

The Futures & Options Association
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NETTING ANALYSER LIBRARY

February 14, 2013

Dear Sirs,

You have asked us to give an opinion in respect of the laws of Argentina ("this jurisdiction") in respect of the Security Interests given under Agreements in the forms specified in Annex 1 to this opinion letter (each an "Agreement") or under an Equivalent Agreement (as defined below).

Terms used in this opinion letter and not otherwise defined herein shall have the meanings ascribed to them in the Agreement.

We understand that your fundamental requirement is for the effectiveness of the Security Interest Provisions of the Agreement to be substantiated by a written and reasoned opinion. Our opinion on the validity of the Security Interest Provisions is given in paragraph 3 of this opinion letter.

References herein to "*this opinion*" are to the opinions given in paragraph 3.

References to "**Core Provisions**" include Core Provisions that have been modified by Non-Material Amendments (as defined herein).

1. TERMS OF REFERENCE AND DEFINITIONS

1.1 Subject as provided at paragraph 1.2, this opinion is given in respect of

- 1.1.1 persons which are corporations incorporated under Law 19,550 of Argentina;
- 1.1.2 Broker dealers authorized to act as such by *Mercado de Valores de Buenos Aires* (MERVAL);
- 1.1.3 Partnerships organised under Law 19,550, as amended;
- 1.1.4 Individuals with residence in Argentina;

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insofar as each may act as a counterparty (a "**Counterparty**") providing Collateral (as defined in paragraph 1.3) to a member firm of the Futures and Options Association (each a "**Firm**") under an Agreement.

1.2 However, this opinion is also given in respect of Counterparties providing Collateral to a Firm that are any of the following, subject to the terms of reference, definitions, modifications and additional assumptions and qualifications set out in the applicable Schedule:

1.2.1 Financial institutions authorized to act as such under law 21,526 (Schedule 1); and

1.2.2 *Insurance companies* authorized to act as such under Law 20,091 (Schedule 2);

insofar as each may act as a Counterparty to a Firm under an Agreement.

1.3 This opinion is given in respect of cash and account-held securities which are the subject of the Security Interest Provisions ("**Collateral**"). The amount and value of such Collateral may fluctuate from time to time on a day to day, and possibly intra-day basis.

1.4 In this opinion letter:

1.4.1 "**Security Interest**" means the security interest created pursuant to the Security Interest Provisions;

1.4.2 "**Equivalent Agreement**" means an agreement:

(a) which is governed by the law of England and Wales;

(b) which has broadly similar function to any of the Agreements listed in Annex 1;

(c) which contains the Core Provisions (with no amendments, or with Non-material Amendments); and

(d) which neither contains (nor is modified, amended, or superseded by) any other provision which may invalidate, adversely affect, modify, amend, supersede, conflict with, provide alternatives to, compromise or fetter the operation, implementation, enforceability and effectiveness of all or part of the Core Provisions (in each case, excepting Non-material Amendments);

References to the "**Agreement**" in this letter (other than specific cross references to clauses in such Agreement and references in the first paragraph of this letter) shall be deemed also to apply to an Equivalent Agreement;

1.4.3 A "**Non-material Amendment**" means an amendment having the effect of one of the amendments set out at Annex 3;

1.4.4 "enforcement" means, in the relation to the Security Interest, the act of:

- (i) sale and application of proceeds of the sale of Collateral against monies owed, or
- (ii) appropriation of the Collateral,

in either case in accordance with the Security Interest Provisions.

1.4.5 in other instances other than those referred to at 1.4.4 above, references to the word "enforceable" and cognate terms are used to refer to the ability of a Party to exercise its contractual rights in accordance with their terms and without risk of successful challenge. We do not opine on the availability of any judicial remedy.

1.4.6 "Insolvency Proceedings" means insolvency, bankruptcy or analogous proceedings (where, for the purposes of paragraph 3 of this opinion, the occurrence of such proceedings in respect of the Counterparty falls within the definition of Event of Default under the Agreement).

1.4.7 terms defined or given a particular construction in the Agreement have the same meaning in this opinion letter unless a contrary indication appears;

1.4.8 any reference to any legislation (whether primary legislation or regulations or other subsidiary legislation made pursuant to primary legislation) shall be construed as a reference to such legislation as the same may have been amended or re-enacted on or before the date of this opinion letter;

1.4.9 certain terms relating specifically to the Agreement or to the provisions thereof are set out at Annex 2; and

1.4.10 headings in this opinion letter are for ease of reference only and shall not affect its interpretation.

2. ASSUMPTIONS

We assume the following:

- 2.1 That the Agreements are legally binding and enforceable against both Parties under their governing laws.
- 2.2 That the Security Interest Provisions are enforceable under the governing law of the Agreement to create a Security Interest.
- 2.3 That the Security Interest Provisions are effective under the law of the place where the Collateral is located to create an enforceable security interest.



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- 2.4 That each Party has the capacity, power and authority under all applicable law(s) to enter into the Agreement; to perform its obligations under the Agreement; and that each Party has taken all necessary steps to execute, deliver and perform the Agreement.
- 2.5 That each Party has obtained, complied with the terms of and maintained all authorisations, approvals, licences and consents required to enable it lawfully to enter into and perform its obligations under the Agreement and Transactions and to ensure the legality, validity, enforceability or admissibility in evidence of the Agreement in this jurisdiction.
- 2.6 That the Agreement has been properly executed by both Parties.
- 2.7 That the Agreement is entered into prior to the commencement of any insolvency, bankruptcy or analogous proceedings in respect of either Party.
- 2.8 The Agreement has been entered into, and each of the transactions referred to therein is carried out, by each of the parties thereto in good faith, for the benefit of each of them respectively, on arms' length commercial terms and for the purpose of carrying on, and by way of, their respective businesses.
- 2.9 That the Agreement accurately reflects the true intentions of each Party.
- 2.10 That no provisions of the Agreement, or a document of which the Agreement forms part, or any other arrangement between the Parties, invalidate the enforceability or effectiveness of the Security Provisions or the Rehypothecation Clause under the governing law of the Agreement.
- 2.11 That there is no other agreement, instrument or other arrangement between the Firm and the Counterparty which modifies or supersedes the Agreement.
- 2.12 That all acts, conditions or things required to be fulfilled, performed or effected in connection with the Agreement and the creation and perfection of the security interests thereunder pursuant to laws of any jurisdiction other than this jurisdiction have been duly fulfilled, performed and effected.
- 2.13 That there are no provisions of the laws of any jurisdiction (apart from this jurisdiction) which would be contravened by the execution or the delivery of the Agreement.
- 2.14 That any accounts and the assets expressed to be subject to a Security Interest pursuant to the Security Provisions shall at all relevant times be located outside this jurisdiction.
- 2.15 That any cash comprising the Collateral is in a currency that is freely transferable internationally under the laws of all relevant jurisdictions.
- 2.16 That no provision of the Agreement that is necessary for the giving of our opinions and advice in this opinion letter has been altered in any material respect. In our view, an alteration contemplated in the definition of "Equivalent Agreement" above would not

constitute a material alteration for this purpose. We express no view whether an alteration not contemplated in the definition of Equivalent Agreement would or would not constitute a material alteration of the Agreement.

3. OPINIONS

On the basis of the foregoing terms of reference and assumptions and subject to the qualifications set out in paragraph 4 below, we are of the following opinion.

3.1 Valid Security Interest

- 3.1.1 Following the occurrence of an Event of Default, including as a result of the opening of any Insolvency Proceedings, the Non-Defaulting Party would be entitled to enforce the Security Interest in respect of the Collateral.
- 3.1.2 Other than in the event of an Insolvency Proceeding, there is no rule of the laws of this jurisdiction which would impose a moratorium or stay which would prevent, delay or otherwise affect the right of the Non-Defaulting Party to enforce the Security Interest in respect of the Collateral.
- 3.1.3 Following exercise of the Firm's rights under the Security Interest Provisions, the Firm's rights in respect of the proceeds of realisation of the Collateral would rank ahead of the interests of the Counterparty and any other person therein.

3.2 Further acts

No further acts, conditions or things would be required by the law of this jurisdiction to be done, fulfilled or performed under the laws of this jurisdiction in order to enable the Non-Defaulting Party to enforce the Security Interest in respect of the Collateral.

4. QUALIFICATIONS

The opinions in this opinion letter are subject to the following qualifications:

- 4.1 The obligations and rights of any of the parties to the Agreement in Argentina are subject to the effect of any Argentine applicable bankruptcy, insolvency, receivership, reorganization, moratorium or similar Argentine laws affecting creditors' rights generally, and to general principles of equity and good faith.
- 4.2 Any of the provisions of the Agreement which are governed by foreign laws, but which are not legal, valid and binding under such foreign laws governing the Agreement, will not be enforceable before Argentine courts.
- 4.3 Argentine courts will not apply any provision of foreign laws that are contrary to Argentine public policy.
- 4.4 The exercise and enforceability by the parties of their respective rights under the Agreement are subject to general principles of law. Such principles are of general

application, and in applying such principles a court among other things, might not allow a creditor to accelerate the maturity of a debt upon the occurrence of a default deemed immaterial or abusive. Such principles applied by a court may include a requirement that the creditor act reasonably and in good faith. Such requirement might be applied, among others, to the provisions of any agreement purporting to authorize conclusive determinations by any party thereto.

- 4.5 Filing of claims with the judicial system is subject to payment of taxes collected to fund such system, which rates vary from one jurisdiction to another. The payment of the mentioned tax will be required to be made before commencing any proceeding before the courts sitting in the city of Buenos Aires and may not be returned -in whole or in part- to the plaintiff in case the claim fails.
- 4.6 Under Argentine law judges are free to consider evidence in accordance with their convictions (Article 386 of the National Code of Civil and Commercial Procedure of Argentina); therefore any provision to the effect that any instrument or document shall be conclusive or evidence of the contents of such instrument or document may not be taken as conclusive *prima facie* evidence thereof.
- 4.7 The enforcement of the rights and remedies provided for in the Agreement may be limited by bankruptcy, "*concurso preventivo*", prepackaged reorganization proceeding ("*acuerdo preventivo extrajudicial*"), insolvency, liquidation, fraudulent transfer, reorganization, moratorium or other similar laws now or hereafter in effect relating to or affecting generally enforcement of creditors' rights and general equity principles; in addition, for the enforcement of the Agreement, the claimants which are not Argentine residents and do not own real estate in Argentina may be required in judicial proceedings to post a guarantee in order to secure payment of legal costs, fees, damages and other amounts, in case a final decision obliges such claimants to pay such amounts.
- 4.8 In case of reorganization, Section 16 of the ABA specifically prohibits acts which may entail a change in the standing of unsecured creditors.
- 4.9 Additionally, Section 118 of the ABA specifically provides that an advance payment, of debts not yet due, made within the "*suspect period*" will be ineffective vis-à-vis other creditors¹.
- 4.10 Finally Section 119 of the ABA provides that acts that may adversely affect the interests of the creditors performed within the "*suspect period*" may be declared ineffective in respect of the creditors when whoever was a party to the act with the bankrupt party was aware of the latter's insolvency.

¹ The "*suspect period*" is defined as the period which elapsed between the date fixed as the commencement of the suspension of payments and the pronouncement of the bankruptcy decree, which under no circumstances can begin before two-years as from the bankruptcy adjudication. In those cases where the bankruptcy was preceded by a reorganization, the term is counted as from the date of filing for reorganization.

- 4.11 The commencement of Insolvency Proceedings suspends the accrual of interests.
- 4.12 Pursuant to Section 21 of the ABA, the judicial enforcement of security interests in respect of collateral shall be suspended until the relevant creditor has requested the admission of its credit to the bankruptcy court.
- 4.13 Pursuant to Section 23 of the ABA, creditors who are entitled to enforce security interests in respect of collateral outside of court must inform about the realization of the collateral within 20 days of such realization. If the court requests the creditor to provide such information, the creditor shall lose in favour of the other creditors 1% of the value of its credit for each day of delay in providing such information.
- 4.14 In case of bankruptcy (*quiebra*), liquidation or reorganization proceedings (*concurso preventivo*) in order to request the admission of its credit, a creditor must provide the bankruptcy court with sufficient evidence of the transactions giving rise to such credit. Should this requirement not be fulfilled, the bankruptcy court shall not grant said admission. In case of bankruptcy, of any of the parties to the Agreement in Argentina, under Section 127 of the ABA, all such party's obligations will be expressed in Pesos, at the exchange rate determined by the bankruptcy court to be in effect on the date bankruptcy is declared by the bankruptcy court or, at the creditor's option, on the maturity date of each such obligation, if earlier. In case of bankruptcy declared against, or reorganization proceedings awarded to, any of the parties to the Agreement in Argentina, the allowance of creditors whose claims have not been acknowledged (*no pertenecientes a*) in a foreign bankruptcy proceeding is conditioned upon submission of evidence that, reciprocally, a creditor whose claim is payable in Argentina may be allowed to participate and be paid *pari passu* in bankruptcy proceedings commenced in the court where the claim of the former is payable; provided that, if such party is also declared bankrupt outside Argentina, the creditors which have been acknowledged (*pertenecientes a*) in the foreign bankruptcy proceeding will be entitled to a claim with respect to the balance of assets in Argentina once all the creditors in the Argentine bankruptcy proceedings have been paid off. In the event of bankruptcy or reorganization proceedings against any of the parties to the Agreement in Argentina, if a suit for collection is brought against such party outside Argentina and there are no bankruptcy proceedings or composition of creditors proceedings involving such party in that country, any such suit should be brought or continued before the Argentine bankruptcy court. Otherwise any decision rendered by the foreign court in these circumstances would not be enforceable in Argentina against the balance of assets in Argentina once all the creditors in the Argentine bankruptcy proceedings have been paid off or against any asset of such party in Argentina once bankruptcy proceedings are concluded, due to the lack of jurisdiction of the foreign court.
- 4.15 In the case of bankruptcy declared against any of the parties to the Agreement in Argentina, certain unsecured creditors (including, without limitation, certain creditors of

the bankrupt estate and related expenses, salaries and social security charges) are granted a preferential treatment ("*privilegio*").

- 4.16 The ability of any of the parties to the Agreement in Argentina to perform obligations payable in non-Argentine currency (and the ability of any person to remit out of the Republic of Argentina the proceeds of any judgment award in non-Argentine currency issued by a court in the Republic of Argentina) under the Agreement could be subject to the exchange and transfer regulations which may be in effect at the time of payment (or at the time of such remittance).
- 4.17 Pursuant to Law N° 24,573, and regulatory Decree N° 91/98 of the National Executive Branch of the Republic of Argentina, as from April 25, 1996 certain mandatory mediation procedures need to have been exhausted prior to the initiation of law suits in the City of Buenos Aires, with the exception, among others, of bankruptcy and executory proceedings, which executory proceedings include the enforcement of foreign judgments, in which case mediation procedures remain optional for the plaintiff.
- 4.18 According to the foreign exchange controls issued by the Argentine Central Bank (the "Central Bank"), any of the parties to the Agreement in Argentina is allowed to enter into the Agreement without prior authorization from the Central Bank, provided said transactions are made:
 - a. in international stock exchange markets; or
 - b. with offshore banks: (i) that are branches of official local bank, (ii) totally or mainly owned by foreign countries; (iii) multilateral development banks; (iv) that have branches in Argentina; (v) whose headquarter or controlling shareholder is incorporated and chartered in a country which is member of the Basle Committee of Banking Supervision, and is not rated lower than "A" by the following rating agencies: Standard & Poor's International Ratings, Moody's Investors Services or Fitch Ratings Ltd; or
 - c. with financial institutions regularly authorized for this type of transactions, provided they are controlled by banks that comply with the requirements mentioned in 2) above.
- 4.19 Central Bank's rules cover the following foreign exchange and derivative transactions that any of the parties to the Agreement in Argentina is legally allowed to enter without the prior authorization from the Central Bank:
 - a. Cross currency derivatives (including futures, forwards, NDFs and options) of local companies to hedge their liabilities with foreign creditors that have been reported to

² Please note that there are other kind of derivatives transactions that do not require Central Bank authorization, but necessarily must be settled in Argentina and in Pesos.

the Central Bank (under the quarterly disclosure requirements set forth by Communiqué A 3602);

- b. Derivatives (including futures, forwards, NDFs and options) entered into by local companies to hedge outstanding payments of import transactions;
- c. Derivatives (including futures, forwards, NDFs and options) entered into by local companies to hedge outstanding collections of exports;
- d. Interest rate derivatives (including interest rate caps, floors and collars) entered into by local financial institutions and local companies to hedge liabilities with foreign creditors that have been reported to the Central Bank (under the quarterly disclosure requirements set forth by Communiqué A 3602);
- e. Commodity derivatives entered into by local companies to hedge their Argentine import and export transactions;

In all the cases listed above, the local counterparty will be allowed to buy foreign currency and transfer it abroad in order to perform the obligations under the Agreement. Note that local corporations are obliged to liquidate and sell on the Argentine Foreign Exchange Market the proceeds from offshore derivatives transactions within 5 business days of the settlement thereof. All other foreign exchange and derivative transactions require Central Bank's prior authorization.

There are no other material issues relevant to the issues addressed in this opinion letter which we draw to your attention.

This opinion is given for the sole benefit of the Futures and Options Association and such of its members (excluding associate members) as subscribe to the Futures and Options Association's opinions library (and whose terms of subscription give them access to this opinion). This opinion may not be relied upon by any other person unless we otherwise specifically agree with that person in writing, although we consent to it being shown to such Futures and Options Association members' affiliates (being members of such persons' groups, as defined by the UK Financial Services and Markets Act 2000) and to any competent authority supervising such member firms and their affiliates in connection with their compliance with their obligations under prudential regulation.

Yours faithfully,

ALLENDE & BREA

Jorge I. Mayora

SCHEDULE 1
FINANCIAL INSTITUTIONS

Subject to the modifications and additions set out in this Schedule 1 Financial Institutions, the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are Financial Institutions. For the purposes of this Schedule 1 Financial Institutions, "Financial Institutions" means legal entities authorized to act as such under Law 21,526.

Except where the context otherwise requires, references in this Schedule to "*paragraph*" are to paragraphs in the opinion letter (but not to its Annexes or Schedules) and references to "*sections*" are to sections of this Schedule.

1. MODIFICATIONS TO TERMS OF REFERENCE AND DEFINITIONS

Section 1.4.6 is deemed deleted and replaced with the following:

"Insolvency Proceedings" means the insolvency proceeding for Financial Institutions pursuant to Law 21,526."

2. ADDITIONAL QUALIFICATIONS

The opinions in this opinion letter are subject to the following additional qualifications.

- 4.1 Financial institutions (either commercial banks or quasi-sovereign banks³) cannot file for reorganization proceedings or apply for their own bankruptcy.
- 4.2 Pursuant to Section 49 of the Central Bank's Charter, the Central Bank is empowered to order preliminary suspensions of activities of insolvent or unsound financial institutions for up to 90 days⁴. In addition, during such suspension period (i) the creditors of the insolvent Financial Institution may not obtain preliminary injunctions or judicial enforcements against the insolvent Financial Institution; (ii) any act that raises the liabilities of the Financial Institution shall be deemed null and its enforceability suspended; (iii) the Board of Directors of the Central Bank shall resolve whether to allow the insolvent Financial Institution to continue doing business under certain conditions or to revoke the banking license and instruct the competent court to open the liquidation procedure.

³ We are not considering in this opinion Banco de la Nación Argentina, Banco de la Provincia de Buenos Aires and Banco de la Ciudad de Buenos Aires, which are public financial institutions subject to special legal regimes.

⁴ This automatic stay may last 90 days but in the past the Argentine Central Bank has extended the stay for longer terms.

- 4.3 Pursuant to Section 49 of Law 21,526, since the date in which the Central Bank revokes the banking license of the insolvent Financial Institution, except for credits secured with a mortgage or pledge or arising from a labour relationship, the creditors of the insolvent Financial Institution whose credit has a cause or title dated prior to date in which the banking license is revoked, may not initiate or continue with any enforcement proceedings against the insolvent Financial Institution.
- 4.4 Pursuant to Section 49 of Law 21,526, the attachments against the assets of the insolvent Financial Institution may not impede the realization of such assets and will be established over the funds resulting from such realization.
- 4.5 Moreover, once the liquidation proceeding is opened, all acts that may entail a change in the standing of unsecured creditors will be prohibited.
- 4.6 Claims against insolvent financial institution will have the following order of priority: first, claims secured with pledges or mortgages and labor claims; second, CD deposits of up to AR\$50,000⁵; third, any other deposits in excess of AR\$50,000; and fourth, the bank's liabilities for commercial credit facilities that directly affect the Argentine international trade.

Except for those matters regulated by Law 21,526, the bankruptcy of a Financial Institution shall be governed by the ABA.

⁵ *Deposit priority rights do not apply to deposits of persons related to the insolvent bank, as defined by Argentine Central Bank.*

SCHEDULE 2 INSURANCE COMPANIES

Subject to the modifications and additions set out in this Schedule 2 (Insurance companies), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are Insurance companies. For the purposes of this Schedule 2 (Insurance companies), "**Insurance companies**" means insurance companies authorized to act as such under Law 20,091.

Except where the context otherwise requires, references in this Schedule to "*paragraph*" are to paragraphs in the opinion letter (but not to its Annexes or Schedules) and references to "*sections*" are to sections of this Schedule.

1. MODIFICATIONS TO TERMS OF REFERENCE AND DEFINITIONS

Section 1.4.6 is deemed deleted and replaced with the following:

"Insolvency Proceedings" means the procedures listed in section 2.1 of Schedule 2 (Insurance companies)."

2. ADDITIONAL QUALIFICATIONS

The opinions in this opinion letter are subject to the following additional qualifications.

The only bankruptcy, composition, rehabilitation or other insolvency or reorganisation procedures to which a Party which is a insurance company could be subject under the laws of this jurisdiction, and which are relevant for the purposes of this opinion letter, is the insolvency procedure for insurance companies pursuant to Law 20,091.

Insurance companies cannot file for reorganization proceedings or apply for their own bankruptcy.

If the compulsory liquidation has not been initiated and all the requirements for the bankruptcy procedure are met, the ordinary competent court shall order the dissolution of the company and its settlement by the supervisory authority. The supervisory authority will adjust the liquidation to the ABA and will act as liquidator.

ANNEX 1
FORM OF FOA AGREEMENTS

1. Professional Client Agreement (2007 Version), including Module G (*Margin and Collateral*) (the "**Professional Client Agreement 2007**")
2. Professional Client Agreement (2009 Version), including Module G (*Margin and Collateral*) (the "**Professional Client Agreement 2009**")
3. Professional Client Agreement (2011 Version) including Module G (*Margin and Collateral*) (the "**Professional Client Agreement 2011**")
4. Retail Client Agreement (2007 Version) including Module G (*Margin and Collateral*) (the "**Retail Client Agreement 2007**")
5. Retail Client Agreement (2009 Version) including Module G (*Margin and Collateral*) (the "**Retail Client Agreement 2009**")
6. Retail Client Agreement (2011 Version) including Module G (*Margin and Collateral*) (the "**Retail Client Agreement 2011**")
7. Eligible Counterparty Agreement (2007 Version) including Module G (*Margin*) (the "**Eligible Counterparty Agreement 2007**")
8. Eligible Counterparty Agreement (2009 Version) including Module G (*Margin*) (the "**Eligible Counterparty Agreement 2009**")
9. Eligible Counterparty Agreement (2011 Version) including Module G (*Margin*) (the "**Eligible Counterparty Agreement 2011**")

For the avoidance of doubt none of the forms of the Agreements listed at this Annex 1 include or incorporate the Title Transfer Securities and Physical Collateral Annex to the Netting Modules published by the Futures and Options Association.

Where the form of any Agreement listed in this Annex 1 (as published by the Futures and Options Association) (the "**FOA Published Form Agreement**") expressly contemplates the election of certain variables and alternatives, the Agreements listed above shall be deemed to include any such document in respect of which the parties have made such expressly contemplated elections (and have made any deletions required by such elections, where such deletions are expressly contemplated in the event of such election by the applicable FOA Published Form Agreement).

Each of the Agreements listed in this Annex 1 may be deemed to include Agreements identical to the relevant FOA Published Form Agreement, save for the substitution of Two Way Clauses in place of the equivalent terms in the FOA Published Form Agreement.

ANNEX 2
DEFINED TERMS RELATING TO THE AGREEMENTS

1. The "**Eligible Counterparty Agreements**" means each of the Eligible Counterparty Agreement 2007, the Eligible Counterparty Agreement 2009 and the Eligible Counterparty Agreement 2011 (each as listed and defined at Annex 1).
2. The "**Professional Client Agreements**" means each of the Professional Client Agreement 2007, the Professional Client Agreement 2009 and the Professional Client Agreement 2011 (each as listed and defined at Annex 1).
3. The "**Retail Client Agreements**" means each of the Retail Client Agreement 2007, the Retail Client Agreement 2009 and the Retail Client Agreement 2011 (each as listed and defined at Annex 1).
4. An "**Equivalent 2011 Agreement without Core Rehypothecation Clause**" means an Equivalent Agreement in the form of the Eligible Counterparty Agreement 2011, Retail Client Agreement 2011 or Professional Client Agreement 2011 but which does not contain the Rehypothecation Clause.
5. "**Core Provisions**" means:
 - (a) with respect to all Equivalent Agreements, the Security Interest Provisions; and
 - (b) with respect to Equivalent Agreements that are in the form of the Eligible Counterparty Agreement 2011, Retail Client Agreement 2011 or Professional Client Agreement 2011 (but not with respect to an Equivalent 2011 Agreement without Core Rehypothecation Clause), the Rehypothecation Clause.
6. "**Rehypothecation Clause**" means:
 - (i) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 8.13 (*Rehypothecation*);
 - (ii) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 8.15 (*Rehypothecation*);
 - (iii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 7.13 (*Rehypothecation*); and
 - (iv) in the case of an Equivalent Agreement, a clause that is identically the same in form and language as a clause referred to in any of the foregoing paragraphs (i) to (iii) of this definition (except insofar as variations may be required for internal cross-referencing purposes);

7. "Security Interest Provisions" means:

(a) the "Security Interest Clause", being:

- (i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 8.6 (*Security interest*);
- (ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 8.6 (*Security interest*);
- (iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 8.7 (*Security interest*);
- (iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 8.8 (*Security interest*);
- (v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 8.8 (*Security interest*);
- (vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 8.9 (*Security interest*);
- (vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 7.6 (*Security interest*);
- (viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 7.6 (*Security interest*);
- (ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 7.7 (*Security interest*); and
- (x) in the case of an Equivalent Agreement, a clause that is identically the same in form and language as a clause referred to in any of the foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes);

(b) the "Power to Charge Clause", being:

- (i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 8.10 (*Power to charge*);
- (ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 8.10 (*Power to charge*);
- (iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 8.10 (*Power to charge*);
- (iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 8.12 (*Power to charge*);

- (v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 8.12 (***Power to charge***);
- (vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 8.12 (***Power to charge***);
- (vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 7.10 (***Power to charge***);
- (viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 7.10 (***Power to charge***);
- (ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 7.10 (***Power to charge***); and
- (x) in the case of an Equivalent Agreement, a clause that is identically the same in form and language as a clause referred to in any of the foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes);

(c) the "**Power of Sale Clause**", being:

- (i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 8.11 (***Power of sale***);
- (ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 8.11 (***Power of sale***);
- (iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 8.11 (***Power of sale***);
- (iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 8.13 (***Power of sale***);
- (v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 8.13 (***Power of sale***);
- (vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 8.13 (***Power of sale***);
- (vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 7.11 (***Power of sale***);
- (viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 7.11 (***Power of sale***);
- (ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 7.11 (***Power of sale***); and
- (x) in relation to an Equivalent Agreement, a clause that is identically the same in form and language as the clauses referred to in any of the

foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes);

(d) the "Power of Appropriation Clause", being:

- (i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 8.12 (*Power of appropriation*);
- (ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 8.12 (*Power of appropriation*);
- (iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 8.12 (*Power of appropriation*);
- (iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 8.14 (*Power of appropriation*);
- (v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 8.14 (*Power of appropriation*);
- (vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 8.14 (*Power of appropriation*);
- (vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 7.13 (*Power of appropriation*);
- (viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 7.13 (*Power of appropriation*);
- (ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 7.12 (*Power of appropriation*); and
- (x) in the case of an Equivalent Agreement, a clause that is identically the same in form and language as a clause referred to in any of the foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes);

(e) the "Lien Clause", being:

- (i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 8.13 (*General lien*);
- (ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 8.13 (*General lien*);
- (iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 8.14 (*General lien*);
- (iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 8.15 (*General lien*);

- (v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 8.15 (***General lien***);
- (vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 8.16 (***General lien***);
- (vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 7.12 (***General lien***);
- (viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 7.12 (***General lien***);
- (ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 7.14 (***General lien***); and
- (x) in the case of an Equivalent Agreement, a clause that is identically the same in form and language as a clause referred to in any of the foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes); and

(f) the "Client Money Additional Security Clause", being:

- (i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 7.8 (***Additional security***) at module F Option 4 (where incorporated into such Agreement);
- (ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 7.9 (***Additional security***) at module F Option 1 (where incorporated into such Agreement);
- (iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 7.9 (***Additional security***) at module F Option 1 (where incorporated into such Agreement);
- (iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 7.8 (***Additional security***) at module F Option 4 (where incorporated into such Agreement);
- (v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 7.9 (***Additional security***) at module F Option 1 (where incorporated into such Agreement);
- (vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 7.9 (***Additional security***) at module F Option 1 (where incorporated into such Agreement);
- (vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 6.8 (***Additional security***) at module F Option 4 (where incorporated into such Agreement);

- (viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 6.9 (*Additional security*) at module F Option 1 (where incorporated into such Agreement);
- (ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 6.9 (*Additional security*) at module F Option 1 (where incorporated into such Agreement); and
- (x) in the case of an Equivalent Agreement, a clause that is identically the same in form and language as the clauses referred to in any of the foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes).

8. "**Two Way Clauses**" means each of the Futures and Options Association's Short-Form Two-Way Clauses 2007, the Short-Form Two-Way Clauses 2009, the Short-Form Two-Way Clauses 2011, the Long-Form Two-Way Clauses 2007, the Long-Form Two-Way Clauses 2009 and the Long-Form Two-Way Clauses 2011.

ANNEX 3
NON-MATERIAL AMENDMENTS

1. Any change to the numbering or order of a provision or provisions or the drafting style thereof (e.g., addressing the other party as "you", "Counterparty", "Party A/Party B") provided in each case that the plain English sense and legal effect both of each such provision and of the Agreement as a whole (including the integrity of any cross references and usage of defined terms) remains unchanged.
2. Any change to a provision or provisions by defining certain key terms (e.g., party, exchange, currency, defaulting party or non-defaulting party) and using these terms in large caps throughout the Agreement provided in each case that the plain English sense and legal effect both of each such provision and of the Agreement as a whole (including the integrity of any cross references and usage of defined terms) remains unchanged.
3. An addition to the list of events that constitute an Event of Default (e.g. without limitation, the failure to deliver securities or other assets, a force majeure, cross default or downgrading event the death or incapacity of a Party or its general partner any default under a specified transaction or a specified master agreement), such change may or may not be coupled with a grace period or the serving of a written notice on the Defaulting Party by the Non-Defaulting Party, such change may be expressed to apply to one only of the Parties.
4. Any change to an Insolvency Event of Default (i) introducing a grace period for the filing of a petition for bankruptcy proceedings (of e.g. 15 or 30 days), (ii) modifying or deleting any such grace period, (iii) requiring that the filing of the petition is not frivolous, vexatious or otherwise unwarranted or (iv) that the non-defaulting party has reasonable grounds to conclude that the performance by the defaulting party of its obligations under the Agreement, Transactions, or both, is endangered.
5. Any change to an Insolvency Event of Default more particularly describing (i) the relevant procedures that would or would not constitute such event of default or termination event (ii) the relevant officers the appointment of which would or would not constitute such Insolvency Event of Default.
6. Any change to an Insolvency Event of Default extending its scope to events occurring with respect to the credit support provider, an affiliate, a custodian or trustee of a Party.
7. Any change to an Insolvency Event of Default replacing such event of default with a provision aligned to Section 5(a)(vii) of the 1992 or 2002 ISDA Master Agreement (or relevant part thereof).
8. Any change to the Agreement requiring the Non-defaulting Party when exercising its rights under the Security Interest Provisions (or other provisions) or making determinations to act in good faith and/or a commercially reasonable manner.
9. Any change clarifying that the Non-defaulting Party must, or may not, notify the other party of its exercise of rights under the Security Interest Provisions or other provision.