

In accordance with
Sections 859A and
859J of the Companies
Act 2006 as applied by
The Limited Liability
Partnerships (Application
of Companies Act 2006)
Regulations 2009

LL MR01

Laserform

Particulars of a charge created by a Limited Liability Partnership (LLP)

A fee is payable with this form.
Please see 'How to pay' on the
last page

You can use the WebFiling service to file this form online
Please go to www.companieshouse.gov.uk

☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument

☒ **What this form is NOT for**
You may not use this form to
register a charge where there is no
instrument Use form LL MR08

For further information, please
refer to our guidance at
www.companieshouse.gov.uk

This form **must be delivered to the Registrar for registration within
21 days** beginning with the day after the date of creation of the charge
delivered outside of the 21 days it will be rejected unless it is accompan
court order extending the time for delivery

☒ You **must** enclose a certified copy of the instrument with this form. This
scanned and placed on the public record **Do not send the original.**



A05

A4KDKQCH

17/11/2015

#237

COMPANIES HOUSE

TUESDAY

1

LLP details

LLP number

O C 3 7 7 6 8 1

LLP name in full

ABJ Trading LLP

8 For official use

→ **Filling in this form**
Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2

Charge creation date

Charge creation date

d 1 1 m 1 1 y 2 0 y 1 5

3

Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge

Name

E D & F Man Capital Markets Limited (01292851)

Name

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge

LL MR01

Particulars of a charge created by a Limited Liability Partnership (LLP)

4

Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument

Brief description

None

Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument"

Please limit the description to the available space

5

Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☒ Yes

☐ No

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☒ Yes Continue

☐ No Go to Section 7

Is the floating charge expressed to cover all the property and undertaking of the LLP?

☐ Yes

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the LLP from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ Yes

☐ No

8

Trustee statement ¹

You may tick the box if the LLP named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

¹ This statement may be filed after the registration of the charge (use form LL MR06)

9

Signature

Please sign the form here

Signature

Signature

X HAYER BROWN INTERNATIONAL LLP X

This form must be signed by a person with an interest in the charge

LL MR01

Particulars of a charge created by a Limited Liability Partnership (LLP)



Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name **Lynette Edwin**

LLP name **Mayer Brown International LLP**

Address **201 Bishopsgate**

Post town

County/Region **London**

Postcode **S E 2 5 4 H H**

Country **United Kingdom**

DX **556 London and City**

Telephone **+44 20 3130 3000**



Certificate

We will send your certificate to the presenter's address if given above or to the LLP's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The LLP name and number match the information held on the public Register
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee
- ☐ Please do not send the original instrument, it must be a certified copy



Important information

Please note that all information on this form will appear on the public record.



How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House'.



Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below:

For LLPs registered in England and Wales

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For LLPs registered in Scotland:

The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For LLPs registered in Northern Ireland:

The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 N R Belfast 1



Further information

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

LLP number: OC377681

Charge code: OC37 7681 0008

The Registrar of Companies for England and Wales hereby certifies that a charge dated 11th November 2015 and created by ABJ TRADING LLP was delivered pursuant to Part 25 of the Companies Act 2006 as applied by the Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 on 17th November 2015

Dx

Given at Companies House, Cardiff on 23rd November 2015



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**



**Capital
Markets**

CERTIFIED A TRUE COPY
OF THE ORIGINAL

DATED 13/11/2015

SIGNED Mayer Brown International LLP
Mayer Brown International LLP

ABJ Trading LLP
1st Floor Midas House
2 Knoll Rise
Orpington, Kent BR6 OEL

November 11, 2015

Dear Sirs,

Cash Account Number. [REDACTED]

Reference is made to (i) the professional categorization letters enclosing the Risk Disclosures and Execution Policy for Professional Clients delivered to you by us, pursuant to which a determination was made, based on the Financial Conduct Authority (FCA) Rules, that you qualified as a "Professional Client" thereunder, and (ii) the Export Prepayment Finance Agreement dated as of the date hereof (as amended, the "Credit Agreement") was entered into by and among ABJ Trading LLP as the Borrower, Bom Jesus Agropecuária Ltda, ABJ Comercio Agricola Ltda, Nelson Vígolo, Edilene Pereira Moraes Vígolo, Geraldo Vígolo and Rosemarí Konageski Vígolo as the Guarantors, Holco Man Limited as the Lender, ED&F Man Brasil S A as the Collateral Agent and E D & F Man Capital Markets Limited as the Administrative Agent

In order to facilitate payment of debt service under the Credit Agreement, you have authorized E D & F Man Capital Markets Limited ("MCM"), acting as Administrative Agent, to open an account (Account Number LFI FC013) in the name of ABJ Trading LLP. The account will be maintained in the MCM system located at Cottons Centre, Hays Lane, London SE1 2QE and denominated in United States Dollars. This account will be used for all subsequent transactions with ABJ Trading LLP. You further acknowledge that such account is governed by the Terms and Conditions attached as Annex A and, in particular, Clause 11 thereof which creates an English law charge over such account. The Terms and Conditions attached as Annex A hereto are hereby agreed to and incorporated herein by reference and made part of this confirmation letter as if set forth herein in full.

All payments and receipts are to be made to the following banking instructions:

Intermediary Bank:	JP Morgan Chase Bank, New York
Intermediary Swift:	CHASUS33
Beneficiary Bank:	J P Morgan Chase Bank, N A , London
Beneficiary Swift:	CHASGB2L
Beneficiary:	ED&F Man Capital Markets Limited
Beneficiary Account:	[REDACTED]
Beneficiary IBAN:	[REDACTED]
Reference:	Client Account Number [REDACTED]

MCM is authorised and regulated by the Financial Conduct Authority in the United Kingdom

Acknowledgement of Absolute Title Transfer ("ATT") Status

718061463 15492807



**Capital
Markets**

You acknowledge that, except in relation to US exchange-traded products, your account/s with MCM will be treated as ATT and you have read and understood the relevant sections of the MCM Terms and Conditions. In addition you acknowledge that MCM does not provide segregation where you trade OTC products or have been granted a credit facility.

This confirmation letter is governed by, and shall be construed in accordance with, English Law.

Yours sincerely,

Julian Courtney
ED&F Man Capital Markets Ltd
European Head of Legal and Compliance

Cottons Centre
Hay's Lane
London SE1 2QE

718061463 15492807

Authorised and Regulated by the Financial Conduct Authority
Registered in England No. 1292851

Tel: +44 (0)20 0089 8000



**Capital
Markets**

Acknowledged and Agreed as of the date first set forth above

Signed for and on behalf of **ABJ TRADING**)
LLP by its attorneys:)

Signature

Name (block capitals)

**NELSON JOSE
VIGOLO**
as attorney for **ABJ
TRADING LLP**

Signature

Name (block capitals)

GERALDO VIGOLO
as attorney for **ABJ
TRADING LLP**



**Capital
Markets**

ANNEX A
Terms and Conditions

[ATTACHED]

Cottons Centre
Hay's Lane
London SE1 2QE

718061463 15492807

Authorised and Regulated by the Financial Conduct Authority
Registered in England No 1292851

Tel +44 (0)20 0089 8000

TERMS AND CONDITIONS OF BUSINESS

INTRODUCTION

E D & F Man Capital Markets Limited ("MCM") is authorised and regulated by the Financial Conduct Authority, FCA Register No 194926. Our registered office is Cotton's Centre, Hay's Lane, London SE1 2QE. The main business of MCM is the provision of investment and custody services.

We may provide our services through our Dubai Branch. The full legal name of our Dubai Branch is E D & F Man Capital Markets Limited (Dubai Branch) and it is authorized by the Dubai Financial Services Authority ("DFSA") with DFSA firm reference number F002947. Its registered office is at Office No 15196, Level 15, Gate Building, Dubai International Financial Centre, Dubai, and PO Box 121208, United Arab Emirates.

Further information may be obtained from the FCA Register by visiting the FCA website www.FCA.gov.uk/register, by telephoning 0845 606 1234 or by writing to the FCA at 25, The North Colonnade, Canary Wharf, London E14 5HS.

Please read these Terms and Conditions carefully. It is important that you retain these Terms and Conditions as your rights are governed by them.

We have internal procedures for handling complaints fairly and promptly. You may send a complaint to us by letter, telephone, email or in person to the Compliance Department. Complaints made in writing should be made for the attention of the "Complaints Officer". Please contact us if you would like further details about our complaints procedure. As a Professional Client or Eligible Counterparty, you will have no right of complaint to the Financial Ombudsman Service. We participate in the Financial Services Compensation Scheme which, for those clients that are covered ("Eligible Claimants"), pays compensation in the event of the inability of an FCA-regulated firm to pay monies due, or satisfy obligations owed, for designated business (including obligations to return client money) up to a maximum compensation limit of £50,000 for investments per Eligible Claimant.

DEFINITIONS AND INTERPRETATION

In these Terms and Conditions, the following words and expressions have the meanings set out below (unless the context otherwise requires):

"Affiliate" means any affiliated company that is an undertaking in the same group as us, a representative whom we or an undertaking in the same group as us appoint, or any other person with whom we have a relationship that might reasonably be expected to give rise to a community of interest between us and them,

"Applicable Law" means

- FCA Rules, DFSA Rules or any other rules of a relevant regulatory authority,
- the Relevant Rules, and
- all applicable laws and regulations as in force from time to time,

"Authorised Person" means, where the account is in the name of

- an individual that individual,
- joint account holders in respect of payment instructions, any of the joint account holders, and, in respect of other instructions, any of the joint account holders nominated in the account opening form,
- a trust any of the trustees,
- a company any of those officers, employees or agents whose names have been notified to us by you in writing, and
- in relation to any of the above an agent acting on that person's behalf whose name has been notified to us by you in writing

"Base Currency" means the lawful currency of the United Kingdom,

"Business Day" means any day on which banks are open for general commercial business in London,

"DFSA Rules" means the rules and related guidance of the DFSA as set out in the DFSA's handbook of rules and guidance as amended from time to time

"Disclosure Booklet" means the booklet of regulatory and other disclosures that we may send to you from time to time,

"Exchange Contract" means in respect of a Transaction made between us, a matching Transaction identical in its terms to your Transaction with us, except as to the parties, which we shall have made (or arranged to have made through an intermediate broker who may be an Affiliate) on a principal-to-principal basis on an Exchange or shall have accepted the allocation of any such Transaction,

"FCA" means the Financial Conduct Authority, currently of 25 The North Colonnade, Canary Wharf, London E14 5HS, including any replacement regulatory authority,

"FCA Rules" means the rules and guidance of the FCA (as amended from time to time),

"FSMA" means the Financial Services and Markets Act 2000 (as amended from time to time),

"LME" means the London Metals Exchange, currently of 56 Leadenhall Street, London EC3A 2 DX,

"LME Select" has the meaning in the rules of the LME,

"Market" means any regulated market, or multilateral trading facility (as such terms are defined in the FCA Rules),

"MCM", "we" or "us" means E D & F Man Capital Markets Limited or any Affiliate thereof,

"Relevant Rules" means any applicable exchange or clearing house articles, rules, regulations, procedures and customs, as in force from time to time,

"Ring" each has the meaning in the rules of the LME, and

"Transaction" means any Transaction subject to these Terms and Conditions, and includes

- (a) a contract made on a Market or Exchange or pursuant to the Relevant Rules of a Market or an Exchange,
- (b) a contract that is subject to the Relevant Rules of a Market or an Exchange,
- (c) a contract which would (but for its term to maturity only) be a contract made on, or subject to the Relevant Rules of a Market or Exchange and which, at the appropriate time, is to be submitted for clearing as a contract made on, or subject to the Relevant Rules of a Market,
- (d) a contract made with any other party which contract is not subject to the Relevant Rules of any Market or Exchange (an 'over the counter' contract) and in any of cases (a) to (d) being a future, option, contract for differences, spot or forward contract of any kind in relation to any commodity, financial instrument (including any security), currency, interest rate, index or any combination thereof,
- (e) an Exchange Contract,
- (f) a contract to buy or sell a commodity,
- (g) a contract to buy or sell a security, or
- (h) any other Transaction as agreed by us and you

"you" and **"your"** means a person who engages with us as a client and is thereby subject to these Terms and Conditions

References to a 'clause' mean a clause of these Terms and Conditions. References to legislation, regulations, orders or rules shall mean such legislation, regulations, orders or rules, as amended from time to time or any re-enactment or replacement legislation, regulations, orders or rules, from time to time. Clause headings are for convenience only and do not affect the interpretation of these Terms and Conditions.

OUR SERVICES

1 Scope

The services to be provided are set out in these Terms and Conditions. We may provide such additional services as may be agreed between us and you in writing.

2 Communications with Us

(a) Placing of instructions

You must give us instructions

- for Transactions by telephone or any other means we agree with you, and

- for any other purpose in writing (including fax, email or any other electronic means)

(b) Authority

We will accept instructions from any Authorised Person. If we receive conflicting instructions, we reserve the right to act on one instruction or none at all, and we will use reasonable endeavours to inform all relevant persons of this.

We shall rely on the continuing authority of an Authorised Person to act on your behalf, whether alone or with others, until we receive from you a written notice to the contrary.

We may act upon instructions given or purported to be given by an Authorised Person without enquiry as to the genuineness, authority or identity of such person.

(c) Amendment of instructions

Once given, instructions may be withdrawn or amended only with our consent and provided that we have not acted upon them.

(d) Execution of instructions

We will execute Transactions in accordance with our Execution Policy, which is available on request. The Execution Policy is subject to this clause 2 and, in addition, we reserve the right to

- refuse to accept instructions,
- not be able to enter into transactions as a result of Exchange action,
- impose conditions on carrying out an instruction,
- require you to limit the number of open positions which you may have with us,
- in our sole discretion close out any one or more Transactions in order to ensure that such position limits are maintained, and/or
- subject to the FCA Rules, aggregate transactions in respect of your portfolio with those of our own or of other clients, without asking you first. Such transactions will be allocated on a fair and reasonable basis in accordance with the FCA Rules. This process, described as "aggregation", may on occasion operate to your disadvantage, in which case we will disclose to you such disadvantage.

In the event that we refuse to accept instructions, we will use reasonable endeavours to notify and explain the reasons for this to you. We will not be liable for any expense, loss or damage incurred by you if we fail to notify you of such refusal of instructions unless this is a result of our gross negligence, bad faith, wilful default or fraud. We will further not be liable for any consequential or special damage.

Your placing of a limit order in respect of shares traded on a regulated market will be taken to be an express instruction that if the order is not immediately executed we are not required to make the order public so as to be accessible to other market participants.

Pursuant to the DFSA Rules, if we provide our services through our Dubai Office, we are not required to provide best execution where we undertake Transaction with a Market Counterparty (as defined under the DFSA Rules) or where it is an execution-only Transaction. Notwithstanding the non-application of best execution, we will execute all orders in accordance with our internal best execution policy.

(e) Performance and settlement

Pursuant to any Relevant Rules, you must promptly deliver all instructions, money, documents or assets as required for any Transaction, thus enabling us to perform our obligations in a timely manner (and as modified by any instruction given by us).

- I You must promptly pay such sums of money as we may require at any time in or towards the clearance of any debit balance on any of your accounts held with us.
- II If you instruct us to purchase an investment for you, and you fail to ensure that we are holding sufficient cleared funds on your behalf on the appropriate settlement date to pay in full for the investment on that date for any reason other than as a result of our negligence, wilful default or fraud, we may (in our discretion but subject to any Relevant Rules) take one or more of the following actions:
 - if practicable, not execute the Transaction,
 - settle the Transaction on your behalf at our expense,
 - sell, at the prevailing market price, sufficient of the investments for which settlement is outstanding to recover the amount of any shortfall, or
 - sell, at the prevailing market price, sufficient of your other assets to recover the amount of any shortfall.

Where reasonably practicable, we will attempt to notify you before we take such action.

- III If you instruct us to sell an investment for you and we are unable to complete settlement of the Transaction on the appropriate settlement date for any reason other than our negligence, wilful default or fraud, we may, at our discretion and without prior reference to you, buy sufficient investments, at your expense, at the prevailing market price, to enable us to complete settlement of the Transaction. Where reasonably practicable, we will attempt to notify you before we take such action.
- IV In the event that we take any steps under paragraphs II or III of this clause, we will notify you of the action we have taken, together with the details of any amounts that you are required to pay as a result.
- V We will, subject to your compliance with your obligations, pay or deliver any sums or assets to you by crediting your account with us.
- VI If in any Transaction we deliver securities to you when your obligations to us have not been fully satisfied, then you will hold them on trust for us until your obligations to us are satisfied.

VII With FX Transactions

- (i) each party will pay to the other all outstanding amounts owing by it on the date specified in the confirmation, although we will not pay if you fail, within two Business Days of our reasonable request, to give us assurance that you will be able to perform your obligations in respect of FX Transactions on that date, and
 - (ii) payments will be made in the same day (or be immediately available) and be freely transferable funds to a bank account notified by the relevant party to the other at least five Business Days before payment is due
- VIII You must pay, on a full indemnity basis, any costs, claims, liabilities, expenses, fines, penalties or losses from time to time suffered or incurred by us by reason of any steps we take pursuant to this clause, any breach of these Terms and Conditions, any failure by you to duly perform your obligations in relation to any Transaction or Exchange Contract, or of us taking steps following an Event of Default

(f) Derivatives

- When we enter into a Transaction on an Exchange as an intermediate broker, we will automatically be deemed to have entered into with you a matching transaction on a principal-to-principal basis on identical terms except as to the parties and price
- Unless we agree otherwise by way of confirmation and in the absence of earlier instructions from you to close out, each Transaction will be closed out before its expiry and settled in cash. If we do so agree
 - (i) you undertake to deliver all underlying property with full title guarantee and free of all third party rights,
 - (ii) title will pass at the time the warrant/commodity is delivered except that, where we are the seller, title will remain with us until we have received full payment,
 - (iii) risk will pass to you on delivery (where a commodity is in your possession before title has passed to you, you will preserve its condition and make good or fully compensate us for any damage or deterioration),
 - (iv) any commodity delivered will be of satisfactory quality pursuant to any Relevant Rules,
 - (v) where you intend to take physical delivery, you will notify us of this decision two Business Days in advance of the delivery date,
 - (vi) costs incurred by us in effecting physical delivery will be borne by you,
 - (vii) any commodity required to be delivered physically will be delivered to such location as is reasonably specified by the receiving party and in accordance with its reasonable instructions, and
 - (viii) with bullion

- it will be held on an unallocated basis,
 - delivery will occur upon confirmation of receipt,
 - delivery to an unallocated account excludes all warranties as to title, and
 - if we become liable for any VAT on delivery, you will pay an equivalent amount to us
- Any instruction to exercise options must be received by us before the expiration time notified to you by us (which may be on or before the expiration time established by the relevant Exchange) If you fail to so instruct us, the option may expire worthless
 - We will notify you of any profit or loss that results from closing out any transaction amounts due to us or any broker, exchange or clearing house will be due and payable upon such notification
 - Where there has been an error in the execution of your instruction, the relevant exchange may allow us to enter into an Exchange Contract in order to satisfy your instruction In such circumstances, we will try where possible to secure and offer a price that is better than that at which the error transaction was executed
 - Where we have bought or sold in accordance with your instruction, except that we have traded the wrong delivery/expiry month or wrong exercise price of the relevant contract, then we may in accordance with any Relevant Rules offset any loss arising from that trade against any improvement achieved for you in the course of correctly satisfying your instruction, thus offering you only a net improvement, if any
 - You acknowledge and accept that
 - (i) the relevant intermediate broker, exchange or clearing house may alter a contract's terms or liquidate it, and
 - (ii) the exchange or clearing house may instruct us to take an action with regard to a Transaction,
 and, in either case, the Transaction between us will be automatically amended to match the relevant Exchange Contract
 - If we execute (but do not clear) Transactions, then
 - (i) the give-up will be subject to a give-up agreement entered into by you, us and your clearing broker, and this paragraph (f) will be read accordingly, and
 - (ii) if your clearing broker does not accept the Transaction for clearing then the provisions of these Terms and Conditions with regard to clearing and settlement will apply

(g) Securities

- We may enter into Transactions which
 - (i) will result in your having a short position, that is, a further Transaction will be necessary to fulfil your outstanding obligations to the market, or
 - (ii) may be for a settlement date beyond the normal market settlement date and, accordingly, you may find yourself committed to buying or selling securities at

a price which is higher or lower than the market price for other transactions entered into on the same date but for the normal market settlement date

In either case we may ask you to provide us with a deposit or security to cover your future obligations and may call margin or collateral of any amount at anytime under clause 10 below

- Transactions on a delivery-versus-payment basis will be settled accordingly

3 Advisory Services

MCM does not give investment advice or recommendations or provide an advisory service

(a) General

All Transactions undertaken by us on your behalf are on an execution-only basis. Where you are categorised as a Professional Client and where required by the FCA Rules, we will, solely on the basis of information supplied by you (which we shall assume is accurate) assess, before it is provided, whether a proposed service is appropriate for you and, having assessed that it is, continue to make that service available to you, subject to these Terms and Conditions, unless and until you draw to our attention in writing information which reasonably indicates that such assessment ought to be changed.

We do not under any circumstances provide

- advice on the merits of a Transaction,
- a recommendation that a Transaction is suitable for you, or
- tax advice

Views expressed to you orally or in writing concerning investments, investment strategies, markets, opportunities, situations or other matters are to be construed in all cases to constitute generic information and/or personal views and should not be construed as regulated financial services advice or recommendations.

(b) Updating information

On an annual basis you should update us, in writing, with any changes to the information which you have previously supplied to us, particularly if such information is likely to affect your regulatory status or client categorisation pursuant to the FCA Rules.

(c) Research

We or our Affiliates may from time to time provide research reports to you (but are under no obligation to do so or to send any such reports to all our customers). Where they do so, they need not see that any information they give is given either before or at the same time as it is made available to other Affiliates or to our or their employees, officers or directors. Further, you may not receive them at the same time as our other customers.

We or our Affiliates and our and their employees, officers and directors may receive, have knowledge of, act upon or use such research reports (or any conclusions

expressed thereon or research or analysis upon which they are based) prior to publication or after they have been published but before they are received by our customers (e.g. because of postal delays)

No obligation to take account of research. We are under no obligation to take account of any reports published to our customers when we deal with you or on your behalf. Further, we are not required to ensure that our dealings with you or on your behalf take account of any such research which has been carried out for us, our Affiliates, market makers or otherwise with a view to assisting our or their own activities

4 Electronic Services

(a) **"Electronic Service"** means a service provided by us for your use upon which you may view information and enter into Transactions via our and/or a third party's electronic order routing/trading system

(b) **Our services**

At our absolute discretion we may provide you with direct access to an exchange or a closed user electronic communication network ("**ECN**") using our own computer equipment (the "**Equipment**") or otherwise. Where appropriate we may supply to you the software (the "**Software**") necessary to enable your system to interconnect with our server, the Equipment, a designated link (a "**Designated Link**") and access to our online settlement data service ("**Online Settlement Data Service**")

We will issue a username and password to you and each person nominated by you in writing (the "**Authorised User**")

We may make such modifications, improvements or additions to the Equipment, electronic service or any part of it as we deem fit

(c) **Your Obligations**

- As applicable to you and the type of service we provide to you, you will
 - i comply with all of our relevant policies concerning use of the facilities outlined in clause 4(a) and (b),
 - ii take reasonable care of the Equipment and Software and not (i) interfere or tamper with, alter, amend or modify the Equipment, (ii) copy any Software, (iii) reverse compile or disassemble any Software, (iv) move the Equipment, and
 - not create or allow to be created any encumbrance over the Equipment, do or permit to be done any act which might prejudice our rights, or those of our suppliers, in the Equipment or result in it being taken from your possession,
 - maintain the accommodation, environment and facilities for the Equipment as reasonably specified by us, and use the Equipment only in accordance with the manufacturer's recommendations,
 - maintain all necessary support services,

- run such tests and provide such information to us as we shall reasonably consider necessary,
- only implement Transactions in accordance with Applicable Law,
- accept any updates or modifications to Software and install and use a state-of-the-art virus detection/scanning program (in the event that you become aware of a material defect, malfunction or virus you will immediately notify us and cease to use all such electronic services until you have received permission from us),
- use the services solely for the purpose supplied and not on behalf of any third parties without our prior written consent,
- not sell, lease, store, re-transmit, redistribute or provide, directly or indirectly, the electronic services and Software or any component thereof to any third party,
- provide all equipment and network services necessary,
- ensure that your system is compatible with our Software,
- since between us all information provided via the electronic service or incorporated Software is our exclusive and proprietary property, you agree to protect our proprietary rights in it
- We will assume that all Transactions entered into and communications made with your password were entered into or made by you
- You must ensure that your password is not disclosed to any other person, and is sufficiently complex to prevent it being guessed by another person

(d) Withdrawal of an Electronic Service

We may suspend or withdraw temporarily or permanently any Electronic Service

(e) Right Of Access

We may, on reasonable notice, enter your premises and inspect your system and trading practices to ensure that you are carrying out electronic trading in accordance with these Terms and Conditions

(f) Setting Limits and Controls

We may set limits or other controls on your ability to use electronic trading access including but not limited to (i) the maximum order/trade amount, (ii) our total exposure to you, (iii) our overall exposure to third parties, (iv) the price of orders, and (v) as necessary or desirable to comply with Applicable Law

(g) Offer and Acceptance

- i The price displayed is merely an invitation to you to make an offer
- ii An offer is made by you clicking on the designated box within any permitted time displayed

- iii Acceptance with a CFD (as defined in clause 7(a) below) is when we have established a hedge in the market

(h) Orders

- i We shall only be responsible for the execution of orders in the circumstances where you have received a notification of receipt generated by the relevant systems and you will bear the risk of inaccuracy, loss or delay in transmission
- ii Our electronic records and paper copies of such electronic records will be conclusive, although taped conversations will prevail
- iii In respect of orders submitted incorrectly or erroneously, we will only accept instructions to amend or delete orders submitted by an Authorised User and only to the extent that such order has not already been executed
- iv If such order has already been executed, you will be bound by it. In our discretion and for our protection, or for reasons of market integrity/counterparty risk, we may reverse the executed trade and you agree to co-operate in that regard and to indemnify us fully for any and all costs and losses arising therefrom

(i) Security

- i We may from time to time notify you of the security procedures for accessing an Electronic Service and you agree to follow the procedures, not disclose them to any third party and maintain appropriate security arrangements for this purpose. From time to time we may require you to describe and, if appropriate, adapt your arrangements in this regard
- ii If for any reason you suspect that such security information has been discovered by any third party, you must notify us immediately and cease to use it
- iii You will ensure that only Authorised Users access and use Electronic Services and you will notify us of the identity of all Authorised Users and will ensure that all Authorised Users have been given suitable training. We are under no obligation to provide training or assistance and if we do, it is at your sole risk

(j) Record Keeping

Both parties will keep records in accordance with Applicable Law to demonstrate the nature of orders submitted and the time at which such orders are submitted

(k) Information Available through our Trading System or our Web Site

- The display of any price quotation, volume or other information does not constitute
 - i an offer to buy or sell, or
 - ii any guarantee that your orders will be executed at the price or market level displayed or at the level specified in your order
- We accept no responsibility for the accuracy or completeness of any information displayed

- We make no representations or warranties concerning the content of sites which can be accessed through our website
- Our marketing material may be sent to you through our trading system or our web site

(l) Open Networks

Although we take reasonable steps to avoid information being intercepted and read by third parties, we draw your attention to the fact that the provision of an Electronic Service over an open network, the internet, which is accessible to anybody, may result in someone other than us gaining access to information about you and your dealings with us

5 Our capacity

- (a) Derivatives and margined transactions we act as your principal
- (b) Securities other than in respect of Transactions on the London Stock Exchange, where we act as matched principal, and unless otherwise indicated in these Terms and Conditions, or agreed in writing, we act as your agent

6 Your capacity

(a) General

You will deal with us as a principal unless you have indicated otherwise in your application form

(b) Joint Accounts

All investments will be registered jointly in the name of all account holders

We may send communication to the primary account holder in the account opening form

Each joint account holder will be jointly and severally liable under these Terms and Conditions

If you selected in the account opening form to hold the account as tenants in common

- your joint account holders' interests will be equal, unless you stated otherwise, and
- if one of you dies, the deceased's interest will vest in their estate

Otherwise, you will hold as joint tenants and, if one of you dies, the entire interest will vest in the surviving joint tenant(s)

If one of you becomes bankrupt, we

- will act on the instructions of the trustee in bankruptcy and other joint account holders, and

- may establish a new account in the name of the remaining non-bankrupt joint accountholder(s) and transfer their interest into the new account

(c) Trust accounts

If you act as trustee of more than one trust, these Terms and Conditions will apply to you in each such capacity

You warrant to us on the date of these Terms and Conditions and as of the date of each Transaction that

- your account is for the benefit of the relevant trust,
- you have the right to be fully indemnified out of trust assets for obligations incurred under these Terms and Conditions, and
- you comply with clause 20(a) of these Terms and Conditions

You will notify us in writing as soon as there are any changes in the trustee(s)

After each change of trustee(s), you will procure by way of a deed of novation that the continuing and/or incoming trustee(s) expressly adopt these Terms and Conditions and all Transactions entered into before the change

(d) Agents

You may, in a form acceptable to us, appoint another person to act on your behalf

We may follow the agent's instructions and you will be liable for anything that the agent does or does not do

You must notify us in writing as soon as you cancel or revoke an agent's authority

(e) Regulatory Classification

We shall classify you as defined in our cover letter to you for the purposes of the FCA and DFSA Rules, as applicable. However and notwithstanding the absence of Applicable Law, we will endeavour to provide a service that is overall effective and commercially reasonable

7 Equity Contracts for Differences

(a) Our Services

- i We may make available an indicative price quotation for an Equity Contract for Differences ("CFD") and enter into such CFD with you at our absolute discretion
- ii Where we choose to do so, the CFD will be deemed to be executed at the contract security price (where such price is the current price of the underlying reference security as determined by us from time to time) at the time a hedge/contract is matched in whole or in part by any counterparty (which may include us). The day of execution will be the first day of the term of the CFD

- iii We will calculate the contract value of each CFD on each business day. The contract value is the contract security price multiplied by the number of underlying securities to which the CFD relates and for the purposes of this clause 7, "Business Day" means each day on which the exchange on which the CFD underlying security is principally traded is open for trading.

(b) Payment of Differences

- i If, on any Business Day during the term of the CFD, the current contract value is
 - higher than the previous Business Day's contract value, then the short party will pay the long party the difference, or
 - lower than the previous Business Day's contract value, then the long party will pay the short party the difference, where the long party is the party who has notionally bought a CFD and the short party is the party who has notionally sold a CFD
- ii We will debit and credit amounts owing between us to your account
- iii All Contracts will be cash settled

(c) Interest

Interest will be payable as follows

- i The long party will pay a funding charge payable on a percentage of the contract value of each CFD, the applicable interest rates will be notified to you in the rate schedule or by a separate letter, and
- ii The charge will be calculated and accrued daily and be credited or debited from your account. The interest will be calculated on the day count basis that we deem to be appropriate in the relevant market

(d) Dividends/Interest

We will make appropriate debits and/or credits to your account in respect of dividends/interest on the relevant contract security

(e) Closing a Contract

- i If on any Business Day you wish to close any CFD (whether in whole or in part), then before the close of business on that day you must give notice of that fact to us specifying the CFD underlying security and (if only part of the CFD is to be closed) the proportion that you wish to close
- ii We will use reasonable endeavours to calculate and notify to you an indicative closing price and you will immediately notify us whether or not you are willing to accept such indicative closing price. Acceptance will constitute a binding closing of the CFD on that day. If you do not immediately accept our closing price the CFD will remain in full force and effect

(f) Adjustments

- i If we determine that any CFD underlying security has become subject to possible adjustment as a result of any event to be reasonably determined by us and which would include (but not be limited to) a merger, takeover, nationalisation, insolvency, an exchange suspension or delisting, we will determine the appropriate adjustment, if any, to be made to the contract value of that underlying equity and/or the related quantity of such equities to preserve the economic equivalent of the rights and obligations of the parties under the relevant CFD immediately prior to that event, to be effective as of the date determined by us. In the event of an exchange suspension we may at our absolute discretion close out the CFD with you at a price to be determined by us.
- ii We will give notice of any adjustment to you as soon as reasonably practicable after the determination thereof and such notice will be conclusive and binding in the absence of manifest error.

(g) Rate Schedule

We may amend the rate schedule at any time.

8 LME Contracts

- (a) We act as broker and market maker on the London Metal Exchange ("LME"). Accordingly, when we enter into an LME contract with you, we may choose a basis of trading, including
- entering into a back-to-back transaction on a principal-to-principal basis across the Ring or via LME Select, in which case the client contract and the back-to-back Exchange Contract will be identical or substantially similar in its terms except as to parties and price,
 - entering into a back-to-back transaction on a principal-to-principal basis with a counterparty OTC, in which case our Transaction with you and the back-to-back OTC transaction will be identical or substantially similar in its terms except as to the parties and the price,
 - not entering into any back-to-back or matching transaction,
 - matching your Transaction with that of one or more of our other clients, and/or
 - combining any or all of the above bases of trading.
- (b) Notwithstanding paragraph (a) above, we may agree with you that we will use a particular basis of trading for a particular Transaction.
- (c) Any order taken from you in respect of an LME contract will be on the basis that
- the order will not be executed in whole or in part unless and until we bid for the LME contract concerned at the same or a higher price than that specified in your order (in the case of a sell order) or offer it at the same or a lower price than that specified in your order (in the case of a buy order) with a view to purchasing or selling (as the case maybe) the LME contract concerned in the amount of the order, and

- until execution, we may buy the LME contract (where the order you gave was to sell) at a price equal to or lower than that stated in your order, or sell it (where the order was to buy) at a price equal to or higher than that stated in the order. Any such purchase or sale by us may be from or to any third party and for our own account or for the account of any company within our group or any other client of ours
- (d) When we enter into a Transaction with you in relation to an LME-deliverable contract, which would (but for its term to maturity) be an LME registered client contract, we will register it on the LME at the time agreed in the relevant confirmation
- (e) We may record a loss or a gain on the difference between the price quoted to you and the price applying to any matching transaction. Such a loss or gain will be in addition to agreed commission and clearing fees and will not be separately identified in the confirmation relating to the Transaction
- (f) We will only enter into Transactions which are undertaken at the prevailing market price unless we have taken reasonable steps to ensure that a Transaction undertaken at a price other than the prevailing market price is not being entered into for an improper purpose, which would include but is not limited to the perpetration of fraud, market abuse or the improper concealment of a profit or loss
- (g) Neither the rules of the LME nor trade practices in relation to LME contracts provide any mechanism for us to determine the best price in the market at any given time. Accordingly, we cannot offer best execution in relation to these Transactions. The price we will offer to you will be fair and reasonable, taking into account factors such as the trader's assessment of market liquidity and risk, the size and the nature of the Transaction, the time of day, the nature of the service, the cost of funding and clearing the business and margin and commission terms applicable to your Account
- (h) A Guide to the Structure and Market Terminology of the London Metal Exchange ("Guide to LME") has been provided to you separately and is incorporated by reference into these Terms and Conditions. It applies to dealings between us as if specifically set out in this clause 8, and which explains, among other things, certain order types and certain features of trading LME Contracts
- (i) You represent and warrant that you have read and fully understood our Terms and Conditions including this clause 8 and the Guide to LME and understand fully the manner in which we deal with the different types of orders that you may submit to us
- (j) Except to the extent they constitute LME Contracts, nothing in these Terms and Conditions or in the Guide to the LME shall be construed as imposing any restrictions on our ability to enter into OTC metals transactions (or any other metals transactions that are not LME contracts) with third parties
- (k) Unless otherwise agreed with you at the time that we accept your order, our obligations and duties to you when we effect LME contracts with you or where we receive and execute your orders in relation to LME contracts, will be confined to those expressly set out in this clause 8 (and for the avoidance of doubt the Guide to LME) and (to the extent they are consistent) these Terms and Conditions. To the extent permitted by Applicable Law we agree that no other duties or obligations on our part will apply to, or be implied into, the relationship between us. However nothing in this clause 8 shall be construed as excluding or restricting any duty that we may owe to you under Applicable Law or any Relevant Rules (including the LME rules)

(l) **Except as required under FSMA or any other Applicable Law**

- we shall not be under any obligation to disclose to you any information we hold (including information about ourselves, any of our Affiliates or any of our other customers) Where one of our employees has knowledge of a particular fact or circumstance, this shall not be deemed to constitute knowledge of that fact or circumstance on our part or on the part of any of our other employees or officers, and
- where our Terms provide that we have the right, ability or discretion to act, or refrain from acting, in a particular way, we shall, except where these Terms and Conditions provide to the contrary, be entitled to exercise such right, ability or discretion without making any prior disclosure to you of our intention to do so or of any fact or circumstance which is or may be material or relevant to you or your interests

9 Charges and Payments

(a) **Our charges**

You will pay all our charges as notified to you plus any applicable taxes, duties and imposts and fiscal and regulatory charges of any nature, brokerage fees, transfer fees, registration fees, exchange/clearing house fines, penalties, or buy in costs relating to late or non-settlement of Transactions and all other liabilities, charges, costs and expenses payable in connection with Transactions effected on your behalf

We will give you notice of any changes in our charges

(b) **Introductions**

Where you have been introduced to us by a third party, we may pay to such introducer a share of the income earned by us from your account We can provide you with full details of such amounts subject to your written request

(c) **Payments**

i Funds

All obligations under these Terms and Conditions will become immediately due and payable when incurred by you or on your behalf You must make payments to us in same day (or immediately available) and freely transferable funds without set-off, counterclaim, deduction or withholding for any taxes, duties, imposts or fiscal and regulatory charges of any nature

ii. Default interest

If you fail to pay any amount when due, we will charge you interest (both before and after any judgment) on any such unpaid amount calculated at 5 per cent over the overnight MCM borrow/lend rate from time to time This rate will be available upon request Interest will accrue on a daily basis

iii. Currency indemnity

If we receive or recover any amount in a currency other than that in which such amount was payable, you will indemnify us against any cost (including costs of conversion) and loss suffered by us as a result

iv. Withholding Taxes

We may deduct or withhold all taxes, duties, imposts and fiscal and regulatory and other charges of any nature, from any payment if obliged to do so under Applicable Law and we may estimate the amounts concerned. Any excess of such estimated amount over the final confirmed liability will be credited to your account.

v. Payments net

Unless we expressly agree with you in writing (or give you written notice) to the contrary, all payments and deliveries between us shall be made on a net basis. You acknowledge that it shall be a discharge of any payment or delivery obligation of ours for such payment or delivery to be made on a net basis.

10 Margin, Collateral, Default and Termination

(a) Margin

i Margin calls

You will pay or transfer to us on demand such sums by way of initial and variation margin and/or collateral as we may in our absolute discretion require from time to time pursuant to any Relevant Rules and/or to protect ourselves against loss or risk of loss on present, future or contemplated Transactions.

ii Form of margin and/or collateral

Margin must be paid in freely transferable funds in such currency as we may in our discretion reasonably accept. We may in our absolute discretion agree to accept a guarantee or other form of credit support.

(b) Assets transferred

i Requests for segregation

You may instruct us to hold some or all of your assets in accordance with the FCA Rules on client money (in the case of cash) or in custody accounts segregated from our own assets (in the case of financial instruments). If you give us such an instruction then we will send you a written notification identifying (by account number) which of your accounts are accounts that benefit from client money protection/segregation to enable you to identify those assets in relation to which client money protection/safe custody segregation will apply and, with effect from your receipt of that notification, the relevant provisions of clauses 16 and 17 shall apply in substitution for the applicable provisions of this clause 10 in relation to those assets, but subject in each such case to the charge described in clause 11.

ii Absolute title transfer

Except in relation to assets in respect of which you have received a notification of the type described in paragraph (b) above, all assets, whether cash or financial instruments, received by us either from you or in respect of your account will be actually or potentially in respect of margin or collateral for the purpose of securing or otherwise covering present or future, actual, contingent or prospective obligations and full ownership in such assets will be absolutely transferred to us, and all right, title and interest in and to such assets will pass to us outright and

absolutely for the purposes of covering your obligations to us. Upon such transfer we will become obliged, subject to the following provisions, to re-transfer to you assets equivalent, but not necessarily identical, to the assets so transferred to us. Our obligation will be reduced to the extent that such assets are applied, in accordance with the margin and collateral arrangements in place between us, in discharge of your obligations to us. We will re-transfer assets to you either (i) at our absolute discretion, or (ii) at your request, but only if and when we determine in our absolute discretion that you have no present or future, actual, contingent or prospective obligations to us or to the extent that we determine in our absolute discretion that such liability is adequately covered by collateral or margin remaining held by us.

(c) Effect of absolute title transfer

The effects of absolute title transfer under paragraph (b)(ii) above are as follows

- i the relevant assets cease to be your assets and you will no longer have a proprietary claim over them. They will not be held subject to the rules of the FCA in safe custody (where they are financial instruments) or subject to client money protection (where they are cash). The assets become our assets and we can deal with them in our own right,
- ii you will have (subject to the limitations described in paragraph (b)(ii) above) an unsecured contractual claim against us for re-transfer of equivalent assets, and
- iii as a result, the assets will not be subject to a trust or otherwise isolated in our insolvency and in such event, you may not receive back everything so transferred to us and you will only rank as a general creditor.

(d) Interest

Any interest charge rates which will apply to your account will be separately agreed with you.

(e) Segregated and Non-segregated Cash Accounts

Where the assets are cash and we hold that cash for you in an account subject to absolute title transfer (a "non-segregated" account) and in an account subject to the FCA Rules on client money (a "segregated" account)

- i the segregated and non-segregated accounts will be separately margined,
- ii we will not transfer funds between the accounts unless prior written consent is obtained from you and only where the effect of such a transfer would be to leave a balance on the segregated account which was sufficient to satisfy our obligations under the FCA Rules on client money, and
- iii you will meet any interest charges which might arise.

11 Charge

As a continuing security for the payment and discharge of all obligations owing to us by you (whether present or future, actual or contingent) you hereby charge to us with full title guarantee by way of fixed and floating charge.

- (a) all your beneficial interests in and to all derivatives contracts carried on your account,
- (b) all your assets transferred to us under clause 10 and all your rights against us with respect to the cash accounts referred to in clause 10(e) above

12 Negative Pledge

You will not without our prior written consent create or have outstanding any security interest whatsoever over any of your rights under these Terms and Conditions

13 Closing Out

- (a) We may close out a Transaction in such a manner as we consider appropriate, whether on the relevant market or exchange or by private sale or any other method and we reserve the right to act as purchaser or seller in relation to such Transaction
- (b) Unless otherwise agreed in writing between us, or subject to any Relevant Rules, if we enter into any Transaction with you in order to close out any existing Transaction between us, our respective obligations under both such Transactions shall automatically and immediately be terminated upon entering into the second Transaction, except for any settlement payment due from one of us to the other in respect of such close-out

14 Default, Netting and Termination

Part I: EVENTS OF DEFAULT

The following shall constitute Events of Default

- (a) you fail to make any payment when due under these Terms and Conditions or to make or take delivery of any property when due under, or to observe or perform any other provision of these Terms and Conditions,
- (b) you commence a procedure seeking or proposing liquidation, reorganisation, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent), or seeking the appointment of a trustee, receiver, liquidator, conservator, administrator, custodian or other similar official (each a "**Custodian**") of you or any substantial part of your assets, or if you take any corporate action to authorise any of the foregoing, and in the case of a reorganisation, arrangement or composition, we do not consent to the proposals,
- (c) a procedure is commenced against you seeking or proposing liquidation, reorganisation, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent) or seeking the appointment of a Custodian of you or any substantial part of your assets and such involuntary case or other procedure,

- d) to the extent you are a natural person, you die, become of unsound mind, are unable to pay your debts as they fall due or are bankrupt or insolvent, as defined under any bankruptcy or insolvency law applicable to you, or any indebtedness of yours is not paid on the due date therefore, or becomes capable at any time of being declared, due and payable under agreements or instruments evidencing such indebtedness before it would otherwise have been due and payable, or any suit, action or other proceedings relating to these Terms and Conditions are commenced for any execution, any attachment or garnishment, or distress against, or an encumbrancer takes possession of, the whole or any part of your property, undertaking or assets (tangible and intangible),
- (e) you or any credit support provider (or any Custodian acting on behalf of either of you or a credit support provider) disaffirms, disclaims or repudiates any obligation under these Terms and Conditions or any guarantee, hypothecation agreement, margin or security agreement or document, or any other document containing an obligation of a third party, or of you, in favour of us supporting any of your obligations under these Terms and Conditions (each a "**Credit Support Document**"),
- (f) any representation or warranty made or given or deemed made or given by you under these Terms and Conditions or any Credit Support Document proves to have been false or misleading in any material respect as at the time it was made or given or deemed made or given,
- (g) (i) any Credit Support Provider fails, or you yourself fail to comply with or perform any agreement or obligation to be complied with or performed by you or it in accordance with the applicable Credit Support Document, (ii) any Credit Support Document expires or ceases to be in full force and effect prior to the satisfaction of all your obligations under these Terms and Conditions, unless we have agreed in writing that this shall not be an Event of Default, (iii) any representation or warranty made or given or deemed made or given by any credit support provider pursuant to any Credit Support Document proves to have been false or misleading in any material respect as at the time it was made or given or deemed made or given, or (iv) any event referred to in paragraphs (b) to (d) or (h) of this clause 14, Part 1 occurs in respect of any credit support provider,
- (h) to the extent you are not a natural person, you are dissolved, or, if your capacity or existence is dependent upon a record in a formal register, the registration is removed or ends, or any procedure is commenced seeking or proposing your dissolution, removal from such a register, or the ending of such a registration,
- (i) where you or your credit support provider is a partnership, any of the events referred to in paragraphs (b) to (d) or (h) of this clause 14, Part 1 occurs in respect of one or more of your or its partners,
- (j) we consider it necessary or desirable to prevent what we consider is or might be a violation of Applicable Law or Relevant Rules or is not in-keeping with accepted market practice,
- (k) we consider it necessary or desirable for our own protection or any action is taken or event occurs which we consider might have a material adverse effect upon your ability to perform any of your obligations under these Terms and Conditions,
- (l) any event of default (however described) occurs in relation to you under any other agreement between us

Part II· NETTING

- (a) **Rights on Default** On the occurrence of an Event of Default, we may exercise our rights under this clause, except that in the case of the occurrence of any Event of Default specified in paragraphs (b) or (c) under Part I of this clause 14 (each a "**Bankruptcy Default**"), the automatic termination provision in of Part II paragraph (c) of this clause shall apply
- (b) **Liquidation Date:** Subject to the following sub-clause, at any time following the occurrence of an Event of Default, we may, by notice to you, specify a date (the "**Liquidation Date**") for the termination and liquidation of any ongoing Transactions in accordance with this clause
- (c) **Automatic termination:** The date of the occurrence of any Bankruptcy Default shall automatically constitute a Liquidation Date, without the need for any notice by us and the provisions of the following sub-clause shall then apply
- (d) **Calculation of Liquidation Amount.** Upon the occurrence of a Liquidation Date
 - I neither of us shall be obliged to make any further payments or deliveries under any ongoing Transactions which would, but for this clause, have fallen due for performance on or after the Liquidation Date and such obligations shall be satisfied by settlement (whether by payment, set-off or otherwise) of the Liquidation Amount,
 - II we shall (on, or as soon as reasonably practicable after, the Liquidation Date) determine (discounting if appropriate), in respect of each ongoing Transaction referred to in paragraph (a) the total cost, loss or, as the case may be, gain, in each case expressed in the Base Currency (and, if appropriate, including any loss of bargain, cost of funding or, without duplication, cost, loss or, as the case may be, gain as a result of the termination, liquidation, obtaining, performing or re-establishing of any hedge or related trading position) as a result of the termination, pursuant to these Terms and Conditions, of each payment or delivery which would otherwise have been required to be made under such Transaction (assuming satisfaction of each applicable condition precedent and having due regard, if appropriate, to such market quotations published on, or official settlement prices set by the relevant Market as may be available on, or immediately preceding, the date of calculation), and
 - III we shall treat each cost or loss to us, determined as above, as a positive amount and each gain by us, so determined, as a negative amount and aggregate all of such amounts to produce a single, net positive or negative amount, denominated in the Base Currency (the "**Liquidation Amount**")
- (e) **Payer:** If the Liquidation Amount determined pursuant to this clause is a positive amount, you shall pay it to us and if it is a negative amount, we shall pay it to you We shall notify you of the Liquidation Amount, and by whom it is payable, immediately after the calculation of such amount
- (f) **Other transactions:** Where termination and liquidation occurs in accordance with this clause, we shall also be entitled, at our discretion, to terminate and liquidate, in accordance with the provisions of this clause, any other Transactions entered into between us which are then outstanding

- (g) **Payment:** The Liquidation Amount shall be paid in the Base Currency by the close of business on the Business Day following the completion of the termination and liquidation under this clause (converted as required by Applicable Law into any other currency, any costs of such conversion to be borne by you, and (if applicable) deducted from any payment to you) Any Liquidation Amount not paid on the due date shall be treated as an unpaid amount and bear interest, at the average rate at which overnight deposits in the currency of such payment are offered by major banks in the London interbank market as of 11 00 am (London time) (or, if no such rate is available, at such reasonable rate as we may select) one 1% per annum for each day for which such amount remains unpaid
- (h) **Base Currency.** For the purposes of any calculation hereunder, we may convert amounts denominated in any other currency into the Base Currency at such rate prevailing at the time of the calculation as we shall reasonably select
- (i) **Payments:** Unless a Liquidation Date has occurred or has been effectively set, we shall not be obliged to make any payment or delivery scheduled to be made by us under a Transaction for as long as an Event of Default or any event which may become (with the passage of time, the giving of notice, the making of any determination hereunder, or any combination thereof) an Event of Default with respect to you has occurred and is continuing
- (j) **Additional rights:** Our rights under this Part II of clause 14 shall be in addition to, and not in limitation or exclusion of, any other rights which we may have (whether by agreement, operation of law or otherwise)
- (k) **Application of netting to Transactions:** This Part II applies to each Transaction entered into or outstanding between us on or after the date these Terms and Conditions take effect
- (l) **Single agreement:** These Terms and Conditions, the particular terms applicable to each Transaction, and all amendments to any such agreements shall together constitute a single agreement between us We both acknowledge that all Transactions entered into on or after the date that these Terms and Conditions take effect are entered into in reliance upon the fact that each agreement and all such terms constitute a single agreement between us
- (m) **Other agreements:** Subject to clause 8, the provisions of this clause shall not apply to any Transaction which is subject to liquidation and termination under another agreement However, any sum resulting from a liquidation and termination under another agreement, may be set-off against the Liquidation Amount
- (n) **Default:** On an Event of Default or at any time after we have determined, in our absolute discretion, that you have not performed (or we reasonably believe that you will not be able or willing in the future to perform) any of your obligations to us, in addition to any rights under this Part II we shall be entitled without prior notice to you
- instead of returning to you investments equivalent to those credited to your account, to pay to you the fair market value of such investments at the time we exercise such right,
 - to sell such of your investments as are in our possession or in the possession of any nominee or third party appointed under or pursuant to these Terms and Conditions, in each case as we may in our absolute discretion select or and upon such terms as we may in our absolute discretion think fit (without being responsible for any loss or

diminution in price) in order to realise funds sufficient to cover any amount due by you hereunder,

- to close out, replace or reverse any Transaction, buy, sell, borrow or lend or enter into any other Transaction or take, or refrain from taking, such other action at such time or times and in such manner as, at our sole discretion, we consider necessary or appropriate to cover, reduce or eliminate our loss or liability under or in respect of any of your contracts, positions or commitments

Part III: Termination without Default

- (a) **Termination:** Unless required by Applicable Law, either party may terminate these Terms and Conditions (and the relationship between us) by giving ten days written notice of termination to the other. We may terminate these Terms and Conditions immediately if you fail to observe or perform any provision of them other than in the case of force majeure. Upon termination of these Terms and Conditions, all amounts payable by you to us will become immediately due and payable including (but without limitation)
- (a) all outstanding fees, charges and commissions,
 - (b) any dealing expenses incurred by terminating these Terms and Conditions, and
 - (c) any losses and expenses realised in closing out any Transactions or settling or concluding outstanding obligations incurred by us on your behalf
- (b) **Existing rights:** Termination shall not affect then outstanding rights and obligations under these Terms and Conditions and in relation to outstanding Transactions which shall continue to be governed by these Terms and Conditions and the particular clauses agreed between us in relation to such Transactions until all obligations have been fully performed

CLIENT MONEY AND CUSTODY

15 Application

Clauses 16 and 17 below will apply to assets received by us from you or in respect of your account where you have requested us to hold those assets in safe custody/subject to client money protection and we have notified you that we will hold such assets in safe custody/subject to client money protection in accordance with clause 10(b).

16 Client money

The following applies where we hold cash in accordance with the FCA's Rules on client money

(a) Client Money Rules

We shall treat money received from you or held by us on your behalf in accordance with the FCA's client money rules. Accordingly, subject to these Terms and Conditions, we will segregate your money from ours and place it in a client bank account pursuant to FCA Rules. Subject to paragraph (b) below, this account is held by us as trustee and the relevant bank is not entitled to combine it with any other account or to exercise any right of set-off or counter claim against

money in that account in respect of any sum we owe the bank. We will exercise due skill, care and diligence in the selection, appointment and periodic review of any such bank where your money is deposited but we shall not be liable for the solvency, acts or omissions of any such bank. A depositary with whom we may deposit your money may have a security interest or lien over, or right of set-off in relation to that money.

(b) Passing money to Exchanges, etc

We may pass money received from you to an exchange, intermediate broker or clearing house to effect a Transaction with or through that person or to satisfy your obligation to provide margin or collateral for a Transaction.

(c) Interest

Unless otherwise agreed in writing, we shall not pay you interest, nor account to you for profits earned, on client money.

(d) General Client Bank Accounts

Unless otherwise agreed in writing, where we deposit client money in a client bank account, such account shall be a "general client bank account". We do not offer to hold client money in "designated client bank accounts". This means that you will not have a claim against a specific sum in a specific account with a particular bank but will instead have a claim in respect of the general pool of client money held by us. As such, in the event of any shortfall in the amount of client money that we are holding for our clients which arises as the result of the failure or default of any bank with which we maintain our client bank accounts, your client money will be pooled with all other client money held by us (whether held at the failed bank or otherwise) and you will participate in the relevant shortfall on a *pro rata* basis along with our other clients who benefit from protection under the FCA's Client Money Rules.

(e) Money market funds

We may place client money into a qualifying money market fund and units in any such fund will be custodied under clause 17 below and held in accordance with the FCA's custody rules. You should notify us if you do not wish your money to be placed in a qualifying money market fund.

(f) Overseas banks, intermediate brokers or settlement agents

If we conclude Transactions on exchanges outside the UK, the FCA Client Money Rules permit us to hold client money with a bank located outside the UK or pass money to an intermediate broker, settlement agent, exchange or clearing house located outside the UK (which may, in each case, also be outside the European Economic Area ("EEA")). The legal and regulatory regime applying will be different from that of the UK or, where applicable, elsewhere in the EEA and in the event of the insolvency or any other equivalent failure of that bank or person, your money may be treated differently from the treatment which would apply if the money was held with a bank in the UK or, where applicable, elsewhere in the EEA. We will not be liable for the solvency, acts or omissions of any third party referred to in this paragraph.

(g) Right of application of client money

If you owe us any money under these Terms and Conditions, we will on the day it becomes due and payable cease to treat as client money an equivalent amount and may apply that money in or towards satisfaction of the money due and payable to us

(h) Surplus

Any surplus on a sale or closing out after exercising our rights under these Terms and Conditions belongs to you and we will treat it as client money. Accordingly, if we default while still holding it, it will be pooled with our other client money for the benefit of all our customers and you will share rateably with them in that pool

17 Custody

Where we, our nominee, or our Affiliate receive assets from you which we agree to custody or to arrange to custody

(a) Custodian

We may act as custodian or may appoint a third party (which may be a member of our group) to act as custodian. "Custodian" refers to us or such third party, as the case may be

The custodian will

- hold your assets in custody accounts segregated from its own assets, and
 - register title to the assets in your name or the name of the custodian or a nominee
- Where the assets are held with a nominee or custodian outside of the UK, the assets may be subject to the law or market practice of that jurisdiction

(b) Segregation

The custodian may

- hold the assets at your risk and on such terms and conditions as the custodian may require (where the custodian is a third party, we may grant security interests over assets to the custodian),
- in certain jurisdictions the custodian may not be able under local law to separately identify your assets from its own proprietary assets, in which case in the event of a default or insolvency of the custodian, if there is a shortfall in the total assets held, you may not recover all of your assets

(c) Instructions

You may

- give us instructions to (i) deal with any rights and meeting calls, (ii) exercise any voting, conversion, subscription, redemption or other rights, and (iii) deal with take-over or other offers, and
- choose (i) to mandate your dividends, interest payments and other entitlements to your bankers, or (ii) that we account to you for the same

We will not exercise any rights unless we have sufficient instructions from you and/or (as necessary) sufficient funds immediately made available to us

(d) Place of custody

Assets may be held in the UK or elsewhere, in our absolute discretion. Where assets are held outside the UK, the legal and regulatory regime will be different from that of the UK. If the custodian becomes insolvent, assets held outside the UK may be treated differently from the treatment which would apply if they were held in the UK. In a non-EEA country which does not regulate the holding and safekeeping of financial instruments, this may be because the nature of the assets or the services that we are providing in connection with those assets requires them to be deposited with a person in that country (see also clause 22(c)).

(e) Exclusion of liability

We accept no responsibility for the acts, default or insolvency of

- any custodian other than ourselves or our nominee or a member of our group, in the absence of fraud, negligence or wilful default by us in the initial selection of the custodian,
- any issuer, depository or registrar of securities

(f) Right to use assets

We may not use assets for any purpose other than as permitted by these Terms and Conditions without your prior written consent. In particular, we may not enter into securities financing transactions in respect of your assets held either by us in a client account or in an omnibus account held by a third party without first obtaining your written consent.

UNDERTAKINGS

18 Exclusion of liability

Neither we nor any member of our group nor our respective directors, officers, employees or agents will be liable (whether in contract or in tort or otherwise) for

- any direct or indirect losses, damages, costs or expenses incurred or suffered by you unless arising directly from our or their respective negligence, wilful default or fraud, or
- special, indirect, incidental, punitive or consequential damage

19 Indemnity

You agree to indemnify us and our directors, officers, employees or agents against any loss, liability, costs and expenses, which we (or they) incur either directly or indirectly in the due performance of our obligations under these Terms and Conditions.

20 Warranties

(a) General

You represent and warrant to us at the date you enter into these Terms and Conditions and each Transaction that

- (i) you possess all the necessary consents, powers, licences and authorisations and have taken all necessary action to authorise the entry into and performance of these Terms and Conditions and any Transactions,
- (ii) these Terms and Conditions and each Transaction are binding upon you and do not and will not violate any law, regulation, order, charge or agreement by which you are bound,
- (iii) no litigation, arbitration or administrative proceedings are current or, to your knowledge, pending or threatened, which might, if adversely determined, have a material adverse effect on your business or financial condition or on your ability to perform your obligations under these Terms and Conditions,
- (iv) no Event of Default as defined in Part 1 of clause 14 or any event which may become (with the passage of time and/or the giving of notice and/or the making of any determination) an Event of Default has occurred and is continuing with respect to you or any guarantor, and
- (v) unless you have expressly notified us otherwise, you act in the capacity set out in the account opening form, and
- (vi) any information provided to us is complete, accurate and not misleading in any material respect, and
- (vii) you are willing and financially able to sustain a total loss of funds or assets resulting from any Transactions, and
- (viii) subject to paragraph (v) above, you are the sole beneficial owner of
 - all margin and collateral provided, and
 - your account,in either case, free and clear of any third party right whatsoever other than a lien routinely imposed on all securities in a clearing system in which the relevant assets may be held

(b) Individuals

If you are an individual, you also represent and warrant to us at the date of these Terms and Conditions and each Transaction that you have full capacity to enter into such Terms and Conditions and such Transaction(s)

(c) Companies

If you are a company, you also represent and warrant at the date of these Terms and Conditions and each Transaction that

- you are duly incorporated and validly existing under the laws of the jurisdiction of your incorporation, and

- you have the power to own assets and carry on business as it is being conducted, and
- all authorisations required in connection with the entry into, performance, validity and enforceability of Transactions and these Terms and Conditions have been obtained or effected and are in full force and effect

(d) Our warranties

We represent and warrant to you at the date of these Terms and Conditions and each Transaction in the terms as set out in clause 20 paragraphs (a)(i) and (iii) and (c)

21 Covenants

You will

- use all reasonable endeavours to comply with Applicable Law,
- promptly notify us in writing if any information previously provided to us changes,
- notify us of the occurrence of an Event of Default as defined in Part I of clause 14,
- upon demand, provide us with such information as we may reasonably require, and
- if any action or proceeding is brought by or against us in relation to these Terms and Conditions, cooperate with us to the fullest extent possible in the defence or prosecution of such action or proceedings

22 REGULATORY DISCLOSURES

(a) Important information

Where you are a Professional Client, information on the firm and its services, investments and strategies designed to assist you in understanding their nature and risks is contained in our Disclosure Booklet, which accompanies these Terms and Conditions and will be updated and sent to you from time to time

The appropriate paragraph(s) of the then current Booklet should always be read before entering into a Transaction described in the relevant paragraph(s)

(b) Your Capacity for FCA Rule purposes

- As notified to you in the cover letter to these Terms and Conditions, we will treat you for all purposes and all services and Transactions as either an Eligible Counterparty or as a Professional Client
- Where you act as agent
 - (i) we will treat you, and not your principal, as our sole "client" under the FCA Rules, and
 - (ii) you warrant to us as at the date of these Terms and Conditions and in relation to each Transaction that

- you have your principal's full authority to enter into and perform these Terms and Conditions and your principal is aware of and agrees to these Terms and Conditions, and
- any information which you transmit to us about your principal is true, accurate and complete, and
- you have, where necessary, either advised your principal to enter into that Transaction or concluded that such Transaction is appropriate for your principal

(c) Additional Information

Please note

- you may communicate with us, and will receive documents from us, in English,
- where we hold your assets in safe custody with a third party pursuant to clause 17, the third party may hold your assets in an omnibus account for all of our clients and, in the event of our or that third party's default or insolvency, if there is a shortfall in that omnibus account, you may not recover all of your assets,
- where your assets are held by a third party outside of the UK, it may not be possible for those assets to be separately identifiable. In the event of the third party's default, you may not recover all of your assets,
- in the event that your money and/or assets are held in an account that is subject to the law of a jurisdiction other than an EEA member state, your rights in relation to that money or those assets may differ accordingly, and
- all charges will, to the extent possible, be deducted from sums held in your account

(d) Cold Calls

By entering into these Term and Conditions you expressly request that we call you in relation to any service, investment and/or opportunity that we reasonably consider may be of interest to you

(e) Distance Marketing

If you are an individual client (not a legal entity) and we enter into a Transaction as a result of our distance marketing, then in every such case you should note the following disclosures

- the information in paragraph (a) above,
- the services referred to in these Terms and Conditions and the Disclosure Booklet, and
- you do not have a right to cancel any Transaction

If you are not a client of ours in your capacity as an individual, these disclosures do not apply to you

MISCELLANEOUS PROVISIONS

23 Conflicts of Interest

We have in place arrangements to manage conflicts of interest between ourselves and our clients and between our different clients, which are set out in our Conflicts of Interest Policy. Where we do not consider that the arrangements under our Conflicts of Interest Policy are sufficient to manage a particular conflict that would apply to you, we will inform you of the nature of the conflict so that you can decide how to proceed.

24 Confirmations

We will make available to you a confirmation of each Transaction, promptly after entering into that Transaction with or for you.

25 Periodic statements

Within 10 Business Days after the end of each month, we will make available on our website a statement of your account as well as (where appropriate) a statement of the valuation and composition of your portfolio and/or any assets and client money held.

Periodic statements and confirmations will, in the absence of manifest error, be conclusive and binding on you unless we receive from you an objection in writing within, respectively, 2 or 5 Business Days of receipt.

26 Notices

All communications will be to the address or fax number and to the individual/department specified in the account opening form or by proper notice in writing accompanied by any necessary evidence of the change. Email notifications of changes in contact details will not be accepted.

Communications are taken to be received

- if sent by post 3 Business Days after the date of posting (or 5 if sent to or from a place outside the UK),
- if sent by fax at the time shown in a transmission report that indicates that the whole fax was sent,
- if sent by electronic mail on the day following dispatch, and
- if posted on our website on the day following such posting.

27 Recording calls

We may tape record telephone calls and use such recording as evidence in any dispute.

28 Your personal information

- (a) We will treat all of your information as confidential, even when you are no longer a client, but may disclose it

- as required by Applicable Law,
 - as necessary in the provision of services pursuant to these Terms and Conditions, and
 - as necessary to protect our interests
- (b) Any such information may be
- held and/or processed by our Affiliates or agents,
 - transferred to any country, including outside the European Union, which may or may not have data protection laws, and/or
 - used to enable us to give you information about products and services offered by us or our Affiliates or selected third parties which we believe may be of interest to you. If you do not wish to receive marketing information, please contact us in writing
- (c) Under Applicable Law you may have the right to access information that we hold about you, or have inaccurate information corrected, and if you wish to exercise such right, please contact us in writing
- (d) Where you are a company, the information we hold about you may include information regarding your officers and employees and you will inform them that we may hold such information in the manner described above
- (e) We may at our discretion provide your details to credit reference agencies or other organisations that help us make credit decisions and reduce the incidence of fraud or in the course of carrying out such identity checks, fraud prevention or credit control checks. If you are resident in the United Kingdom and we undertake such checks the Credit Reference Agency will check your information against its database and will retain a record of the check which has been undertaken. This information may be available to other organisations for checking purposes

29 Applicable Law

If there is any inconsistency between Applicable Law and these Terms and Conditions, the Applicable Law will prevail. Nothing in these Terms and Conditions exclude or restrict any obligation that we owe pursuant to the FCA Rules or Applicable Law. We may take or omit to take any action we consider necessary to ensure compliance with Applicable Law and the FCA Rules which will be binding on you.

30 Amendments

Without prejudice to your existing rights and obligations, we may amend these Terms and Conditions by way of prior written notice to you. Such amendment will become effective from the date of such notice.

31 Force majeure

Subject to any other clause of these Terms and Conditions, we shall not be liable to you for any partial or non-performance of our obligations by reason of any cause

beyond our reasonable control, including any breakdown, malfunction or failure of transmission, communication or computer facilities, industrial action, acts and regulations of any governmental or supra national bodies or authorities or the failure of any relevant intermediate broker, agent or principal of ourselves, custodian, sub-custodian, dealer, exchange, clearing house or regulatory or self-regulatory organisation, for any reason, to perform its obligations

32 Assignment

These Terms and Conditions are for the benefit of, and are binding upon, both of us and our respective successors and assigns. We may, but you may not without our prior written consent, assign, charge or otherwise create a third party right over these Terms and Conditions or any right, benefit or interest under them or transfer any obligation under them

33 Set-Off

Without prejudice to any other rights to which we may be entitled, we may at any time and without notice to you set off any amount (whether actual or contingent, present or future) owed by you to us against any amount (whether actual or contingent, present or future) owed by us to you. For these purposes, we may ascribe a commercially reasonable value to any amount which is contingent or which for any reason is unascertained

34 Time of the essence

Time will be of the essence in respect of all obligations owed by you pursuant to these Terms and Conditions

35 Rights of Third Parties

Any person who is not a party to these Terms and Conditions, but is referred to in them, may enforce its terms under the Contracts (Rights of Third Parties) Act 1999

36 Governing law and Jurisdiction

These Terms and Conditions, and any non-contractual obligations arising from or connected with them, are governed by and construed in accordance with, English law

Subject to the next paragraph, we both irrevocably

- agree that the courts of England shall have jurisdiction to determine any proceedings arising out of or in connection with these Terms and Conditions (whether arising out of or in connection with contractual or non-contractual obligations) and irrevocably submit to their jurisdiction, but this will not prevent us from bringing an action in the courts of any other jurisdiction, and
- waive any objection to the venue of any such proceedings

Where any Relevant Rules require us to do so, and where they so permit us to do so, we may, refer any dispute relating to a Transaction to arbitration under such Relevant Rules prior to resorting to the jurisdiction of the courts

EXECUTION POLICY DISCLOSURE STATEMENT

1 Purpose

Under FCA Rules, other than in certain circumstances described below, where we execute or arrange the execution of professional client orders, we are required to take all reasonable steps to obtain the best possible result of those professional clients (known as delivering "best execution") and to establish and implement an order execution policy to allow us to do so

We have instituted a range of internal policies and procedures governing how we will act when we execute orders on behalf of our clients. We continually strive to provide the best possible level of service to all of our clients. Consequently, our policies and procedures are under constant review and may be revised at any time without prior notice.

This document discloses information about those policies and procedures that we believe is appropriate for you to be aware of before you place orders with us. However, if you feel that you need additional information, for example, in relation to how orders will be executed for particular instruments or on particular markets, then please let us know.

2 Application

Eligible counterparties, by their nature, have a more sophisticated understanding of financial markets and are likely to have access to the markets through a variety of sources. Where we have categorised you as an eligible counterparty, our aim is to become your broker of choice by providing a competitive service which will generally compare favourably with the alternatives that we believe are likely to be available to you. You are reminded of your right to request a different categorisation if you wish. There is no requirement under FCA Rules for us to deliver best execution to eligible counterparty clients. As described below, there are also circumstances in which we will not be required to deliver best execution to professional clients in respect of an entire order or particular aspects of an order.

3 Specific Instructions

If you have any particular requirements as to how we act when dealing with or for you, please let us know. We will do our best to accommodate you. However, you should be aware that where you give us specific instructions that are incompatible with our normal order execution policies and procedures, your specific instructions will take precedence. This may result in a different outcome than would have been achieved had our normal policies and procedures been followed and, for professional clients, we will not be required to deliver best execution in respect of the aspects of your order which are covered by your specific instructions. You should also note that our normal policies and procedures take account of the costs that we would incur in transacting business. Transactions that are not undertaken in accordance with our normal policies and procedures may not be subject to our normal charges. Where this applies, we will notify you of the applicable charges before executing your order.

4 Non-centralised markets

In some non-centralised markets, such as the inter-office market for metals and the foreign exchange market, broker-dealers traditionally act on a principal basis. In these markets, convention dictates that clients will shop around for themselves to find the best deal. If you approach us for a price in such a market, we will assume that you are also approaching other market participants and that you are not relying on us to do so on your behalf. In those circumstances, we will not be required to deliver best execution.

In some markets, we act as a broker-dealer, quoting two way prices to clients and market participants throughout the day. We also run an internal limit order book. We will transact business through these routes where possible, thus ensuring that our bid price is always lower than the best offer available to us and our offer is always higher than the best bid available to us. Our price may therefore, in extremis, include a mark-up or mark-down of up to our spread on the best price available to us.

EXECUTION POLICY DISCLOSURE STATEMENT

Our spreads in these markets may vary depending on market conditions. If you ask us to do so, we will agree our spread on a particular trade at the time you place the order.

You should note that price transparency within some markets is poor; some market participants will give their own customers priority over their competitors, and for non-centrally cleared business, our choice of counterparty may be limited. Consequently, we may not always have access to all of the prices in the market.

5 Request for Quote

Where you approach us and request us to quote you a price, the price that we quote you will be consistent with our execution policies and procedures at the time that we quote it. If you place an order while our quote remains valid then the resulting transaction will be executed at the quoted price in accordance with our policies and procedures.

6 Execution Factors

When we execute an order on your behalf, we take into account a number of factors (**Execution Factors**), including

- price,
- costs,
- speed,
- likelihood of execution (liquidity) and settlement,
- size of your order,
- nature of your order,
- any other consideration we deem to be relevant to the execution of your particular order.

We will determine the relative importance of each such Execution Factor in achieving the best possible result by taking into account the following criteria:

- the type of client you are (including your regulatory client categorisation),
- the characteristics of your order,
- the characteristics of the financial instruments your order relates to, and
- the characteristics of the execution venues (if there is more than one) where your order can be executed.

7 At Market Orders

Where we execute an order on your behalf which can be immediately filled in the prevailing market conditions, we will normally prioritise price and costs with a view to achieving the best overall cost. We will also prioritise speed of execution.

8 Limit Orders

Limit orders, by their nature, cannot be immediately filled in the prevailing market conditions. The overall cost will have been agreed by you when you placed the order. We will therefore prioritise speed of execution – seeking to execute your order at the earliest possible opportunity.

9 Execution Venues

For each market in which we operate, we identify the venues that we believe are most likely to provide the best outcome when we execute orders on behalf of our clients. These may include the following types of venues:

- A Regulated Market (as defined in the FCA Rules), or
- A Multilateral Trading Facility (as defined in the FCA Rules), or
- A Systematic Internaliser (as defined in the FCA Rules), or
- An OTC crossing venue or electronic trading platform,

EXECUTION POLICY DISCLOSURE STATEMENT

- Crossing your order against another client, or
- The book of another broker, investment firm or liquidity provider (which may be an affiliate)

We will not maintain access to individual venues unless we believe that the benefits will outweigh the costs. Details of the execution venues that we use are available on request.

In some cases we may receive commission payments from the counterparty who takes the other side of your trade. We will only do this where the total cost that you incur is no worse than would have been the case had we executed your order at another venue.

10 Aggregation

In some circumstances, we may aggregate your order with our own orders or those of other clients. We will only do this where we believe it is unlikely to work overall to the disadvantage of any client. However, aggregation may work to your disadvantage in relation to a particular order.

11 Payment for order flow

In some cases, we may execute client orders in a way which will result in us receiving commission payments from both parties to the transaction.

Before we execute your order in this way, we will check other sources of liquidity from which we would not receive commission. We will always execute your order in the way which provides the best outcome for you.

For the avoidance of doubt, if we have categorised you as a professional client and we execute your order with a counterparty who is acting as a market maker, we will not receive 'payment for order flow' from that counterparty.

12 Status of this disclosure

This disclosure is provided to you for information only and is not intended to be contractually binding or impose or seek to impose any obligations on us which we would not otherwise have under the FCA Rules or any client terms of business or agreement. In particular, we are not agreeing to deliver best execution in circumstances where we are not required to do so under FCA Rules.

A GUIDE TO THE STRUCTURE AND MARKET TERMINOLOGY OF THE LONDON METAL EXCHANGE

INTRODUCTION AND PURPOSE

This document is designed to provide customers of the London Metal Exchange (LME) with an overview of the structure of the LME, market terminology, and a guide to how its members execute orders. It is not a comprehensive trading guide, nor a complete guide to market terminology. Customers should always ensure that their requirements are explained in detail to the member responsible for order execution.

THE LME

Principal Nature

There are two types of contracts traded on the LME - Exchange Contracts and Client Contracts. Exchange Contracts are contracts between clearing members of the LME. Client Contracts are contracts between customers and ring dealing members (RDM), or associate broker clearing members (ABCM), or associate broker members (ABM)[1][1]. Only RDMs, ABCMs and ABMs may issue Client Contracts. Statements that they issue to clients must state clearly **'THIS IS AN LME REGISTERED CLIENT CONTRACT'**. Contract criteria pertaining to LME contracts, including metal specification, acceptable currencies, prompt dates, option strike prices etc are detailed in the LME rulebook and appropriate notices.

Exchange Contracts are traded between members, **matched** in the LME matching and clearing system (LMEMS) and margined by the LME Clear. Client Contracts are **registered** at the LME Clear but margining arrangements are left to members to agree with their customers (subject to LME rules).

All LME contracts are between parties acting as principals. This prevents any party entering into an LME Contract as agent for someone else but does not prevent an agent effecting a contract between two parties if the resulting LME contract is between disclosed parties, each acting as a principal. It is an essential requirement of an LME Client Contract that one party must be an RDM, ABCM or ABM. A list of members is available from the LME. A principal relationship does not mean that members do not take on quasi-fiduciary responsibilities when they effect trades for customers. In particular, if a member undertakes to deliver a particular service, for example deal a specific number of lots 'in the Ring' (see below), then it should take care to ensure that it complies with all the terms of such a transaction.

In respect of Exchange Contracts, an LME broker buying metal under an Exchange Contract from another LME broker cannot do so as agent for his customer. Where an LME broker buys metal under an Exchange Contract with a view to selling that metal to his customer, this is achieved by entering into a back-to-back Client Contract with the customer. Brokers and customers can agree the conditions that apply to their Client Contracts. For example, a customer may make it a condition of his Client Contract that the broker must enter into a back-to-back Exchange Contract for the metal being bought or sold. This does not make the customer a party to the Exchange Contract but does create additional duties and obligations owed by the broker under the Client Contract.

Customers should be clear about conditions that apply to their Client Contracts and about the obligations and duties that the broker owes as a result of those conditions.

Brokers should be clear about the duties and obligations they owe as a result of conditions attaching to their Client Contracts. They should also be clear about the duties they owe to their customers under the FCA's conduct of business rules.

[1][1] For the purposes of this document these categories of members will be referred to as LME members, members or by the appropriate abbreviation.

Dual Capacity

LME members may act both in the capacity of market maker and broker. They may act in a particular manner depending on a number of circumstances, including the size of the order, the liquidity of the market at the time the order was placed, and, not least, the customer's instructions. Customer orders may be filled directly from a member's 'book' or filled by the member after it has bought/sold metal in the LME market. Furthermore, customer orders may be offset, amalgamated, broken-up or netted for execution. These methodologies apply equally to orders whether any resulting exchange contract is effected in the ring, in the inter-office market, or on LME Select.

Customers with specific order requirements must make these known to the member at the time the order is placed. Customers wishing to know how their order was executed should request such information from the member.

Trading on the LME

Trading takes place on the LME by open outcry in the rings and kerbs, between members in the inter-office, and over the Exchange's electronic trading system LME Select.

Open Outcry

Historically, during ring and kerb sessions, the majority of customer business reflects prices traded in the open outcry sessions. Customers can follow the market activity by monitoring quoted and traded prices disseminated via the LME market data system (MDS), or by listening to the simultaneous floor commentary provided by member(s). The MDS publishes prices traded during ring and kerb times on price vendor information services such as Reuters.

Members can continue to 'make a market' on request to a customer whilst the ring and kerb sessions are in operation, although this is entirely at the member's discretion. Alternatively, the customer can decide whether to place an order using the 'order styles' mentioned below.

Inter-office

Inter-office trading is conducted between members by telephone or by electronic means. On contacting an LME member, customers will usually be provided, on request, with the member's current bid-ask quote. The customer may trade on this quote, or call another member in an attempt to improve the quote, or wait and monitor prices on the LME market data system, or leave an order with a member. If an order is left with a member for execution and not taken on its own book, it may be executed via a 'back to back' Exchange Contract agreed via a telephone deal with another member or executed via an electronic trading system.

LME Select

LME Select allows members to trade all LME Metal Contracts, Index Contracts, Exchange Metal Options or Traded Average Price Option contracts, for all prompt dates and carries, and for all series. All trading on LME Select is in US dollars.

LME Select replaces neither inter-office trading nor trading in the ring. Depending on the time of day, it is possible for members to deal by telephone or electronically in the inter-office market, by LME Select, or in the rings. Customers should specify which mechanism they prefer where they have a preference.

Firm prices of the best bid and offer available on LME Select, the total volumes available at these prices, and the price and volume of each trade transacted are distributed to and displayed in real time by information vendors. Only LME Select prices are displayed, not

those of other third party electronic trading system providing LME prices. Only RDMs and ABCMs are eligible to become LME Select Participants and to have direct access to the system. Customers may effect 'back to back' client contracts based upon prices available on LME Select via such members.

ORDER STYLES

Ring

Customer orders are not traded in the rings or kerbs, so an order using the term 'in/on/during the ring/kerb' will be executed on the basis of the prices traded/quoted during the particular session. If a customer requires their order to be 'shown' or traded across the ring/kerb then they should make this requirement known to their executor, who may or may not accept this as a term of the order. The equivalent Exchange Contract for a customer order may not replicate its terms. As the customer is **not** a party to any Exchange Contracts i.e. those traded in open outcry between members in the ring/kerb sessions, in specifying ring/kerb, the customer is merely identifying a pricing mechanism. A member which undertakes to match a price traded in the ring/kerb is not necessarily undertaking that it will trade during that ring/kerb, only that it may do so. However, a customer may place an order with the specific request that the member trades an Exchange Contract replicating its order in the ring. In such circumstance the RDM can only trade this order by open outcry in the ring.

If a customer trades at the prevailing market quote proffered in the ring/kerb, their executor is not necessarily obliged to effect an Exchange Contract at the same price. This can lead to situations where the customer has traded at the prevailing market quote, without that same price trading in open outcry across the floor of the Exchange. However, if the instructions from the customer are to achieve a specific price i.e. close of ring 2, then this is the price that should be given, if that specific order is accepted.

Market

In normal circumstances a market order is one executed on a timely basis at the prevailing market price. As mentioned above, at certain times of the business day, trading is taking place simultaneously in the ring or kerb, on LME Select, and in the inter-office market. Traditionally, when open outcry trading is in course, the market is defined by activity within the ring/kerb. At other times, the market is split between inter-office trading and trading on LME Select. During inter-office sessions, indicative quotes are available on the MDS and firm prices available on LME Select and the LME Select page on information vendors' systems. The indicative prices might not be available to all parties.

Best

Order styles on the LME using the word 'best' confer some discretion upon the members when executing the order, requiring them to use their 'best endeavours' on the customer's behalf. The extent of the discretion is fixed by the terms of the order. This type of order is distinct from 'best execution' as defined by the FCA, which most non-private LME customers waive as part of their overall agreement with their executor.

Best orders may be executed both in rings/kerbs, inter-office and on LME Select. Inter-office trades rely upon the members' skill in determining the level of the market at any particular time. Best orders received during ring/kerb times may not result in the customer receiving the 'best' price achieved during the session if the price improves after the member has booked the metal intended to fill the order. At any given time, the best price on LME Select will be displayed on the system and by the information vendors. Customers should be aware that depending on market conduct the best price may move during the period from them placing their order and the members executing.

Close

Most orders placed 'on the close' are for either the close of the second ring (official LME prices) or the second kerb (closing prices). Both these prices are demonstrable because of the publication of official and closing prices. Closing prices of other sessions are harder to determine, although the LME does also publish unofficial prices which are established at the close of the fourth ring. In all circumstances, customers and members need to agree the style of execution i.e. bid/ask, mean or traded price. Members may not always be able to guarantee execution (price or volume) due to prevailing market conditions. A closing price on LME Select is the last price traded before the system closes at 19.30.

Open

Customers placing orders to trade on the opening of a market session must provide clear instructions to the LME member which indicate how this order should be activated i.e. basis the opening bid/ask or basis the first trade in the session. Customers will also need to inform their executor of their requirements if the executor is unable to fill the order basis the 'opening' price in its entirety due to market constraints such as insufficient supply/demand. Customers may place orders with members for LME Select that can be placed into the system for activation when the market opens at 07.30.

Resting Orders

When placing resting orders such as 'good' til cancelled' ('GTC', or any derivations thereof) or stop loss orders, customers should ensure that they are in agreement with their executor's definition of the 'trigger' point of the order. Usually, this is interpreted as being the point when the order price is seen to be trading in the market, but it is possible to request the order be activated when the order level is either bid or asked as appropriate, via the prevailing market quote. Stop loss orders become market orders when a trade, or a bid or an offer triggers the stop, with members then executing the order at the current market price.

It is possible for a customer not to receive a 'fill' on a resting order despite the 'trigger' point being 'touched'. This could be due to a number of circumstances such as order priority, illiquidity, prevailing market conditions etc. Whatever the reason, the executor should be able to provide the customer with a full explanation of why it was unable to fill the order.

Customers should be aware that resting orders might be activated during periods of illiquidity in the market. As previously mentioned this could result in the trade not being filled. For 'stop' orders this could result in a worse fill than anticipated ('slippage'). Customers should ensure the executor is fully aware of their requirements regarding the execution and adheres to any limitations, especially if the customer is not in contact with the market/member when the trigger point is reached.

It is possible for customers to ask members to place resting orders in LME Select. The system accepts GTC and Good for Day (DAY) orders. DAY orders are automatically deleted from the system at 19.30.

Conclusion

The above order styles do not represent all possible methods of order execution on the LME. Members and customers should ensure that orders are communicated in meaningful terms that deliver the required execution in accordance with LME rules.



International Swaps and Derivatives Association, Inc.

CROSS-BORDER SWAPS REPRESENTATION LETTER

published on August 19, 2013

by the International Swaps and Derivatives Association, Inc.

On July 26, 2013, the CFTC published an “Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations” providing guidance as to when the CFTC will assert jurisdiction over swap transactions that have a non-U S element. This representation letter allows market participants to provide counterparties with status representations needed to determine whether compliance with various CFTC swap regulations is required by the Interpretive Guidance. The representations in this letter are solely for the purposes of making such determinations.

Capitalized terms used in this letter are defined in Appendix I.

I. U.S. Person Representations.

Instructions: Please make one of the two representations provided below by checking the relevant box.

Not a U S Person

- ☐ We hereby represent that we reasonably believe that we do not fall within any of the U S Person Categories and believe in good faith that we would not otherwise be deemed to be a “U S person” under the Interpretive Guidance. This representation shall be deemed repeated each time we enter into a Swap Transaction with you unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction.

U S Person

- ☐ We hereby represent that we reasonably believe that we do fall within one or more of the U S Person Categories or would otherwise be deemed to be a “U S person” under the Interpretive Guidance. This representation shall be deemed repeated each time we enter

into a Swap Transaction with you unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction

II. Additional Representations for Non-U.S. Persons.

Instructions: If you checked the first box in Part I (“Not a U.S. Person”), please complete Sections (A) and (B) below by checking one box in each Section.

This information is needed because certain CFTC Swap Regulations apply to transactions with non-U.S. persons if they are “affiliate conduits” or guaranteed by a U.S. person.

(A) Affiliate Conduit Representations

Not an Affiliate Conduit

- ☐ We hereby represent that we reasonably believe, based upon the relevant guidance in the Interpretive Guidance, including the Affiliate Conduit Factors, that we would not be classified under the Interpretive Guidance as an “affiliate conduit.” This representation shall be deemed repeated each time we enter into a Swap Transaction with you unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction

Affiliate Conduit

- ☐ We hereby represent that we reasonably believe, based upon the relevant guidance in the Interpretive Guidance, including the Affiliate Conduit Factors, that we would be classified under the Interpretive Guidance as an “affiliate conduit.” This representation shall be deemed repeated each time we enter into a Swap Transaction with you unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction

(B) Guarantee Representations

No U S Person Guarantees

- ☐ We hereby represent to you as of each time we enter into a Swap Transaction with you that, unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction, our obligations to you in connection with the relevant Swap are not, supported by any Guarantee (of which we are aware) other than any Guarantee provided by a person who we reasonably believe does not fall within any of the U S Person Categories and who we believe in good faith would not otherwise be deemed a “U S person” under the Interpretive Guidance

U S Person Guarantees

- ☐ We hereby represent to you as of each time we enter into a Swap Transaction with you that, unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction, our obligations to you in connection with the relevant Swap are supported by a Guarantee that is provided by a person that we reasonably believe falls within one or more of the U S Person Categories or would otherwise be deemed to be a "U S person" under the Interpretive Guidance

Additional Instructions: If you checked the second box in Section (B) ("U.S. Person Guarantees"), please further indicate in Section (C)(1) below whether such Guarantees are provided by Financial Entities and in Section (C)(2) below whether you are affiliated with a Swap Dealer.

(C)(1) Financial Entity Guarantors

No Financial Entity Guarantees

- ☐ We further represent to you as of each time we enter into a Swap Transaction with you that, unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction, we reasonably believe that no person who would be deemed to be a "U S person" under the Interpretive Guidance who is providing a Guarantee supporting our obligations to you in connection with the relevant Swap is a Financial Entity

Financial Entity Guarantees

- ☐ We further represent to you as of each time we enter into a Swap Transaction with you that, unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction, we reasonably believe that one or more persons who would be deemed to be a "U S person" under the Interpretive Guidance who is providing a Guarantee supporting our obligations to you in connection with the relevant Swap is a Financial Entity

(C)(2) Swap Dealer Affiliates

No Swap Dealer Affiliates

- ☐ We further represent to you as of each time we enter into a Swap Transaction with you that, unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction, we are not affiliated with a Swap Dealer

Swap Dealer Affiliates

- ☐ We further represent to you as of each time we enter into a Swap Transaction with you that, unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction, we are affiliated with a Swap Dealer and we do not engage in a level of Swap dealing activity that would require registration as a Swap Dealer with the CFTC

Executed and delivered with effect from the date first written above

[Name of entity completing letter]¹
[LEI/CICI]
[Alternative Identifier]²

By _____
Name _____
Title _____

¹ If this letter is being delivered by an agent on behalf of one or more principals, the agent should insert "as agent for [name of principal][the principals named on the attached sheet]" If the agent is acting on behalf of more than one principal, (i) it may list the names of such principals on a separate sheet and (ii) this letter should be treated as if it were a separate letter with respect to each principal listed on such sheet. Similarly, if this letter is being delivered by a trustee on behalf of one or more trusts or trust funds, the trustee should insert "as trustee for [name of trust or trust fund][the [trusts][trust funds] named on the attached sheet]"

² If you would like to include an alternative identifier, please describe the type of identifier provided

Appendix I: Definitions

“Affiliate Conduit Factors” means the four factors identified in the Interpretive Guidance as relevant to considering whether a non-U S person is an “affiliate conduit”³ For informational purposes only, the text of the factors (but not the related interpretive material) is reproduced below

- (i) the non-U S person is a majority-owned affiliate of a U S person,⁴
- (ii) the non-U S person is controlling, controlled by or under common control with the U S person,⁵
- (iii) the financial results of the non-U S person are included in the consolidated financial statements of the U S person, and
- (iv) the non-U S person, in the regular course of business, engages in swaps with non-U S third-party(ies) for the purpose of hedging or mitigating risks faced by, or to take positions on behalf of, its U S affiliate(s) and enters into offsetting swaps or other arrangements with its U S affiliate(s) in order to transfer the risks and benefits of such swaps with third-party(ies) to its U S affiliates

“CEA” means the U S Commodity Exchange Act, as amended

“CFTC” means the U S Commodity Futures Trading Commission

“CFTC Swap Regulations” means the rules, regulations, orders and interpretations adopted or issued by the CFTC, as in effect from time to time, that apply to Swaps and that are promulgated under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act or that are otherwise designated by the CFTC as being subject to the Interpretive Guidance⁶

“Financial Entity” means a “financial entity,” as defined in Section 2(h)(7)(C) of the Commodity Exchange Act, as amended

³ For the full discussion of how the CFTC interprets the term “affiliate conduit” (or alternately “conduit affiliate”), see the Interpretive Guidance at pp 45358-59 Note that the discussion indicates that the term “affiliate conduit” is not intended to include affiliates of swap dealers

⁴ The concept of a majority-owned affiliate for these purposes is discussed in fn 591 of the Interpretive Guidance

⁵ The concept of “control” for these purposes is discussed in fn 592 of the Interpretive Guidance

⁶ The application of the “U S person” concept to swap regulation is discussed at p 45316 of the Interpretive Guidance and the related concept of “swaps activities” is discussed at p 45297 & fn 38

“Guarantee” means an agreement or arrangement under which a person commits to provide a financial backstop or funding against potential losses that may be incurred by another person in connection with a Swap⁷

“Interpretive Guidance” means the *Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations*, 78 Fed Reg 45292 (July 26, 2013), as amended or supplemented by the CFTC from time to time⁸

“Swap” means a “swap” as defined in the Section 1a(47) of the CEA and CFTC Regulation 1.3(xxx). The term “Swap” also includes any foreign exchange swaps and foreign exchange forwards that may be exempted from regulation as “swaps” by the Secretary of the Treasury pursuant to authority granted by Section 1a(47)(E) of the Commodity Exchange Act

“Swap Dealer” means a “swap dealer” as defined in Section 1a(49) of the CEA and CFTC Regulation 1.3(ggg) thereunder

“Swap Transaction” means any transaction that results in the creation of new Swap between two or more parties or in a change to the terms of an existing Swap between parties, including execution, termination, assignment, novation, exchange, transfer, amendment, conveyance, or extinguishing of rights or obligations of a Swap

“United States” or **“U.S.”** means the United States, its states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and any other territories or possessions of the United States government, or enclave of the United States government, its agencies or instrumentalities

“U.S. Person Categories” means the enumerated categories of “U.S. persons” that are provided in the Interpretive Guidance⁹. For informational purposes only, the text of the categories (but not the related interpretive materials) is reproduced below

- (i) any natural person who is a resident of the United States,
- (ii) any estate of a decedent who was a resident of the United States at the time of death,
- (iii) any corporation, partnership, limited liability company, business or other trust, association, joint-stock company, fund or any form of enterprise similar to any of the foregoing (other than an entity described in prongs (iv) or (v), below) (a “legal

⁷ For a full discussion of how the CFTC interprets the term “guarantee,” see the Interpretive Guidance at p. 45320 & fn. 267 and also at p. 45355

⁸ Available at <http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2013-17958a.pdf>

⁹ Interpretive Guidance at pp. 45316-17

entity”),¹⁰ in each case that is organized or incorporated under the laws of a state or other jurisdiction in the United States or having its principal place of business in the United States,¹¹

- (iv) any pension plan for the employees, officers or principals of a legal entity described in prong (iii), unless the pension plan is primarily for foreign employees of such entity,
- (v) any trust governed by the laws of a state or other jurisdiction in the United States, if a court within the United States is able to exercise primary supervision over the administration of the trust,
- (vi) any commodity pool, pooled account, investment fund, or other collective investment vehicle that is not described in prong (iii) and that is majority-owned by one or more persons described in prong (i), (ii), (iii), (iv), or (v),¹² except any commodity pool, pooled account, investment fund, or other collective investment vehicle that is publicly offered only to non-U S persons and not offered to U S persons,¹³
- (vii) any legal entity (other than a limited liability company, limited liability partnership or similar entity where all of the owners of the entity have limited liability) that is directly or indirectly majority-owned by one or more persons described in prong (i), (ii), (iii), (iv), or (v) and in which such person(s) bears unlimited responsibility for the obligations and liabilities of the legal entity,¹⁴ and

¹⁰ See the Interpretive Guidance at p 45309 regarding the inclusion of legal entities that engage in non-profit activities, U S state, county and local governments and their agencies and instrumentalities. The treatment of international financial institutions such as the World Bank is discussed at p 45353 & fn 531.

¹¹ The CFTC indicates that the concept of “principal place of business” as applied to collective investment vehicles requires special consideration due to the nature of such vehicles. In particular, the location of senior personnel responsible for implementing the vehicle’s investment strategy and for forming and/or promoting the vehicle is discussed. For discussion of the relevant considerations, see the Interpretive Guidance at pp 45309-12.

¹² For purposes of making this determination, the CFTC indicates that collective investment vehicles should “look through” direct investors in certain circumstances. See the Interpretive Guidance at pp 45313-14 for discussion of when a look-through is required. In addition, the Interpretive Guidance indicates that majority ownership for this purpose is “the beneficial ownership of more than 50 percent of the equity or voting interests.”

¹³ See the Interpretive Guidance at p 45314 regarding exclusion of collective investment vehicles that are publicly offered only to non-U S persons and not offered to U S persons from the U S Person Categories.

¹⁴ Regarding the circumstances in which a majority of the owners of an entity are considered to be U S persons with unlimited responsibility for the obligations and liabilities of the legal entity, see the Interpretive Guidance at pp 45312-13.

- (viii) any individual account or joint account (discretionary or not) where the beneficial owner (or one of the beneficial owners in the case of a joint account) is a person described in prong (i), (ii), (iii), (iv), (v), (vi), or (vii)