The Futures & Options Association
2nd Floor
36-38 Botolph Lane
London EC3R 8DE

12 April 2013

Dear Sirs,

NETTING ANALYSER LIBRARY

You have asked us to give an opinion as to the laws of the Republic of Finland ("**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**" and "**our opinion**" are to the opinions given in paragraph 3 on the basis of the terms of reference and assumptions set out above and in paragraphs 1 and 2 below and subject to the qualifications set out in paragraph 4 below.

1. Terms of Reference and definitions

1.1 Subject as provided at paragraph 1.2, this opinion is given in respect of parties to the Agreement (the "**Parties**") which are:

1.1.1 companies incorporated or organised under the Finnish Companies Act (2006, as amended) that do not carry on regulated business and that are incorporated, organised, established or formed under the laws of Finland;

1.1.2 banks incorporated or organised under the Finnish Credit Institutions Act (2007, as amended, the "**CIA**"), either as a commercial or similar bank under the Finnish Act on Commercial Banks (2001, as amended, the "**Commercial Banks Act**"), as a savings bank under the Finnish Act on Savings Banks (2001, as amended), as a co-operative or similar bank under the Finnish Act on Co-operative Banks (2001, as amended), in each case incorporated, organised, established or formed under the laws of Finland;

1.1.3 mortgage banks incorporated or organised as a mortgage bank under the Finnish Act on Mortgage Banks (2010), as a credit institution under the Finnish Credit Institutions Act (2007, as amended) and as a commercial or similar bank under the Finnish Act on Commercial Banks (2001, as amended), in each case incorporated, organised, established or formed under the laws of Finland;

1.1.4 branches established or located in Finland of foreign entities of the type referred in 1.1.1 above;

1.1.5 branches established or located in Finland of foreign entities of the type referred in 1.1.2 incorporated outside the EEA;

1.1.6 branches established or located in Finland of foreign entities of the type referred in 1.1.2 incorporated in a member state of the EEA;

1.1.7 partnerships and limited partnerships organised under the Act on Partnerships and Limited Partnerships (1988, as amended), in each case incorporated, organised, established or formed under the laws of Finland;

1.1.8 branches established or located in Finland of foreign entities of the type referred in 1.1.7 above;

1.1.9 investment funds (including mutual funds and hedge funds) represented by fund management companies, each incorporated or organised under the Finnish Investment Funds Act (1999, as amended), in each case incorporated, organised, established or formed under the laws of Finland;

1.1.10 branches established or located in Finland of foreign entities of the type referred in 1.1.9 above;

1.1.11 securities dealers incorporated or organised under the Finnish Act on Investment Services (2012) incorporated, organised, established or formed under the laws of Finland;

1.1.12 branches established or located in Finland of foreign entities of the type referred in 1.1.11 above,

insofar as each may act as 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 parties to the Agreement 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 insurance companies incorporated or organised under the Finnish Insurance

Companies Act (2008, as amended) (Schedule 1);

1.2.2 private individuals domiciled or resident in Finland (Schedule 2);

1.2.3 municipalities and governmental bodies of Finland that are not subject to specific legislation (Schedule 3);

1.2.4 (limited liability or mutual) pension insurance companies incorporated or organised under the Act on Pension Insurance Companies (1997, as amended), pension funds incorporated or organised under the Employee Benefit Funds Act (1992, as amended) and pension foundations incorporated or organised under the Pension Foundation Act (1995, as amended) (Schedule 4); and

1.2.5 the Mortgage Society of Finland incorporated or organised under the Act of Mortgage Societies (1978, as amended) (Schedule 5),

insofar as each may act as a counterparty providing Collateral to a Firm under an Agreement. The Parties listed in 1.1 and, subject to the terms of reference, definitions, modifications and additional assumptions and qualifications set out in the applicable Schedules, in 1.2 are in this opinion referred to as the "**Relevant Counterparties**" and this opinion is not given in respect of any other parties.

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 references to "**Core Provisions**" include Core Provisions that have been modified by Non-Material Amendments;

1.4.6 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;

1.4.7 capitalised 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 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 (except for the Security Interest Provisions) are legally binding and enforceable against both Parties under their governing laws and all other laws which are otherwise applicable to them.

2.2 That the Security Interest Provisions are enforceable under the governing law of the Agreement and all other laws (other than the laws of Finland) which are otherwise applicable to them, to create a security interest over the Collateral.

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 over the Collateral.

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 to provide the Collateral; and that each Party has taken all necessary steps to execute, deliver and perform the Agreement and to provide the Collateral.

2.5 That each Party has obtained, complied with the terms of and maintained all authorisations, approvals, licences and consents and complied with the laws required to enable it lawfully to enter into and perform its obligations under the Agreement and Transactions and to provide the Collateral and to ensure the legality, validity, enforceability or admissibility in evidence of the Agreement and the provision of the Collateral in this jurisdiction.

2.6 That the Agreement has been properly executed by both Parties.

2.7 That the Agreement is entered into and the Collateral is provided prior to the commencement of any Insolvency Proceedings (as such term is defined below) in respect of either Party.

2.8 The Agreement has been entered into, and each of the transactions referred to therein (including the provision of Collateral) 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 over the Collateral thereunder pursuant to laws of any jurisdiction (including the jurisdiction(s) in which the Collateral may be deemed located as referred to in 2.15 below) other than this jurisdiction have been duly fulfilled, performed and effected prior to earliest of (i) the enforcement of the Security Interest over the Collateral and (ii) the initiation of Insolvency Proceedings against the Relevant Counterparty.

2.13 That the Collateral was not when perfected subject to any prior security interest, assignment or execution procedure of which the Firm was or should have been aware.

2.14 That there are no provisions of the laws of any jurisdiction (apart from this jurisdiction) which would be contravened by the execution, the delivery or performance of the Agreement or the provision of the Collateral.

2.15 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 i.e. that any such bank accounts are held outside Finland and neither the domicile nor the centre of main interests[1] (within the meaning of Council Regulation (EC) No 1346/2000 on insolvency proceedings (as amended, the "**Regulation**")) of the account bank is in Finland and that the register recording rights in account-held

[1] The Regulation does not contain a definition for the concept "centre of main interests" but pursuant to recital 13 of the Regulation the concept "should correspond to the place where the debtor conducts the administration of his interests on a regular basis and is therefore ascertainable by third parties". Pursuant to Article 3(1) "[i]n the case of a company or legal person, the place of the registered office shall be presumed to be the centre of its main interests in the absence of proof to the contrary".

securities is maintained outside Finland.

2.16 That any cash comprising the Collateral is in a currency that is freely transferable internationally under the laws of all relevant jurisdictions.

2.17 That the choice of English law or the laws of the State of New York (as the case may be) as the governing law of the Agreement has been made in good faith and is valid under such law.

2.18 That the Agreement has been entered into between two parties one of which is a Party listed in 1.1 or 1.2 above.

2.19 That the effect of the Security Interest Provisions mentioned in the beginning of Paragraph 3.2.1 of this Opinion is the effect thereof pursuant to the law governing the Agreement.

2.20 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 opinion that under Finnish law as in force on the date hereof:

3.1 Insolvency Proceedings

The only bankruptcy, composition, rehabilitation (e.g. liquidation, administration, receivership or voluntary arrangement) or other insolvency laws and procedures to which a Relevant Counterparty could be subject in this jurisdiction are the following (the "**Insolvency Proceedings**"):

(a) bankruptcy under the Finnish Bankruptcy Act (2004, as amended, the "**Bankruptcy Act**"), with regard to banks and mortgage banks as supplemented by the provisions of the CIA and the Finnish Act on Commercial Banks (2001, as amended), the Finnish Act on Co-operative Banks (2001, as amended) and the Finnish Act on Savings Banks (2001, as amended) as applicable;

(b) company reorganisation under the Finnish Act on Company Reorganisation (1993, as amended, the "**Reorganisation Act**") (applicability to banks organised as deposit banks under the CIA is subject to the provisions of the Finnish Act on Temporary Interruption of Operations of Deposit Banks (2001, as amended)); and

(c) temporary interruption of the operations of a deposit bank under the Act on Temporary Interruption of Operations of Deposit Banks (2001, as amended, the "**Temporary Interruption Act**"). A deposit bank is obliged to file a notification with the Finnish Ministry of Finance, the Bank of Finland and the Finnish Financial Supervisory Authority (the "**FSA**") if the deposit bank is unable to pay its debts as they become due, and the Bank of Finland or the

FSA must notify the Ministry of Finance if they are of the opinion that it is likely that a deposit bank is unable to pay its debts as they become due. The Ministry of Finance may make a decision to temporarily interrupt the operations of a deposit bank in which case the FSA shall immediately appoint an administrator the duties of which include the supervision of the bank. Applicability of this proceeding to branches established or located in Finland of foreign banks incorporated outside the EEA is subject to, and amended by, the provisions of the CIA.

3.2 **Valid Security Interest**

3.2.1 Following the occurrence of an Event of Default, including as a result of the opening of any Insolvency Proceedings, the Firm would be entitled to exercise its rights under the Security Interest Provisions to enforce the Security Interest in respect of the Collateral where:

(a) either

(i) the Collateral is securities (as defined in the Finnish Securities Market Act (2012, the "**SMA**") or other comparable securities or derivative instruments that are customarily traded in the financial market) or money on a bank account; and

(ii) either

(A) the Relevant Counterparty providing the Collateral is a bank, a mortgage bank or a securities dealer; or

(B) the provider of Collateral is another Relevant Counterparty, the Firm is an Institution (as defined below) and if the Collateral consists of equity securities such securities are the subject of public trading; and

(iii) the secured obligations were created before the commencement of insolvency proceedings,

in which case the Finnish Financial Collateral Act (2004, as amended, the "**Financial Collateral Act**") would be applicable; or

(b) the secured obligations relate to (i) trading in financial instruments referred to in the Finnish Act on Investment Services (2012), as well as to other trading in equivalent securities and derivatives contracts (the "**Financial Transactions**") or (ii) trading in currency or currency units legal in Finland or in another country and the Collateral is provided pursuant to an agreement that can be held customary to provide the counterparty security for the obligations to be netted, in which case the Finnish Act on Certain Conditions of Securities and Currency Trading as well as of a Settlement System (1999, as amended, the "**Netting Act**") applies, subject however to a limitation described in qualification 4.2 in respect of appropriation of the Collateral,

and otherwise subject to 3.2.4.

We wish to draw your attention in particular to qualification 4.24.

3.2.2 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 Firm to enforce the Security Interest in respect of the Collateral, provided that the criteria set out in (a) or (b) of 3.2.1 are met, and otherwise subject to 3.2.4.

3.2.3 Following exercise of the Firm's rights under the Security Interest Provisions in respect of the Collateral, the Firm's rights in respect of the proceeds of realisation of the Collateral would in Insolvency Proceedings law rank ahead of the interests of the Relevant Counterparty and any other person, provided that no other party (e.g. the bankruptcy estate or its administrator) than the Firm carries out the realization process in relation to the Collateral, and with a limitation that in respect of interest accruing on the secured debt, the priority is limited to interest accrued during the three years before the opening of the proceedings. Without prejudice to the above, where the Collateral is located outside Finland, the ranking of the Firm's rights to the proceeds of realisation of the Collateral in relation to any other person having a security interest or similar right in the Collateral should be a matter to be determined under the law of the jurisdiction where the Collateral is located.

3.2.4 Finnish law restrictions on the enforcement of security during Insolvency Proceedings:

(a) During bankruptcy proceedings under the Bankruptcy Act the Firm may for the purposes of satisfying the relevant secured claim enforce its right under the Security Interest Provisions to enforce the Collateral provided that is it subject to a perfected first priority Security Interest, unless

(i) the bankruptcy estate decides to redeem the security asset at a price equal to the amount of the secured claim (for claims denominated in a currency other than euro, a value in euro for the purposes of the proceedings is determined using the exchange rate of the date of commencement of the bankruptcy proceedings);

(ii) a court grants the bankruptcy estate a right to sell the security asset which it may grant if the bankruptcy estate has received an offer for the security asset, the offer exceeds the fair market value of the security asset and the Firm does not provide evidence that higher sales proceeds could probably be obtained by other means;

(iii) the bankruptcy estate may sell the security asset without the prior consent of the Firm on and any time after the third anniversary of the commencement of bankruptcy proceedings (the secured creditor nonetheless having priority to the net sales proceeds); or

(iv) the administrator imposes a moratorium of up to two months on the enforcement of the security.

The above restrictions to the extent they restrict the Firm to take enforcement actions are not applicable where the Collateral consists of securities that are the subject of public trading.

The Firm must notify the administrator of its claim and also inform of its intention to sell the security asset or otherwise enforce the security in a reasonable time prior to the intended time of enforcement. When conducting the sale/enforcement, the interests of the bankruptcy estate must be taken into consideration. After the sale, the Firm must give an account to the estate administrator on the sale/enforcement and deliver to the estate administrator any sales proceeds exceeding the amount of the secured debt.

(b) The commencement of reorganization proceedings under the Reorganisation Act, or, if so applied by the debtor or a creditor and decided by the relevant court, the filing of an application for the same, imposes a moratorium on most legal proceedings and other enforcement actions against the debtor including a general prohibition on realization measures by a secured creditor subject to the exceptions described below. The moratorium remains in force until the reorganization plan has been confirmed.

During the moratorium, the court may upon application permit a secured creditor to enforce its security interest, if (i) the security asset is clearly not necessary for the reorganization procedure to succeed or (ii) the debtor has failed to pay interest on the secured debt, failed to compensate any depreciation of the security asset due to its use during the moratorium or, where applicable, failed to maintain proper insurance on the security asset.

The actions of the reorganization administrator may affect the position of a secured creditor as upon application by the administrator, the court may decide that certain debt to be incurred during the reorganization proceedings shall be secured by a prior or equal ranking security interest over an asset that is subject to a security interest in favor of a secured creditor, provided that this arrangement is necessary for the purposes of the reorganization and that the risk for that secured creditor does not increase significantly.

(c) The commencement of temporary interruption of the operations of a deposit bank under the Temporary Interruption Act imposes generally the same implications as set out in (b) above.

The enforcement by the Firm of the perfected Security Interest over the Collateral may be substantially restricted in Insolvency Proceedings of the Relevant Counterparty. Thus, unless the abovementioned restrictions are set aside (i) pursuant to the second paragraph of (a) above or (ii) by the applicability of the Financial Collateral Act or the Netting Act or (iii) by the application of the Regulation (as defined below) or the corresponding provisions of the Commercial Banks Act in the manner described in paragraphs 3.2.7 or 3.2.8 below, enforcement of security over the Collateral will in our opinion be affected by the opening of Insolvency Proceedings of the Relevant Counterparty.

3.2.5 Impact of the applicability of the Financial Collateral Act

To the extent that the Collateral provided as security under the Agreement and the Parties meet the criteria set out below, the provisions of the Financial Collateral Act shall apply to the Security Interest Provisions:

(1) the Collateral consists of securities (as defined in the SMA) or other comparable securities or derivative instruments that are customarily traded in the financial market), a receivable based on a monetary loan granted by a credit institution (or an entity referred to in the EU Directive 2002/47/EC Article 2, Section 1, Sub-section o) or money on a bank account, as security, and

(2) the security provider qualifies as an "institution" (see below) or the recipient of the security qualifies as an "institution" but then provided that the security provider is a person, other than a natural person, and further provided that the securities so transferred as security, in the case of equity securities, are the subject of public trading (which for the purposes of the Financial

Collateral Act mean securities and derivatives that are freely transferable and commonly traded in the securities markets) which requirement does not apply to non-equity securities.

"**Institution**" means, for purposes of the Financial Collateral Act, any of the following: (i) a public institution as defined in more detail in the Financial Collateral Act, (ii) the Bank of Finland, the European Central Bank, the Bank for International Settlements, the International Monetary Fund, the European Investment Bank, the Nordic Investment Bank or other multilateral development banks, (iii) licensed credit institution, financial institution, investment firm, fund manager, securities depository, insurance company, pension insurance company, clearing entity (a Finnish limited company which has a license to carry out clearing operations professionally and on a regular basis) and clearing party (authorized pursuant to industry specific legislation to enter transactions into a clearing entity or equivalent foreign entity), in each case registered in Finland and (iv) other domestic or foreign entity, which is engaged in comparable activities as those specified above as well as an entity which qualifies as an institution under the EU Directive 2002/47/EC Article 1, Section 2, Sub-section a-d.

Where the Financial Collateral Act applies, the Collateral may be realised irrespective of the moratorium applicable in reorganization proceedings and temporary interruption of the operations of a deposit bank.

As regards bankruptcy proceedings initiated in respect of the Relevant Counterparty, where the Financial Collateral Act applies, the restrictions otherwise applicable in bankruptcy proceedings to the extent they restrict the Firm to take enforcement actions are not applicable.

3.2.6 Impact of the applicability of the Netting Act

The Netting Act applies to netting and other settlement of payments in a settlement system as well as netting and other settlement in a settlement system of delivery obligations relating to (i) trading in Financial Instruments; or (ii) trading in currency or currency units legal in Finland or in another country. Also, the Netting Act applies to netting of payment and delivery obligations relating to the Financial Transactions, which are not executed in a settlement system (i.e. between contracting parties) as well as to collateral security provided to a settlement system or a contracting party in connection with netting or settlement of the Financial Transactions pursuant to a customary agreement for the provision of security for the obligations to be netted.

Where the Netting Act applies, the restrictions otherwise applicable in bankruptcy proceedings to the extent they restrict the Firm to take enforcement actions are not applicable and the moratorium does not apply in reorganisation proceedings or temporary interruption of the operations of a deposit bank.

3.2.7 Impact of the Regulation on the enforceability of security interests in insolvency

Section 2 of the Bankruptcy Act provides that where a matter has a connection, qualifying under the Regulation, to a member state subject to application of the Regulation, the Regulation shall take precedence over the Bankruptcy Act.

On 29 May 2000 the Council of the European Union adopted the Regulation which entered into force on 31 May 2002. Denmark (pursuant to recital 33 of the Regulation) is not participating in the adoption of the Regulation and is therefore not bound by it nor subject to its application. The objective of the Regulation is to establish common rules on cross-border insolvency proceedings, based on principles of mutual

recognition and co-operation. The Regulation applies to "collective insolvency proceedings which entail the partial or total divestment of a debtor and the appointment of a liquidator" (Article 1(1)); the Regulation lists the relevant insolvency proceedings to which it applies in each Member State in Annex A thereto (the insolvency proceeding to which the Regulation applies are referred to below as "**EU Regulation Insolvency Proceedings**") and which in relation to Finland are the Insolvency Proceedings under the Bankruptcy Act and the Reorganisation Act. Certain types of entities are specifically excluded from the operation of the Regulation (for example credit institutions, insurance companies, investment undertakings which provide services involving the holding of funds or securities for third parties and collective investment undertakings (Article 1(2)).

Article 4(1) of the Regulation provides that, save as otherwise provided in the Regulation, the law applicable to EU Regulation Insolvency Proceedings and their effects shall be that of the Member State within the territory of which such proceedings are opened.

Article 5(1) of the Regulation provides that the opening of EU Regulation Insolvency Proceedings shall not affect the rights *in rem* of creditors or third parties in respect of tangible or intangible, moveable or immoveable assets — both specific assets and collections of indefinite assets as a whole which change from time to time — belonging to the debtor which are situated within the territory of another Member State at the time of the opening of proceedings.

Pursuant to Article 5(2) of the Regulation the rights referred to in Article 5(1) of the Regulation shall in particular mean *inter alia* (a) the right to dispose of assets or have them disposed of and to obtain satisfaction from the proceeds of or income from those assets, in particular by virtue of a pledge or a mortgage and (b) the exclusive right to collect a claim, in particular where the claim secures a debt or the claim has been assigned by way of security. The Security Interest granted by the Relevant Counterparty over the Collateral pursuant to the Agreement would under Finnish law be a right *in rem* referred to in Article 5(1) of the Regulation provided that it has been created and perfected as described below. Finnish courts normally apply the "*lex rei sitae*" principle to the effectiveness of the creation and perfection of security in relation to *inter alia* third party creditors. In EU Regulation Insolvency Proceedings to which the Regulation applies the location of certain property and claims is determined in accordance with Article 2 of the Regulation that provides that 'the Member State in which assets are situated' shall mean, in the case of property and rights ownership of or entitlement to which must be entered in a public register, the Member State under the authority of which the register is kept and, in the case of claims, the Member State within the territory of which the third party required to meet them has the centre of his main interests, as determined in Article 3(1) of the Regulation. To the extent that the cash provided as Collateral consist of funds on a bank account such Collateral is likely to be considered claims against the account bank.

The Security Interest granted by the Relevant Counterparty over the Collateral pursuant to the Agreement should pursuant to Article 5(1) of the Regulation not be affected by the opening of EU Regulation Insolvency Proceedings provided that such Security Interest was created and perfected in accordance with the laws of the jurisdiction in which the Collateral was located in accordance with the above mentioned location rules, before the opening of such EU Regulation Insolvency Proceedings.

The application of Article 5(1) of the Regulation is, however, itself subject to an exception in the form of Article 5(4), which states that Article 5(1) shall not preclude

actions for voidness, voidability or unenforceability as referred to in Article 4(2)(m). Article 4(2)(m) again provides that the laws of the state of the opening of EU Regulation Insolvency Proceedings shall determine "the rules relating to the voidness, voidability or unenforceability of legal acts detrimental to all creditors". This means that while Article 5(1) would in the circumstances described in the preceding paragraph result in an effective security interest in favour of the Firm notwithstanding any restrictions otherwise imposed under Finnish domestic insolvency laws, this would only apply to the extent these restrictions were not of the nature mentioned in Article 4(2)(m), i.e. restrictions "relating to the voidness, voidability or unenforceability of legal acts detrimental to all creditors". Recovery rules and rules concerning fraudulent preferences would in our opinion clearly fall under Article 4(2)(m). The rule under Article 4(2)(m) does not apply without exemption.

The exemption referred to in the preceding paragraph is to be found in Article 13 of the Regulation, which provides that "Article 4(2)(m) shall not apply where the person who benefited from an act detrimental to all the creditors provides proof that:

- the relevant act is subject to the law of a Member State other than that of the State of the opening of proceedings, and

- that law does not allow any means of challenging that act in the relevant case."

From the above follows that the security interest granted by the Relevant Counterparty (to which the Regulation applies) over the Collateral pursuant to the Agreement should be effective in, and not affected by, EU Regulation Insolvency Proceedings to the extent that (i) such Security Interest was created and perfected in accordance with the laws of the jurisdiction in which the Collateral was located pursuant to the location rules under the Regulation before the opening of such Insolvency Proceedings and (ii) any restrictions under local Finnish law on such enforceability falling within the scope of Article 4(2)(m) of the Regulation are disapplied by the application of Article 13 of the Regulation.

3.2.8 Impact of the corresponding provisions of the Finnish Act on Commercial Banks on the right to enforce security in insolvency in relation to banks and mortgage credit banks

The Finnish Act on Commercial Banks (2001, as amended) applicable to banks and mortgage banks contains provisions corresponding to the articles of the Regulation mentioned above with the exception that where reference is made to a Member State reference is instead made to a member of the European Economic Area (EEA). The above reasoning applies to banks and mortgage credit banks *mutatis mutandis* with such amendment.

3.3 **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 Firm to enforce the Security Interest in respect of the Collateral where the implications of the Insolvency Proceedings are disapplied as described in 3.2 above.

4. Qualifications

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

4.1 For purposes of Finnish conflict of laws rules, the *lex rei sitae* of the relevant assets is

normally the decisive factor when determining the law applicable to property rights, e.g. as to whether a security interest of transfer of property has been carried out and perfected in a way to make the transfer/security effective against third parties. The *lex rei sitae* is generally determined based upon the jurisdiction of the debtor (in respect of receivables) or the jurisdiction where the register recording relevant rights in the securities is maintained (in respect of book-entry securities). The determination of the location of different types of assets is only in a limited way covered by legislation in Finland. In respect of credit institutions and insurance companies certain location rules relating to securities are however set out in the Finnish legislation. With regard to credit institutions incorporated in Finland and a Finnish branch or Finnish branches of credit institutions incorporated outside the EEA, the conflict of laws rules applicable in bankruptcy proceedings are set forth in the Commercial Banks Act under which the rights relating to securities recorded in a register maintained in an EEA member state are determined by the laws of such EEA member state. With regard to insurance companies incorporated in Finland and a Finnish branch or Finnish branches of insurance companies incorporated outside the EEA, the conflict of laws rules applicable in bankruptcy proceedings are set forth in the Finnish Insurance Companies Act (2008, as amended) under which the rights and obligations relating to securities recorded in a register maintained in an EEA member state are determined by the laws of such EEA member state.

Certain location rules are set out in the Regulation and also in the Nordic Bankruptcy Treaty among Finland, Denmark, Iceland, Norway and Sweden entered into effect on 7 November 1933 (as amended, the "**Treaty**") the effect of which is as follows:

The provisions of the Treaty provide that bankruptcy proceedings commenced in one of the contracting states shall also include the assets of the bankrupt party located in the other contracting states, provided that such bankrupt party upon commencement of the bankruptcy proceedings was domiciled in, i.e. incorporated or organised under the laws of, the contracting state in which the bankruptcy proceedings were commenced.

Pursuant to Article 4 of the Treaty the effectiveness in bankruptcy of a transfer or a security interest over a movable asset (such as securities, promissory notes or receivables) created without transferring possession of such asset is determined in accordance with the law of the jurisdiction in which such asset was located at the time the bankruptcy proceedings were initiated. Pursuant to Article 5 of the Treaty the right to benefit from a security interest to satisfy a claim is determined in accordance with the laws of the jurisdiction in which the security asset was located at the time of opening of bankruptcy proceedings. Further pursuant to Article 8 of the Treaty where the application of the provisions of the Treaty are dependent on the location of an asset, the location of a receivable that is evidenced by a negotiable promissory note or a similar document shall be the jurisdiction in which the document is and the location of a receivable that is not evidenced by a negotiable promissory note or a similar document shall be the jurisdiction in which the bankruptcy proceedings were opened. Thus, in bankruptcy proceedings under the Bankruptcy Act to which also the Treaty applies, the effectiveness of the security interest over the Collateral consisting of cash in particular may be determined in accordance with Finnish law. Unless the Security Interest in respect of Collateral is perfected in accordance with Finnish law at the time of initiation of bankruptcy proceedings or reorganization proceedings leading to bankruptcy proceedings and the Collateral was not when perfected subject to any prior security interest, assignment or execution procedure, the Security Interest granted by the Relevant Counterparty over the Collateral pursuant to the Security Interest Provisions would not under Finnish law be effective in bankruptcy proceedings of the Relevant Counterparty.

The Treaty is, according to its wording, also applicable to the liquidation proceedings of a bank. We believe that the proceedings referred to in paragraph 3.1(c) above would be held to constitute such liquidation proceedings. The Regulation has replaced, in respect of matters referred to therein, the Treaty in the relations between Member States (except for Denmark to which the Regulation does not apply). The provisions of the Commercial Banks Act referred to above are likely to have replaced, in respect of matters referred to therein, the Treaty in the relations between the members of the European Economic Area.

Should the effectiveness of security over the Collateral created or purported to be created under the Security Interest Provisions by the Relevant Counterparty nevertheless be determined in accordance with Finnish law, in order for such Security Interest to be held created and perfected under Finnish law which would then be a requirement for the opinions set out in paragraphs 3.2.1 to 3.2.3, it is generally required that the Collateral is sufficiently specified and that

(a) in the case of Collateral in the form of cash on a bank account, the account bank holding such cash has received a notice of pledge (given by the Relevant Counterparty or given by the Firm but then accompanied by a copy of the relevant document evidencing the acceptance by the Relevant Counterparty of the granting of such Collateral) instructing the account bank to pay all amounts owed by it to the Relevant Counterparty being subject to the Security Interest only to, or to the order of, the Firm as recipient of the security interest over such amounts; or

(b) where the Financial Collateral Act applies, security over Collateral in the form of cash may be created by transfer of cash to the bank account of the secured party in which case such security is perfected when such cash is credited to such account; and

(c) that at the time of receipt by the account bank of the notice referred to in (a) above or the transfer of cash referred to in (b) above, none of the cash subject to the Security Interest was subject to any prior security interest, assignment or execution procedure and no Insolvency Proceedings had been initiated against the Relevant Counterparty;

4.2 Finnish written law contains very few detailed provisions on security arrangements, and the law is rather based on principles derived from the few provisions that exist. In general, where the Financial Collateral Act does not apply (i.e. the criteria set out in 3.2.1(a) is not met), Finnish law recognises only one form of security interest over assets relevant in the context of this opinion, a pledge, which under Finnish law does not transfer ownership to the pledgee. Further, any contractual provision entitling the pledgee to take ownership of the pledged assets upon a breach by the debtor (in this case any Counterparty) is pursuant to Section 37 of the Finnish Contracts Act (1929, as amended) null and void. Further implications of the pledgor retaining ownership of the pledged assets include the pledgee's inability to exercise owner's control over the pledged assets and the pledgee's duty to return any excess value of the pledged assets to the pledgor.

Transfers of ownership with the intention of creating a security interest have been discussed in Finnish legal literature. Generally, where the Financial Collateral Act does not apply, such arrangements have been regarded as simulated transfers, where the intention of the parties overrides the form of the transaction. This means e.g. that the pledgee/transferee's obligation to account for excess value would nonetheless apply.

Where the Collateral is located outside Finland and is held being subject to a perfected security arrangement pursuant to the law of the jurisdiction in which the securities are located and pursuant to such law the secured party would in such security arrangement be entitled to use or invest for its own benefit, without restriction, any Collateral pursuant to the Agreement, Finnish law should however not affect such right;

4.3 as regards substitution of collateral, where the Financial Collateral Act applies (i.e. the criteria set out in 3.2.1(a) is met), and provided that the parties have at the outset agreed on the substitution and that the new collateral is of no greater value than the old collateral and also qualifies as collateral under the Financial Collateral Act, the substitution would not invalidate the security interest and should not be challengeable under the Finnish insolvency laws. As regards additional/new collateral based on the change in the value of the collateral pledged earlier or in the amount of the secured obligation, the security interest should not be challengeable where the Financial Collateral Act applies (i.e. the Collateral and the parties meet the criteria set out in 3.2.1(a)), and provided that the parties have at the outset agreed on the procedure applicable to the additional/new collateral and that the procedure can be regarded as customary considering the circumstances. While the Financial Collateral Act does not set out what would be "customary" for these purposes, we believe that if the agreement between the parties on the procedure applicable to the additional/new collateral, including the timing and method of the additional/new collateral (e.g. including a valuation based upon market prices), follows established practice in the financial markets, this should generally satisfy the requirement of "customary". Where the Financial Collateral Act is not applicable, substitution of security may be considered new security for the purposes of the recovery rules;

4.4 we have in 2.4 above assumed that each Party has the capacity, power and authority under all applicable law(s) to enter into the Agreement and to perform its obligations thereunder and to provide Collateral and therefore no opinion is given on the capacity, power and authority of any Relevant Counterparty to enter into the Agreement, any transaction entered thereunder or to provide Collateral;

4.5 pursuant to the Netting Act, if an entity governed by Finnish law is party to a settlement system falling within the scope of the Directive 98/26/EC of the European Parliament and of the Council on settlement finality in payment and securities settlement systems or to a corresponding system of a country outside the European Economic Area, which settlement system is not governed by Finnish law, rights and obligations arising out of, or in connection with, the participation in such settlement system after the commencement of insolvency proceedings against the party shall, for purposes of Finnish conflict of law rules, be governed by the laws governing the settlement system;

4.6 pursuant to the Finnish Act on Recovery to a Bankruptcy Estate (758/1991, as amended, the "**Recovery Act**"), a transaction can be revoked by the debtor's bankruptcy estate, by the administrator of the debtor in reorganisation or by a creditor of the debtor in connection with bankruptcy, reorganisation or execution proceedings (each, a "**Recovery Claimant**") if the transaction unduly favors a particular creditor to the detriment of another creditor or transfers property out of the reach of the creditors or increases the debts of the debtor to the detriment of the creditors, always provided that (i) the debtor was insolvent at the time the transaction was concluded or the transaction contributed to the debtor's insolvency, and that (ii) the other party knew or should have known of the insolvency or of the impact of such transaction on the debtor's financial state as well as of the circumstances due to which the transaction was unsuitable. If such a transaction was concluded earlier than five years prior to the date (the "**Decisive Date**") on which the application for bankruptcy, reorganisation or execution was filed with the competent court, the transaction may be revoked only if

the secured party was someone closely related to the debtor.

Further pursuant to the Recovery Act, a payment of debt can be recovered by a Recovery Claimant against the debtor's assets if such payment was made later than three months prior to the Decisive Date and provided that the payment was made by unusual means or prematurely or in an amount that must be considered substantial in consideration of the debtor's assets, unless the payment can be considered ordinary taking into account the circumstances. If such payment was made earlier than three months but later than two years before the Decisive Date, the payment may be revoked only if such creditor was someone closely related to the debtor, and further provided that it cannot be evidenced that the grantor was not insolvent and did not become insolvent as a result of the payment. An exercise by a creditor of its set-off right against a debtor may be recovered similarly if the creditor would not be entitled to exercise the set-off right in bankruptcy proceedings initiated against the debtor.

Further pursuant to the Recovery Act, any security interest granted can be recovered by the Recovery Claimant against the grantor's assets if such security interest was perfected later than three months prior to the Decisive Date, if (i) such security interest was not agreed on at the time the debt came into existence, or (ii) the transfer of possession, notice of assignment or other means of perfecting the security interest was not carried out without undue delay after the origination of the debt.

Further pursuant to the Recovery Act, a gift-like transaction and a payment of debt received by a creditor through an execution action (Fi: *ulosmittaus*) can, subject to certain pre-requisites (which vary depending on the type of transaction and the parties thereto), be revoked if the transaction was concluded within a certain period of time (the length of which varies depending on the type of transaction and the parties thereto) before the Decisive Date.

A transaction constituting netting under the Netting Act cannot be recovered on the basis of the recovery rules set out in the second and third paragraph of this qualification 4.6.

A transaction constituting netting under the Financial Collateral Act cannot be recovered on the basis of:

(a) the recovery rule set out in the second paragraph of this qualification 4.6 but instead (i) a claim that was part of the netting may be recovered if the creditor of such claim acquired the claim later than three months before the Decisive Date and (ii) an undertaking that was part of the netting and to which the creditor has become bound later than three months before the Decisive Date in a way corresponding to a payment of debt; may be recovered, unless such acquisition or undertaking can be considered customary; and

(b) the recovery rule set out in the third paragraph of this qualification 4.6 provided that the parties have agreed (i) that the grantor is obliged to grant security or additional security as a result of the change in the value of a debt or previously granted security and that the granting of such security can be considered customary or (ii) that the grantor is entitled to replace a previously granted security with another security with a value not exceeding that of the previous security;

4.7 the term "perfection", when used herein, refers to measures undertaken in order to make security enforceable in relation to third parties (e.g. in the bankruptcy of the security provider) (referred to as "*julkivarmistus*" in Finnish law and legal doctrine);

4.8 where perfection of the Security Interest over the Collateral is to be determined pursuant to Finnish law (e.g. as a result of the Treaty), the following applies:

(a) in order for the pledge of any future receivables to be effective in relation to third party creditors of the pledgor, such pledge must be separately perfected by separate notice to the debtor of such receivable after such future receivables have been earned and thereafter paid to and retained by the pledgee or a third party sufficiently remote from the pledgor for and on behalf of the pledgee. Once paid or made available to the pledgor, receivables will not be subject to any rights *in rem*;

(b) if a pledgee, during the security period but after instructing the account bank (or in the case of a pledge of receivables the relevant debtor) that the funds in the bank account or the pledged receivables, as applicable, may only be paid to or to the order of the pledgee, is contractually obliged to release such funds or to permit payment of such receivables to the pledgor or to apply the proceeds of any of them towards satisfaction of the obligations of the pledgor, other than the obligations secured by such pledge, it is not entirely clear under Finnish law whether a pledge over such bank account or such receivables would be considered perfected. If a pledge is not considered perfected the pledgee would not have a right *in rem* and would therefore rank as an unsecured creditor in respect of its claim against the pledgor in case of insolvency of the pledgor in Finland;

4.9 enforcement in Finland of the right of a party under any agreement or instrument may be limited by general time bar provisions (Finnish: *vanhentuminen*);

4.10 enforcement before the courts of Finland will be subject to the remedies available in such courts (some of which may be discretionary in nature) and to the availability of defenses such as set-off, abatement, counter claim and force majeure;

4.11 pursuant to Section 36 of the Finnish Contracts Act (228/1929, as amended), if a contract term is unfair or its application would lead to an unfair outcome, the term may be adjusted or set aside. Consequently, enforcement of the Agreement may be limited by general principles of equity; in particular, equitable remedies (such as an order for specific performance or an injunction) are discretionary remedies and may not be available under the laws of Finland where damages are considered to be an adequate remedy, and nothing in this opinion should be taken to indicate that any particular remedy would be available with respect to any particular provision of the Agreement in any particular instance. Moreover, the effectiveness of terms in the Agreement exculpating a party from liability or duty otherwise owed may be limited by law or subject to mitigation;

4.12 any provision in the Agreement which involves an indemnity for costs of litigation or enforcement is subject to the discretion of the court to decide whether and to what extent a party to litigation or enforcement should be awarded the costs incurred by it in connection therewith, where the court applies Finnish law in circumstances referred to in 4.20 and 4.21 below and where such matters fall under the statutory Finnish procedural rules;

4.13 there may be circumstances in which a Finnish court would not treat as conclusive

certificates and determinations which according to the Agreement are stated to be so treated;

4.14 the right to recover damages may be limited to the extent the aggrieved party could have avoided or mitigated the damages using reasonable efforts;

4.15 where any party is vested with a discretion or may determine a matter in its opinion, Finnish law may require that such discretion is exercised reasonably or that such opinion is based on reasonable grounds;

4.16 Finnish courts will not give effect to obligations, the performance of which would be illegal under the laws of the jurisdiction in which they are to be performed, nor will they give effect to contractual provisions purporting to constitute a waiver of applicable mandatory provisions of law;

4.17 the question of whether or not any provisions of the Agreement which may be invalid on account of illegality may be severed from the other provisions thereof in order to save those other provisions would be determined by a Finnish court in its discretion;

4.18 as regards jurisdiction, a Finnish court may stay proceedings if concurrent proceedings are being brought elsewhere;

4.19 if requested by the court, it is up to the parties to prepare an adequate translation into the Finnish language or the Swedish language of the Agreement, in order for the court to rule on the issues brought before it;

4.20 if requested by the court, it is up to the parties to provide the court with satisfactory evidence of the contents of the law designated to govern the Agreement and if they fail to do so, the Finnish court may apply Finnish law instead;

4.21 the application by a Finnish court of law designated to govern the Agreement in relation to the Agreement is subject to (a) such law not being contrary to such mandatory rules of Finnish law that due to their public nature or general interest shall be considered applicable irrespective of the agreed choice of law; and (b) the application of such law not resulting in an outcome contrary to the public policy (*ordre public*) of the Finnish legal system;

4.22 in any proceedings before a Finnish court for the enforcement of the Agreement, the proceedings would be conducted in accordance with the statutory Finnish procedural rules and the court would not be obliged to give effect to provisions in the Agreement, such as agreements regarding the manner in which service of process is carried out, to the extent in conflict with such statutory rules;

4.23 in respect of entities of the type referred in 1.1.2, 1.1.3, 1.1.5 and 1.1.6 this opinion is not given to the extent Finnish law is not applicable as a result of the application of the provisions set out in the Commercial Banks Act (implementing the EU Directive 2001/24/EC and applicable by reference to savings banks and co-operative banks) to the effect that rights relating to securities and derivatives contracts the creation or transfer of which is registered on an account, register or centralised custody arrangement are determined in accordance with the law of the EEA state in which the account or register is held or the custody arrangement kept, that legal implications of repurchase agreements are determined solely on the basis of the law applicable to such agreement and that the legal implications of bankruptcy and liquidation proceedings on transactions entered into on regulated markets are determined on the basis of the law which is applied to transactions entered into on such markets;

4.24 outside Insolvency Proceedings a creditor of the relevant party may, under the Finnish Enforcement Code (2007, as amended, the "**Enforcement Code**") apply for an execution proceeding for the payment of a debt owed by the relevant party to that creditor. An execution officer may attach (and liquidate) an asset of the relevant party for the payment of the debt that is subject to the procedure. It cannot be ruled out that the asset would be an asset subject to a security interest under the Agreement.

Attachment under the Enforcement Code may be targeted also to assets located outside Finland.

If the asset to be attached is subject to a security interest in favor of a counterparty, the counterparty may have to transfer the security asset to the execution officer for liquidation. The counterparty would however continue to have priority to the net liquidation proceeds at least in relation to obligations that have arisen before the counterparty was informed of the attachment, provided that the security interest was perfected prior to the attachment procedure;

4.25 if at the time of perfection of the Security Interest over the Collateral the Collateral was subject to another perfected security interest, the Firm would not have a first priority security interest in the Collateral, the Firm's right to the proceeds of the liquidation of the Collateral would rank behind claims secured by such other security interest and the Firm's right to enforce the Security Interest under the Agreement and to apply the enforcement proceeds pursuant thereto would be limited by such other security interest which may or may not meet the criteria under the Financial Collateral Act meaning that even though the parties to the Agreement, the Security Interest and the Collateral would meet the criteria of the Financial Collateral Act it is possible that the enforcement of the Collateral may not benefit from the protection thereunder in Insolvency Proceedings; and

4.26 we express no opinion as to any law other than the law of Finland as presently in force and we have assumed that there is nothing in any other law that affects our opinion stated herein; in particular, we have made no independent investigation of the laws of England or the laws of the State of New York as a basis for the opinion stated herein and do not express or imply any opinion thereon; legal concepts expressed or described herein shall be governed by and words and expressions used herein shall be construed in accordance with Finnish law notwithstanding that original Finnish terms and definitions may not always have been used.

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

* * *

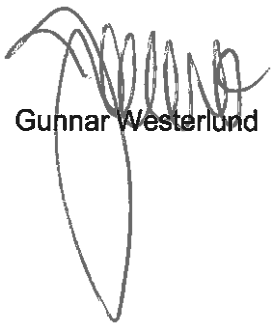
This opinion shall be governed by and construed in accordance with Finnish law.

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,

Roschier, Attorneys Ltd.



Gunnar Westerlund

Paula Linna

Insurance companies

Subject to the modifications and additions set out in this Schedule 1 (*Insurance companies*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are:

(a) insurance companies incorporated or organised under the Finnish Insurance Companies Act (2008, as amended, the "**ICA**") incorporated, organised, established or formed under the laws of Finland;

(b) branches established or located in Finland of foreign entities of the type referred in (a) incorporated outside the EEA, established in accordance with the Finnish Act on Foreign Insurance Companies (1995, as amended, the "**FICA**"); and

(c) branches established or located in Finland of foreign entities of the type referred in (a) incorporated in a member state of the EEA, established in accordance with FICA.

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

n/a

2. Additional Assumptions

n/a

3. Modifications to Opinions

3.1 Paragraph 3.1 is deemed deleted and replaced with the following:

"Insolvency Proceedings

The only bankruptcy, composition, rehabilitation or other insolvency or reorganisation procedures to which a Relevant Counterparty could be subject under the laws of this jurisdiction, and which is relevant for the purposes of this opinion letter, is:

> *bankruptcy under the Finnish Bankruptcy Act (2004, as amended, the "**Bankruptcy Act**"), with regard to insurance companies as supplemented by the provisions of the Finnish Insurance Companies Act (2008, as amended, the "**ICA**") and the Finnish Act on Foreign Insurance Companies (1995, as amended, the "**FICA**").*"

3.2 Paragraph 3.2.1(a) is deemed deleted and replaced with the following:

> "*the Collateral is securities (as defined in the Finnish Securities Market Act (2012, the "**SMA**") or other comparable securities or derivative instruments that are customarily traded in the financial market) or money on a bank account and*

*the secured obligations were created before the commencement of insolvency proceedings, in which case the Finnish Financial Collateral Act (2004, as amended, the "**Financial Collateral Act**") would be applicable; or*"

3.3 Paragraphs 3.2.4(b) and 3.2.4(c) are deemed deleted and in the last sub-paragraph of paragraph 3.2.4 "*the Regulation (as defined below) or the corresponding provisions of the Commercial Banks Act in the manner described in paragraphs 3.2.7 and 3.2.8 below*" is replaced by "*the provisions of the ICA and the FICA in the manner described in section 3.2.7 below*".

3.4 Paragraph 3.2.7 is deemed deleted and replaced with the following:

"***Impact of the provisions of the ICA and the FICA on the enforceability of security interests in insolvency***

Section 1 of Chapter 24 of the ICA provides that, save as otherwise provided in that Chapter, the law applicable to Insolvency Proceedings and their effects shall be Finnish law. However, Section 7, Sub-Section 1 of Chapter 24 of the ICA states that the opening of Insolvency Proceedings shall not affect the security interest (a right in rem) over an asset of the insurance company, where such asset is at the time of opening of the Insolvency Proceedings situated in a member state of the EEA other Finland.

Finnish courts normally apply the "lex rei sitae" principle to the effectiveness of the creation and perfection of security in relation to inter alia third party creditors. Pursuant to the ICA the rights and obligations relating to securities recorded in a register maintained in an EEA member state are determined by the laws of such EEA member state. To the extent that the cash margin provided as Collateral consist of funds on a bank account such Collateral is likely to be considered claims against the account bank.

The Security Interest granted by the Relevant Counterparty over the Collateral pursuant to the Agreement should pursuant to Section 7, Sub-Section 1 of Chapter 24 of the ICA not be affected by the opening of the Insolvency Proceedings provided that such Security Interest was created and perfected in accordance with the laws of the jurisdiction in which the Collateral was located in accordance with the above mentioned location rules, before the opening of such Insolvency Proceedings.

The application of Section 7, Sub-Section 1 of Chapter 24 of the ICA is, however, itself subject to a further exception in the form of Section 7, Sub-Section 3 of Chapter 24 of the ICA, which states that Section 7, Sub-Section 1 of Chapter 24 of the ICA shall not preclude actions for voidness, voidability, unenforceability or claw back pursuant to Finnish law. This means that while Section 7, Sub-Section 1 of Chapter 24 of the ICA would in the circumstances described in the preceding paragraph result in an effective security interest in favour of the Firm notwithstanding any restrictions otherwise imposed under Finnish domestic insolvency laws, this would only apply to the extent these restrictions were not of the nature mentioned in Section 7, Sub-Section 3 of Chapter 24 of the ICA, i.e. restrictions relating to the voidness, voidability, unenforceability or claw back of legal acts detrimental to all creditors. Claw back rules and rules concerning fraudulent preferences would in our opinion clearly fall under Section 7, Sub-Section 3 of Chapter 24 of the ICA.

As mentioned above, Section 7, Sub-Section 3 of Chapter 24 of the ICA provides that the matters referred to in Section 7, Sub-Section 2 of Chapter 24 of the ICA are always determined in accordance with Finnish law. However, not even this rule applies without

exemption. The exemption referred to in the preceding paragraph is to be found in Section 7, Sub-Section 4 of Chapter 24 of the ICA, which provides that Section 7, Sub-Section 3 of Chapter 24 of the ICA shall not apply where the person who benefited from an act detrimental to all the creditors provides proof that:

- the relevant act is subject to the law of a member state of the EEA other than Finland, and

- that law does not allow any means of challenging that act in the relevant case.

From the above follows that the security interest granted by the Relevant Counterparty over the Collateral pursuant to the Agreement should be effective in, and not affected by, Insolvency Proceedings to the extent that (i) such Security Interest was created and perfected in accordance with the laws of the jurisdiction in which the Collateral was located pursuant to the location rules referred to above before the opening of such Insolvency Proceedings and (ii) any restrictions under local Finnish law on such enforceability falling within the scope of Section 7, Sub-Section 3 of Chapter 24 of the ICA are disapplied by the application of Section 7, Sub-Section 4 of Chapter 24 of the ICA."

3.5 Paragraph 3.2.8 is deemed deleted.

4. Additional Qualifications

n/a

5. Modifications to Qualifications

5.1 The fifth sub-paragraph of paragraph 4.1 shall be deemed deleted and replaced with the following:

"*The ICA and the FICA incorporate provisions implementing the EU Directives on Reorganisation and Winding-Up of Insurance Undertakings addressing competence to initiate insolvency proceedings against certain Relevant Counterparties as well as conflicts of laws rules applicable inter alia to set-off and security arrangements. The provisions of the ICA and the FICA referred to above are likely to having replaced, in respect of matters referred to therein, the Treaty in the relations between members of the EEA.*"

5.2 Paragraph 4.23 shall be deemed deleted and replaced with the following:

"*In respect of entities of the type referred in (a) and (c) in Schedule 1 of this opinion is not given to the extent Finnish law is not applicable as a result of the application of the provisions set out in the ICA and the FICA (implementing the EU Directives on Reorganisation and Winding-Up of Insurance Undertakings) to the effect that the rights and obligations relating to securities recorded in a register maintained in an EEA member state are determined by the laws of such EEA member state and that the legal implications of bankruptcy and liquidation proceedings on transactions entered into on regulated markets are determined on the basis of the law which is applied to transactions entered into on such markets.*"

Private individuals

Subject to the modifications and additions set out in this Schedule 2 (*Private individuals*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are:

private individuals domiciled or resident in Finland.

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

n/a

2. Additional Assumptions

2.1 The following assumption is added in paragraph 2:

"***Insolvency Proceedings***

Either the Relevant Counterparty enters into the Agreement as merchant (i.e. mainly for business purposes and not as a consumer) or the Agreement, the Transactions and all transfers of margin have been entered into in compliance with the Finnish Consumer Protection Act (1978, as amended) as well as other laws regulating securities trade and the Relevant Counterparty has not exercised his/her right that he/she may have under the said acts to withdraw from the transactions under the Agreement."

2.2 In paragraph 2.8 ", *where the Relevant Counterparty is acting mainly for its business (i.e. not as a consumer under Finnish law),*" is added after "*on arms' length commercial terms and*".

3. Modifications to Opinions

3.1 Paragraph 3.1 is deemed deleted and replaced with the following:

"*The only bankruptcy, composition, rehabilitation (e.g. liquidation, administration, receivership or voluntary arrangement) or other insolvency laws and procedures to which a Relevant Counterparty could be subject in this jurisdiction are the following (the "**Insolvency Proceedings**"):*

*(i) bankruptcy proceedings under the Finnish Bankruptcy Act (2004, as amended, the "**Bankruptcy Act**");*

*(ii) adjustment of debts under the Act on the Adjustment of the Debts of a Private Individual (1993, as amended, the "**Debt Adjustment Act**"); and*

*(iii) reorganisation under the Finnish Act on Company Reorganisation (1993, as amended, the "**Reorganisation Act**").*"

3.2 *Paragraph 3.2.4(c) is deemed replaced with the following:*

"Under the Debt Adjustment Act the exercise of enforcement rights in relation to rights in rem is restricted."

3.3 The Financial Collateral Act is not applicable to the Agreement to which the Relevant Counterparty is party or to the Security Interests granted by the Relevant Counterparty. Accordingly, paragraph 3.2.1(a) is not applicable to the Relevant Counterparty.

4. Additional Qualifications

The following qualification is deemed added:

"*the Finnish consumer protection laws may override the law selected to govern the Agreement and the transactions thereunder to the extent the Finnish consumer protection laws better protect the consumer, where (i) the parties have selected English law as the governing law and pursuant to Regulation (EC) No 593/2008 on the law applicable to contractual obligations (Rome I) the Agreement would not constitute a financial instrument; or (ii) the parties have selected New York law as the governing law. Where the Agreement is entered into by the Relevant Counterparty mainly for a purpose other than for the business of the Relevant Counterparty, the Finnish Consumer Protection Act (1978, as amended) provide protection to the Relevant Counterparty by requiring that the terms used with the Relevant Counterparty are reasonable to the Relevant Counterparty which in relation to the close-out netting under the ISDA Master Agreement may limit the other party's termination right under the Agreement to substantial breaches of contract and the other party's right to damages resulting from e.g. early termination. Pursuant to the Finnish Consumer Protection Act, if a contract term is unfair or its application would lead to an unfair outcome from the perspective of the consumer, the term may be adjusted or set aside, which may limit the enforcement of the Agreement;*"

5. Modifications to Qualifications

n/a

Municipalities and governmental bodies that are not subject to specific legislation

Subject to the modifications and additions set out in this Schedule 3 (*Municipalities and governmental bodies of Finland that are not subject to specific legislation*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are:

municipalities and governmental bodies of Finland that are not subject to specific legislation.

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

n/a

2. Additional Assumptions

n/a

3. Modifications to Opinions

3.1 Paragraph 3.2.1(a) is deemed deleted and replaced with the following:

"*the Collateral is securities (as defined in the Finnish Securities Market Act (2012, the "**SMA**") or other comparable securities or derivative instruments that are customarily traded in the financial market) or money on a bank account and the secured obligations were created before the commencement of insolvency proceedings, in which case the Finnish Financial Collateral Act (2004, as amended, the "**Financial Collateral Act**") would be applicable; or*"

3.2 The following sub-paragraph is added after the second sub-paragraph of 3.2.5:

"*The Relevant Counterparty qualifies as institution under the Financial Collateral Act.*"

3.3 This opinion is applicable to the Relevant Counterparties with the further modification that the Relevant Counterparties cannot be subject to any Insolvency Proceedings. Accordingly paragraphs 3.2.4, 3.2.7 and 3.2.8 are not applicable to the Relevant Counterparties. Pursuant to the Bankruptcy Act a state, a municipality or a governmental body cannot become subject to bankruptcy proceedings thereunder and pursuant to the Reorganisation Act the Relevant Counterparties are not listed as types of entities that could benefit from the proceedings thereunder. Neither the Relevant Counterparties nor their assets enjoy immunity from suit and their assets could be subject to attachment under the Enforcement Code. We wish to draw your attention to qualification 4.24.

4. Additional Qualifications

n/a

5. Modifications to Qualifications

n/a

Pension entities

Subject to the modifications and additions set out in this Schedule 4 (*Pension entities*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are:

(a) (limited liability or mutual) pension insurance companies incorporated or organised under the Act on Pension Insurance Companies (1997, as amended);

(b) pension funds incorporated or organised under the Employee Benefit Funds Act (1992, as amended); and

(c) pension foundations incorporated or organised under the Pension Foundation Act (1995, as amended) .

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

n/a

2. Additional Assumptions

n/a

3. Modifications to Opinions

3.1 Paragraph 3.1 is deemed deleted and replaced with the following:

*"**Insolvency Proceedings***

The only bankruptcy, composition, rehabilitation or other insolvency or reorganisation procedures to which a Relevant Counterparty could be subject under the laws of this jurisdiction, and which is relevant for the purposes of this opinion letter, is:

*(a) bankruptcy under the Finnish Bankruptcy Act (2004, as amended, the "**Bankruptcy Act**"), with respect to pension insurance companies as supplemented by certain provisions of the Finnish Insurance Companies Act (2008, as amended, the "**ICA**")."*

3.2 Paragraph 3.2.1(a) is deemed deleted and replaced with the following:

"*the Collateral is securities (as defined in the Finnish Securities Market Act (2012, the "**SMA**") or other comparable securities or derivative instruments that are customarily traded in the financial market) or money on a bank account and the secured obligations were created before the commencement of insolvency proceedings, in which case the Finnish Financial Collateral Act (2004, as amended, the "**Financial Collateral Act**") would be applicable; or*"

3.3 The following sub-paragraph is added after the second sub-paragraph of 3.2.5:

"*In our view, it is clear that out of the Relevant Counterparties, (limited liability or mutual) pension insurance companies qualify as "institution" under the Financial Collateral Act. In our view while the specific wording of the Financial Collateral Act or the preparatory works thereof do not expressly address pension foundations or pension funds, there are good reasons to argue that these Relevant Counterparties should qualify as "institution" under the Financial Collateral Act on the basis that they are "engaged in comparable activities" as (limited liability or mutual) pension insurance companies.*"

3.4 Paragraphs 3.2.4(b) and 3.2.4(c) are deemed deleted and in the last sub-paragraph of paragraph 3.2.4 "*the Commercial Banks Act*" is replaced by "*the ICA*".

3.5 Paragraph 3.2.8 is deemed deleted and replaced with the following:

"*Impact of the corresponding provisions of the ICA on the right to enforce security in insolvency where the Regulation is not applicable to the Relevant Counterparties*

The ICA contains provisions corresponding to the articles of the Regulation mentioned above with the exception that where reference is made to a Member State reference is instead made to a member of the European Economic Area (EEA). The above reasoning applies to the Relevant Counterparties mutatis mutandis with such amendment where the Regulation does not apply to the Relevant Counterparties."

4. Additional Qualifications

n/a

5. Modifications to Qualifications

5.1 The fifth sub-paragraph of paragraph 4.1 shall be deemed deleted and replaced with the following:

"*The ICA incorporate provisions implementing the EU Directives on Reorganisation and Winding-Up of Insurance Undertakings addressing competence to initiate insolvency proceedings against certain Relevant Counterparties as well as conflicts of laws rules applicable inter alia to set-off and security arrangements. The provisions of the ICA referred to above are likely to having replaced, in respect of matters referred to therein, the Treaty in the relations between members of the EEA.*"

5.2 Paragraph 4.23 shall be deemed deleted and replaced with the following:

"this opinion is not given to the extent Finnish law is not applicable as a result of the application of the provisions set out in the ICA to the effect that the rights and obligations relating to securities recorded in a register maintained in an EEA member state are determined by the laws of such EEA member state and that the legal implications of bankruptcy and liquidation proceedings on transactions entered into on regulated markets are determined on the basis of the law which is applied to transactions entered into on such markets."

The Mortgage Society of Finland

Subject to the modifications and additions set out in this Schedule 5 (*The Mortgage Society of Finland*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of a Party which is:

> the Mortgage Society of Finland incorporated or organised under the Finnish Act on Mortgage Societies (1978, as amended) incorporated, organised, established or formed under the laws of Finland.

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

n/a

2. Additional Assumptions

n/a

3. Modifications to Opinions

3.1 Paragraph 3.1 is deemed deleted and replaced with the following:

> *"**Insolvency Proceedings***
>
> *The only bankruptcy, composition, rehabilitation or other insolvency or reorganisation procedures to which the Relevant Counterparty could be subject under the laws of this jurisdiction, and which is relevant for the purposes of this opinion letter, is:*
>
> > *bankruptcy under the Finnish Bankruptcy Act (2004, as amended, the "**Bankruptcy Act**"), as supplemented by the provisions of the Finnish Act on Mortgage Societies, the CIA and the Finnish Act on Savings Banks (2001, as amended, the "**Savings Bank Act**").*"

3.2 Paragraph 3.2.1(a) is deemed deleted and replaced with the following:

> "*the Collateral is securities (as defined in the Finnish Securities Market Act (2012, the "**SMA**") or other comparable securities or derivative instruments that are customarily traded in the financial market) or money on a bank account and the secured obligations were created before the commencement of insolvency proceedings, in which case the Finnish Financial Collateral Act (2004, as amended, the "**Financial Collateral Act**") would be applicable; or*"

3.3 Paragraphs 3.2.4(b) and 3.2.4(c) are deemed deleted.

3.4 The following sub-paragraph is added after the second sub-paragraph of 3.2.5:

> "*The Relevant Counterparty is a credit institution and therefore qualifies as institution under the Financial Collateral Act.*"

3.5 References in paragraph 3.2 to the Commercial Banks Act are applicable to the Relevant Counterparty.

4. Additional Qualifications

n/a

5. Modifications to Qualifications

5.1 References in paragraph 4 to the Commercial Banks Act are applicable to the Relevant Counterparty.

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 2009"**)

8. Eligible Counterparty Agreement (2007 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 (***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.[2]

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).[3]

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.

---

[2] It being understood that such amendment may result in one or more of the Insolvency Proceedings not being adequately referred to in the Insolvency Events of Default Clause.

[3] It being understood that such amendment may result in one or more of the Insolvency Proceedings not being adequately referred to in the Insolvency Events of Default Clause.