (5), the Disciplinary Panel may request that the Compliance Department provide the Disciplinary Panel with any additional information.
- (6) The Disciplinary Panel may summarily impose sanctions on any Trading Privilege Holder or other Person within the SEF's jurisdiction whose actions impede the progress of a hearing.
- (7) 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, and a copy of such recordings shall become a part of the record of such proceedings. If the respondent requests a copy of all or portions of the recording of

a hearing, the chairman of the Disciplinary Panel may, within his or her sole discretion, order the respondent to pay the costs for transcribing the recording of the hearing.

- (8) No interlocutory appeals of rulings of any Disciplinary Panel, or chairman of the Disciplinary Panel, are permitted.

### **813. Decision of Disciplinary Panel**

- (1) Promptly following a hearing, the Disciplinary Panel will render a written 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 decision of the Disciplinary Panel.
- (2) The SEF will serve a copy of the written decision on the respondent and the Compliance Department. The written decision will include the following information:
  - (a) The notice of charges or a summary of the charges;
  - (b) The answer, if any, or a summary of the answer;
  - (c) A summary of the evidence introduced at the hearing or, where appropriate, incorporation by reference of the investigation report;
  - (d) A statement of findings and conclusions with respect to each charge, and a complete explanation of the evidentiary and other basis for such findings and conclusions with respect to each charge;
  - (e) An indication of each specific rule that the respondent was found to have violated; and
  - (f) A declaration of all sanctions imposed against the respondent, including the basis for such sanctions and the effective date of such sanctions.
- (3) Unless a timely notice of appeal is filed pursuant to Rule 816, the order of the Disciplinary Proceedings will become final upon the expiration of 20 Business Days after the order is served on the respondent and a copy thereof is provided to the Compliance Department.

### **814. Sanctions**

- (1) After notice and opportunity for hearing in accordance with these Rules, the SEF will impose sanctions if a Trading Privilege Holder or other Person within the SEF's jurisdiction is found to have violated any Applicable Law. Disciplinary sanctions imposed by the SEF shall be commensurate with the violations committed, and shall be clearly sufficient to deter recidivism or similar violations by other market participants. In addition, the respondent's disciplinary history will be taken into account in determining the appropriate sanction.
- (2) The SEF may impose one or more of the following sanctions or remedies:
  - (a) A warning letter, provided that no more than one warning letter may be issued to the same respondent found to have committed the same rule violation within a rolling twelve month period;
  - (b) Censure;
  - (c) Limitation on the Trading Privilege Holder's right to access all or part of the Trading System;



- (d) Suspension of the Trading Privilege Holder's right to access all or part of the Trading System for a period not to exceed 12 months;
  - (e) Fine (subject to paragraph (3) below);
  - (f) Restitution or disgorgement;
  - (g) Expulsion or termination of a Trading Privilege Holder or other Person within the SEF's jurisdiction; or
  - (h) Any other sanction or remedy deemed to be appropriate.
- (3) The SEF may impose a fine of up to \$100,000 for each violation. Each Participant will be responsible for paying any fine or other amount imposed on, but not paid by, any Sponsored Access Participant or other agent or representative of such Participant.

### **815. Costs**

A Disciplinary Panel may order a respondent who has been found to have violated the Rules to pay costs associated with the Disciplinary Proceedings, including costs that the Disciplinary Panel believes were unnecessarily caused by the respondent, in addition to any fine or other penalty which may be imposed on such respondent. Costs may include costs associated with the inquiry or investigation, the prosecution by the Compliance Department, legal and professional assistance, the hearing, and administrative and other expenses incurred by the Disciplinary Panel.

### **816. Appeal From Disciplinary Panel Decision**

- (1) Parties to a Disciplinary Proceeding may appeal the decision of the Disciplinary Panel within 20 Business Days of receiving the order of the Disciplinary Proceedings by filing a notice of appeal with the Chief Compliance Officer. While an appeal is pending, the effect of the written decision issued by the Disciplinary Panel (including any sanctions, remedies, or costs imposed thereby) shall be suspended.
- (2) In a notice of appeal, the appellant must state in writing the grounds for appeal, including the findings of fact, conclusions, or sanctions to which the appellant objects. A written request for an appeal must specify the grounds for the appeal and the specific error or impropriety of the original decision. An appellant may appeal the written decision of a Disciplinary Panel on the grounds that (i) the decision was arbitrary, capricious, an abuse of discretion, or not in accordance with the Rules, or (ii) the decision exceeded the authority or jurisdiction of the Disciplinary Panel or the SEF.
- (3) The Chief Compliance Officer will forward copies of any notice of appeals received by him or her to all parties to the Disciplinary Proceedings in question other than the appellant. On or before the 20th Business Day after filing a notice of appeal, the appellant must file with the Chief Compliance Officer and serve the Compliance Department a brief supporting the notice of appeal and documents supporting the brief.
- (4) Within 20 Business Days after the last submission filed pursuant to paragraph (3) above, the Chief Compliance Officer shall appoint an Appeal Panel to consider and determine the appeal. The Appeal Panel shall be comprised of three individuals appointed by the Board as potential members of Appeal Panels, one of whom shall be appointed by the Chief Compliance Officer to serve as chairman of the Appeal Panel. The Appeal Panel must include at least one person who is qualified to serve as a Public Director under CFTC Regulations. No group or class of Trading Privilege Holders may dominate or exercise disproportionate influence on an Appeal Panel. An individual may not serve on an Appeal Panel if the individual has a relationship of a type described in Rule 208(1)(2)

or was involved in the adjudication of any other stage of the same proceeding. The appeals proceeding shall be conducted before all members of the Appeal Panel.

- (5) Within ten Business Days of being notified of the appointment of an Appeal Panel, either party may seek to disqualify any individual named to the Appeal Panel for the reasons listed in Rule 208(1)(2) or for any other reasonable grounds, by serving written notice on the Chief Compliance Officer. By not timely filing a request for disqualification, the parties will be deemed to have waived any objection to the composition of the Appeal Panel. The chief legal officer will decide the merits of any such objection in his or her sole discretion. Any such decision will be final and not subject to appeal.
- (6) The Appeal Panel, by a majority vote, shall determine whether sufficient grounds exist to hold a hearing on the appeal. The Appeal Panel may only determine that sufficient grounds exist if there is a reasonable basis to conclude that the appellant may be able to demonstrate that the decision was arbitrary, capricious, an abuse of discretion, or not in accordance with the Rules, or that the decision exceeded the authority or jurisdiction of the Disciplinary Panel or the SEF. The Appeal Panel's determination shall be based solely upon the materials submitted by the appellant pursuant to paragraph (3). The Appeal Panel's determination of whether to hold a hearing on an appeal shall be final. If the Appeal Panel grants the appellant's request for a hearing, the appellee may file and serve its brief in opposition not more than 20 Business Days after the issuance of the determination of the Appeal Panel.
- (7) An Appeal Panel may hold a hearing to allow parties to present oral arguments. Any hearing will be conducted privately and confidentially unless the chairman of the Appeal Panel decides that the hearing, or any part of it, should be held in public after giving each appellant the opportunity to present its, his, or her views on holding a public hearing. Notwithstanding the confidentiality of hearings, an Appeal Panel may appoint individuals to attend any hearing and assist in the deliberations if such individuals agree to be subject to appropriate confidentiality agreements. In determining procedural and evidentiary matters, the Appeal Panel will not be bound by any evidentiary or procedural rules or law.
- (8) Except for good cause, the Appeal Panel will only consider on appeal the record before the Disciplinary Panel, the written exceptions filed by the parties, and the oral or written arguments of the parties. The Appeal Panel may only consider new evidence when it is satisfied that good cause exists as to why the evidence was not introduced during a prior stage of the Disciplinary Proceeding. In connection with any appeal, the Compliance Department will furnish to the Appeal Panel a transcript of the hearing, any exhibits introduced at the hearing, the notice of appeal, and briefs filed to support and oppose the appeal.
- (9) After completing its review, the Appeal Panel may affirm, modify, or reverse any order of Disciplinary Proceedings under appeal in whole or in part, including increasing, decreasing, or eliminating any sanction or remedy imposed; imposing any other sanction or remedy authorized by the Rules; or remanding the matter to the same or a different Disciplinary Panel for further Disciplinary Proceedings. The Appeal Panel may order a new hearing for good cause, or if the Appeal Panel deems it appropriate.
- (10) Promptly following the appeal proceeding, the Appeal Panel will issue a written decision and provide a copy to the parties. The written decision issued by the Appeal Panel must adhere to all the requirements of Rule 813(2), to the extent that a different conclusion is reached from that issued by the Disciplinary Panel. A decision by a majority of the Appeal Panel will constitute the decision of the Appeal Panel.
- (11) An Appeal Panel's written decision on appeal (including findings of fact and conclusions and the imposition of sanctions, remedies, and costs, and the effective date of any sanction, remedy, or cost) will be the final action of the SEF, and will not be subject to

appeal within the SEF. Disciplinary sanctions imposed by the SEF shall be commensurate with the violations committed, and shall be clearly sufficient to deter recidivism or similar violations by other market participants. In addition, the respondent's disciplinary history will be taken into account in determining the appropriate sanction.

### **817. Summary Imposition of Fines Relating to Submission of Records**

- (1) The SEF may fine a Trading Privilege Holder or any other Person subject to the SEF's jurisdiction using a summary fine schedule for a violation of Rules regarding timely submission of accurate records.
- (2) A warning letter may be issued for first-time violations, provided that no more than one warning letter may be issued per any rolling 12-month period for the same violation.

### **818. Summary Suspensions**

- (1) Notwithstanding anything in the Rules to the contrary, the Chief Compliance Officer, or his or her designee, may summarily suspend a Participant's right to access the Trading System or the association of a Sponsored Access Participant, Intermediary or any other Person with a Participant, or take other summary action against any Trading Privilege Holder or any Person subject to the SEF's jurisdiction, or suspend access to the Trading System of any other Person subject to the SEF's jurisdiction, if the SEF reasonably believes such immediate action is necessary to protect the best interest of the marketplace.
- (2) Whenever summary action pursuant to paragraph (1) above is proposed, the SEF will, if practicable, serve the party against whom the action is contemplated with written notice. If prior notice is not practicable, the SEF will give notice at the earliest possible opportunity to the respondent against whom the action is brought. The notice will be prepared by the Compliance Department, and such notice will state the action, briefly state the reasons for the action, and state the effective time, date, and duration of the action taken. The notice shall be served on the respondent in accordance with Rule 807.
- (3) The respondent shall be advised of its right to a hearing before a Disciplinary Panel pursuant to Rules 809-813, by filing a notice of intent with the Compliance Department within ten Business Days of service of notice. Filing of a notice of intent pursuant to this Rule shall not stay the Chief Compliance Officer's decision to deny access. The respondent shall have the right to be represented by legal counsel, or any other representative of its choosing and at its own expense.
- (4) Promptly but no later than 20 Business Days after filing of a notice of intent, a Disciplinary Panel will conduct a hearing concerning the summary suspension. Promptly after such hearing, the Disciplinary Panel will render a written decision based on the weight of the evidence contained in the record of the proceeding. The decision of a majority of the Disciplinary Panel will be the decision of the Disciplinary Panel. The SEF will serve copies of the written decision of the Disciplinary Panel on the respondent and the Compliance Department. The written decision will include the following information:
  - (a) A description of, and reasons for, the summary action taken;
  - (b) A summary of the evidence produced at the hearing;
  - (c) A statement of findings of fact and conclusions;
  - (d) A determination that the summary action should be affirmed, modified, or reversed; and

- (e) A declaration of any action to be taken pursuant to the determination, and the effective date and duration of such action.
- (5) Any decision of a Disciplinary Panel pursuant to this Rule 818 will be the final action of the SEF, and not subject to appeal within the SEF upon serving the respondent with a copy of the decision.
- (6) At the request of the SEF, a respondent who is summarily suspended pursuant to this Rule 818 must provide access to and/or copies of books and records over which the respondent has access or control, and must furnish information to, or appear or testify before, the SEF in connection with the enforcement of any Rule of the SEF.

## **819. Rights and Responsibilities After Suspension or Termination**

- (1) When the right of a Person to access the SEF is suspended for a period of 12 months or less, none of its rights will apply during the period of the suspension, except for (i) any right such Person may have to receive rebates or similar payments that were earned, prior to the suspension period, provided that such rebates or payments are not directly related to conduct giving rise to such suspension; or (ii) the right of the Person to assert claims against others as provided in the Rules. Any such suspension will not relieve such Person of its obligations under the Rules to perform any transactions entered into before the suspension, or for any SEF fees, costs, or charges incurred during the suspension. The SEF may discipline a suspended Person under this Chapter 8 for any violation of Applicable Law committed by it before, during, or after the suspension.
- (2) When the right of a Person to access the Trading System is terminated, all of its rights will terminate, except for the right of the Person in question to assert claims against others, as provided in the Rules. A terminated Trading Privilege Holder or other Person may only seek to reinstate its right to access the SEF by filing an application for participation in the SEF. The SEF will not consider the application of a terminated Person if such Person has failed to appear at Disciplinary Proceedings without good cause, or has impeded the progress of Disciplinary Proceedings.
- (3) A suspended or terminated Person remains subject to the Rules and the jurisdiction of the SEF for acts and omissions prior to the suspension or termination, and must cooperate in any inquiry, investigation, Disciplinary Proceeding, appeal of Disciplinary Proceedings, summary suspension, or other summary action as if the suspended or terminated Person still had the right to access the SEF.

## **820. Notice to the Respondent, the CFTC, and the Public**

The SEF will provide written notice of Disciplinary Proceedings to the parties and the CFTC consistent with CFTC Regulations. Requests for correspondence related to the aforementioned, such as tapes, transcripts and other related documents will be provided at the expense of the respondent. Any such requests from the CFTC will be provided gratis. Whenever the SEF suspends, expels, fines, or otherwise disciplines, or denies any Person access to the SEF, the SEF will make the public disclosures required by CFTC Regulations.

## Chapter 9. Recordkeeping and Reporting

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### 901. Recordkeeping Requirements

- (1) The SEF will capture and retain all transaction data, so as to be able to reconstruct all Indicative Orders, Requests for Quotes, Orders, and Transactions within a reasonable period of time and to provide evidence of any Rule violations.
- (2) The SEF will retain unalterable, sequentially identified records for all Transactions executed on the SEF. This includes all Bids/Offers, whether accepted, unaccepted, canceled or modified, and all acceptances of Bids/Offers.
- (3) The SEF shall maintain an electronic transaction history database, which includes a history of all Bids/Offers and Transactions, and also includes:
  - (a) All data that are input into the order entry system;
  - (b) The categories of Trading Privilege Holders for which each Transaction is executed, and by which each Transaction is executed, including whether the Trading Privilege Holder executed the Transaction for its own account;
  - (c) Timing and sequencing data adequate to reconstruct trading activity; and
  - (d) Identification of each Trading Privilege Holder to which fills are allocated.
- (4) The SEF will use the electronic transaction history database to reconstruct trading and identify possible Rule violations. The SEF will conduct an annual review of compliance with its audit trail and recordkeeping requirements and will identify Trading Privilege Holders that may have failed to comply with such requirements. Such Persons will be subject to investigation by the Compliance Department for possible disciplinary action. The annual review must include, but is not limited to, reviews of randomly selected samples of front-end audit trail data for order routing systems; a review of the process by which user identifications are assigned and user identification records are maintained; a review of usage patterns associated with user identifications to monitor for violations of user identification requirements; and reviews of account numbers and Customer Type Indicator Codes in transaction records to test for accuracy and improper use.
- (5) The SEF will safely store all data retained in the transaction history database in a manner that protects it from unauthorized alteration, as well as from accidental erasure or other loss.

### 902. Block Trade Reporting

Trades executed in accordance with Rule 510, unless otherwise exempted by a Rule, must comply with the following recordkeeping requirements:

- (1) Trading Privilege Holders involved in the execution of Block Trades must maintain written or electronic records of all such Block Trades, including an electronic timestamp reflecting the date and time each such Order was received as well as an electronic timestamp reflecting the date and time such Order was executed or cancelled.
- (2) As soon as technologically practicable after execution, the Reporting Party for the Block Trade must transmit to the SEF an electronic trade entry ticket that includes:
  - (a) Transaction details meeting the requirements of Rule 505(2);

- (b) The identity of the Counterparty or, if the Transaction was Intermediated, Counterparties;
- (c) Details regarding the Customer(s) for which the Transaction was executed, if applicable; and
- (d) A timestamp reflecting the date and time that such Transaction was executed.

### 903. SDR Reporting

- (1) The SEF will report Required Swap Creation Data to a Swap Data Repository for each Swap executed on or pursuant to the Rules of the SEF as soon as technologically practicable after execution. Required Swap Creation Data includes the Primary Economic Terms (PET) and Confirmation Data. The SEF may provide such Required Swap Creation Data to Trading Privilege Holders no earlier than the time it transmits such information to a Swap Data Repository and in a form that does not disclose the identities, or otherwise facilitate identification, of the parties to the Swap.
- (2) The Reporting Counterparty for each Swap executed on the Trading System shall be established pursuant to CFTC Regulation 45.8. If both Counterparties are equal in the hierarchy set out in CFTC Regulation 45.8 (for example, both are swap dealers), the Reporting Counterparty for such Swap shall be determined in accordance with Dodd Frank Act - Swap Transaction Reporting Party Requirements (version December 16, 2013 or such successor version as may be adopted from time to time), published by the International Swaps and Derivatives Association Inc.
- (3) The SEF shall from time to time designate a Swap Data Repository in respect of one or more Swaps in accordance with the Notice provisions of Rule 311.
- (4) Each Trading Privilege Holder and Authorized Person:
  - (a) Authorizes the SEF to send Required Swap Creation Data on its behalf and, if applicable, on behalf of its Customers to the relevant Swap Data Repository designated in accordance with Rule 903(3) and further agrees to take all such actions as are deemed necessary or required by such Swap Data Repository to facilitate or confirm such authorization; and
  - (b) Consents to the maintenance of such Required Swap Creation Data by the relevant Swap Data Repository designated in accordance with Rule 903(3).
- (5) The Reporting Counterparty for any uncleared Transaction, whether or not the Transaction is executed on the SEF, is responsible for reporting Required Swap Continuation Data to the relevant Swap Data Repository pursuant to CFTC Regulation 45.4(c). The SEF will have no obligation to fulfill any requirements to report Continuation Data for any Trading Privilege Holder, including valuation data.

## Chapter 10. Liability and Disclaimers of Liability

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### 1001. LIMITATION OF LIABILITY

- (1) EXCEPT TO THE EXTENT THAT A COURT OF COMPETENT JURISDICTION HAS FOUND IN A FINAL ADJUDICATION THAT ANY OF THE FOLLOWING PERSONS HAS ENGAGED IN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, THE SEF, ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS AND LICENSORS, SHALL NOT BE LIABLE TO ANY PERSON FOR ANY LOSSES, DAMAGES, COSTS OR EXPENSES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF USE, AND DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES) IN CONTRACT, TORT, NEGLIGENCE, FRAUD, STRICT LIABILITY, CONTRIBUTION OR OTHERWISE AND WHETHER THE CLAIM IS BROUGHT DIRECTLY OR AS A THIRD PARTY CLAIM, ARISING FROM:
  - (a) ANY FAILURE, MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION, TERMINATION, OR ANY OTHER CAUSE, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF ANY OF THE SYSTEMS AND SERVICES OF THE SEF (INCLUDING SUBSIDIARIES AND AFFILIATES), OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS AND SERVICES, INCLUDING WITHOUT LIMITATION ELECTRONIC ORDER ENTRY/DELIVERY, TRADING THROUGH ANY ELECTRONIC MEANS, ELECTRONIC COMMUNICATION OF MARKET DATA OR INFORMATION, WORKSTATIONS USED BY TRADING PRIVILEGE HOLDERS, PRICE REPORTING SYSTEMS AND ANY AND ALL TERMINALS, COMMUNICATIONS NETWORKS, CENTRAL COMPUTERS, SOFTWARE, HARDWARE, FIRMWARE AND PRINTERS RELATING THERETO; OR
  - (b) ANY FAILURE OR MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION OR TERMINATION, OR ANY OTHER CAUSE, OF ANY SYSTEM OR SERVICE OF THE SEF (INCLUDING SUBSIDIARIES AND AFFILIATES), OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, CAUSED BY ANY THIRD PARTIES INCLUDING, BUT NOT LIMITED TO, INDEPENDENT SOFTWARE VENDORS AND NETWORK PROVIDERS; OR
  - (c) ANY ERRORS OR INACCURACIES IN INFORMATION PROVIDED BY THE SEF (INCLUDING SUBSIDIARIES AND AFFILIATES) OR ANY SEF (INCLUDING SUBSIDIARIES AND AFFILIATES) SYSTEMS, SERVICES OR FACILITIES; EXCEPT FOR INCORRECT ORDER STATUS; OR
  - (d) ANY UNAUTHORIZED ACCESS TO OR UNAUTHORIZED USE OF ANY SEF (INCLUDING SUBSIDIARIES AND AFFILIATES) SYSTEMS, SERVICES OR FACILITIES BY ANY PERSON.
- (2) NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS (INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE) ARE PROVIDED BY THE SEF (INCLUDING SUBSIDIARIES AND AFFILIATES), ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS, OR LICENSORS RELATING TO ANY SYSTEMS OR SERVICES OF THE SEF (INCLUDING SUBSIDIARIES AND AFFILIATES) OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, INCLUDING, WITHOUT LIMITATION, THE TRADING SYSTEM.

- (3) ANY DISPUTE ARISING OUT OF THE USE OF SYSTEMS OR SERVICES OF THE SEF (INCLUDING SUBSIDIARIES AND AFFILIATES) OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES IN WHICH THE SEF (INCLUDING SUBSIDIARIES AND AFFILIATES), OR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS OR LICENSORS IS A PARTY MUST BE BROUGHT WITHIN ONE YEAR FROM THE TIME THAT A CAUSE OF ACTION HAS ACCRUED. ANY SUCH DISPUTE MAY ONLY BE LITIGATED IN THE COUNTY OF NEW YORK IN THE STATE OF NEW YORK AND WILL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO ANY PROVISIONS OF NEW YORK LAW THAT WOULD APPLY THE SUBSTANTIVE LAW OF A DIFFERENT JURISDICTION. THIS PARAGRAPH (3) SHALL IN NO WAY BE CONSTRUED TO CREATE A CAUSE OF ACTION AND SHALL NOT AUTHORIZE AN ACTION THAT WOULD OTHERWISE BE PROHIBITED BY THE RULES.
- (4) EXCEPT IN THE CASE OF GROSS NEGLIGENCE, WILLFUL MISCONDUCT, FRAUD, OBLIGATIONS TO MAINTAIN CONFIDENTIALITY, OR INDEMNIFICATIONS IN RESPECT OF INTELLECTUAL PROPERTY MATTERS, IN NO EVENT SHALL THE SEF'S (INCLUDING SUBSIDIARIES AND AFFILIATES) TOTAL COMBINED AGGREGATE LIABILITY FOR ALL CLAIMS ARISING OUT OF ANY NEGLIGENCE, FAILURES, MALFUNCTIONS, FAULTS IN DELIVERY, DELAYS, OMISSIONS, SUSPENSIONS, INACCURACIES, INTERRUPTIONS, TERMINATIONS, ORDER STATUS ERRORS OR ANY OTHER CAUSES, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF ANY OF THE SEF'S (INCLUDING SUBSIDIARIES AND AFFILIATES) SYSTEMS OR SERVICES, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS AND SERVICES, OR THE NEGLIGENCE OF SEF (INCLUDING SUBSIDIARIES AND AFFILIATES) STAFF, EXCEED \$25,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED BY ALL PERSONS ON A SINGLE DAY; \$100,000 FOR ALL LOSSES SUFFERED BY ALL PERSONS FROM ALL CAUSES IN A SINGLE CALENDAR MONTH; AND \$250,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED BY ALL PERSONS IN A SINGLE CALENDAR YEAR.
- (5) A CLAIM AGAINST THE SEF (INCLUDING EACH OF THEIR RESPECTIVE SUBSIDIARIES AND AFFILIATES), ARISING OUT OF ANY FAILURE OR MALFUNCTION SHALL ONLY BE ALLOWED IF SUCH CLAIM IS BROUGHT IN ACCORDANCE WITH THIS RULE.
- (6) NOTWITHSTANDING THE FOREGOING, THE LIMITATION OF LIABILITY PURSUANT TO THIS RULE 1001 IS LIMITED TO CLAIMS ARISING OUT OF THE SEF'S (INCLUDING SUBSIDIARIES AND AFFILIATES) OPERATION OF THE SEF AND/OR PROVISION OF SERVICES TO THE SEF AND, FOR THE AVOIDANCE OF DOUBT, SHALL NOT LIMIT ANY PARTY'S LIABILITY AS PRINCIPAL TO TRADES EXECUTED ON THE SEF.

## 1002. Force Majeure

The SEF shall not be liable for any failure, hindrance or delay in performance in whole or in part of its obligations under the Rules or (subject to the terms of the relevant Swap) of any Swap if such failure, hindrance or delay arises out of events or circumstances beyond its control. Such events or circumstances may include, but are not limited to, a change of law or regulation which in the SEF's opinion would render a Trading Privilege Holder's or Customer's participation in the SEF or service rendered by the SEF, illegal or impractical or adversely affect the ability of such Trading Privilege Holder or Customer to perform its obligations under the Rules or a Swap, acts of God or a public enemy, acts of a civil or military authority, embargoes, fire, flood, labor dispute, unavailability or restriction of computer or data processing facilities, energy supplies, settlement systems or of bank transfer systems or wires, and any other causes beyond the parties' reasonable control.



### **1003. Anti-Money Laundering**

It is LatAm 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.

### **1004. Confidentiality of LatAm SEF Intellectual Property**

Each Trading Privilege Holder hereby acknowledges and agrees that the SEF owns and shall retain all right, title and interest in and to the Trading System, all components thereof, including without limitation all related applications, all application programming interfaces, user interface designs, software and source code and any and all intellectual property rights therein, including, without limitation all registered or unregistered, as applicable copyright, trade mark, service mark, trade secret, trade name, data or database rights, design rights, moral rights, inventions, whether or not capable of protection by patent or registration, rights in commercial information or technical information, including know-how, research and development data and manufacturing methods, patent, and other intellectual property and ownership rights, including applications for the grant of any of the same, in or to the Trading Platform and all other related proprietary rights of the SEF and/or any of its Affiliates (together, with any and all enhancements, corrections, bug fixes, updates and other modifications to any of the foregoing and any and all data or information of any kind, other than proprietary data, confidential data, and Participant Data, transmitted by means of any of the foregoing, "SEF Intellectual Property"). Each Trading Privilege Holder, on behalf of itself and each of its Affiliates and other Persons affiliated with any of the foregoing, further acknowledges and agrees that the SEF Intellectual Property is the exclusive, valuable and confidential property of the SEF. Each Trading Privilege Holder acknowledges and agrees that it shall not and shall not permit its Affiliates, Authorized Persons and other Persons affiliated with any of the foregoing to, reverse engineer, copy, bug fix, correct, update, transfer, reproduce, republish, broadcast, create derivative works based on or otherwise modify, in any manner, all or any part of the Trading System or the SEF Intellectual Property. Each Trading Privilege Holder, further agrees to and to cause each of its Affiliates, Authorized Persons and other Persons affiliated with any of the foregoing, to keep the SEF Intellectual Property confidential and not to transfer, rent, lease, loan, sell or distribute, directly or indirectly, all or any portion of the Trading System or any SEF Intellectual Property.



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