

## B.11.2 Marketplaces

### B.11.2.1 Aegis SEF LLC – Application for Exemption from Recognition as Exchange – Notice and Request for Comment

#### NOTICE AND REQUEST FOR COMMENT

#### APPLICATION BY AEGIS SEF LLC FOR EXEMPTION FROM RECOGNITION AS EXCHANGE

##### A. Background

AEGIS SEF LLC (**AEGIS SEF**) has applied to the Commission for an exemption from the requirement to be recognized as an exchange pursuant to subsection 21(1) of the *Securities Act* (Ontario) (**OSA**).

AEGIS SEF is a marketplace for trading derivatives that are regulated as swaps by the United States Commodity Futures Trading Commission (**CFTC**). AEGIS SEF offers trading of uncleared bilateral swap transactions involving various underlying commodities, which are regulated as swaps by the CFTC.

AEGIS SEF will enable clients to access its trading platform directly to either enter transactions on their own behalf or on behalf of a participant as an introducing broker. In addition, AEGIS SEF intends to provide direct access to trading on its marketplace to participants located in Ontario and therefore is considered to be carrying on business in Ontario.

As AEGIS SEF will be carrying on business in Ontario, it is required to be recognized as an exchange under the OSA or apply for an exemption from this requirement. AEGIS SEF has applied for an exemption from the recognition requirements on the basis that it is already subject to regulatory oversight by the CFTC.

##### B. Application and Draft Exemption Order

In the application, AEGIS SEF has outlined how it meets the criteria for exemption from recognition. The specific criteria can be found in Appendix 1 of the draft exemption order. Subject to comments received, Staff intends to recommend that the Commission grant an exemption order with terms and conditions based on the draft exemption order. The application and draft exemption order are available on our website at [www.osc.ca](http://www.osc.ca).

##### C. Comment Process

The Commission is publishing for public comment the AEGIS SEF application and the draft exemption order. We are seeking comment on all aspects of the application and draft exemption order.

Please provide your comments in writing, via e-mail, on or before January 16, 2023, to the attention of:

Ontario Securities Commission  
20 Queen Street West  
22nd Floor  
Toronto, Ontario M5H 3S8  
Fax: 416-593-2318  
Email: [comments@osc.gov.on.ca](mailto:comments@osc.gov.on.ca)

The confidentiality of submissions cannot be maintained as the comment letters and a summary of written comments received during the comment period will be published.

Questions on may be referred to:

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**AEGIS SEF LLC**  
**APPLICATION FOR**  
**EXEMPTION FROM RECOGNITION AS AN EXCHANGE**

October 20, 2022

Ontario Securities Commission  
20 Queen Street West, 19th Floor  
Toronto, Ontario M5H 3S8

Attention: Secretary

**Re: AEGIS SEF LLC – Application for Exemption from Recognition as an Exchange**

Dear Sirs and Mesdames:

AEGIS SEF LLC, a limited liability company organized under the laws of Delaware (the “**Applicant**” or “**AEGIS-SEF**”), is requesting an order for the following relief (collectively, the “**Requested Relief**”) relating to the operation by AEGIS SEF of a marketplace (the “**AEGIS SEF Platform**”) for trading swaps that is regulated by the United States Commodity Futures Trading Commission (“**CFTC**”) under the terms of the U.S. Commodity Exchange Act (“**CEA**”), in the Province of Ontario:

- a) exempting the Applicant from the requirement to be recognized as an exchange under subsection 21(1) of the *Securities Act* (Ontario) (the “**OSA**”) pursuant to section 147 of the OSA; and
- b) exempting the Applicant from the requirements in National Instrument 21-101 *Marketplace Operation* (“**NI 21-101**”) pursuant to section 15.1(1) of NI 21-101, the requirements of National Instrument 23-101 *Trading Rules* (“**NI 23-101**”) pursuant to section 12.1 of NI 23-101 and the requirements of National Instrument 23-103 *Electronic Trading and Direct Electronic Access to Marketplaces* (“**NI 23-103**”) pursuant to section 10 of NI 23-103.

AEGIS-SEF offers trading of uncleared bilateral swap transactions involving various underlying commodities (each a “**SEF Contract**”), which SEF Contracts are regulated as swaps by the CFTC.

AEGIS-SEF will enable (i) sophisticated persons, each of which must be an Eligible Contract Participant (“**ECP**”) as defined in the CEA (each a “**Participant**”), to access the AEGIS-SEF Platform directly to trade and execute SEF Contracts on their own behalf, or (ii) Participants to access the AEGIS-SEF Platform indirectly through an introducing broker or commodity trading advisor (each a “**Broker Firm**”), which Broker Firm will access the AEGIS-SEF Platform to trade and execute SEF Contracts in the name of and on behalf of a Participant that is the Broker Firm’s client.

In addition, AEGIS-SEF intends to provide direct access to trading on its AEGIS-SEF Platform to Participants and Broker Firms located in Ontario, including participants with their headquarters or legal address in Ontario (e.g., as indicated by a Participant’s or Broker Firm’s Legal Entity Identifier (LEI)) and all traders conducting transactions on behalf a Participant or Broker Firm, regardless of the traders’ physical location (inclusive of non-Ontario branches of Ontario legal entities), as well as any trader physically located in Ontario who conducts transactions on behalf of any other entity (“**Ontario Participants**”). The Applicant does not offer access to retail clients.

The Applicant has no physical presence and does not otherwise carry on business in Ontario except as described herein

The Applicant seeks the Requested Relief on the basis that it is already subject to regulatory oversight by the CFTC.

This application is divided into the following Parts I to V, Part III of which describes how the Applicant satisfies criteria for exemption of a foreign exchange, that allows customers to trade uncleared bilateral swaps (i.e., OTC derivatives), from recognition as an exchange set by staff of the Ontario Securities Commission (the “**Commission**”).

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Schedule "A" Terms and Conditions

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## PART I INTRODUCTION

### 1. Description of the Applicant's Services to Ontarians

1.1 The Applicant operates the AEGIS-SEF Platform, which is an exchange for trading swaps that is regulated by the CFTC. The Applicant's AEGIS-SEF Platform offers trading of uncleared bilateral swaps in various underlying physical commodities, which are regulated as swaps by the CFTC. Additional products may be added in the future, subject to obtaining any required regulatory approvals. The Applicant's AEGIS-SEF Platform enables participants to engage in transactions using the trading methodologies described in Section IV of the Applicant's rulebook (the "**AEGIS-SEF Rulebook**"), available online at <https://aegis-hedging.com/swap-execution-facility>. As explained in the AEGIS-SEF Rulebook, all the SEF Contracts allowed to be traded on the AEGIS-SEF Platform are uncleared bilateral swaps that are Permitted Transactions (as the term "Permitted Transactions" is defined in the CFTC's Regulations under the CEA). As set forth in Section IV of the AEGIS-SEF Rulebook, the AEGIS-SEF Platform offers Participants the following two execution methods for SEF Contracts:

(A) Order Book. Rule 1.87 of the AEGIS-SEF Rulebook defines AEGIS-SEF's "Order Book" as: "The Order Book is one of the two forms of swap execution functionality available on the AEGIS-SEF Platform for executing all SEF Contracts, including any Bespoke SEF Contract. As described in Rule 4.7, the Order Book is a trading system or platform in which all Participants on the AEGIS-SEF Platform have the ability to: (i) enter multiple bids to purchase and offers to sell such SEF Contracts, (ii) observe bids to purchase and offers to sell such SEF Contracts entered by other Participants, (iii) transact on (i.e., accept or fill) bids to purchase and offers to sell such SEF Contracts, and (iv) observe the price, quantity, product and delivery date of all such SEF Contracts that are executed from time to time using either the Order Book or the RFQ Function of the AEGIS-SEF Platform." Note that AEGIS-SEF's Order Book has no automatic algorithmic matching engine; Instead, a Participant (Participant #1) may accept an open Order posted on the Order Book (i.e., an open bid to purchase ("**BID**") or an open offer to sell ("**Offer**") a SEF Contract) that has been posted by another Participant (Participant #2) in the AEGIS-SEF Order Book and is available to be filled by Participant #2, because Participant #1 and Participant #2 have already entered into an ISDA Master Agreement between them.

(B) RFQ Function. Rule 1.108 of the AEGIS-SEF Rulebook defines AEGIS-SEF's "Request for Quote Function or RFQ Function" as: "The RFQ Function is one of the two forms of swap execution functionality available on the AEGIS-SEF Platform for executing all SEF Contracts, including any Bespoke SEF Contract. As described in Rule 4.8, the RFQ Function allows a Requesting Participant to submit an RFQ seeking an indicative quote or a firm Order from one or more Designated Participants for a Bid to purchase or an Offer to sell such SEF Contract; provided, however, that only the Designated Participant(s) chosen by the Requesting Participant in its RFQ will be allowed to: (i) observe the terms of the SEF Contract requested in such RFQ, or (ii) submit an indicative Bid/Offer or a firm Order in response to such RFQ; and provided, further, that the Requesting Participant shall be informed by AEGIS-SEF of any relevant open Order resting at that time in the Order Book on the AEGIS-SEF Platform that may be responsive to such RFQ, all as more fully described in Rule 4.8. As also described in Rule 4.8, all Participants on the AEGIS-SEF Platform have the ability to observe the price, quantity, product and delivery date(s) of all SEF Contracts that are executed from time to time using either the Order Book or the RFQ Function of the AEGIS-SEF Platform."

1.2 The Applicant will offer direct access to trading on its AEGIS-SEF Platform to participants that are located in Ontario ("**Ontario Participants**") and that satisfy criteria for an "eligible contract participant" ("**ECP**") as defined in Section 1a(18) of the *U.S. Commodity Exchange Act* (the "**CEA**") and as further described in Part III below. Ontario Participants may include Canadian financial institutions, registered dealers and advisors, government entities, pension funds and other well-capitalized, non-regulated entities.

1.3 The Applicant has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described herein.

## PART II BACKGROUND OF THE APPLICANT

### 1. Ownership of the Applicant

1.1 The Applicant is a limited liability company organized under the laws of Delaware. The ultimate parent company of the Applicant is AEGIS Hedging Solutions, LLC, a limited liability company organized under the laws of Delaware ("**AEGIS-HS**").

1.2 AEGIS-HS, through its two subsidiaries, AEGIS-SEF and AEGIS CTA, LLC, a Delaware limited liability company ("**AEGIS-CTA**"), is a leading provider of advisory services to commodity market participants primarily in the United States, both of which subsidiaries are subject to regulation by the CFTC. AEGIS-SEF is registered with the CFTC as a SEF. AEGIS-CTA is registered with the CFTC as a commodity trading advisor ("**CTA**"), as defined in the CEA.

## **2. Products Traded on the Applicant's Swap Execution Facility**

2.1 The Applicant will provide its customers with trading and execution services for uncleared bilateral swaps. A full list of the products traded on the Applicant's AEGIS-SEF Platform can be found on the Applicant's website, at <https://aegis-hedging.com/sef-compliance>.

## **3. Participants**

3.1 The Applicant's AEGIS-SEF Platform will enable clients to access the AEGIS-SEF Platform directly either to enter transactions on their own behalf as Participants or to enter transactions on behalf of other Participants as a Broker Firm. Persons seeking direct access to the AEGIS-SEF Platform as a Participant, or as a Broker Firm acting on behalf of a Participant, to (i) post an open Order or accept an open Order for a SEF Contract using the Order Book or (ii) submit an RFQ for a SEF Contract, submit indicative Bids/Offers, or a firm Order, in response to an RFQ for a SEF Contract, or accept Bids/Offers of firm Orders for a SEF Contract using the RFQ Function, must apply for "**Trading Privileges**" on the AEGIS-SEF Platform under Rule 3.3 of the AEGIS-SEF Rulebook and, if a person's application is accepted, such person must enter into (a) an AEGIS-SEF Platform – Participant Agreement for Market Participants and Financial Counterparties or (b) an AEGIS-SEF Platform – Participant Agreement for Broker Firms (in each case a "**SEF User Agreement**") with the Applicant. For the purposes of this application, holders of Trading Privilege on the AEGIS-SEF Platform will be referred to as "**Participants**" and "**Broker Firms**."

3.2 Participants and Broker Firms include a wide range of sophisticated persons, including commercial and investment banks, corporations and other institutional customers. Each person that wishes to trade directly on the Applicant's AEGIS-SEF Platform as a Participant must qualify as an ECP.

3.3 AEGIS-SEF Platform participant criteria is described more fully in Part III, Paragraph 4.1 below.

## **PART III APPLICATION OF EXEMPTION CRITERIA TO THE APPLICANT**

The following is a discussion of how the Applicant meets the criteria of the Commission for exemption of a foreign exchange that allows participants to trade OTC derivatives from recognition as an exchange.

### **1. Regulation of the Exchange**

#### **1.1 Regulation of the Exchange – The exchange is regulated in an appropriate manner in another jurisdiction by a foreign regulator (Foreign Regulator).**

1.1.1 The Applicant is registered with the CFTC to operate a SEF in the U.S. pursuant to the CEA effective on and after July 19, 2022. The Applicant is subject to regulatory supervision by the CFTC. The Applicant is obligated to give the CFTC access to all records unless prohibited by law or such records are subject to attorney-client privilege. The CFTC reviews, assesses and enforces the Applicant's adherence to the CEA and the regulations thereunder on an ongoing basis, including the fifteen core principle requirements for SEFs ("**SEF Core Principles**") required by Section 5h of the CEA. The SEF Core Principles relate to the operation and oversight of the platform, including financial resources, systems and controls, maintenance of an orderly market, execution and settlement of transactions, rule-making and investor protection.

#### **1.2 Authority of the Foreign Regulator – The Foreign Regulator has the appropriate authority and procedures for oversight of the exchange. This includes regular, periodic oversight reviews of the exchange by the Foreign Regulator.**

1.2.1 The CFTC carries out the regulation of U.S. SEFs in accordance with certain provisions of the CEA. To implement SEF regulation, the CFTC has promulgated regulations and guidelines ("**CFTC Regulations**") that further interpret the SEF Core Principles and govern the conduct of SEFs. The CFTC also undertakes periodic in-depth audits or rule reviews of a SEF's compliance with certain of the SEF Core Principles.

1.2.2 The Applicant is required to demonstrate its compliance with the SEF Core Principles applicable to all U.S. SEFs. Among other things, the SEF Core Principles and CFTC Regulations require SEFs to have a rulebook and a compliance program, including a Chief Compliance Officer and a compliance manual. A SEF's access criteria for Participants and Broker Firms must be impartial and transparent and must be applied in a fair and non-discriminatory manner. The CFTC requires each SEF to have certain required trading protocols. A SEF must publish on its website certain daily trading data for each swap contract listed on the SEF and must report, or cause to be reported, all transactions executed on the SEF to a swap data repository. The CFTC reviews, assesses and enforces a SEF's adherence to CFTC regulations on an ongoing basis.

1.2.3 A SEF is a self-regulatory organization under CFTC rules. A SEF is obliged under CFTC rules to have requirements governing the conduct of Participants and Broker Firms, to monitor compliance with those requirements and to discipline Participants and Broker Firms, including by means other than exclusion from the marketplace. The Applicant is contracting with the U.S. National Futures Association (the "**NFA**") as its regulatory services provider ("**Regulatory Services Provider**") to conduct market surveillance of trades on its platform for potential violations of the Applicant's rules. The Applicant retains ultimate decision-making authority with respect to any regulatory services to be provided by NFA.

## **2. Governance**

### **2.1 Governance – The governance structure and governance arrangements of the exchange ensure:**

#### **Effective Oversight of the Exchange**

2.1.1 The board of directors of the Applicant (the “**Board**”), has the power to manage, operate and set policies for the Applicant. The Board has the power to appoint such officers of the Applicant as it may deem necessary or appropriate from time to time.

2.1.2 The Board has the power by itself or through agents, and is authorized and empowered on behalf and in the name of the Applicant, to perform all acts and enter into other undertakings that it may in its discretion deem necessary or advisable in order to promote the sound and efficient operation of the AEGIS-SEF Platform (except such as otherwise required by applicable law), including, but not limited to, the following:

(a) ensuring that the AEGIS-SEF Platform complies with all statutory, regulatory and self-regulatory responsibilities under the CEA;

(b) reviewing, approving and monitoring major strategic, financial and business activities, the Applicant's budget and financial performance;

(c) evaluating risks and opportunities facing the Applicant and proposing options for addressing such issues;

(d) overseeing and reviewing recommendations from the Applicant's committees and the Chief Compliance Officer; and

(e) having the sole power to set the payment dates and amounts of any dues, assessments or fees to be levied on holders of Trading Privileges, subject, of course, to all CFTC regulatory authorizations.

2.1.3 Each director is expected to comply with all applicable law and Applicant policies, and promote compliance by the Applicant and all of its employees with all applicable law and Applicant policies. The Board discharges its responsibilities and exercises its authority in a manner, consistent with applicable legal and regulatory requirements that promotes the sound and efficient operation of the Applicant and its swap execution activities. The Board must, to the extent consistent with such responsibilities and as long as the Applicant remains a direct subsidiary of AEGIS-HS operate within the restraints and delegated authorities set by AEGIS-HS.

2.1.4 The Board provides effective oversight of the AEGIS-SEF Platform as described in greater detail below.

#### **Fitness Standards**

2.1.5 The Applicant has established fitness standards for the Board as set forth in Section II, Governance & Ownership, of the AEGIS-SEF Rulebook (the “**Governance & Ownership Provisions**”). The Governance & Ownership Provisions have been adopted by the Board and included in the AEGIS-SEF Rulebook to assist the Board in the exercise of its responsibilities. The Governance & Ownership Provisions are not intended to supersede or interpret any applicable law, and operate in conjunction with the Applicant's Amended and Restated Company Agreement of AEGIS SEF, LLC, dated as of May 2, 2022 (“**Operating Agreement**”). The standards set for the Board reflect the Applicant's commitment to AEGIS-HS, as its managing member (“**Managing Member**”) and to the institutions and individuals who rely on the Applicant to provide swap execution services, and to comply with its role as a SEF subject to oversight by the CFTC.

2.1.6 The Board is committed to conducting itself in a legal and ethical manner in fulfilling its responsibilities. Each director is expected to comply with all applicable laws, rules and regulations, and Applicant policies, and promote regulatory compliance by the Applicant and all of its employees. The Board discharges its responsibilities and exercises its authority in a manner, consistent with applicable legal and regulatory requirements, that promotes the sound and efficient operation of the Applicant and its swap execution activities.

#### **Composition**

2.1.7 The Board may consist of no less than five directors from time to time designated by the Board or the Applicant's Managing Member. The identities of all directors are published on the Applicant's website and are available to the public.

2.1.8 The Board currently consists of five directors, two of which are Outside Directors (i.e., “**Public Directors**”). As explained in Rule 2.1.8 of the AEGIS-SEF Rulebook:

“[I]n recognition of the self-regulatory functions to be performed by AEGIS-SEF as described heretofore in this AEGIS-SEF Rulebook, the Board of AEGIS-HS, as the managing member of AEGIS-SEF, has approved a resolution authorizing two voting members of the five voting members of AEGIS-SEF's Board of Directors to be “Public Directors” as the term “Public Director” is defined in Appendix B to Part 38 of the CFTC's Regulations applicable to Contract Markets (with all references therein to “contract market” converted to “SEF”). Accordingly, as the term “material relationship” is defined in

Appendix B to Part 38 of the CFTC's Regulations applicable to Contract Markets, no Public Director of AEGIS-SEF shall have any "material relationship" with AEGIS-SEF, AEGIS-CTA or AEGIS-HS.

Any Public Director of AEGIS-SEF shall be nominated and authorized, and may be removed, in accordance with the provisions of the Limited Liability Company Agreement (the "Operating Agreement") of AEGIS-SEF applicable to the nomination, authorization and removal, in general, of members of the Board of Directors of AEGIS-SEF; provided, however, that upon removal of any such voting member of the AEGIS-SEF Board that is a Public Director, such voting member of the AEGIS-SEF Board must be replaced by another Public Director.

A director shall be considered to have a "material relationship" with AEGIS-SEF if any of the following circumstances exist:

(A) The director is an officer or employee of AEGIS-SEF or an officer or employee of its affiliate. In this context, "affiliate" includes parents or subsidiaries of AEGIS-SEF or entities that share a common parent with AEGIS-SEF;

(B) The director is a member of AEGIS-SEF, or an officer or director of a member. "Member" is defined according to Section 1a(34) of the Commodity Exchange Act and Section 1.3 of the CFTC's Regulations;

(C) The director, or a firm with which the director is an officer, director, or partner, receives more than \$100,000 in combined annual payments from AEGIS-SEF, or any affiliate of AEGIS-SEF (as defined in clause (A) above), for legal, accounting, or consulting services. Compensation for services as a director of AEGIS-SEF or as a director of an affiliate of AEGIS-SEF does not count toward the \$100,000 payment limit, nor does deferred compensation for services prior to becoming a director, so long as such compensation is in no way contingent, conditioned, or revocable;

(D) Any of the relationships above apply to a member of the director's "immediate family," i.e., spouse, parents, children and siblings.

2.1.9 Each Director shall be appointed in accordance with the Operating Agreement and shall serve until his or her successor is duly appointed, or until his or her earlier resignation or removal, with or without cause.

#### **Qualifications**

2.1.10 In order to fulfill their responsibilities, directors (including Public Directors) are selected based on their experience, qualifications, attributes and skills and the understanding that their leadership will play an integral role in fulfilling the Applicant's business objectives and legal obligations. In particular, directors should:

(a) Demonstrate sufficient experience in the Applicant's scope or intended scope of financial services (including ancillary services valuable for the Applicant to fulfill its business purposes); and

(b) All directors shall be of sufficiently good repute, including the absence of any of the categories that would be disqualifying under Section 1.63(b) of the CFTC's regulations. Additionally, in accordance with CFTC Regulation Section 1.64(b), twenty (20) percent or more of the regular voting members of the Board shall be persons who: (i) are knowledgeable of futures trading or financial regulation or are otherwise capable of contributing to governing board deliberations; (ii) are not Participants on the AEGIS-SEF Platform, (iii) are not currently salaried employees of AEGIS-SEF; (iv) are not primarily performing services for AEGIS-SEF in a capacity other than as a member of the AEGIS-SEF Board; and (v) are not officers, principals or employees of a firm which is a Participant on the AEGIS-SEF Platform either in its own name or through an employee on behalf of the firm. No person may serve on the Board who meets any of the categories listed in CFTC Regulation Section 1.63(b).

#### **Verification of Qualifications**

2.1.11 In order to verify that each director is qualified to serve, the Applicant requires:

(a) A written statement from each prospective director containing biographical information and related background information; and

(b) Each director must inform the Applicant's Chief Compliance Officer in writing if any of the information in the statement materially changes thereafter.

Upon receipt of the written statement, the Applicant's Chief Compliance Officer will conduct an online search of available NFA resources to determine whether there is anything contradictory to the prospective director's statement and will attempt to resolve any inconsistencies. The Chief Compliance Officer will report the results of this review to the Managing Member and the Board prior to the election of the prospective director. See also Paragraph 2.2.1 below for a discussion of fitness requirements.

#### **Conflicts of Interest**

2.1.12 As set forth in Rule 2.6, Conflicts of Interest, of the AEGIS-SEF Rulebook, AEGIS-SEF shall (A) establish and enforce rules to minimize conflicts of interest in its decision-making process; and (B) establish a process for resolving the conflicts of interest.



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**B.11: SROs, Marketplaces, Clearing Agencies and Trade Repositories**

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2.1.13 Pursuant to Section 1.69(b) of the CFTC's Regulations, a member of AEGIS-SEF's Board, disciplinary committee, or oversight panel must abstain from such body's deliberations and voting on any matter involving a named party in interest where such member:

(a) is a named party in interest;

(b) is an employer, employee or fellow employee of a named party in interest;

(c) is associated with a named party in interest through a "broker association" as defined in Section 156.1 of the CFTC's Regulations;

(d) has any other significant, ongoing business relationship with a named party in interest, not including relationships limited to executing transactions opposite of each other or to clearing transactions through the same clearing member;

(e) has a family relationship with a named party in interest (each of (a) through (e) being a "**Relationship Conflict of Interest**") or

(f) has a direct and substantial financial interest in the result of the deliberations or vote of such body based upon either Applicant or non-Applicant positions that could reasonably be expected to be affected by the action (a "**Financial Conflict of Interest**").

A "family relationship" exists between a named party in interest or potential named party in interest in an Executive Proceeding and a potential Interested Person if one person is the other's spouse, former spouse, parent, stepparent, child, stepchild, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece or in-law.

2.1.14 Prior to the consideration by AEGIS-SEF's Board, disciplinary committee, or oversight panel of any matter involving a named party in interest, each member of AEGIS-SEF's Board, disciplinary committee, or oversight panel must disclose to AEGIS-SEF's CCO whether he or she has one of the Relationship Conflicts of Interest with a named party in interest. The CCO must then determine, based upon the information disclosed by the member and any other source of information that is held by and reasonably available to AEGIS-SEF, and taking into consideration the exigency of the matter, whether the member is subject to a conflicts restriction in any matter involving the named party in interest.

2.1.15 Prior to the consideration by AEGIS-SEF's Board, disciplinary committee, or oversight panel of any significant action, each member of AEGIS-SEF's board of directors, disciplinary committee, or oversight panel must disclose to AEGIS-SEF's CCO the position information shown below in clauses (A) through (E) that is known to him or her. This disclosure requirement does not apply to members who choose to abstain from deliberations and voting on the subject significant action.

(A) Gross positions held at AEGIS-SEF in the member's personal accounts or "controlled accounts," as defined in Section 1.3(j) of the CFTC's Regulations;

(B) Gross positions held at AEGIS-SEF in proprietary accounts, as defined in Section 1.17(b)(3) of the CFTC's Regulations, at the member's affiliated firm;

(C) Gross positions held at AEGIS-SEF in accounts in which the member is a principal, as defined in Section 3.1(a) of the CFTC's Regulations;

(D) Net positions held at AEGIS-SEF in "customer" accounts, as defined in Section 1.17(b)(2) of the CFTC's Regulations, at the member's affiliated firm; and,

(E) Any other types of positions, whether maintained at AEGIS-SEF or elsewhere, held in the member's personal accounts or the proprietary accounts of the member's affiliated firm that AEGIS-SEF reasonably expects could be affected by the significant action.

The CCO must then determine, based upon (i) the most recent large trader reports and clearing records available to AEGIS-SEF, (ii) the information provided by the member with respect to positions under clauses (A) through (E), and (iii) any other source of information that is held by and reasonably available to AEGIS-SEF, as well as the exigency of the significant action, whether the member is subject to a conflicts restriction in the deliberations and voting on the subject significant action.

2.1.16 With respect to Financial Conflicts of Interest only, AEGIS-SEF's Board, disciplinary committee or oversight panel, by majority vote, may permit a member to participate in deliberations prior to a vote on a significant action for which he or she otherwise would be required to abstain, if such participation would be consistent with the public interest and the member recuses himself or herself from voting on such action. In making a determination as to whether to permit a member to participate in deliberations on a significant action for which he or she otherwise would be required to abstain, the deliberating body shall consider the following factors: (i) Whether the member's participation in deliberations is necessary for the deliberating body to achieve a quorum in the matter; and (ii) Whether the member has unique or special expertise, knowledge or experience in the matter under

consideration. Prior to any such determination, the deliberating body must fully consider the position information which is the basis for the member's direct and substantial financial interest in the result of a vote on the significant action.

2.1.17 AEGIS-SEF's Board, disciplinary committees and oversight panels must reflect in their minutes or otherwise document that the required conflicts determination procedures have been followed, including (i) the names of all members who attended the meeting in person or otherwise were present by electronic means, (ii) the name of any member who voluntarily recused himself or herself or was required to abstain from deliberations and/or voting on a matter and the reason for the recusal or abstention, if stated, and (iii) information on the position information that was reviewed for each member.

2.1.18 Pursuant to Rule 2.6.6 of the AEGIS-SEF Rulebook, AEGIS-SEF will refer unresolved Conflicts of Interest to the Regulatory Oversight Committee ("**ROC**") for review and resolution ("**ROC Review Process**").

At the end of each calendar quarter in which the conflicts determination procedures set forth in Rule 2.6 are applied in a meeting of the Board, a Disciplinary Panel or an Appeal Panel, the ROC will meet to review the minutes of any and all such Board, Disciplinary Panel, or Appeal Panel meetings that occurred during the two preceding calendar quarters in which the conflicts determination procedures set forth in Rule 2.6 were applied. At such a quarterly meeting, the ROC will review the minutes of such meeting that were added pursuant to Rule 2.6.3, and will confirm and validate the handling of the conflict(s) disclosed in such meeting. No meeting in a calendar quarter is required if such procedures were not applied.

Appeals by Adversely Affected Person. In addition, any person or any Participant who believes that she/he was harmed (materially and adversely affected) in any way by a decision of the Board, a Disciplinary Panel, or an Appeal Panel as a result of (i) any Member's undisclosed conflict of interest or (ii) the improper handling of a Member's disclosed conflict of interest (for example, a Member who disclosed a conflict of interest, but did not abstain from the decision-making process and was allowed to continue to participate in that decision-making process), may appeal that decision by the Board, a Disciplinary Panel or an Appeal Panel to the ROC.

Any person appealing a decision by the Board, a Disciplinary Panel, or an Appeal Panel to the ROC shall be allowed to present her/his appeal in writing to the ROC, may attend in person or virtually, and may be represented by counsel, during that portion of the quarterly meeting of the ROC during which such appeal is heard and discussed by the ROC.

Resolution of any appeal by the ROC shall require a vote of a simple majority of the members of the ROC. Specifically, the ROC may deny such appeal by a vote of a simple majority of the members of the ROC or may grant such appeal and require the applicable Board, a Disciplinary Panel or an Appeal Panel to reconsider its decision in light of the admonition of the ROC to properly resolve the applicable conflict of interest. In the event of a tie vote, the vote of the Chairperson of the ROC shall decide the matter.

2.1.19 Reporting of ROC Review Activities. Any appeal to the ROC that is resolved or unresolved at the end of any calendar year shall be included in the CCO's Annual Report to the CFTC under CFTC Regulations Section 37.1501(d) and 37.1501(e).2.1.20 Conflicts between AEGIS Subsidiaries.

A. Under the Shared Services Agreement ("**SSA**") between AEGIS-HS and AEGIS-SEF, AEGIS-HS personnel ("**Shared-Resources**") from time to time may perform services for AEGIS-SEF. In addition, from time to time, personnel of AEGIS-HS may also perform services for AEGIS-CTA. Under the SSA, should a disagreement on prioritization of shared resource work activities occur, the following steps will be taken to resolve such matters:

- 1) Managers of Shared-Resources shall first work to resolve any conflicts as to the assignment of resources.
- 2) The Chief Executive Officer of AEGIS-HS will make the final call should there be an unresolvable disagreement regarding resource sharing amongst the Managers of Shared-Resources.
- 3) Should the President of AEGIS-SEF be dissatisfied with the decision of Chief Executive Officer of AEGIS-HS, he or she will immediately escalate the concerns to AEGIS-SEF's Regulatory Oversight Committee and then to the full Board of AEGIS-SEF.
- 4) The CCO of AEGIS-SEF also has the authority to bring any disagreements on Shared Services resources to AEGIS-SEF's ROC for their review.
- 5) If the Board of AEGIS-SEF is unable to reach an agreement with the Chief Executive Officer of AEGIS-HS, the Board of AEGIS-SEF shall escalate its concerns to the full Board of AEGIS-HS.

The full escalation process is designed to reach resolution in less than five (5) business days.

B. All employees, officers and directors must avoid and report any actual or perceived conflict of interest or misappropriation of information which may improperly benefit one business unit of AEGIS, a SEF Participant, or SEF Broker Firm to the detriment of

another business unit of AEGIS, a SEF Participant or SEF Broker Firm. Conflicts of Interest in the implementation of, and/or improper allocation of, Shared-Resources of employees should be reported as soon as the conflict or potential conflict is discovered. It is the responsibility of every employee, officer and director of AEGIS-SEF, at any unit of AEGIS-HS or AEGIS-CTA, to accurately and timely report any actual or potential conflict of interest as soon as the conflict or potential conflict is discovered. A report of Conflict of Interest involving AEGIS-SEF should be made to the CCO of AEGIS-SEF. If the CCO or Senior Staff of AEGIS-SEF is directly involved, the report should be made to the Regulatory Oversight Committee of AEGIS-SEF.

C. The Compliance Official at the affected business unit has authority to review and resolve all Conflicts of Interest matters. Should a matter of Conflict of Interest or misappropriation of material non-public information involve AEGIS-SEF, the CCO of AEGIS-SEF shall confer and refer the incident to the Regulatory Oversight Committee. A record of such matter should be maintained for 5 years. Records of Conflict of Interest involving AEGIS-SEF are to be included in the CCO's Annual report to the CFTC.

### **Compensation**

2.1.21 Compensation awarded to Public Directors and other nonexecutive directors is not linked to the Applicant's business performance.

### **Certification and Compliance**

2.1.22 Each director must become familiar with, and abide by, the Governance & Ownership Provisions. Each prospective director and director must, before taking office, acknowledge his or her receipt and understanding of the Governance & Ownership Provisions, as well as upon any publication of a revised set of Governance & Ownership Provisions or amendment thereto. In addition, (i) upon request from the Applicant, the director shall certify that the qualification information he/she provided to the Applicant before being elected as a director has not changed materially, and (ii) from time to time the director shall provide an updated statement of qualification information that reflects any material changes.

2.1.23 Directors are required to report suspected violations of the Governance & Ownership Provisions or of any applicable law, rule or regulation by any director to the Board, the Regulatory Oversight Committee or the Chief Compliance Officer (who will subsequently relay any such suspected violations to the Board or the Regulatory Oversight Committee, unless such reported violation is proven incorrect after a prompt initial review of its merits). The Board or the Regulatory Oversight Committee, as applicable, shall determine whether to conduct an investigation and what appropriate action should be taken. Directors may consult with the Applicant's General Counsel if there is any doubt as to whether a particular transaction or course of conduct complies with or is subject to the Governance & Ownership Provisions.

### **Self-Review**

2.1.24 The Board reviews its performance and that of its individual directors on an annual basis. The Board, or a committee delegated such responsibility, shall establish criteria for the Board's evaluation, shall conduct the evaluation in accordance with such criteria, and shall make recommendations to improve deficiencies.

### **Removal for Cause**

2.1.25 Any director failing to comply with, or certify compliance with, the Governance & Ownership Provisions, or whose conduct otherwise is likely to be prejudicial to the sound and prudent management of the Applicant, may be removed for cause at any time by the affirmative vote of a majority of the directors, other than the director whose conduct is at issue, or by the affirmative vote of a majority interest of the Managing Member(s), at the annual meeting or at a special meeting called for that purpose.

### **Board Committees**

2.1.26 The Applicant's Governance and Ownership Provisions contemplate three standing committees of the Board: the Nominating Committee, the SEF Participant Committee, and the Regulatory Oversight Committee. The Board may from time to time constitute and appoint additional standing committees as it may deem necessary or advisable. The Applicant may also from time to time establish one or more special committees as it may deem necessary or advisable.

2.1.27 The Regulatory Oversight Committee consists only of Public Directors. Each member of the Regulatory Oversight Committee shall serve until the due appointment of his or her successor, or until his or her earlier resignation or removal, with or without cause, as a member of the Regulatory Oversight Committee or as a Public Director. A member of the Regulatory Oversight Committee may serve for multiple terms. The Regulatory Oversight Committee has responsibility to:

- (i) Monitor the AEGIS-SEF Platform's self-regulatory program for sufficiency, effectiveness, and independence;
- (ii) Oversee all facets of the AEGIS-SEF Platform's self-regulatory program, including trade practice, market surveillance, audits, examinations and other regulatory responsibilities with respect to participants (including ensuring compliance with, if applicable, financial integrity, financial reporting, sales practice, recordkeeping, and other requirements), and the conduct of investigations;

- (iii) Review the size and allocation of the AEGIS-SEF Platform's regulatory budget and resources; and the number, hiring and termination, and compensation of regulatory personnel;
- (iv) Review the performance of the CCO, and make recommendations with respect to such performance to the Board;
- (v) Review all regulatory proposals prior to implementation and advise the Board as to whether and how such changes may impact regulation;
- (vi) Maintain minutes and records of its meetings, deliberations and analyses, including records of all decisions made by the ROC such as decisions resolving conflicts of interest in accordance with the procedures described above under "Conflicts of interest;"
- (vii) Recommend changes to the AEGIS-SEF Platform's self-regulatory program that would ensure fair, vigorous, and effective regulation;
- (viii) Prepare an annual report to the Board and the CFTC describing the Self-Regulatory Program, which sets forth such Program's expenses, describes its staffing and structure, catalogues investigations and disciplinary proceedings taken during the year, and reviews the performance of disciplinary panels, appeals panels and the CCO; and
- (ix) Perform such other duties as the Board may delegate to it from time to time.

**(a) that business and regulatory decisions are in keeping with its public interest mandate,**

2.1.28 The Applicant is committed to ensuring the integrity of its AEGIS-SEF Platform and the stability of the financial system, in which market infrastructure plays an important role. The Applicant must ensure the integrity of a transaction that occurs on the AEGIS-SEF Platform and the protection of customer funds under Core Principle 7 – *Financial Integrity of Transactions* (“**Core Principle 7**”). The Applicant fulfills this requirement in part through compliance with other SEF Core Principles, such as Core Principle 3 – *Swaps Not Readily Subject to Manipulation* (“**Core Principle 3**”). Stability of the market infrastructure is enhanced through compliance with Core Principle 13 – *Financial Resources* (“**Core Principle 13**”). Core Principle 13 requires the AEGIS-SEF Platform to maintain adequate financial resources to discharge its responsibilities and ensure orderly operation of the market. The rules, policies and activities of the Applicant are designed and focused on ensuring that they maintain best practices and fulfil this public interest mandate. The Applicant operates on a basis consistent with applicable laws and regulations, and best practices of other SEFs and derivatives trading facilities.

**(b) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, including:**

**(i) appropriate representation of independent directors, and**

**(ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange,**

2.1.29 At such time as determined in the discretion of the Board (or at and for such other time as may otherwise be required by the CFTC Regulations), the Board shall be composed of at least 20%, but no less than two, Public Directors, or such other percentage of Public Directors as may be required to comply with the CEA and CFTC Regulations. The Board has two (2) Public Directors. Also, at such time as is determined in the discretion of the Board (or at and for such other time as may otherwise be required by the CFTC Regulations), the Regulatory Oversight Committee shall consist only of Public Directors. Paragraph 2.1.18 above contains a discussion of the criteria for Public Director independence. Paragraph 2.1.10 above contains a discussion of director qualification, including compliance with Section 1.64(b)(3) of the CFTC's regulations, which requires that a minimum number of board members represent a diversity of membership interests.

**(c) the exchange has policies and procedures to appropriately identify and manage conflicts of interest for all officers, directors and employees, and**

2.1.30 The Applicant, through its conflicts of interest rules, policies and procedures in Rule 2.6 of the AEGIS-SEF Rulebook, as well as its compliance with Core Principle 12 – *Conflicts of Interest* (“**Core Principle 12**”), has established a robust set of safeguards designed to ensure that the AEGIS-SEF Platform operates free from conflicts of interest or inappropriate influence as described above. The CFTC also conducts its own surveillance of the markets and market participants and actively enforces compliance with applicable regulations. In addition to this regulatory oversight, the Applicant separately establishes and enforces rules governing the activity of all market participants in its market. The Applicant's conflict of interest policies are described in greater detail in Paragraphs 2.1.12 through 2.1.20 above.

**(d) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.**

2.1.31 See Paragraph 2.1.10 above for information on the director qualifications. Members of the Applicant's Management Team are recruited for their particular position based upon their skills and expertise. Their individual goals and performance are regularly assessed by their direct manager as part of the Applicant's performance management process.

2.1.32 Pursuant to the Applicant's AEGIS-SEF Rulebook, the liability of each employee of the Applicant to third parties for obligations of the Applicant is limited to the fullest extent provided in the CEA and other applicable law. The Applicant's Operating Agreement provides for the indemnification by the Applicant against losses or damages sustained by a person with respect to third-party actions or proceedings due to the fact that such person is a Director or other officer of the Applicant.

**2.2 Fitness – The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.**

2.2.1 See Paragraphs 2.1.5 and 2.1.6 above for a description of the Applicant's fitness standards for the Board as a whole. See Paragraph 2.1.11 above for a description of the Applicant's policies and procedures for ensuring that each director is a fit and proper person.

### **3. Regulation of Products**

**3.1 Review and Approval of Products – The products traded on the exchange and any changes thereto are submitted to the Foreign Regulator, and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.**

3.1.1 The CFTC core principles relevant to products traded on the AEGIS-SEF Platform include: Core Principle 2 – *Compliance with Rules* (“**Core Principle 2**”), Core Principle 3, Core Principle 4 – *Monitoring of Trading and Trade Processing* (“**Core Principle 4**”), Core Principle 6 – *Positions Limits or Accountability*, Core Principle 7 and Core Principle 9 – *Timely Publication of Trading Information* (“**Core Principle 9**”). As noted previously, Core Principle 3 requires SEFs to demonstrate that new products are not susceptible to manipulation.

3.1.2 Rule 10.1 of Section X of the AEGIS-SEF Rulebook describes the procedure for adding new products or changing existing products (i.e., SEF Contracts) as follows:

“From time to time, AEGIS-SEF will offer specific SEF Contracts on the AEGIS-SEF Platform, which will be listed, together with the applicable Contract Specifications, on AEGIS-SEF's webpage. The process for listing any SEF Contract on the AEGIS-SEF Platform is described in Rules 5.1 and 5.2 of this Rulebook. As set forth in Rule 5.1 of this Rulebook, the President of AEGIS-SEF, whether acting on its own volition or in response to a request from a Participant, shall have authority, subject to complying with Rule 5.2 and to objectively justifiable commercial criteria, to submit a proposed SEF Contract to the CFTC, either with a request for prior approval pursuant to CFTC Regulations Section 40.3, or with a self-certification pursuant to CFTC Regulations Section 40.2.

In order to submit a swap to the CFTC as self-certified, AEGIS-SEF must: (i) meet the submission criteria contained in CFTC Rule 40.2; (ii) determine that the swap is “not readily susceptible to manipulation” in accordance with Core Principle 3 and CFTC Rules 37.300 and 37.301; and (iii) include in the self-certified submission the information required by Appendix C to Part 38 of the CFTC Regulations. Rule 5.2 of Section V of the AEGIS-SEF Rulebook provides the following description:

“[T]he CCO shall submit the following information required by Appendix C to Part 38 of the CFTC's Regulations in connection with each swap that AEGIS-SEF submits to the CFTC for prior approval, or with a self-certification, as a SEF Contract:

- (a) For cash-settled swaps, documentation demonstrating that the Settlement Price index is a reliable indicator of market values and conditions, is highly regarded by industry/market agents, and is publicly available on a timely basis;
- (b) Where an independent, private-sector third party calculates the referenced price index, verification that the third party utilizes business practices that minimize the opportunity or incentive to manipulate the cash Settlement Prices included in the index;
- (c) Any other available information demonstrating that the referenced price index calculation procedures safeguard against potential attempts to artificially influence the price, and a description of how the calculation procedures eliminate or reduce the impact of potentially unrepresentative data;
- (d) Appropriate speculative limits, if necessary, to prevent manipulation; and

- (e) Procedures for intraday market restrictions that pause or halt trading in the event of extraordinary price moves that may result in distorted prices.”

3.1.3 Only uncleared bilateral swaps that are Permitted Transactions may be traded as SEF Contracts on the AEGIS-SEF Platform. Consequently, if any product traded on the AEGIS-SEF Platform is made “available to trade” under Section 5c(c) of the CEA and CFTC Regulation 37.10, that would cause such product to become a Required Transaction and, thereafter, such product would no longer be a Permitted Transaction and could no longer be traded on the AEGIS-SEF Platform, except in situations where at least one counterparty to the swap involving such product was eligible for the End-User Exception or the Hedging-Affiliate Exception under, respectively, Section 2(h)(7)(A) or Section 2(h)(7)(D) of the CEA

**3.2 Product Specifications – The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.**

3.2.1 Among other things, the requirement that new swaps comply with the SEF Core Principles means that they contain an analysis of the underlying cash market and the deliverable supply of the underlying product. In response to the Applicant's process for introducing a new product or changing an existing product, as described above, the CFTC has the right to follow up with questions requesting additional information on the underlying market including, but not limited to: supply and demand characteristics, participant composition, market concentration, deliverable supply estimates, the relation of the swap size to the underlying market, the quality of the product across various delivery facilities and the delivery facilities used for the product. If the Applicant is unable to provide satisfactory answers to the CFTC's questions, it may require the AEGIS-SEF Platform to withdraw the proposed product addition or change. It is the Applicant's experience that the terms and conditions of swaps that trade on the AEGIS-SEF Platform are standardized, generally accepted and understood by participants.

**3.3 Risks Associated with Trading Products – The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange that may include, but are not limited to, daily trading limits, price limits, position limits, and internal controls.**

3.3.1 Paragraph 9.3 of this application covers the way that the Applicant measures, manages and mitigates the trading risk associated with products traded on the AEGIS-SEF Platform.

3.3.2 The Applicant's compliance function is responsible for ensuring that surveillance systems monitor trading by Participants to prevent manipulation, price distortion and other violations of AEGIS-SEF Platform rules and applicable law. Pursuant to a Regulatory Services Agreement (“RSA”), the Applicant has contracted with the NFA as a Regulatory Services Provider for the purposes of monitoring the AEGIS-SEF Platform's markets. As part of the market surveillance provided, the NFA uses an automated system to detect, among other things, (a) disruptions of the deliverable supplies underlying a swap, (b) market manipulation of the reference prices, and (c) also monitors the orderly liquidation of physically deliverable expiring swaps. Consistent with other SEFs, the Applicant has determined that it is not necessary and appropriate to set position limits or position accountability levels for swaps at this time.

**4. Access**

**4.1 Fair Access**

**(a) The exchange has established appropriate written standards for access to its services including requirements to ensure:**

**(i) participants are appropriately registered as applicable under Ontario securities laws, or exempted from such requirements,**

**(ii) the competence, integrity and authority of systems users, and**

**(iii) systems users are adequately supervised.**

**(b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.**

**(c) The exchange does not unreasonably prohibit, condition or limit access by a person or company to services offered by it.**

**(d) The exchange does not:**

**(i) permit unreasonable discrimination among participants, or**

**(ii) impose any burden on competition that is not reasonably necessary and appropriate.**

**(e) The exchange keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.**

4.1.1 Consistent with applicable law, including SEF Core Principles, the AEGIS-SEF Platform provides access to participants on a fair, non-discriminatory and open basis. Participant status, and access to, and usage of, the AEGIS-SEF Platform in such capacity, is available to all market participants that meet the criteria set forth by the Applicant and engage in transactions on the AEGIS-SEF Platform in accordance with the AEGIS-SEF Platform's rules. Section III of the AEGIS-SEF Rulebook sets out the admission and eligibility criteria that participants must meet. Among other requirements, AEGIS-SEF Rulebook standards require that participants must:

- be of good financial standing and meet the financial and related reporting requirements set forth in Section III of the AEGIS-SEF Rulebook.
- upon initial application for trading privileges, represent to the Applicant that it is an ECP. In addition, at least annually, the participant must represent that it has been and continues to be as of such date, an ECP;
- notify the Applicant's Chief Compliance Officer immediately upon becoming aware that it fails to meet its minimum financial requirements; and
- demonstrate a capacity to adhere to all applicable rules of the AEGIS-SEF Platform, , CFTC regulations and SRO regulations, including those concerning record-keeping, reporting, financial requirements and trading procedures.

4.1.2 Ontario Participants using the AEGIS-SEF Platform must be registered under Ontario securities laws, exempt from such registration requirements, or not subject to such registration requirements.

4.1.3 Core Principle 11 requires that, unless necessary or appropriate to achieve the purposes of applicable law, a SEF should avoid (a) adopting any rules or taking any actions that result in any unreasonable restraints of trade; or (b) imposing any material anticompetitive burden on trading. As such, the Applicant does not implement rules that would impose any burden on competition that is not reasonably necessary and appropriate, because such rules would not meet SEF Core Principle requirements.

4.1.4 The Applicant may deny the grant of trading privileges, or prevent a person from becoming or remaining a participant, if it would cause the Applicant to be in violation of any applicable law. The Applicant keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access. Under Rule 3.3.4 of the AEGIS-SEF Rulebook, AEGIS-SEF shall promptly notify the Person in writing if AEGIS-SEF denies or conditions the Person's application for access to the AEGIS-SEF Platform.

4.1.5 Pursuant to Rule 2.4.3 of the AEGIS-SEF Rulebook, any applicant who is denied trading privileges or any participant who has privileges removed may request a review of such decision by the SEF Participant Committee. As described in Rule 2.4.3:

"The SEF Participant Committee shall (i) determine the standards and requirements for initial and continuing Participant eligibility, (ii) review appeals of staff denials of Participant applications, and (iii) approve Rules that would result in different categories or classes of Participants receiving disparate access to the AEGIS-SEF Platform. The SEF Participant Committee shall not, and shall not permit AEGIS-SEF to, restrict access or impose burdens on access to the AEGIS-SEF Platform in a discriminatory manner, within each category or class of Participants or between similarly-situated categories or classes of Participants."

The Board (or SEF Participant Committee) shall confirm, reverse or modify the initial decision and will promptly notify the applicant or participant as the case may be, accordingly. The Board (or SEF Participant Committee) may in its discretion schedule a hearing or establish any other process that it believes is necessary and appropriate to consider the request for reconsideration. Any decision by the Board (or SEF Participant Committee) then made constitutes the final action of the AEGIS-SEF Platform with respect to the matter in question. In the event that the Board (or SEF Participant Committee) upholds the decision to deny access, the applicant may then submit its dispute to arbitration under Rule 8.1 of the AEGIS-SEF Rulebook.

## **5. Regulation of Participants on the Exchange**

**5.1 Regulation – The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of its participants, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.**

5.1.1 A SEF is a self-regulatory organization under CFTC rules. A SEF is obliged under CFTC rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and to discipline participants, including by means other than exclusion from the marketplace. Participants are required to comply with a significant number of rules governing trading on the AEGIS-SEF Platform pursuant to the AEGIS-SEF Rulebook. The applicable rules are primarily located in Section

III (Access by Participants, Authorized Users and Broker Firms), Section IV (Trading Operations), and Section VI (Code of Conduct) of the AEGIS-SEF Rulebook.

5.1.2 The Applicant is contracting with the NFA for the NFA to conduct market surveillance of its AEGIS-SEF Platform trades. The NFA staff are responsible for conducting trade practice surveillance and market surveillance for the Applicant. This includes reviewing deals on an ongoing basis to determine if there are any potential violations of the Applicant's Rulebook and monitoring compliance with market manipulation rules and the orderly liquidation of physically delivered expiring swaps. NFA uses an automated surveillance system known as NASDAQ Market Surveillance, or "SMARTS." The NFA staff uses SMARTS to effectively and efficiently profile markets and Participants, query the Applicant's audit trail, generate automated trade exception reports and conduct daily monitoring of prices, volume and market news. In addition to the information collected automatically by SMARTS, information is gathered by NFA staff from a variety of other sources to perform surveillance. NFA investigators are grouped into Investigation Teams organized by the Applicant and by asset class to ensure that the NFA provides adequate staff with sufficient expertise to oversee the Applicant's market.

5.1.3 The Applicant expends considerable human, technological and financial resources that are focused on the maintenance of fair, efficient, competitive and transparent markets, and the protection of all AEGIS-SEF Platform participants from fraud, manipulation and other abusive trading practices. The Applicant's market surveillance activities include a broad range of interconnected efforts that include trade practice reviews, data quality assurance audits and enforcement activities. To fulfill its mandate to effectively monitor and enforce the AEGIS-SEF Platform's rules, the Applicant has established an automated trade surveillance system capable of detecting potential trade practice violations of the Applicant's Rulebook. As noted above, participants are required to comply with a significant number of rules governing trading on the AEGIS-SEF Platform pursuant to the AEGIS-SEF Platform's rules, which are primarily found in Section III (Access by Participants, Authorized Users and Broker Firms), Section IV (Trading Operations), and Section VI (Code of Conduct) of the AEGIS-SEF Rulebook.

5.1.4 Investigating and enforcing rule violations are necessary components of regulatory safeguards. The AEGIS-SEF Platform's disciplinary rules include establishing review panels, conducting investigations, prosecuting violations and imposing sanctions as set forth in Section VII (Discipline and Enforcement) of the AEGIS-SEF Rulebook, which is discussed below in Part 7.

5.1.5 The Applicant is dedicated to safeguarding the integrity of its AEGIS-SEF Platform, and ensuring that it is free from manipulation and other abusive practices. The efforts described in this Part 5 are a necessary component of markets that work efficiently and safely, thereby allowing participants that use the AEGIS-SEF Platform to have access to a marketplace that is open, transparent and free from manipulation and market abuse.

5.1.6 Specifically with reference to regulatory technology, the Applicant has made significant investments in this area, including staff dedicated solely to the support and continuous development of its regulatory technology infrastructure, ensuring that the Applicant's regulatory and market protection capabilities anticipate and evolve with the changing dynamics of the marketplace. The Applicant has developed an audit trail of market activity and powerful and flexible data query and analytical tools that allow its regulatory staff to examine real-time and historical orders and transaction data, maintain profiles of markets and participants, and detect trading patterns potentially indicative of market abuses.

## **6. Rulemaking**

### **6.1 Purpose of Rules**

**(a) The exchange has rules, policies and other similar instruments (Rules) that are designed to appropriately govern the operations and activities of participants and do not permit unreasonable discrimination among participants or impose any burden on competition that is not reasonably necessary or appropriate.**

6.1.1 Pursuant to its obligations under the regulatory oversight under the CEA and under CFTC Regulations, the Applicant has implemented rules, policies and other similar instruments that govern the operations and activities of its participants. The Applicant's rules are covered in Sections I through X of its AEGIS-SEF Rulebook, which include: Section I (Definitions), Section II (Governance & Ownership), Section III (Access by Participants, Authorized Users and Broker Firms), Section IV (Trading Operations), Section V (Contracts to be Traded), Section VI (Code of Conduct), Section VII (Discipline and Enforcement), Section VIII (Arbitration), Section IX (Miscellaneous) and Section X (Contract Specification for Listed SEF Contracts). The Applicant believes that its rules and policies that govern the activities of Participants are consistent with the rules and policies of other derivatives marketplaces and therefore do not impose any burden on competition that is not reasonably necessary or appropriate.

**(b) The Rules are not contrary to the public interest and are designed to**

**(i) ensure compliance with applicable legislation,**

**(ii) prevent fraudulent and manipulative acts and practices,**

**(iii) promote just and equitable principles of trade,**



(iv) **foster co-operation and co-ordination with persons or companies engaged in regulating, , settling, processing information with respect to, and facilitating transactions in the products traded on the exchange,**

(v) **provide a framework for disciplinary and enforcement actions, and**

(vi) **ensure a fair and orderly market.**

6.1.2 The Applicant's AEGIS-SEF Rulebook is subject to the standards and requirements outlined by the CFTC's SEF Core Principles. At a high level, the Applicant's Rulebook seeks to ensure fair and orderly markets accessible to all eligible participants. This aim is accomplished by establishing rules that reflect the SEF Core Principle criteria, that are not contrary to the public interest, and are designed to:

(i) **ensure compliance with applicable legislation.** The Applicant is obligated to comply with the CEA, the SEF Core Principles and the CFTC Regulations (collectively, the "**U.S. SEF Regulations**"). As a result, the Applicant must implement rules that require compliance with the U.S. SEF Regulations by its participants. SEF Core Principle 1 – *Compliance with Core Principles* requires a swaps trading facility to comply with all applicable CFTC requirements and CEA core principles to be designated a SEF and maintain such designation. The Applicant proactively ensures compliance with all applicable laws and regulations, evidenced in part by its regular dialogue with the CFTC, including public commenting on proposed regulations. Core Principle 2 requires SEFs to ensure participants consent to SEF rules and jurisdiction prior to accessing its markets. Section III of the Applicant's AEGIS-SEF Rulebook governs membership requirements and establishes compliance with the rules that brings market participants within the jurisdiction of the CFTC and the scope of the SEF Core Principles.

(ii) **prevent fraudulent and manipulative acts and practices.** Core Principle 2 requires a SEF to collect information, examine members' records, direct supervision of the market, maintain sufficient compliance staff, establish procedures for and conduct audit trail reviews, perform real-time market monitoring and market surveillance and establish an automated trade surveillance system. The Applicant has instituted all these controls. Core Principle 3 requires a SEF to ensure the swaps it trades are not readily susceptible to manipulation. The Applicant complies with this Core Principle by including narrative descriptions of the product terms and conditions of every swap and by certifying in its CFTC Rule 40.2 submission that each swap is not readily susceptible to manipulation in accordance with Core Principle 3 and the criteria set forth in Appendix C to Part 38 of the CFTC regulations. Also, Sections IV and VI of the Applicant's AEGIS-SEF Rulebook prescribes trading practices and trading conduct requirements, including prohibited trading activities and prohibitions on fictitious trades, fraudulent activity and manipulation.

(iii) **promote just and equitable principles of trade.** Core Principle 9 requires a SEF to promote transparency by making timely public disclosures of trading information. The Applicant conforms to this Core Principle by publishing daily information on settlement prices, volume, open interests, and opening and closing ranges for actively traded swaps, where applicable to the method of execution and products traded on the AEGIS-SEF Platform. Core Principle 7 requires a SEF to ensure the financial integrity of transactions entered into on its markets. The Applicant's data and order entry feed systems offer simultaneous and equivalent access to all market participants. Core Principle 11 prohibits the imposition of unreasonable restraints or uncompetitive burdens on trade. Throughout its rulebook, the Applicant has established transparent and objective standards to prevent unreasonable restraints on trade and foster competitive and open market participation. Additionally, Section IV of Chapter 1 of the Applicant's compliance manual requires that compliance personnel ensure the Applicant does not adopt any rule or take any action that would result in any unreasonable restraint of trade or impose any material anticompetitive burden on trading. The Applicant believes that compliance with these Core Principles, which require transparency, financial integrity, fair access and fair competition among participants, promotes just and equitable principles of trade.

(iv) **foster co-operation and co-ordination with persons or companies engaged in regulating, , settling, processing information with respect to, and facilitating transactions in the products traded on the exchange.** Rule 2.8 of the AEGIS-SEF Rulebook authorizes the Applicant to enter into information-sharing arrangements as it determines necessary or advisable to obtain any necessary information, to perform any monitoring of trading or trade processing, to provide information to the CFTC upon request and to carry out such international information-sharing agreements as the CFTC may require. Furthermore, the Applicant may enter into any arrangement with any other person (including any governmental authority (such as the Ontario Securities Commission) or trading facility) where the Applicant determines such person exercises a legal or regulatory function under any applicable law or considers the arrangement to be in furtherance of the operation or duties of the Applicant under applicable law.

(v) **promote a framework for disciplinary and enforcement actions.** Core Principle 2 requires a SEF to adopt a rule enforcement program, disciplinary procedures and sanctions. In response to this requirement, Section VII of the Applicant's AEGIS-SEF Rulebook describes the AEGIS-SEF Platform's rules for rule enforcement and Section VIII prescribes the Applicant's procedures for dispute resolution.

(vi) **ensure a fair and orderly market.** Core Principle 2 requires a SEF to establish rules governing the operation of the SEF, including orderly trading procedures and rule enforcement programs. Core Principle 3 requires a SEF to ensure that swaps traded on the facility are not readily subject to manipulation. Core Principle 4 requires a SEF to establish procedures for monitoring of trading and trade process. The Applicant complies with these Core Principles by prescribing trading rules, collecting and evaluating

market activity data, by maintaining and auditing its real-time monitoring program, and by auditing historical data to detect trading abuses. Core Principle 9 requires timely public disclosure of trade information, all of which is published daily. SEF Core Principle 14 – *System Safeguards* requires a SEF to establish and maintain risk analysis, emergency procedure, and periodic systems testing programs. The Applicant periodically reviews its programs and procedures, including risk analysis, emergency planning, and systems testing. The Applicant regularly audits systems and technology tests both for technical and regulatory compliance. The Applicant believes that compliance with these Core Principles, which require effective trading rules, real-time and post-trade monitoring, public data dissemination and risk management procedures and testing, ensure a fair and orderly market.

## **7. Due Process**

**7.1 Due Process – For any decision made by the exchange that affects a participant, or an applicant to be a participant, including a decision in relation to access, exemptions, or discipline, the exchange ensures that:**

**(a) parties are given an opportunity to be heard or make representations, and**

**(b) it keeps a record of, gives reasons for, and provides for appeals or reviews of its decisions.**

7.1.1 SEF Core Principle 2 requires the Applicant to adopt a rule enforcement program, disciplinary procedures and sanctions. In response to this requirement, Section VII of the Applicant's Rulebook sets out the Applicant's rules for discipline and rule enforcement and Section VIII prescribes the Applicant's dispute resolution procedures.

7.1.2 The Applicant has the authority to initiate and conduct investigations, and enforce remedial action for breaches, and to impose sanctions for such violations. It is the duty of the Applicant's Chief Compliance Officer to enforce the rules, but the Chief Compliance Officer may also delegate such authority to market regulation staff, which consists of employees of the Applicant and the NFA ("**Market Regulation Staff**").

7.1.3 The Market Regulation Staff have the authority to conduct investigations of possible violations of the Rulebook, prepare written reports respecting such investigations, furnish such reports to the Applicant's review panel (the "**Review Panel**") and conduct the prosecution of such violations. An investigation must be commenced upon receipt of a request from CFTC staff or receipt of information by AEGIS-SEF that, in the judgment of the Market Regulation Staff, indicates a reasonable basis for finding that a violation has occurred or will occur. The Applicant maintains records of all investigations conducted by the Applicant in accordance with its recordkeeping policy.

7.1.4 If it is concluded that a violation may have occurred, the participant may be issued a warning letter or an investigation report concerning the matter may be filed with the Review Panel. No more than one warning letter may be issued to the same person found to have committed the same violation more than once in a rolling 12-month period. The investigation report must include the reason the investigation was initiated; a summary of the complaint, if any; the relevant facts; Market Regulation Staff's analysis and conclusions; and a recommendation as to whether disciplinary action should be pursued. The report may also include the participant's disciplinary history at the AEGIS-SEF Platform, including copies of any warning letters.

7.1.5 The Review Panel has the power to direct that an investigation of any suspected violation be conducted by the Market Regulation Staff, and shall hear any matter referred to it by the Market Regulation Staff regarding a suspected violation. Upon receipt of an investigation report, the Review Panel shall promptly review the report and, within twenty (20) days of receipt, take one of the following actions:

(a) If the Review Panel determines that additional investigation or evidence is needed, it shall promptly direct the Market Regulation Staff to conduct further investigation;

(b) If the Review Panel determines that no reasonable basis exists for finding a violation or that prosecution is otherwise unwarranted, it may direct that no further action be taken. Such determination must be in writing and must include a written statement setting forth the facts and analysis supporting the decision; or

(c) If the Review Panel determines that a reasonable basis exists for finding a violation and adjudication is warranted, it must direct that the participant alleged to have committed the violation be served with a notice of charges (as set forth in Rule 7.4 of the AEGIS-SEF Rulebook).

7.1.6 If the Review Panel determines that there may have been a violation but that no adjudication is warranted, the Review Panel may issue a warning letter to the participant informing it that there may have been a violation and that such continued activity may result in disciplinary sanctions. Where a violation is determined to have occurred, no more than one warning letter for the same potential violation may be issued to the same person during a rolling 12-month period.

7.1.7 If the Review Panel determines that a reasonable basis exists for finding a violation and adjudication is warranted, the Chief Compliance Officer shall serve a notice of charges (a "**Notice**") on the participant alleged to have been responsible for the violation (such participant, the "**Respondent**").

7.1.8 The Respondent shall serve on the Chief Compliance Officer a written answer (an “**Answer**”) to the Notice and a written request for a hearing on the charges within twenty (20) days of the date of service of the Notice. The Answer must include a statement that the Respondent admits, denies, or does not have and is unable to obtain sufficient information to deny each allegation.

7.1.9 Formal hearings on any Notice shall be conducted by the “**Hearing Panel**” selected by the Board. The Hearing Panel may not include any members of the Market Regulation Staff, or any person involved in adjudicating any other stage of the same proceeding. The Hearing Panel must meet the composition detailed in CFTC Regulation 1.64(c), which requires that whenever the Hearing Panel is acting with respect to a disciplinary action in which the Respondent is a member of the Board, the Review Panel or the Hearing Panel or when the suspected violation involves manipulation (or attempted manipulation) of the price of a Contract or conduct which directly results in financial harm to a non-member of the Applicant that: (a) at least one member of the Hearing Panel is not a member of the AEGIS-SEF Platform; and (b) the Hearing Panel include sufficient different membership interests so as to ensure fairness and to prevent special treatment or preference for any person in the conduct of the Hearing Panel's responsibilities.

7.1.10 Prior to the commencement of the hearing, the Hearing Panel may accept a written offer of settlement from the Respondent, whereby the Respondent, without either admitting or denying any violations must accept the jurisdiction of AEGIS-SEF over it and over the subject matter of the proceedings and consent to the entry of the findings and sanctions imposed under such offer of settlement.

7.1.11 Section VII of the AEGIS-SEF Rulebook sets out the Applicant's procedures for holding a hearing. After the hearing is complete, Rule 7.13 requires the Hearing Panel to render a written decision based upon the weight of evidence and to provide a copy to the Respondent. Rule 7.16 allows a Respondent to appeal a decision by the Hearing Panel to be heard by an Appeal Panel appointed by the Board of AEGIS-SEF. In addition, a disciplinary action may be appealed to the CFTC pursuant to Part 9 of the CFTC Regulations.

## **8. Clearing and Settlement**

**8.1 Clearing Arrangements – Per Rule 4.5 and 4.6 of the AEGIS SEF Rulebook the exchange does not offer, nor does it intend to offer in the future, any SEF Contracts that are intended to be cleared. As explained in Rule 4.6.1, “The only SEF Contracts that will be offered (i.e., listed) by AEGIS-SEF shall be Permitted Transactions, i.e., uncleared bilateral swaps that are not intended to be cleared.”**

## **9. Systems and Technology**

**9.1 System and Technology – Each of the exchange's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the exchange to properly carry on its business. Critical systems are those that support the following functions:**

- (a) order entry,**
- (b) order routing,**
- (c) execution,**
- (d) trade reporting,**
- (e) trade comparison,**
- (f) data feeds,**
- (g) market surveillance, and**
- (h) financial reporting.**

9.1.1 The Applicant's AEGIS-SEF Platform has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the exchange to properly carry on its business.

9.1.2 The Applicant has put safeguards and security tools in place to protect the critical data and system components of its AEGIS-SEF Platform. As discussed in Paragraph 5.1.3 above, the Applicant outsources its automated trade surveillance capable of detecting potential trade practice violations of the Applicant's Rulebook to the NFA, while maintaining full responsibility for compliance obligations.

9.1.3 The Applicant captures and retains all audit trail data necessary to detect, investigate, and prevent customer and market abuses. Such data shall be sufficient to reconstruct all trades and trade-related activity within a reasonable period of time and to provide evidence of any violations of the rules of the Applicant. The Applicant has also developed risk monitoring tools and risk controls to prevent and reduce the potential risk of market disruptions, including but not limited to market restrictions that could pause or halt trading under market conditions prescribed by the Applicant.

9.1.4 The Applicant has established a Business Continuity Plan and Disaster Recovery document with respect to the AEGIS-SEF Platform. The plan describes the Applicant's response to and addresses both small-scale and wide-scale service disruptions to the Applicant's AEGIS-SEF Platform. The main objectives of the Applicant's Business Continuity Plan and Disaster Recovery document is to enable timely recovery and resumption of the AEGIS-SEF Platform's operation and the resumption of the Applicant's fulfillment of its responsibilities and obligations following any disruptions to AEGIS-SEF Platform operations, including: order processing; price reporting; market surveillance; and maintenance of a comprehensive audit trail.

9.1.5 The Applicant operates and provides to participants a robust and scalable platform. Standard system monitoring metrics include capacity and performance level alerts. In addition to system level monitoring of capacity and performance of resources, the Applicant also conducts standardized application or platform capacity tests on a regular basis. This ensures the platform is well positioned to provide adequate responsiveness to customers. The data generated from these tests are used to establish present and historical benchmarks to identify performance and/or capacity hot spots or deficiencies. Additional resources are deployed where appropriate to resolve performance or capacity issues outside of the benchmark to bring performance back in line with benchmark expectation.

**9.2 Without limiting the generality of Paragraph 9.1, for each of its systems supporting order entry, order routing, execution, data feeds, trade reporting and trade comparison, the exchange:**

**(a) makes reasonable current and future capacity estimates;**

**(b) conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;**

**(c) reviews the vulnerability of those systems and data center computer operations to internal and external threats, including physical hazards and natural disasters;**

**(d) ensures that safeguards that protect a system against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit, which should include the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans;**

**(e) ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;**

**(f) maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and**

**(g) maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.**

9.2.1 The Applicant's AEGIS-SEF Platform uses technology for its electronic trading platform that includes software provided by third-party vendors and software developed internally by its affiliate, AEGIS-Hedging Solutions (see discussion of outsourcing in Paragraph 14.1.1 below).

9.2.2 The Applicant's AEGIS-SEF Platform makes capacity estimates by regularly monitoring its systems usage as well as maintaining constant communications between internal parties whenever new business or possible changes in the market may increase capacity on the systems.

9.2.3 The Applicant conducts regular performance and capacity tests in a production test environment which matches production in its size, scope and infrastructure. Testing is described in Paragraph 9.1.5 above.

9.2.4 The Applicant has internal policies and controls that govern system access, failures, and errors. Also, the Applicant and/or its service providers periodically conduct risk audits, internal physical security compliance inspections and covert internal and external intrusion tests. Additionally, the Applicant performs cybersecurity vulnerability testing. Such tests are designed to periodically assess the operating effectiveness of security controls as well as to monitor internal compliance with security policies and procedures. External threats such as physical hazards and natural disasters are addressed in the Applicant's Business Continuity Plan and Disaster Recovery document.

9.2.5 The Applicant and/or its service providers review the configuration of its systems as part of its regular control procedures and conducts reviews as needed when issues are identified and resolved through its enterprise risk management and governance protocols. Configuration management is the subject of internal audits and is also included in the Applicant's Business Continuity Plan and Disaster Recovery tests.

9.2.6 The Applicant reviews and keeps current the development and testing methodology of the above systems pursuant to procedures contained in the Applicant's Compliance Manual, and Business Continuity Plan and Disaster Recovery document. The Applicant's Business Continuity Plan and Disaster Recovery document is designed to allow for the recovery and resumption of operations and the fulfillment of the duties and obligations of the Applicant following a disruption. The Applicant performs periodic tests to verify that the resources outlined in the Business Continuity Plan and Disaster Recovery document are sufficient to ensure continued fulfillment of all duties of the Applicant under the CEA and CFTC Regulations.

9.2.7 Complete backups are stored in an approved off-site storage facility pursuant to the Applicant's Business Continuity Plan and Disaster Recovery document. This data is retained off-site for an appropriate amount of time (daily, weekly, or monthly), depending on the specific need of the application.

**9.3 Information Technology Risk Management Procedures – The exchange has appropriate risk management procedures in place, including those that handle trading errors and trading halts, and those that respond to market disruptions and disorderly trading.**

9.3.1 The Applicant provides extensive market integrity controls to ensure fair and efficient markets. As described in Rules 4.1.2 and 4.1.3 of the AEGIS-SEF Rulebook, the Applicant uses risk monitoring tools and risk controls to prevent and reduce the potential risk of market disruptions, including (i) monitoring SEF Contract Equivalent Trades on other markets operated by DCMs and other SEFs; (ii) suspending or curtailing trading, limiting trading to liquidation only (in whole or in part), or halting trading; (iii) ordering the liquidation or transfer of SEF Contracts, the fixing of a Settlement Price, or the reduction of Positions; (iv) imposing or modifying trading limits, price limits and/or position limits; (v) establishing limits on the number and/or size of Orders that may be submitted to the AEGIS-SEF Platform; (vi) establishing limits on the number of SEF Contracts that may be traded on the AEGIS-SEF Platform or pursuant to the AEGIS-SEF Rules; (vii) any other action as directed by the CFTC.

**10. Financial Viability**

**10.1 Financial Viability – The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.**

10.1.1 The Applicant has adequate financial and staff resources to carry on its activities in full compliance with its regulatory requirements and with best practices. Under U.S. SEF Regulations, a SEF must submit financial statements to the CFTC and maintain adequate financial resources to cover its operating costs for a period of at least one year, calculated on a rolling basis. A SEF must also hold liquid financial assets equal to at least six months' operating costs. The Applicant maintains no less than the current minimum capital amounts needed, and will maintain any future minimum capital amounts needed, to meet CFTC requirements.

**11. Trading Practices**

**11.1 Trading Practices – Trading Practices are fair, properly supervised and not contrary to the public interest.**

11.1.1 The Applicant is obligated to comply with U.S. SEF Regulations, which, as described in Paragraph 6.1.2 above, require trading practices that are fair, properly supervised and not contrary to the public interest. The U.S. SEF Regulations also require that the Applicant implements rules that require compliance with the U.S. SEF Regulations by its participants. The Applicant's Rulebook, which addresses SEF trading practices, is subject to the standards and requirements outlined by the SEF Core Principles. At a high level, the SEF Core Principles and Applicant's Rulebook both seek to ensure fair and orderly markets accessible to all eligible participants that are properly supervised and operated in a manner consistent with the public interest.

**11.2 Orders – Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.**

11.2.1 Rules pertaining to order size and limits are set forth in Section IV of the Rulebook. As noted in Paragraph 11.1.1 above, the Applicant's Rulebook is subject to the standards and requirements outlined by the SEF Core Principles, and are subject to periodic review by the Applicant to ensure that the limits are fair, equitable and appropriate for the market. The Applicant submits that its rules for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.

**11.3 Transparency – The exchange has adequate arrangements to record and publish accurate and timely information as required by the Foreign Regulator. This information is also provided to all participants on an equitable basis.**

11.3.1 Core Principle 9 requires a SEF to make public timely information concerning swaps transactions executed on the SEF. The Applicant fulfills Core Principle 9 by posting trade data to its website daily, and by reporting swaps data to DTCC, the swaps

data repository for the Applicant's AEGIS-SEF Platform. Additionally, participants on the AEGIS SEF that have elected to self-report transactions, do so to their respective swap data repositories.

## **12. Compliance, Surveillance and Enforcement**

### **12.1 Jurisdiction – The exchange or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.**

12.1.1 The Applicant operates a platform that is regulated by the CFTC as a SEF. A SEF is a self-regulatory organization under CFTC rules and has certain obligations to monitor participants' trading activity on the platform under Sections 37.203(e), 37.401, 37.402 and 37.403 of the CEA.

### **12.2 Member and Market Regulation – The exchange or the Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with exchange and legislative requirements and for disciplining participants.**

12.2.1 Core Principle 2 requires a SEF to collect information, examine members' records, direct supervision of the market, maintain sufficient compliance staff, establish procedures for and conduct audit trail reviews, perform real-time market monitoring and market surveillance and establish an automated trade surveillance system. The Applicant has instituted all these controls and has adequate resources available to ensure that controls are properly applied. Principle 2 also requires a SEF to adopt a rule enforcement program, disciplinary procedures and sanctions. Paragraph 7 of this application describes the resources available to the platform to investigate and discipline participants for rule violations. Also, Section VII of the Applicant's AEGIS-SEF Rulebook sets out the Applicant's disciplinary rules and Section VIII prescribes the Applicant's dispute resolution procedures.

12.2.2 The CCO is appointed by the Board and assists the Applicant in meeting its regulatory obligations, as set out by the CFTC.

12.2.3 It is the duty of the CCO to enforce the AEGIS-SEF Platform's rules and to assess the quality of its compliance oversight and disciplinary policies and procedures. As noted in this application, the Applicant's market regulation staff, under the direction and direct supervision of the CCO, is responsible for conducting investigations of possible violations of any of the Applicant's rules ("Violations"), preparing written reports with respect to such investigations, furnishing such reports to the Applicant's disciplinary panels and conducting the prosecution of any Violations in accordance with Section VII of the Rulebook. The CCO, on an ongoing basis, reviews the performance of staff and, where necessary, establishes procedures for the remediation of noncompliance issues. The CCO reports directly to the Board. The CCO is supervised by the Board's Regulatory Oversight Committee. The CCO is required to meet with the ROC at least quarterly and review the AEGIS-SEF Platform's self-regulatory program, including compliance oversight and disciplinary processes. The ROC reviews the performance of the CCO and prepares an annual report to the Board and the CFTC assessing the self-regulatory programs of the AEGIS-SEF Platform, including a description of the program, the expenses of the program, the staffing and structure of the program, a catalog of investigations and disciplinary actions taken during the year, and a review of the performance of the disciplinary panels and the CCO.

### **12.3 Availability of Information to Regulators – The exchange has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory or enforcement purposes is available to the relevant regulatory authorities, including the Commission, on a timely basis.**

12.3.1 Please see Paragraph 16.1.1 below.

## **13. Record Keeping**

### **13.1 Record Keeping – The exchange has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the exchange, audit trail information on all trades, and compliance with, and/or violations of exchange requirements.**

13.1.1 The Applicant collects data on a daily basis related to its regulated activity in compliance with Core Principle 10 – *Recordkeeping and Reporting*. The Applicant is required to maintain records of all activities relating to its business, including data related to order messaging, order execution and pricing. Data is collected from across the AEGIS-SEF Platform, independent of whether the transaction was privately negotiated or matched in the central limit order book. The Applicant maintains a precise and complete data history, referred to as the audit trail, for every order entered and transaction executed across the AEGIS-SEF Platform. Audit trail information for each transaction includes the order instructions, entry time, modification time, execution time, price, quantity, account identifier and parties to the transaction. On a daily basis, files of all electronic orders are archived and copies are stored at multiple locations to ensure redundancy and critical safeguarding of the data. Furthermore, as a safeguard, the CFTC and the Applicant require participants to maintain all audit trail data for a minimum of five years.

## **14. Outsourcing**

**14.1 Outsourcing – Where the exchange has outsourced any of its key services or systems to a service provider, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations and that are in accordance with industry best practices.**

14.1.1 The Applicant has entered into several licensing and services agreements with affiliates (including a Shared Services Agreement) and unaffiliated third parties for the use of (i) trade reporting technology, (ii) front, middle and back office functionality (including monitoring, invoicing and billing), (iii) software and (iv) various support services, including operations and compliance support, trade reporting, books and records, on-boarding of clients, telecommunications and information technology. These agreements permit the Applicant to meet its obligations and are in accordance with industry best practices. The outsourcing arrangements have terms that allow the Applicant to monitor the services provided to ensure that the Applicant meets its regulatory obligations with respect to the outsourced service and that any services are provided in accordance with industry best practices. The Applicant at all times retains responsibility for any functions delegated to any service provider, including the NFA, and the ultimate decision-making authority.

14.1.2 As described more fully in Paragraph 5.1.2 above, the Applicant has contracted with the NFA to perform certain surveillance, investigative and regulatory functions under the Applicant's Rulebook.

## **15. Fees**

### **15.1 Fees**

**(a) All fees imposed by the exchange are reasonable and equitably allocated and do not have the effect of creating an unreasonable condition or limit on access by participants to the services offered by the exchange.**

15.1.1 The CFTC requires that the Applicant must charge comparable fees for participants receiving comparable access to, or services from, the AEGIS-SEF Platform. The Applicant complies with this requirement and therefore fees charged by the Applicant do not create an unreasonable condition or limit on access by participants.

**(b) The process for setting fees is fair and appropriate, and the fee model is transparent.**

15.1.2 The Applicant is required by CFTC Regulations to charge all Participants and Broker Firms fees that are impartial, transparent and applied in a fair and non-discriminatory manner. The Board of the Applicant has the sole authority to set the times and amounts of any assessments or fees to be paid by Participants and Broker Firms. All fee changes must be submitted to the CFTC for certification or approval under Part 40 of the CFTC Regulations prior to their implementation. The Applicant provides its fee schedule to each Participant or Broker Firm.

## **16. Information Sharing and Oversight Arrangements**

**16.1 Information Sharing and Regulatory Cooperation – The exchange has mechanisms in place to enable it to share information and otherwise cooperate with the Commission, self-regulatory organizations, other exchanges, , and other appropriate regulatory bodies.**

16.1.1 It is the Applicant's policy to respond promptly and completely, through the legal and compliance departments, to any proper regulatory inquiry or request for documents. All inquiries and other communications from the Commission will be referred immediately to the Applicant's legal and compliance departments.

16.1.2 Rule 2.8 of the AEGIS-SEF Rulebook authorizes the Applicant to enter into information-sharing agreements or other arrangements or procedures necessary to allow the Applicant to obtain any necessary information to perform any monitoring of trading and trade processing, provide information to other markets, the CFTC, the Ontario Securities Commission or any other governmental body with jurisdiction over the Applicant upon request and which allow the Applicant to carry out such international information-sharing agreements as may be required. Also, the Applicant may enter into any information-sharing arrangement with any person or body (including the CFTC, the Ontario Securities Commission, the NFA, any self-regulatory organization, any SEF, DCM, market, clearing organization or any Governmental Body). The Applicant shares or will share information with DTCC (as a designated swap repository).

**16.2 Oversight Arrangements – Satisfactory information sharing and oversight agreements exist between the Ontario Securities Commission and the Foreign Regulator.**

16.2.1 The CFTC has entered into memorandum of understanding (“MOU”) arrangements for co-operative enforcements with foreign regulatory authorities in numerous jurisdictions. The MOUs typically provide for access to non-public documents and information already in the possession of the regulatory authorities, and often include undertakings to obtain documents and to take testimony of, or statements from, witnesses on behalf of a requesting regulatory authority. The CFTC and the Commission

are parties to an MOU that was entered into by the parties on March 25, 2014. The MOU is available at: [https://www.osc.gov.on.ca/en/About\\_mou\\_20140327\\_nmou-covered-entities.htm](https://www.osc.gov.on.ca/en/About_mou_20140327_nmou-covered-entities.htm).

## **17. IOSCO Principles**

**17.1 IOSCO Principles – To the extent it is consistent with the laws of the foreign jurisdiction, the exchange adheres to the standards of the International Organisation of Securities Commissions (IOSCO) including those set out in the “Principles for the Regulation and Supervision of Commodity Derivatives Markets” (2011).**

17.1.1 The Applicant adheres to the standards of IOSCO by virtue of the fact that it must comply with the CEA and CFTC Regulations, which reflect the IOSCO standards. The Applicant is regularly examined by the CFTC and during these examinations the IOSCO standards to which they are subject are taken into account.

## **PART IV SUBMISSIONS BY THE APPLICANT**

1.1 The swaps that trade on the Applicant's AEGIS-SEF Platform fall under the definition of “derivative” set out in Section 1(1) of the OSA. The AEGIS-SEF Platform operated by the Applicant falls under the definition of “marketplace” set out in Section 1(1) of the OSA because it brings together buyers and sellers of derivatives and uses established, non-discretionary methods under which orders interact with each other.

1.2 An “exchange” is not defined under the OSA; however, subsection 3.1(1) of the companion policy to National Instrument 21-101 – *Marketplace Operation* provides that a “marketplace” is considered to be an “exchange” if it, among other things, sets requirements governing the conduct of marketplace participants or disciplines marketplace participants. A SEF is a self-regulatory organization under CFTC rules and has certain obligations to monitor participants' trading activity. Because a SEF regulates the conduct of its participants, it is considered by the Commission to be an exchange for purposes of the OSA.

1.3 Pursuant to OSC Staff Notice 21-702 – *Regulatory Approach for Foreign-Based Stock Exchanges*, the Commission considers an exchange located outside Ontario to be carrying on business as an exchange in Ontario if it provides Ontario Participants with direct access to the exchange. Since the Applicant provides Ontario Participants with direct access to trading derivatives on its AEGIS-SEF Platform, it is considered by the Commission to be “carrying on business as an exchange” in Ontario and therefore must either be recognized or exempt from recognition by the Commission.

1.4 The Applicant satisfies all the criteria for exemption from recognition as an exchange set out by Commission Staff, as described under Part III of this application. Ontario market participants that trade in swaps would benefit from the ability to trade on the Applicant's AEGIS-SEF Platform, as they would have access to a range of swaps and swap counterparties that otherwise may not be available in Ontario. Stringent CFTC oversight of the Applicant's AEGIS-SEF Platform as well as the sophisticated information systems, regulations and compliance functions that have been adopted by the Applicant will ensure that Ontario users of the AEGIS-SEF Platform are adequately protected in accordance with international standards set by IOSCO.

1.5 Based on the foregoing, we submit that it would not be prejudicial to the public interest to grant the Requested Relief.

## **PART V CONSENT TO PUBLICATION**

The Applicant consents to the publication of this application for public comment.

Yours very truly,

**/s/ Andrew Furman**

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c: Shahen Mirakian, McMillan LLP



ANNEX I

DRAFT ORDER

IN THE MATTER OF  
THE SECURITIES ACT,  
R.S.O. 1990, CHAPTER S. 5, AS AMENDED  
(THE ACT)

AND  
IN THE MATTER OF  
AEGIS SEF LLC

ORDER  
(Section 147 of the Act)

**WHEREAS** AEGIS SEF LLC (**Applicant**) has filed an application dated October 20, 2022 (**Application**) with the Ontario Securities Commission (**Commission**) requesting the following relief (collectively, the **Requested Relief**):

- (a) exempting the Applicant from the requirement to be recognized as an exchange under subsection 21(1) of the Act pursuant to section 147 of the Act; and
- (b) exempting the Applicant from the requirements in National Instrument 21-101 *Marketplace Operation* (**NI 21-101**) pursuant to section 15.1 of NI 21-101, the requirements of National Instrument 23-101 *Trading Rules* (**NI 23-101**) pursuant to section 12.1 of NI 23-101 and the requirements of National Instrument 23-103 *Electronic Trading and Direct Electronic Access to Marketplaces* (**NI 23-103**) pursuant to section 10 of NI 23-103;

**AND WHEREAS** the United States Commodity Futures Trading Commission (**CFTC**) granted the Applicant permanent registration as a swap execution facility (**SEF**) on July 19, 2022;

**AND WHEREAS** the Applicant has represented to the Commission that:

1.1 The Applicant is a limited liability company organized under the laws of Delaware. The ultimate parent company of the Applicant is AEGIS Hedging Solutions, LLC, a Delaware limited liability company, that is not publicly traded, but is privately owned. No less than two of the five voting members of the Applicant's Board of Directors must be Public Directors (which have no ownership interest in the Applicant and no "material relationship" with the Applicant, its parent, or any affiliate of the Applicant);

1.2 The Applicant is a marketplace for trading derivatives that are regulated as swaps by the CFTC. The Applicant's SEF supports order book and request for quote functionality. Additional trading functionality may be added in the future, subject to obtaining any required regulatory approvals;

1.3 In the United States, the Applicant operates under the jurisdiction of the CFTC and obtained registration with the CFTC to operate a SEF on July 19, 2022;

1.4 The Applicant is obliged under CFTC rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and to discipline participants, including by means other than exclusion from the marketplace;

1.5 The Applicant has retained the National Futures Association to be a regulatory services provider (**RSP**);

1.6 Because the Applicant regulates the conduct of its participants, it is considered by the Commission to be an exchange;

1.7 Because the Applicant has participants located in Ontario, including (a) participants with their headquarters or legal address in Ontario (e.g., as indicated by a participant's Legal Entity Identifier (LEI)) and all traders conducting transactions on behalf of such participants, regardless of the traders' physical location (inclusive of non-Ontario branches of Ontario legal entities), and (b) traders physically located in Ontario who conducts transactions on behalf of any other entity, it is considered by the Commission to be carrying on business as an exchange in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;

1.8 The Applicant does not offer access to retail clients;

1.9 The Applicant has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described above; and

1.10 The Applicant satisfies all the SEF Criteria as described in Appendix 1 to Schedule "A".

**AND WHEREAS** the products traded on the Applicant are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and the Applicant is not considered to be carrying on business as a commodity futures exchange in Ontario;

**AND WHEREAS** the Applicant has acknowledged to the Commission that the scope of the Requested Relief and the terms and conditions imposed by the Commission attached hereto as Schedule “A” to this order, or the determination whether it is appropriate that the Applicant continue to be exempted from the requirement to be recognized as an exchange, may change as a result of the Commission’s monitoring of developments in international and domestic capital markets or the Applicant’s activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

**AND WHEREAS** based on the Application, together with the representations made by and acknowledgements of the Applicant to the Commission, the Commission has determined that Applicant satisfies the criteria set out in Appendix 1 to Schedule “A” and that the granting of the Requested Relief would not be prejudicial to the public interest;

**IT IS HEREBY ORDERED** by the Commission that, (i) pursuant to section 147 of the Act, the Applicant is exempt from recognition as an exchange under subsection 21(1) of the Act, and (ii) pursuant to sections 15.1(1) of NI 21-101, 12.1 of NI 23-101 and 10 of NI 23-103, the Applicant is exempt from the requirements in NI 21-101, NI 23-101 and NI 23-103.

**PROVIDED THAT** the Applicant complies with the terms and conditions contained in Schedule “A.”

DATED \_\_\_\_\_, 2022.

\_\_\_\_\_  
\_\_\_\_\_

**SCHEDULE "A"**

**TERMS AND CONDITIONS**

**Meeting Criteria for Exemption**

1. The Applicant will continue to meet the criteria for exemption included in Appendix 1 to this Schedule.

**Regulation and Oversight of the Applicant**

2. The Applicant will maintain its registration as a swap execution facility (**SEF**) with the Commodity Futures Trading Commission (**CFTC**) and will continue to be subject to the regulatory oversight of the CFTC.

3. The Applicant will continue to comply with the ongoing requirements applicable to it as a SEF registered with the CFTC.

4. The Applicant must do everything within its control, which includes cooperating with the Commission as needed, to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

**Access**

5. The Applicant will not provide direct access to a participant in Ontario including a participant with its headquarters or legal address in Ontario (e.g., as indicated by a participant's Legal Entity Identifier (LEI)) and all traders conducting transactions on its behalf, regardless of the traders' physical location (inclusive of non-Ontario branches of Ontario legal entities), as well as any trader physically located in Ontario who conducts transactions on behalf of any other entity (**Ontario User**) unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as an "eligible contract participant" under the United States Commodity Exchange Act, as amended (**CEA**).

6. For each Ontario User provided direct access to its SEF, the Applicant will require, as part of its application documentation or continued access to the SEF, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.

7. The Applicant may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, provided the Applicant notifies such Ontario User that this representation is deemed to be repeated each time it enters an order, request for quote or response to a request for quote on the Applicant.

8. The Applicant will require Ontario Users to notify the Applicant if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, the Applicant will promptly restrict the Ontario User's access to the Applicant if the Ontario User is no longer appropriately registered or exempt from those requirements.

**Trading by Ontario Users**

9. The Applicant will not provide access to an Ontario User to trading in products other than swaps, as defined in section 1a(47) of the CEA (and for greater certainty, excluding security-based swaps), without prior Commission approval.

**Submission to Jurisdiction and Agent for Service**

10. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of the Applicant in Ontario, the Applicant will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.

11. The Applicant will submit to the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the Applicant's activities in Ontario.

**Prompt Reporting**

12. The Applicant will notify staff of the Commission promptly of:

(a) any authorization to carry on business granted by the CFTC is revoked or suspended or made subject to terms or conditions on the Applicant's operations;

(b) the Applicant institutes a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate the Applicant or has a proceeding for any such petition instituted against it;

- (c) a receiver is appointed for the Applicant or the Applicant makes any voluntary arrangement with creditors;
- (d) the Applicant marketplace is not in compliance with this order or with any applicable requirements, laws or regulations of the CFTC where it is required to report such non-compliance to the CFTC;
- (e) any known investigations of, or disciplinary action against, the Applicant by the CFTC or any other regulatory authority to which it is subject; and
- (f) the Applicant makes any material change to the eligibility criteria for Ontario Users.

**Semi-Annual Reporting**

13. The Applicant will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a semi-annual basis (by July 31 for the first half of the calendar year and by January 31 of the following year for the second half), and at any time promptly upon the request of staff of the Commission:

- (a) a current list of all Ontario Users and whether the Ontario User is registered under Ontario securities laws or is exempt from or not subject to registration, and, to the extent known by the Applicant, other persons or companies located in Ontario trading as customers of participants (**Other Ontario Participants**);
- (b) the legal entity identifier assigned to each Ontario User, and, to the extent known by the Applicant, to Other Ontario Participants in accordance with the standards set by the Global Legal Entity Identifier System;
- (c) a list of all Ontario Users against whom disciplinary action has been taken since the previous report by the Applicant or its regulation services provider (**RSP**) acting on its behalf, or, to the best of the Applicant's knowledge, by the CFTC with respect to such Ontario Users' activities on the Applicant and the aggregate number of disciplinary actions taken against all participants since the previous report by the Applicant or its RSP acting on its behalf;
- (d) a list of all active investigations since the previous report by the Applicant or its RSP acting on its behalf relating to Ontario Users and the aggregate number of active investigations since the previous report relating to all participants undertaken by the Applicant;
- (e) a list of all Ontario applicants for status as a participant who were denied such status or access to the Applicant since the previous report, together with the reasons for each such denial; and
- (f) for each product,
  - (i) the total trading volume and value originating from Ontario Users, and, to the extent known by the Applicant, from Other Ontario Participants, presented on a per Ontario User or per Other Ontario Participant basis; and
  - (ii) the proportion of worldwide trading volume and value on the Applicant conducted by Ontario Users, and, to the extent known by the Applicant, by Other Ontario Participants, presented in the aggregate for such Ontario Users and Other Ontario Participants;

provided in the required format.

**Information Sharing**

14. The Applicant will provide and, if applicable, cause its RSP to provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

**APPENDIX 1 to SCHEDULE “A”**

**CRITERIA FOR EXEMPTION OF  
A FOREIGN EXCHANGE TRADING OTC DERIVATIVES FROM  
RECOGNITION AS AN EXCHANGE**

**PART 1 REGULATION OF THE EXCHANGE**

**1.1 Regulation of the Exchange**

The exchange is regulated in an appropriate manner in another jurisdiction by a foreign regulator (**Foreign Regulator**).

**1.2 Authority of the Foreign Regulator**

The Foreign Regulator has the appropriate authority and procedures for oversight of the exchange. This includes regular, periodic oversight reviews of the exchange by the Foreign Regulator.

**PART 2 GOVERNANCE**

**2.1 Governance**

The governance structure and governance arrangements of the exchange ensure:

- (a) effective oversight of the exchange,
- (b) that business and regulatory decisions are in keeping with its public interest mandate,
- (c) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, including:
  - (i) appropriate representation of independent directors, and
  - (ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange,
- (d) the exchange has policies and procedures to appropriately identify and manage conflicts of interest for all officers, directors and employees, and
- (e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

**2.2 Fitness**

The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

**PART 3 REGULATION OF PRODUCTS**

**3.1 Review and Approval of Products**

The products traded on the exchange and any changes thereto are submitted to the Foreign Regulator, and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.

**3.2 Product Specifications**

The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.

**3.3 Risks Associated with Trading Products**

The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange that may include, but are not limited to, daily trading limits, price limits, position limits, and internal controls.

## **PART 4 ACCESS**

### **4.1 Fair Access**

- (a) The exchange has established appropriate written standards for access to its services including requirements to ensure
- (i) participants are appropriately registered as applicable under Ontario securities laws, or exempted from these requirements,
  - (ii) the competence, integrity and authority of systems users, and
  - (iii) systems users are adequately supervised.
- (b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.
- (c) The exchange does not unreasonably prohibit, condition or limit access by a person or company to services offered by it.
- (d) The exchange does not
- (i) permit unreasonable discrimination among participants, or
  - (ii) impose any burden on competition that is not reasonably necessary and appropriate.
- (e) The exchange keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.

## **PART 5 REGULATION OF PARTICIPANTS ON THE EXCHANGE**

### **5.1 Regulation**

The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of its participants, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

## **PART 6 RULEMAKING**

### **6.1 Purpose of Rules**

- (a) The exchange has rules, policies and other similar instruments (Rules) that are designed to appropriately govern the operations and activities of participants and do not permit unreasonable discrimination among participants or impose any burden on competition that is not reasonably necessary or appropriate.
- (b) The Rules are not contrary to the public interest and are designed to
- (i) ensure compliance with applicable legislation,
  - (ii) prevent fraudulent and manipulative acts and practices,
  - (iii) promote just and equitable principles of trade,
  - (iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange,
  - (v) provide a framework for disciplinary and enforcement actions, and
  - (vi) ensure a fair and orderly market.

## **PART 7 DUE PROCESS**

### **7.1 Due Process**

For any decision made by the exchange that affects a participant, or an applicant to be a participant, including a decision in relation to access, exemptions, or discipline, the exchange ensures that:

- (a) parties are given an opportunity to be heard or make representations, and
- (b) it keeps a record of, gives reasons for, and provides for appeals or reviews of its decisions.

## **PART 8 CLEARING AND SETTLEMENT**

### **8.1 Clearing Arrangements**

The exchange does not offer products which are intended to be cleared.

### **8.2 Risk Management of Clearing House**

The exchange does not offer products which are intended to be cleared.

## **PART 9 SYSTEMS AND TECHNOLOGY**

### **9.1 Systems and Technology**

Each of the exchange's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the exchange to properly carry on its business. Critical systems are those that support the following functions:

- (a) order entry,
- (b) order routing,
- (c) execution,
- (d) trade reporting,
- (e) trade comparison,
- (f) data feeds,
- (g) market surveillance, and
- (h) financial reporting.

### **9.2 System Capability/Scalability**

Without limiting the generality of section 9.1, for each of its systems supporting order entry, order routing, execution, data feeds, trade reporting and trade comparison, the exchange:

- (a) makes reasonable current and future capacity estimates;
- (b) conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;
- (c) reviews the vulnerability of those systems and data center computer operations to internal and external threats, including physical hazards and natural disasters;
- (d) ensures that safeguards that protect a system against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit which should include the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans;
- (e) ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;
- (f) maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and
- (g) maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

### **9.3 Information Technology Risk Management Procedures**

The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and respond to market disruptions and disorderly trading.

## **PART 10 FINANCIAL VIABILITY**

### **10.1 Financial Viability**

The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

## **PART 11 TRADING PRACTICES**

### **11.1 Trading Practices**

Trading practices are fair, properly supervised and not contrary to the public interest.

### **11.2 Orders**

Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.

### **11.3 Transparency**

The exchange has adequate arrangements to record and publish accurate and timely information as required by applicable law or the Foreign Regulator. This information is also provided to all participants on an equitable basis.

## **PART 12 COMPLIANCE, SURVEILLANCE AND ENFORCEMENT**

### **12.1 Jurisdiction**

The exchange or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.

### **12.2 Member and Market Regulation**

The exchange or the Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with exchange and legislative requirements and for disciplining participants.

### **12.3 Availability of Information to Regulators**

The exchange has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory or enforcement purposes is available to the relevant regulatory authorities, including the Commission, on a timely basis.

## **PART 13 RECORD KEEPING**

### **13.1 Record Keeping**

The exchange has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the exchange, audit trail information on all trades, and compliance with, and/or violations of exchange requirements.

## **PART 14 OUTSOURCING**

### **14.1 Outsourcing**

Where the exchange has outsourced any of its key services or systems to a service provider, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations and that are in accordance with industry best practices.

## **PART 15 FEES**

### **15.1 Fees**

(a) All fees imposed by the exchange are reasonable and equitably allocated and do not have the effect of creating an unreasonable condition or limit on access by participants to the services offered by the exchange.

(b) The process for setting fees is fair and appropriate, and the fee model is transparent.



**PART 16 INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS**

**16.1 Information Sharing and Regulatory Cooperation**

The exchange has mechanisms in place to enable it to share information and otherwise co-operate with the Commission, self-regulatory organizations, other exchanges, and other appropriate regulatory bodies.

**16.2 Oversight Arrangements**

Satisfactory information sharing and oversight agreements exist between the Commission and the Foreign Regulator.

**PART 17 IOSCO PRINCIPLES**

**17.1 IOSCO Principles**

To the extent it is consistent with the laws of the foreign jurisdiction, the exchange adheres to the standards of the International Organisation of Securities Commissions (IOSCO) including those set out in the “Principles for the Regulation and Supervision of Commodity Derivatives Markets” (2011).

DRAFT ORDER

IN THE MATTER OF  
THE SECURITIES ACT,  
R.S.O. 1990, CHAPTER S. 5, AS AMENDED  
(THE ACT)

AND  
IN THE MATTER OF  
AEGIS SEF LLC

ORDER  
(Section 147 of the Act)

**WHEREAS** AEGIS SEF LLC (**Applicant**) has filed an application dated October 20, 2022 (**Application**) with the Ontario Securities Commission (**Commission**) requesting the following relief (collectively, the **Requested Relief**):

- (a) exempting the Applicant from the requirement to be recognized as an exchange under subsection 21(1) of the Act pursuant to section 147 of the Act; and
- (b) exempting the Applicant from the requirements in National Instrument 21-101 *Marketplace Operation* (**NI 21-101**) pursuant to section 15.1 of NI 21-101, the requirements of National Instrument 23-101 *Trading Rules* (**NI 23-101**) pursuant to section 12.1 of NI 23-101 and the requirements of National Instrument 23-103 *Electronic Trading and Direct Electronic Access to Marketplaces* (**NI 23-103**) pursuant to section 10 of NI 23-103;

**AND WHEREAS** the United States Commodity Futures Trading Commission (**CFTC**) granted the Applicant permanent registration as a swap execution facility (**SEF**) on July 19, 2022;

**AND WHEREAS** the Applicant has represented to the Commission that:

1.1 The Applicant is a limited liability company organized under the laws of Delaware. The ultimate parent company of the Applicant is AEGIS Hedging Solutions, LLC, a Delaware limited liability company, that is not publicly traded, but is privately owned. No less than two of the five voting members of the Applicant's Board of Directors must be Public Directors (which have no ownership interest in the Applicant and no "material relationship" with the Applicant, its parent, or any affiliate of the Applicant);

1.2 The Applicant is a marketplace for trading derivatives that are regulated as swaps by the CFTC. The Applicant's SEF supports order book and request for quote functionality. Additional trading functionality may be added in the future, subject to obtaining any required regulatory approvals;

1.3 In the United States, the Applicant operates under the jurisdiction of the CFTC and obtained registration with the CFTC to operate a SEF on July 19, 2022;

1.4 The Applicant is obliged under CFTC rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and to discipline participants, including by means other than exclusion from the marketplace;

1.5 The Applicant has retained the National Futures Association to be a regulatory services provider (**RSP**);

1.6 Because the Applicant regulates the conduct of its participants, it is considered by the Commission to be an exchange;

1.7 Because the Applicant has participants located in Ontario, including (a) participants with their headquarters or legal address in Ontario (e.g., as indicated by a participant's Legal Entity Identifier (LEI)) and all traders conducting transactions on behalf of such participants, regardless of the traders' physical location (inclusive of non-Ontario branches of Ontario legal entities), and (b) traders physically located in Ontario who conducts transactions on behalf of any other entity, it is considered by the Commission to be carrying on business as an exchange in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;

1.8 The Applicant does not offer access to retail clients;

1.9 The Applicant has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described above; and

1.10 The Applicant satisfies all the SEF Criteria as described in Appendix 1 to Schedule "A".

**AND WHEREAS** the products traded on the Applicant are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and the Applicant is not considered to be carrying on business as a commodity futures exchange in Ontario;

**AND WHEREAS** the Applicant has acknowledged to the Commission that the scope of the Requested Relief and the terms and conditions imposed by the Commission attached hereto as Schedule "A" to this order, or the determination whether it is appropriate that the Applicant continue to be exempted from the requirement to be recognized as an exchange, may change as a result of the Commission's monitoring of developments in international and domestic capital markets or the Applicant's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

**AND WHEREAS** based on the Application, together with the representations made by and acknowledgements of the Applicant to the Commission, the Commission has determined that Applicant satisfies the criteria set out in Appendix 1 to Schedule "A" and that the granting of the Requested Relief would not be prejudicial to the public interest;

**IT IS HEREBY ORDERED** by the Commission that, (i) pursuant to section 147 of the Act, the Applicant is exempt from recognition as an exchange under subsection 21(1) of the Act, and (ii) pursuant to sections 15.1(1) of NI 21-101, 12.1 of NI 23-101 and 10 of NI 23-103, the Applicant is exempt from the requirements in NI 21-101, NI 23-101 and NI 23-103.

**PROVIDED THAT** the Applicant complies with the terms and conditions contained in Schedule "A."

DATED \_\_\_\_\_, 2022.

\_\_\_\_\_  
\_\_\_\_\_

**SCHEDULE "A"**

**TERMS AND CONDITIONS**

**Meeting Criteria for Exemption**

1. The Applicant will continue to meet the criteria for exemption included in Appendix 1 to this Schedule.

**Regulation and Oversight of the Applicant**

2. The Applicant will maintain its registration as a swap execution facility (**SEF**) with the Commodity Futures Trading Commission (**CFTC**) and will continue to be subject to the regulatory oversight of the CFTC.

3. The Applicant will continue to comply with the ongoing requirements applicable to it as a SEF registered with the CFTC.

4. The Applicant must do everything within its control, which includes cooperating with the Commission as needed, to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

**Access**

5. The Applicant will not provide direct access to a participant in Ontario including a participant with its headquarters or legal address in Ontario (e.g., as indicated by a participant's Legal Entity Identifier (LEI)) and all traders conducting transactions on its behalf, regardless of the traders' physical location (inclusive of non-Ontario branches of Ontario legal entities), as well as any trader physically located in Ontario who conducts transactions on behalf of any other entity (**Ontario User**) unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as an "eligible contract participant" under the United States Commodity Exchange Act, as amended (**CEA**).

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7. The Applicant may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, provided the Applicant notifies such Ontario User that this representation is deemed to be repeated each time it enters an order, request for quote or response to a request for quote on the Applicant.

8. The Applicant will require Ontario Users to notify the Applicant if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, the Applicant will promptly restrict the Ontario User's access to the Applicant if the Ontario User is no longer appropriately registered or exempt from those requirements.

**Trading by Ontario Users**

9. The Applicant will not provide access to an Ontario User to trading in products other than swaps, as defined in section 1a(47) of the CEA (and for greater certainty, excluding security-based swaps), without prior Commission approval.

**Submission to Jurisdiction and Agent for Service**

10. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of the Applicant in Ontario, the Applicant will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.

11. The Applicant will submit to the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the Applicant's activities in Ontario.

**Prompt Reporting**

12. The Applicant will notify staff of the Commission promptly of:

(a) any authorization to carry on business granted by the CFTC is revoked or suspended or made subject to terms or conditions on the Applicant's operations;

(b) the Applicant institutes a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate the Applicant or has a proceeding for any such petition instituted against it;

- (c) a receiver is appointed for the Applicant or the Applicant makes any voluntary arrangement with creditors;
- (d) the Applicant marketplace is not in compliance with this order or with any applicable requirements, laws or regulations of the CFTC where it is required to report such non-compliance to the CFTC;
- (e) any known investigations of, or disciplinary action against, the Applicant by the CFTC or any other regulatory authority to which it is subject; and
- (f) the Applicant makes any material change to the eligibility criteria for Ontario Users.

### **Semi-Annual Reporting**

13. The Applicant will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a semi-annual basis (by July 31 for the first half of the calendar year and by January 31 of the following year for the second half), and at any time promptly upon the request of staff of the Commission:

- (a) a current list of all Ontario Users and whether the Ontario User is registered under Ontario securities laws or is exempt from or not subject to registration, and, to the extent known by the Applicant, other persons or companies located in Ontario trading as customers of participants (**Other Ontario Participants**);
- (b) the legal entity identifier assigned to each Ontario User, and, to the extent known by the Applicant, to Other Ontario Participants in accordance with the standards set by the Global Legal Entity Identifier System;
- (c) a list of all Ontario Users against whom disciplinary action has been taken since the previous report by the Applicant or its regulation services provider (**RSP**) acting on its behalf, or, to the best of the Applicant's knowledge, by the CFTC with respect to such Ontario Users' activities on the Applicant and the aggregate number of disciplinary actions taken against all participants since the previous report by the Applicant or its RSP acting on its behalf;
- (d) a list of all active investigations since the previous report by the Applicant or its RSP acting on its behalf relating to Ontario Users and the aggregate number of active investigations since the previous report relating to all participants undertaken by the Applicant;
- (e) a list of all Ontario applicants for status as a participant who were denied such status or access to the Applicant since the previous report, together with the reasons for each such denial; and
- (f) for each product,
  - (i) the total trading volume and value originating from Ontario Users, and, to the extent known by the Applicant, from Other Ontario Participants, presented on a per Ontario User or per Other Ontario Participant basis; and
  - (ii) the proportion of worldwide trading volume and value on the Applicant conducted by Ontario Users, and, to the extent known by the Applicant, by Other Ontario Participants, presented in the aggregate for such Ontario Users and Other Ontario Participants;

provided in the required format.

### **Information Sharing**

14. The Applicant will provide and, if applicable, cause its RSP to provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

**APPENDIX 1 to SCHEDULE “A”**

**CRITERIA FOR EXEMPTION OF  
A FOREIGN EXCHANGE TRADING OTC DERIVATIVES FROM  
RECOGNITION AS AN EXCHANGE**

**PART 1 REGULATION OF THE EXCHANGE**

**1.1 Regulation of the Exchange**

The exchange is regulated in an appropriate manner in another jurisdiction by a foreign regulator (**Foreign Regulator**).

**1.2 Authority of the Foreign Regulator**

The Foreign Regulator has the appropriate authority and procedures for oversight of the exchange. This includes regular, periodic oversight reviews of the exchange by the Foreign Regulator.

**PART 2 GOVERNANCE**

**2.1 Governance**

The governance structure and governance arrangements of the exchange ensure:

- (a) effective oversight of the exchange,
- (b) that business and regulatory decisions are in keeping with its public interest mandate,
- (c) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, including:
  - (i) appropriate representation of independent directors, and
  - (ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange,
- (d) the exchange has policies and procedures to appropriately identify and manage conflicts of interest for all officers, directors and employees, and
- (e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

**2.2 Fitness**

The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

**PART 3 REGULATION OF PRODUCTS**

**3.1 Review and Approval of Products**

The products traded on the exchange and any changes thereto are submitted to the Foreign Regulator, and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.

**3.2 Product Specifications**

The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.

**3.3 Risks Associated with Trading Products**

The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange that may include, but are not limited to, daily trading limits, price limits, position limits, and internal controls.

## **PART 4 ACCESS**

### **4.1 Fair Access**

- (a) The exchange has established appropriate written standards for access to its services including requirements to ensure
  - (i) participants are appropriately registered as applicable under Ontario securities laws, or exempted from these requirements,
  - (ii) the competence, integrity and authority of systems users, and
  - (iii) systems users are adequately supervised.
- (b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.
- (c) The exchange does not unreasonably prohibit, condition or limit access by a person or company to services offered by it.
- (d) The exchange does not
  - (i) permit unreasonable discrimination among participants, or
  - (ii) impose any burden on competition that is not reasonably necessary and appropriate.
- (e) The exchange keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.

## **PART 5 REGULATION OF PARTICIPANTS ON THE EXCHANGE**

### **5.1 Regulation**

The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of its participants, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

## **PART 6 RULEMAKING**

### **6.1 Purpose of Rules**

- (a) The exchange has rules, policies and other similar instruments (Rules) that are designed to appropriately govern the operations and activities of participants and do not permit unreasonable discrimination among participants or impose any burden on competition that is not reasonably necessary or appropriate.
- (b) The Rules are not contrary to the public interest and are designed to
  - (i) ensure compliance with applicable legislation,
  - (ii) prevent fraudulent and manipulative acts and practices,
  - (iii) promote just and equitable principles of trade,
  - (iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange,
  - (v) provide a framework for disciplinary and enforcement actions, and
  - (vi) ensure a fair and orderly market.

## **PART 7 DUE PROCESS**

### **7.1 Due Process**

For any decision made by the exchange that affects a participant, or an applicant to be a participant, including a decision in relation to access, exemptions, or discipline, the exchange ensures that:

- (a) parties are given an opportunity to be heard or make representations, and
- (b) it keeps a record of, gives reasons for, and provides for appeals or reviews of its decisions.

## **PART 8 CLEARING AND SETTLEMENT**

### **8.1 Clearing Arrangements**

The exchange does not offer products which are intended to be cleared.

### **8.2 Risk Management of Clearing House**

The exchange does not offer products which are intended to be cleared.

## **PART 9 SYSTEMS AND TECHNOLOGY**

### **9.1 Systems and Technology**

Each of the exchange's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the exchange to properly carry on its business. Critical systems are those that support the following functions:

- (a) order entry,
- (b) order routing,
- (c) execution,
- (d) trade reporting,
- (e) trade comparison,
- (f) data feeds,
- (g) market surveillance, and
- (h) financial reporting.

### **9.2 System Capability/Scalability**

Without limiting the generality of section 9.1, for each of its systems supporting order entry, order routing, execution, data feeds, trade reporting and trade comparison, the exchange:

- (a) makes reasonable current and future capacity estimates;
- (b) conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;
- (c) reviews the vulnerability of those systems and data center computer operations to internal and external threats, including physical hazards and natural disasters;
- (d) ensures that safeguards that protect a system against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit which should include the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans;
- (e) ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;
- (f) maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and
- (g) maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

### **9.3 Information Technology Risk Management Procedures**

The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and respond to market disruptions and disorderly trading.



## **PART 10 FINANCIAL VIABILITY**

### **10.1 Financial Viability**

The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

## **PART 11 TRADING PRACTICES**

### **11.1 Trading Practices**

Trading practices are fair, properly supervised and not contrary to the public interest.

### **11.2 Orders**

Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.

### **11.3 Transparency**

The exchange has adequate arrangements to record and publish accurate and timely information as required by applicable law or the Foreign Regulator. This information is also provided to all participants on an equitable basis.

## **PART 12 COMPLIANCE, SURVEILLANCE AND ENFORCEMENT**

### **12.1 Jurisdiction**

The exchange or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.

### **12.2 Member and Market Regulation**

The exchange or the Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with exchange and legislative requirements and for disciplining participants.

### **12.3 Availability of Information to Regulators**

The exchange has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory or enforcement purposes is available to the relevant regulatory authorities, including the Commission, on a timely basis.

## **PART 13 RECORD KEEPING**

### **13.1 Record Keeping**

The exchange has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the exchange, audit trail information on all trades, and compliance with, and/or violations of exchange requirements.

## **PART 14 OUTSOURCING**

### **14.1 Outsourcing**

Where the exchange has outsourced any of its key services or systems to a service provider, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations and that are in accordance with industry best practices.

## **PART 15 FEES**

### **15.1 Fees**

(a) All fees imposed by the exchange are reasonable and equitably allocated and do not have the effect of creating an unreasonable condition or limit on access by participants to the services offered by the exchange.

(b) The process for setting fees is fair and appropriate, and the fee model is transparent.

**PART 16 INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS**

**16.1 Information Sharing and Regulatory Cooperation**

The exchange has mechanisms in place to enable it to share information and otherwise co-operate with the Commission, self-regulatory organizations, other exchanges, and other appropriate regulatory bodies.

**16.2 Oversight Arrangements**

Satisfactory information sharing and oversight agreements exist between the Commission and the Foreign Regulator.

**PART 17 IOSCO PRINCIPLES**

**17.1 IOSCO Principles**

To the extent it is consistent with the laws of the foreign jurisdiction, the exchange adheres to the standards of the International Organisation of Securities Commissions (IOSCO) including those set out in the "Principles for the Regulation and Supervision of Commodity Derivatives Markets" (2011).