

CLEARING PROCEDURES

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CONSULTATION DRAFT

1. SYSTEMS

- 1.1 These Clearing Procedures are "Procedures" as defined in the ICE Clear Singapore Pte. Ltd. rules (the "**Rules**") and are subject to the Rules, including, without limitation, Rule 102. These Clearing Procedures, and all non-contractual obligations arising out of or in connection with them, are governed by and shall be construed in accordance with Singapore law and any Dispute arising under these Clearing Procedures will be subject to arbitration under Rule 117.
- 1.2 The Clearing House's primary systems, to which Clearing Members require interfaces, consist of:
- (a) Post-trade administration/clearing and settlement processing: ICE clearing systems including ICE Clear Singapore's Extensible Clearing System ("**ECS**"), Assured Payment System ("**APS**"), Post Trade Management System ("**PTMS**"), Allocation and Claim Transaction System ("**ACT**"), and Guardian (the "**ICE Post Trade and Clearing Systems**" or the "**ICE Systems**");
 - (b) Risk management: the ICE Systems and SPAN®*;
 - (c) Banking: ECS;
 - (d) Deliveries: Guardian; and
 - (e) Billing: ICE in-house system.
- 1.3 These Clearing Procedures deal primarily with matters relating to post-trade administration, clearing and settlement and risk management. Details relating to finance and deliveries are set out in the Finance Procedures and Delivery Procedures respectively.
- 1.4 Clearing Members should immediately inform the Clearing House of any event, system-related or otherwise, that would prevent them from operating timely and accurately on the Markets cleared by the Clearing House. Clearing Members must, at all times, ensure that they are able to continuously monitor communication facilities for receipt of communications from the Clearing House.

2. TRADE CLEARING AND POSITION MANAGEMENT

- 2.1 The Clearing Systems
- (a) The components of the ICE Systems are licensed to, and supplied and maintained for the benefit of, the Clearing House. The ICE Systems are integrated trade registration and clearing processing systems used for the clearing of the relevant Market.
 - (b) The ICE Systems work together to process transactions from the time of trading and entry into the system, through the maintenance and settlement of Open Contract Positions, the calculation of Margin, and the delivery/expiry of Contracts.
- 2.2 Trade registration and clearing process
- (a) The instant a Contract arises pursuant to Rule 401, the Clearing House becomes the buyer to the Selling Counterparty and the seller to the Buying Counterparty.
 - (b) Data in relation to matched trades will automatically pass to the ICE Systems.

* SPAN is a registered trademark of Chicago Mercantile Exchange Inc., used herein under license. Chicago Mercantile Exchange Inc. assumes no responsibility in connection with the use of SPAN by any person or entity. SPAN is a risk evaluation and margin framework algorithm.

- (c) The ICE Systems receive details of trades in real-time from the relevant Market. It allows Clearing Members and their Representatives to perform the following functions, among others:
- (i) assign trades to one of various accounts described below;
 - (ii) allocate trades to other Clearing Members (within one hour of trading) as allowed under Rule 408(a)(ii) and Market Rules or between position keeping accounts;
 - (iii) accept trades allocated or split by other Clearing Members (within one hour of trading) as allowed under Rule 408(a)(ii) and Market Rules;
 - (iv) allocate or split trades between different position keeping accounts;
 - (v) enter position settlement instructions;
 - (vi) input consolidation crosses in order to consolidate trades at various prices into average prices; and
 - (vii) view trading history and status of trades.
- (d) Clearing Members should refer to the ICE Systems user guides for more detailed information concerning the ICE Systems' functionality.
- (e) The ICE Systems will allow Clearing Members and their Representatives to perform the following functions, among others:
- (i) monitor Open Contract Positions;
 - (ii) close out open Contracts by netting off equal and opposite Contracts in its Customer Account;
 - (iii) process physical delivery of commodities pursuant to Futures Contracts; and
 - (iv) review Margin requirements.
- (f) A number of reports are available in the ICE Systems, the list and details of which are available in the ICE Systems user guide.
- (g) In the event of any system errors or other systemic issues connected with the ICE Systems, Clearing Members should contact the Clearing House's operations department.
- (h) In the event of any processing errors or error in communications with the Clearing House, Clearing Members should contact the Clearing House's operations department.

2.3 Position keeping

- (a) Position-keeping activities are governed by Market Rules. In the event of any conflict between these Clearing Procedures and Market Rules in relation to position-keeping, Market Rules shall prevail.
- (b) Open Contract Positions can be maintained in several accounts within the ICE Systems, identified in the ICE Systems by one letter as follows:

Accounts linked to a Proprietary Account for purposes of the Rules:

- (i) H – House;

- (ii) [Not used.];
- (iii) [Not used.];
- (iv) D - Default (trades not assigned to a specific account or sought to be allocated but left unclaimed by another Clearing Member will automatically clear in the default account);
- (v) T – Segregated (gross-maintained sub-account with no automatic contractual netting e.g. may be used by Clearing Members for transactions entered into on behalf of their Affiliates);
- (vi) U – Unallocated (for intra-day usage only); and
- (vii) [Not used.]
- (viii) such other accounts as are made available to Clearing Members for Proprietary Accounts by the Clearing House.

Account linked to a Customer Account:

- (ix) S (and C) - Segregated Customer - maps to a Customer Account.
 - (x) [Not used.]
 - (xi) [Not used.]
- (c) Clearing Members may maintain separate position-keeping accounts for each Exchange member for whom they provide clearing services.
 - (d) Where a Clearing Member holds accounts of Exchange members who are not Clearing Members, the mapping of these accounts to a Customer Account or Proprietary Account will be determined by the Clearing Member in conjunction with the relevant Market.

2.4 Open Contract Positions and Close-outs

- (a) The House (H) will only reflect net Open Contract Positions.
- (b) The Default (D), Segregated (T) and Customer Account (S/C) hold gross Contracts, showing all sell and all buy positions that have not been netted or closed out (in the case of position-keeping accounts linked to a Customer Account to the extent that there is more than one Customer interested in the Account). The ICE Systems and Rule 406 allow Clearing Members to close out opposite Contracts that are held gross in certain circumstances. In order to ensure a true representation of Open Contract Positions, Clearing Members may be required to perform manual close-outs (netting) in the accounts where gross Open Contract Positions are maintained, in accordance with the Rules. Clearing Members are responsible for inputting any required manual netting or close-out instructions in relation to such accounts.
- (c) Any close-outs should be performed in a fashion and at a time in accordance with Market Rules. Position transfers between accounts in the ICE Systems must be complete at or before the time specified by the relevant Market from time to time in order to be reflected in Open Contract Positions.
- (d) For Clearing Members, Customer-CM Transactions arise only in respect of transactions recorded in a position-keeping account linked to a Customer Account.

2.5 Invoicing Back, Void Contracts, etc.

- (a) Any Contracts that are subject to Invoicing Back will be reflected by the entry into by the Clearing House through the ICE Systems of a new Contract of opposite effect to the original Contract (or pursuant to such other terms or prices as are determined by the Clearing House pursuant to the Rules). Clearing Members will be notified of Contracts subject to Invoicing Back or amendment by the Clearing House's operations department. Each such event will be confirmed in writing.
- (b) Any Contracts that are void or voided will be deleted from the ICE Systems by the Clearing House. Clearing Members will be notified of Contracts which are void or voided by the Clearing House's operations department. Each such event will be confirmed in writing.
- (c) The Clearing House may make other trade or Open Contract Position adjustments as directed by the relevant Market. In each such event, the Clearing House's operations department will contact the Clearing Member and confirm such adjustment in writing.

3. FINANCIAL ACCOUNTS

3.1 Margining accounts

- (a) While Open Contract Positions are held in several different accounts through the ICE Systems, the margining of Open Contract Positions will take place as follows:
 - (i) H, D, T, U and any other accounts established pursuant to Paragraph 2.3(b)(viii) will be margined together via the House (H) account (referred to as a "Proprietary Account" under the Rules); and
 - (ii) S/C will be margined via a Customer Account.
- (b) Each separate Proprietary Account and Customer Account will be subject to calculations and calls for Margin separately. Transfers or offsets between any two such accounts will not be possible. These accounts are also all treated separately following any Event of Default, under Part 9 of the Rules.
- (c) Records of all financial information including, but not limited to, Margin requirements, cash balances, collateral, contingent Margin, Buyer's security and Seller's security will be held in ECS within the ICE Systems. The naming convention for the accounts in ECS used for Contracts will be the Clearing Member's three letter mnemonic followed by the account type (e.g. XXXH for a Proprietary Account).
- (d) Clearing Members can find more information about ECS functions and facilities in the ICE Systems user guide.

3.2 [Not used.]

Table A: Summary of Account Codes

Position Account	ICE Systems Term	ECS Term	ECS Account name	Rulebook
H U T D	House Unallocated Segregated Default	House Account (H)	XXXH (may also be referred to as HOUSE segregation)	Proprietary Account
S C	Segregated Customer Segregated Customer	General Client Account (C)	XXXC (may also be referred to as CSEG segregation)	Customer Account

4. MARGIN PROCEDURES

4.1 General

The matters described in this Paragraph 4 will be recorded through ECS and will form part of the Clearing House's daily Margin processes. Margin requirements will determine whether funds are needed to be paid to, or received from, the relevant Clearing Member. Any required payments will be effected through Approved Financial Institutions that participate in the APS, as described in the Finance Procedures.

4.2 Original Margin

- (a) Original Margin calculations are made separately in respect of each of a Clearing Member's Proprietary Account and Customer Account. No Margin offset is possible between any of these accounts. Original Margin calculations for a Proprietary Account will be applied to net positions for each Contract Set rather than the sum of the gross positions for a Set. Original Margin requirements for a Customer Account will be based on the net positions for a Set of each underlying Customer where reported to the Clearing House or the sum of the gross positions for a Set where individual Customer positions are not reported to the Clearing House.
- (b) Original Margin parameters are set by the Clearing House within the framework of the policy reviewed by the Clearing House's Risk Committee.
- (c) The Clearing House will notify Clearing Members of any change to Original Margin parameters by Circular no later than the day before calls are made based on the new parameters. For routine changes, the Clearing House will provide five Business Days' advance notice of changes to Margin parameters, unless another period is specified in the relevant Circular.
- (d) Original Margin requirements will be calculated overnight at a time notified to Clearing Members on a daily basis, for both Proprietary Accounts and Customer Accounts, using the SPAN® algorithm.

4.3 Variation Margin

All open Contracts are marked to market daily in accordance with the Contract Terms (which includes any applicable Market Rules). Profits and losses are credited to or debited from the relevant Nominated Customer Bank Account or Nominated Proprietary Bank Account of each Clearing Member as set out in the Finance Procedures.

4.4 [Not used.]

4.5 Cash Settlement

- (a) When it reaches maturity, a Contract can give rise either to cash settlement (if determined by the Contract Terms or, where permitted by the Contract Terms, if the Clearing Member opts out of the delivery via EFP) or delivery obligations.
- (b) Cash settlement for Contracts will be determined by the difference between the Exchange Delivery Settlement Price and the previous day's Exchange Delivery Settlement Price, as determined in accordance with Part 7 of the Rules.
- (c) Details relating to deliveries for Contracts are set out in the Delivery Procedures.

4.6 [Not used.]

4.7 [Not used.]

4.8 [Not used.]

4.9 Intra-day or *ad hoc* margin calls

If market conditions dictate, the Clearing House may decide to proceed to an intra-day or *ad hoc* Margin call for certain, or all, Contract Sets or for all or particular Clearing Members. In the event of an intra-day or *ad hoc* call applying, any increased Margin requirements will be reflected in ECS. If there is a shortfall, ECS will generate a call which must be met in accordance with the Finance Procedures. Affected Clearing Members will be informed of the call by the Clearing House and such call will be confirmed by email to a designated e-mail account of each affected Clearing Member.

4.10 Contingency Holidays

If there is a bank holiday in the country of a particular currency, the Clearing House will call cash in another currency, as described in the Finance Procedures.

5. [NOT USED.]

6. CUSTOMER CLEARING

6.1 Open Contract Positions and accounts:

(a) Provided that no Event of Default has been declared with respect to the Clearing Member, in the event of the termination of a Customer-CM Transaction (including but not limited to as a result of a default by a segregated Customer under the terms of a Cleared Transactions Master Agreement), the Clearing Member may, to the extent permitted under Applicable Law:

(i) request of the Clearing House that a Customer Account Position or any part thereof be transferred into a Contract in its Proprietary Account (in which case, for the avoidance of doubt, the Proprietary Position Account will reflect, and Rule 406 will apply to, such transferred Contracts); or

(ii) submit to the Clearing House particulars in respect of offsetting Transactions, one leg of which is to be recorded in a Customer Position Account (in which case, for the avoidance of doubt, the resultant Contract may be offset against Contracts in the same sub-account which relate to such Customer, pursuant to Rule 406).

For the avoidance of doubt, Rule 302 and the Finance Procedures apply in relation to the return of any Surplus Collateral at the Clearing House resulting from the termination of any Contract.

6.2 Transfer of Contracts absent an Event of Default:

(a) Each Clearing Member (other than a Defaulter) with a Customer Account (the "**Transferor Clearing Member**") shall be required, upon request of a Customer to transfer such Clearing Member's rights and obligations with respect to Contracts recorded in its Customer Account (and any related Customer-CM Transactions) to one or more other Clearing Member (the "**Transferee Clearing Member**") designated by such Customer subject to the provisions of this Paragraph 6.2 and, to the extent not inconsistent with this Paragraph 6.2, to any terms agreed between the Transferor Clearing Member and Customer. Such transfer shall be effected as soon as practicable following satisfaction of the conditions set forth in paragraph 6.2(b).

(b) A transfer pursuant to Paragraph 6.2(a) shall be subject to the following conditions:

- (i) the Transferor Clearing Member shall have no obligation to locate or identify a Transferee Clearing Member (which shall be the responsibility of the Customer);
 - (ii) the transfer must be in accordance with Applicable Laws, including any applicable Market Rules, and, to the extent permitted thereunder, any applicable agreement between the Transferor Clearing Member and Customer;
 - (iii) the Transferor Clearing Member, Transferee Clearing Member and Customer shall, through an Exchange or the ICE Systems, have agreed and executed and submitted to the Clearing House an electronic transfer confirmation (the "**Transfer Confirmation**") in a form approved by the Clearing House (which may be written or electronic) which may include the following:
 - (A) the relevant Contracts to be transferred (the "**Transferred Contracts**") and the corresponding Customer-CM Transactions, if any, to be transferred;
 - (B) the proposed transfer date (the "**Transfer Date**"), which shall be no earlier than the Business Day of submission of the Transfer Confirmation to the Clearing House and shall be a Business Day;
 - (C) whether relevant Original Margin of the Transferor Clearing Member recorded in the relevant Margin Account in respect of the Transferred Contracts is to be transferred to or to the account of the Transferee Clearing Member or returned to the Transferor Clearing Member for distribution to the Customer or to its account or order;
 - (D) the amount of such Original Margin, if any, to be so transferred or returned in respect of the Transferred Contracts; and
 - (E) such other matters as the Clearing House may specify;
 - (iv) prior to the applicable transfer time determined by the Clearing House on the Transfer Date (such time, the "**Transfer Time**"), if required by the Clearing House, each of the Transferor Clearing Member and the Transferee Clearing Member shall have transferred additional Margin in the amount specified by the Clearing House to satisfy any additional Margin requirements as a result of the proposed adjustments in Open Contract Positions in relevant Accounts resulting from the proposed transfer; and
 - (v) the Clearing House has accepted such Transfer Confirmation, and the Transferor Clearing Member and Transferee Clearing Member have satisfied such other conditions as the Clearing House may have specified.
- (c) If such conditions are satisfied, then as of the Transfer Time, the transfer shall occur as set forth in the Transfer Confirmation in relation to the Transferred Contracts and corresponding Customer Transactions, if any, and Rule 408(a)(i), and the Clearing House shall:
- (i) adjust the records of the Open Contract Positions in the relevant Account of the Transferor Clearing Member so as to reflect the transfer of the Transferred Contracts;
 - (ii) adjust the records of the Open Contract Positions in the relevant Account of the Transferee Clearing Member so as to reflect the transfer of the Transferred Contracts;
 - (iii) adjust the Margin requirements of relevant Accounts to reflect such adjustments of Open Contract Positions; and

- (iv) record the transfer of any Margin to be transferred from an Account of the Transferor Clearing Member to an Account of the Transferee Clearing Member or return such Margin to the Transferor Clearing Member for distribution to the relevant Customer or to its account or order, as specified in the Transfer Confirmation.
- (d) Notwithstanding anything to the contrary herein, no Clearing Member shall be required to accept a transfer of any Transferred Contracts as a Transferee Clearing Member without such Clearing Member's consent.
- (e) [Not used.]
- (f) Notwithstanding anything to the contrary herein or in any Transfer Confirmation, if an Event of Default occurs with respect to a Transferor Clearing Member prior to the transfer becoming irrevocable pursuant to Part 12 of the Rules, such transfer (and any related Transfer Confirmation) will be cancelled and of no effect and the Clearing House will not adjust the related Open Contract Positions pursuant to this Paragraph 6.2.
- (g) Unless otherwise agreed between the Transferor Clearing Member and the Customer and subject to any applicable legal or regulatory requirements, the Customer must satisfy in full, at or prior to the proposed Transfer Time, any margin requirements ("**Pre-Transfer Margin Requirements**") imposed by the Transferor Clearing Member with respect to:
 - (i) any remaining Customer-CM Transactions; and
 - (ii) if the Customer and Transferor Clearing Member have expressly agreed (whether orally or in writing) to determine the margin requirements for contracts, transactions or positions of that Customer other than Customer-CM Transactions or Contracts (collectively, "**Non-cleared Positions**") by taking into account the margin requirements for the Customer-CM Transactions being transferred, such Non-cleared Positions;

in each case calculated after giving effect to such transfer. If there is an express agreement (whether written or oral) between the Transferor Clearing Member and the Customer with respect to the margining that will be imposed on Customer Transactions or Non-cleared Positions, the Transferor Clearing Member shall determine the Pre-Transfer Margin Requirements in accordance with the terms of such agreement. So long as: (x) the Pre-Transfer Margin Requirements specified in this Paragraph 6.2(g) are satisfied; and (y) no event of default has occurred with respect to the Customer under the applicable Cleared Transactions Master Agreement, no consent of the Transferor Clearing Member shall be required for such transfer.

6.3 Margin

- (a) If Customer-CM Collateral is not in the form of Permitted Cover, the relevant Clearing Member shall remain obliged to transfer only Permitted Cover to the Clearing House and to account accordingly for any transformation of assets with its Customer (without prejudice to arrangements under which fees or rates of return may be determined) in accordance with the relevant Standard Terms.
- (b) Any additional Customer-CM Collateral (beyond the Clearing House's requirement) required by a Clearing Member of a Customer may be held in any lawful manner as agreed between a Customer and Clearing Member. Subject to such agreement, such collateral may, but is not required hereunder to, be transferred to a Customer Margin Account of the Clearing Member and will, if so transferred, be treated as Surplus Collateral to the extent that a greater value of Permitted Cover is credited to the relevant Customer Margin Account than the Margin requirement for that Customer Margin Account.

6.4 Data in relation to Customer Clearing

- (a) Each Clearing Member shall keep and maintain written or electronic records showing, with respect to its Customer Account:
 - (i) the identity of each of its Customers;
 - (ii) all Default Portability Preferences of each of its Customers; and
 - (iii) such other information as may be requested by the Clearing House in accordance with the Rules or these Clearing Procedures from time to time.
- (b) Each Clearing Member shall provide any data of a nature described in Paragraph 6.4(a) to the Clearing House promptly upon demand. Data relating to the identity of Customers or Default Portability Preferences may be requested by the Clearing House with reference to anonymous customer serial codes. Each Clearing Member shall provide accurate information to any Exchange for purposes of identifying its Customers. Each Clearing Member and Customer consents to an Exchange providing all such information as is referred to in Paragraph 6.4(a) to the Clearing House.
- (c) Each Clearing Member that has a Customer Account shall request each of its Customers to specify a Default Portability Preference or confirm that it has not specified a Default Portability Preference. Clearing Members and the Clearing House acknowledge that a Customer may designate permitted Transferee Clearing Members at any time prior to or after an Event of Default being declared in relation to a Clearing Member.

7. TERMS APPLICABLE TO POSITION TRANSFERS

7.1 Additional defined terms

In this Paragraph 7 only:

- (a) The term "**Novation**" or "**Position Transfer**" means a transfer by way of novation of Novating Contracts from a Position Transferor to a Position Transferee pursuant to Rule 408(a)(i), Part 12 of the Rules or Paragraph 6 of these Clearing Procedures and this Paragraph 7 of the Clearing Procedures.
- (b) The term "**Novation Time**" means the novation time specified by the Clearing House for a Novation of particular Novating Contracts which will be communicated to the Position Transferor and Position Transferee by the Clearing House.
- (c) The term "**Novating Contract**" means a Contract between a Position Transferor and the Clearing House which is open immediately prior to the Novation Time and which has not, as at the Novation Time, been cash settled or otherwise performed, discharged or closed out, void, voided, terminated or rescinded in full, and which is to be subject to a Novation, or a Contract between a Position Transferee and the Clearing House arising as a result of the same Novation (as applicable).
- (d) The term "**Position Transferee**" means a Clearing Member which is party to a Position Transfer as transferee.
- (e) The term "**Position Transferor**" means a Clearing Member which is party to a Position Transfer as transferor.

7.2 General

- (a) Rules 408(a)(i) and Part 12 of the Rules set out various provisions applicable to the transfer or novation of Contracts between Position Transferors and Position Transferees and to Position Transfer Orders. This Paragraph 7 sets out the terms of the novation and transfer under which all Position Transfers will take place.
- (b) Each Position Transferor and Position Transferee will be deemed to agree to the application of the terms set out in this Paragraph 7 in respect of each Position Transfer to which it is a party.
- (c) Each Position Transferor and Position Transferee shall ensure that immediately prior to the time at which any Position Transfer Order becomes irrevocable:
 - (i) it has made all due payments to the Clearing House in respect of Margin, including, if it is a Position Transferee, any additional pre-funded Margin required by the Clearing House in respect of the Contracts expected to arise as a result of the Novation, or if it is a Position Transferor, any additional pre-funded Margin required by the Clearing House arising from the proposed termination of the Novating Contracts recorded in its accounts; and
 - (ii) legally binding and enforceable agreements are in place to the extent necessary with all third parties that are affected by the Position Transfer and all necessary notices have been served on such third parties in order for the Position Transfer to take place at the Novation Time in accordance with the Rules and this Paragraph 7.

7.3 Novation Terms

- (a) On and as from the Novation Time, the following shall take place by operation of this provision:
 - (i) the Position Transferor releases and discharges the Clearing House from all covenants, undertakings, warranties and other obligations of the Clearing House pursuant to each of the Novating Contracts and (subject to Paragraph 7.3(a)(vii)) from all claims and demands whatsoever or howsoever arising out of or in respect of each of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time;
 - (ii) the Clearing House releases and discharges the Position Transferor from all covenants, undertakings, warranties and other obligations of the Position Transferor pursuant to each of the Novating Contracts and (subject to Paragraph 7.3(a)(viii)) from all claims and demands whatsoever or howsoever arising out of or in respect of each of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time;
 - (iii) the Position Transferee assumes in favour of the Clearing House and shall be vested with all the liabilities of the Position Transferor to the Clearing House whatsoever arising out of or under each of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time, agrees to perform all the duties and to discharge all the obligations of the Position Transferor under each of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time and agrees to be bound by all the terms and conditions of the Novating Contracts in every way as if the Position Transferee had been party to each of the Novating Contracts from inception instead of the Position Transferor;
 - (iv) the Clearing House agrees to perform all its duties and discharge all its obligations under the Novating Contracts and to be bound by all the terms and conditions of the Novating Contracts in every way as if the Position Transferee had been party to each of the Novating Contracts from inception instead of the Position Transferor;

- (v) subject to Paragraphs 7.3(a)(vii) and (viii), the Position Transferor and the Position Transferee shall be deemed to acknowledge and agree that the Clearing House shall on and as from the Novation Time have the right to enforce each of the Novating Contracts and pursue all claims and demands whatsoever or howsoever arising out of or in respect of each of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time as if the Position Transferee had been party to each of the Novating Contracts from inception instead of the Position Transferor;
 - (vi) subject to Paragraphs 7.3(a)(vii) and (viii), the Clearing House and the Position Transferor shall be deemed to acknowledge and agree that the Position Transferee shall on and as from the Novation Time have the right to enforce all of the Novating Contracts and pursue all claims and demands whatsoever or howsoever arising out of or in respect of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time as if the Position Transferee had been party to the Novating Contracts from inception instead of the Position Transferor;
 - (vii) the Novation shall not affect any complaints made prior to the Novation Time or to be made by the Position Transferor against the Clearing House in relation to any matter or event occurring or circumstance arising prior to the Novation Time or any Dispute relating to any matter or event occurring or circumstance arising prior to the Novation Time, other than a claim or demand for payment of an amount due but unpaid at the Novation Time pursuant to the terms of a Novating Contract;
 - (viii) the Novation shall not affect any disciplinary, legal or other proceedings commenced against the Position Transferor by the Clearing House prior to the Novation Time or the right of the Clearing House to bring disciplinary, legal or other proceedings against the Position Transferor in relation to any matter or event occurring or circumstance arising (in whole or in part) prior to the Novation Time or any Dispute relating to any matter or event occurring or circumstance arising (in whole or in part) prior to the Novation Time, other than a claim or demand for payment of an amount due but unpaid at the Novation Time pursuant to the terms of a Novating Contract; and
 - (ix) the Clearing House, Position Transferor and Position Transferee shall each be deemed to agree that all materials, communications and instructions (whether written, electronic or oral) relating to or made in connection with any Novating Contract produced or used by any of them and all references in any Novating Contract to such contract shall be construed as a reference to the relevant Novating Contract after the Novation.
- (b) Subject to Paragraphs 7.3(a)(vii) and (viii), the Clearing House, Position Transferor and Position Transferee each shall be deemed hereby to agree and acknowledge that, as between them, each Novating Contract shall be construed for all purposes on and after the Novation Time as if it had, from its inception, always been the subject of the Novation and the amendments given effect to pursuant to this Paragraph 7, regardless of the date on which any event, matter, notice, circumstance, dispute or difference under the Novating Contract occurred or arose or was or is deemed to occur or arise.
- (c) The Position Transferor and the Clearing House, and the Position Transferee and the Clearing House shall each hereby be deemed to agree and acknowledge to each other that, at the Novation Time and without the need for any further act on behalf of either of them, any and all requirements of the Rules or Applicable Law and all requirements for notices and other formalities in relation to the Novation of the Novating Contracts pursuant to this Paragraph 7 under the terms of such Novating Contracts have been satisfied or, to the extent not satisfied, are hereby waived. As from the time at which the Position Transfer Order becomes

irrevocable, the Clearing House shall be deemed to have provided its consent to the Novation for purposes of Rule 408(a)(i).

- (d) The Position Transferor shall make available to the Clearing House such data relating to the Novation and Novating Contracts that is in the Position Transferor's control as the Clearing House may reasonably request in order to give effect expeditiously to the Novation or to carry out its obligations under the Rules or Applicable Law.
- (e) Notwithstanding any communication that the Position Transferor or Position Transferee may have had with any other party, each of the Position Transferor and Position Transferee shall hereby be deemed to represent and warrant to the Clearing House as at the Novation Time that:
 - (i) it is not relying upon any representation or warranty of the Clearing House or any other Clearing Member except any representation or warranty expressly set out in the Rules or Procedures;
 - (ii) it has consulted with its own legal, regulatory, tax, business, financial and accounting advisers to the extent that it has deemed necessary and agrees to the Novation based upon its own judgment and upon any advice from its advisors as it has deemed necessary and not upon any view or advice expressed by the Clearing House;
 - (iii) it is entering into the Novation with a full understanding of the terms and conditions and risks thereof and it is capable of and willing to assume those risks.
 - (iv) it has the power to execute and effect the Novation and any documents that may be required to effect the Novation, and to perform its obligations under the Rules, all Contracts to which it is party and this Paragraph 7 and all necessary action to authorise such execution, delivery and performance has been taken;
 - (v) the execution, delivery and performance of the Novation do not violate or conflict with any Applicable Law applicable to it, any provision of its constitutional documents, any order or judgment of any court or Governmental Authority applicable to it or any of its assets or any contractual restriction binding on or affecting any of its assets; and
 - (vi) all consents of any Governmental Authority or other Person that are required to have been obtained by it with respect to the Novation have been obtained and are in full force and effect and all conditions of any such consents have been complied with.