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Legal collateral opinion- Situs Version

The Futures & Options Association
2nd Floor
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London EC3R 8DE

21 February 2013

Dear Sirs

FOA Collateral Opinion

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

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

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

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

1. TERMS OF REFERENCE AND DEFINITIONS

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

1.1.1 persons which are commercial corporation, meaning joint stock companies (*società per azioni*) incorporated under Articles 2325 et seq. of the Civil Code,

limited liability companies (*società a responsabilità limitata*) incorporated under Articles 2462 et seq. of the Civil Code, unlimited liability companies (*società in nome collettivo*) incorporated under Articles 2291 et seq. of the Civil Code or limited joint stock companies (*società in accomandita per azioni*) incorporated under Articles 2452 et seq. of the Civil Code; and

1.1.2 in respect of paragraph 3.3, the entities referred to in such paragraph,

insofar as each may act as a counterparty (a "**Counterparty**") providing Collateral (as defined in paragraph 1.2.7) to a member firm of the Futures and Options Association (each a "**Firm**") under an Agreement.

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

1.2.1 Banks and financial intermediaries incorporated under the laws of Italy and licensed under the Consolidated Banking Act;

1.2.2 Investment firms incorporated under the laws of Italy and licensed under the Consolidated Financial Act as a SIM (*società di intermediazione mobiliare*) or a SGR (*società di gestione del risparmio*);

1.2.3 Partnerships (*associazioni*) organised under Article 14 of the Civil Code;

1.2.4 Individuals, including individuals qualifying as "entrepreneurs" (*imprenditori*) within the meaning of Article 2083 of the Civil Code, subject to Schedule 1 to this opinion letter;

1.2.5 Funds organised as collective investment schemes (*fondi comuni di investimento*) under Article 36 of the Consolidated Financial Act;

1.2.6 Sovereign and public sector entities, namely the Republic of Italy, regions (*regioni*) and local authorities (*enti locali*) as defined in the Local Authorities Act;

1.2.7 Pension funds pursuant to Decree 252, insofar as each may act as a Counterparty to a Firm under an Agreement. 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.

1.3 In this opinion letter:

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

1.3.2 "**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;

1.3.3 "**Civil Code**" means the Italian Civil Code as enacted by means of royal decree no. 262 of 16 March 1942;

1.3.4 "**Consolidated Banking Act**" means Legislative Decree no. 385 of 1 September 1993;

1.3.5 "**Consolidated Financial Act**" means Legislative Decree no. 58 of 24 February 1998;

1.3.6 "**Decree 170**" means legislative decree no. 170 of 21 May 2004;

1.3.7 "**Decree 252**" means legislative decree no. 252 of 5 December 2005;

1.3.8 "**Local Authorities Act**" means Legislative Decree no. 267 of 18 August 2000;

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

1.3.10 "**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.

1.3.11 in other instances other than those referred to at 1.3.10 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.

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

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

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

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

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

2. ASSUMPTIONS

We assume the following:

2.1 That the Agreements are legally binding and enforceable against both Parties under their governing laws.

2.2 That the Security Interest Provisions are enforceable under the governing law of the Agreement to create a Security Interest.

2.3 That each Party has the capacity, power and authority under all applicable law(s) to enter into the Agreement; to perform its obligations under the Agreement; and that each Party has taken all necessary steps to execute, deliver and perform the Agreement.

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

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

2.6 That the Agreement is entered into prior to the commencement of any insolvency, bankruptcy or analogous proceedings in respect of either Party.

2.7 The Agreement has been entered into, and each of the transactions referred to therein is carried out, by each of the parties thereto in good faith, for the benefit of each of them respectively, on arms' length commercial terms and for the purpose of carrying on, and by way of, their respective businesses.

2.8 That the Agreement accurately reflects the true intentions of each Party.

2.9 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.

2.10 That there is no other agreement, instrument or other arrangement between the Firm and the Counterparty which modifies or supersedes the Agreement.

2.11 That all acts, conditions or things required to be fulfilled, performed or effected in connection with the Agreement and the creation and perfection of the security interests thereunder pursuant to laws of any jurisdiction other than this jurisdiction have been duly fulfilled, performed and effected.

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

2.13 That, except with respect to our opinion at paragraph 3.3, any accounts and the assets expressed to be subject to a Security Interest pursuant to the Security Provisions may be located either within or outside this jurisdiction.

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

2.15 That any securities comprising the Collateral qualify as "financial instruments" pursuant to Article 1.1(t) of Decree 170.

2.16 In respect of Collateral held in an account opened in a jurisdiction other than Italy, that all perfection formalities required in order for the Security Interest to be validly perfected under the law of the jurisdiction where the account is located have been duly carried out.

2.17 In respect of Collateral held in an Italian account, that the relevant custodian has made the appropriate entries on its books in accordance with Article 2 of Decree 170, Article 83 *octies* (1) of the Consolidated Financial Act and Article 37 of the Bank of Italy and Consob Regulation on central management of securities, dated 22 February 2008, to reflect the security created by means of the Security Interest.

2.18 That no provision of the Agreement that is necessary for the giving of our opinions and advice in this opinion letter has been altered in any material respect. In our view, an alteration contemplated in the definition of "Equivalent Agreement" above would

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

3. OPINIONS

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

3.1 Valid Security Interest

3.1.1 The Security Interest Provisions would be recognized in this jurisdiction as creating a valid security interest over the Collateral.

3.1.2 Following the occurrence of an Event of Default, including as a result of the opening of any Insolvency Proceedings, the Non-Defaulting Party would be entitled to enforce the Security Interest in respect of the Collateral.

3.1.3 There is no rule of the laws of this jurisdiction which would impose a moratorium or stay which would prevent, delay or otherwise affect the right of the Non-Defaulting Party to enforce the Security Interest in respect of the Collateral.

3.1.4 Following exercise of the Firm's rights under the Security Interest Provisions, there are no rules of law of this jurisdiction which would affect the ranking of the Firm's rights to the proceeds of realisation of the Collateral in relation to the interests of any other person.

3.1.5 In respect of Counterparties which are individuals, please refer to Schedule 1 to this opinion letter.

3.2 Further acts

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

3.3 Foreign Collateral Providers

Moreover, the opinions given at paragraphs 3.1 and 3.2 also apply in respect of any Counterparty that is not established or resident in this jurisdiction, where any accounts and the assets expressed to be subject to a Security Interest pursuant to the Security Provisions are located within this jurisdiction.

3.4 **Right of re-use**

With respect to the Eligible Counterparty Agreement 2011, the Retail Client Agreement 2011, the Professional Client Agreement 2011 (or an Equivalent Agreement in the form of one of the foregoing), the Rehypothecation Clause would be effective in accordance with its terms, such that that Firm is entitled to borrow, lend, appropriate, dispose of or otherwise use for its own purposes all non-cash Collateral, subject to the further rights and obligations set out in the Rehypothecation Clause.

The opinion given at this paragraph 3.4 does not apply in respect of an Equivalent 2011 Agreement without Core Rehypothecation Clause.

4. QUALIFICATIONS

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

1. Any judgment in respect of the Agreement obtained in any foreign courts shall be recognized and enforced by the Italian courts, to the extent that enforcement by the Italian courts is sought, in accordance with, and subject to, the provisions of the EU Regulation No. 44/2001 dated 22 December 2000.

2. An Italian court may stay proceedings brought in such court if concurrent proceedings are being brought elsewhere.

3. An Italian court may refuse to apply the law of another jurisdiction if it is deemed to be contrary to public order or if submission to foreign law is prejudicial to the application of provisions of Italian laws of mandatory application. However, it is not likely, in our view, that any terms of the Agreement would be regarded as contrary to public order or prejudicial to mandatory law in Italy.

4. Any provision in the Agreement providing that any calculation or certification is to be conclusive and binding will not be effective if such calculation or certification is fraudulent and will not necessarily prevent judicial enquiry into the merits of any claim by any party thereto.

5. Claims may be or become subject to claw back (as described under sub-paragraph 9 below) or to defence of set-off or counterclaim, and their enforcement may become barred through lapse of time.

6. Enforcement of obligations may be invalidated by reason of fraud.

7. While the contractual obligations arising under the Security Interest Provisions may fall to be governed by the law chosen by the parties to the agreement, the proprietary (*in rem*) rights attaching to the Security Interest (i.e. whether the Security Interest is "perfected" and accordingly can be relied upon against third parties, and the actions that may be taken on enforcement of the Security

Interest) are a matter which falls to be governed by the law identified in accordance with the conflict of laws rules in the jurisdictions where such rights are sought to be exercised.

In terms of Italy, and as far as Collateral in the form of securities is concerned, Article 10 of Decree 170 provides that the proprietary (*in rem*) rights over securities are governed by the laws of the jurisdiction where the account is located (for which purpose regard must be had to the jurisdiction of the intermediary where the account is opened, irrespective of whether the relevant securities are then sub-deposited with a sub-custodian or a clearing system in another jurisdiction). Accordingly, we have assumed: (i) in respect of securities held in Italy, that the formalities required under Italian law (as described under paragraph 2.17 above) have been carried out (in which respect, note that, in respect of Italian shares, it is not required that the Security Interest is registered in the shareholders ledger of the issuer); and (ii) in respect of securities held outside of Italy, that the formalities required under the laws of the jurisdiction where the account is located have been carried out.

As regards Collateral in the form of cash, the Italian conflict of laws rules do not clearly identify the law which apply to the proprietary rights attaching to a charge over cash in an account. In our view, there are arguments to maintain that the same principles applicable to securities should apply to cash collateral by way of analogy. Accordingly, we have assumed: (i) in respect of cash held in Italy, that the formalities required under Italian law (as described under paragraph 2.17 above) have been carried out; and (ii) in respect of cash held outside of Italy, that the formalities required under the laws of the jurisdiction where the account is located have been carried out.

8. The Lien Clause does not appear to be particularly beneficial as a matter of Italian law as it would not be in practice distinguishable from the Security Interest under Italian law. In circumstances where the Security Interest is not recognized, the Lien Clause, in turn, would not be regarded as capable of creating valid security over the Collateral or otherwise granting the Firm priority over the assets purported to be covered by the Lien Clause.

9. It is a general rule of Italian insolvency law (known as *revocatoria fallimentare*) that all payments and transactions made and agreements entered into (including security arrangements entered into simultaneously with the creation of the secured obligations) by an insolvent company in the six-month period before the declaration of insolvency, are liable to be revoked and set aside if the trustee in bankruptcy or similar officer can prove that the beneficiary of such payment or the counterparty to such transaction or agreement, as the case may be, had actual or constructive knowledge at the

time of the transaction of the state of insolvency of the company subsequently declared insolvent.

Where a company has entered into a transaction or agreement at an undervalue (meaning that such company received materially less by way of consideration for an obligation undertaken by it to its contractual counterparty than it provided by way of consideration to its contractual counterparty) or has granted any security interest in respect of pre-existing obligations which at the time of granting of such security interest were not due and payable, in the one year period preceding the declaration of insolvency of such company, the transaction, agreement or security is liable to be revoked and set aside unless the counterparty can prove that it had no actual or constructive knowledge of the state of insolvency of the company at the time the transaction was entered into or the security interest was granted.

Where a company, during the six-month period preceding the declaration of insolvency of such company, has granted a security interest in respect of pre-existing obligations which at the time of granting of such security interest were due and payable, such security interest is liable to be revoked and set aside unless the counterparty can prove that it had no actual or constructive knowledge of the state of insolvency of the company at the time the security interest has been granted

For the purposes of determining whether the provision of collateral occurred within the applicable hardening period, Italian law provides that collateral provided in connection with a trade, but after that trade has been entered into, will (assuming such collateral is provided on the basis stipulated under the relevant collateral agreement and falls within the scope of Decree 170) be deemed to have been provided as at the date of the trade, if the collateral is provided to cover: (a) mark-to-market movements; or (b) a change in the value of the securities previously acquired or provided as collateral.

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

This opinion is given for the sole benefit of the Futures and Options Association and such of its members (excluding associate members) as subscribe to the Futures and Options Association's opinions library (and whose terms of subscription give them access to this opinion). This opinion may not be relied upon by any other person unless we otherwise specifically agree with that person in writing, although we consent to it being shown to such Futures and Options Association members' affiliates (being members of such persons' groups,

as defined by the UK Financial Services and Markets Act 2000) and to any competent authority supervising such member firms and their affiliates in connection with their compliance with their obligations under prudential regulation.

Yours faithfully,

Studio Legale Associato
In Associazione con Clifford Chance

SCHEDULE 1

Individuals

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

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 OPINIONS

On the basis of the terms of reference and assumptions and subject to the qualifications (in each case set out in this opinion letter as modified, or added to, by this Schedule), we are of the following opinion.

While the Security Interest purported to be created by the Security Interest Provision would be recognized in this jurisdiction as a valid security interest over the Collateral, in terms of enforcement certain limitations would apply due to Decree 170 not being applicable to contracts where one of the parties is an individual.

In particular, in order to enforce the Security Interest by selling the assets, the creditor would first need to demand payment by formally notifying the debtor through a court bailiff. Only afterwards, and provided that no objection is filed by the debtor, may the creditor sell the assets either through an auction or, if the assets are traded on a liquid market, on the relevant market at the then prevailing market price. Appropriation as a means of enforcement is not available as a self-help remedy, as it will always need to be authorized by a court.

Moreover, in the case of individuals qualifying as entrepreneurs, further restrictions would apply should such individuals become subject to insolvency proceedings. Upon the commencement of insolvency proceedings, enforcement would be permissible only after the creditor's claim has been filed and allowed by the trustee in bankruptcy; in addition, the sale of the assets would need to be authorized by the insolvency court, which will also establish the procedure to effect the sale.

ANNEX 1
FORM OF FOA AGREEMENTS

1. Professional Client Agreement (2007 Version), including Module G (*Margin and Collateral*) (the "**Professional Client Agreement 2007**")

2. Professional Client Agreement (2009 Version), including Module G (*Margin and Collateral*) (the "**Professional Client Agreement 2009**")

3. Professional Client Agreement (2011 Version) including Module G (*Margin and Collateral*) (the "**Professional Client Agreement 2011**")

4. Retail Client Agreement (2007 Version) including Module G (*Margin and Collateral*) (the "**Retail Client Agreement 2007**")

5. Retail Client Agreement (2009 Version) including Module G (*Margin and Collateral*) (the "**Retail Client Agreement 2009**")

6. Retail Client Agreement (2011 Version) including Module G (*Margin and Collateral*) (the "**Retail Client Agreement 2011**")

7. Eligible Counterparty Agreement (2007 Version) including Module G (*Margin*) (the "**Eligible Counterparty Agreement 2007**")

8. Eligible Counterparty Agreement (2009 Version) including Module G (*Margin*) (the "**Eligible Counterparty Agreement 2009**")

9. Eligible Counterparty Agreement (2011 Version) including Module G (*Margin*) (the "**Eligible Counterparty Agreement 2011**")

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

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

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

ANNEX 2
DEFINED TERMS RELATING TO THE AGREEMENTS

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).

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).

10. 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).

11. 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.

12. "**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.

13. "**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);

14. "**Security Interest Provisions**" means:

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

(i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 8.6 (***Security interest***);

(ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 8.6 (***Security interest***);

(iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 8.7 (***Security interest***);

(iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 8.8 (***Security interest***);

(v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 8.8 (***Security interest***);

(vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 8.9 (***Security interest***);

(vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 7.6 (***Security interest***);

(viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 7.6 (***Security interest***);

(ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 7.7 (***Security interest***); and

(x) in the case of an Equivalent Agreement, a clause that is identically the same in form and language as a clause referred to in any of the foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes);

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

(i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 8.10 (***Power to charge***);

(ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 8.10 (***Power to charge***);

(iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 8.10 (***Power to charge***);

(iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 8.12 (***Power to charge***);

(v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 8.12 (***Power to charge***);

(vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 8.12 (***Power to charge***);

(vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 7.10 (***Power to charge***);

(viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 7.10 (***Power to charge***);

(ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 7.10 (***Power to charge***); and

(x) in the case of an Equivalent Agreement, a clause that is identically the same in form and language as a clause referred to in any of the foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes);

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

(i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 8.11 (***Power of sale***);

(ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 8.11 (***Power of sale***);

(iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 8.11 (***Power of sale***);

(iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 8.13 (***Power of sale***);

(v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 8.13 (***Power of sale***);

(vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 8.13 (***Power of sale***);

(vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 7.11 (***Power of sale***);

(viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 7.11 (***Power of sale***);

(ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 7.11 (***Power of sale***); and

(x) in relation to an Equivalent Agreement, a clause that is identically the same in form and language as the clauses referred to in any of the foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes);

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

(i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 8.12 (***Power of appropriation***);

(ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 8.12 (***Power of appropriation***);

(iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 8.12 (***Power of appropriation***);

(iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 8.14 (***Power of appropriation***);

(v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 8.14 (***Power of appropriation***);

(vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 8.14 (***Power of appropriation***);

(vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 7.13 (***Power of appropriation***)

(viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 7.13 (***Power of appropriation***);

(ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 7.12 (***Power of appropriation***); and

(x) in the case of an Equivalent Agreement, a clause that is identically the same in form and language as a clause referred to in any of the foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes);

(e) the "**Lien Clause**", being:

(i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 8.13 (***General lien***);

(ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 8.13 (***General lien***);

(iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 8.14 (***General lien***);

(iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 8.15 (***General lien***);

(v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 8.15 (***General lien***);

(vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 8.16 (***General lien***);

(vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 7.12 (***General lien***);

(viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 7.12 (***General lien***);

(ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 7.14 (***General lien***); and

(x) in the case of an Equivalent Agreement, a clause that is identically the same in form and language as a clause referred to in any of the foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes); and

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

(i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 7.8 (***Additional security***) at module F Option 4 (where incorporated into such Agreement);

(ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 7.9 (***Additional security***) at module F Option 1 (where incorporated into such Agreement);

(iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 7.9 (***Additional security***) at module F Option 1 (where incorporated into such Agreement);

(iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 7.8 (***Additional security***) at module F Option 4 (where incorporated into such Agreement);

(v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 7.9 (***Additional security***) at module F Option 1 (where incorporated into such Agreement);

(vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 7.9 (***Additional security***) at module F Option 1 (where incorporated into such Agreement);

(vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 6.8 (***Additional security***) at module F Option 4 (where incorporated into such Agreement);

(viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 6.9 (***Additional security***) at module F Option 1 (where incorporated into such Agreement);

(ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 6.9 (***Additional security***) at module F Option 1 (where incorporated into such Agreement); and

(x) in the case of an Equivalent Agreement, a clause that is identically the same in form and language as the clauses referred to in any of the foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes).

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

ANNEX 3
NON-MATERIAL AMENDMENTS

1. Any change to the numbering or order of a provision or provisions or the drafting style thereof (e.g., addressing the other party as "you", "Counterparty", "Party A/Party B") provided in each case that the plain English sense and legal effect both of each such provision and of the Agreement as a whole (including the integrity of any cross references and usage of defined terms) remains unchanged.

2. Any change to a provision or provisions by defining certain key terms (e.g., party, exchange, currency, defaulting party or non-defaulting party) and using these terms in large caps throughout the Agreement provided in each case that the plain English sense and legal effect both of each such provision and of the Agreement as a whole (including the integrity of any cross references and usage of defined terms) remains unchanged.

3. An addition to the list of events that constitute an Event of Default (e.g. without limitation, the failure to deliver securities or other assets, a force majeure, cross default or downgrading event the death or incapacity of a Party or its general partner any default under a specified transaction or a specified master agreement), such change may or may not be coupled with a grace period or the serving of a written notice on the Defaulting Party by the Non-Defaulting Party, such change may be expressed to apply to one only of the Parties.

4. Any change to an Insolvency Event of Default (i) introducing a grace period for the filing of a petition for bankruptcy proceedings (of e.g. 15 or 30 days), (ii) modifying or deleting any such grace period, (iii) requiring that the filing of the petition is not frivolous, vexatious or otherwise unwarranted or (iv) that the non-defaulting party has reasonable grounds to conclude that the performance by the defaulting party of its obligations under the Agreement, Transactions, or both, is endangered.

5. Any change to an Insolvency Event of Default more particularly describing (i) the relevant procedures that would or would not constitute such event of default or termination event (ii) the relevant officers the appointment of which would or would not constitute such Insolvency Event of Default.

6. Any change to an Insolvency Event of Default extending its scope to events occurring with respect to the credit support provider, an affiliate, a custodian or trustee of a Party.

7. Any change to an Insolvency Event of Default replacing such event of default with a provision aligned to Section 5(a)(vii) of the 1992 or 2002 ISDA Master Agreement (or relevant part thereof).

8. Any change to the Agreement requiring the Non-defaulting Party when exercising its rights under the Security Interest Provisions (or other provisions) or making determinations to act in good faith and/or a commercially reasonable manner.

9. Any change clarifying that the Non-defaulting Party must, or may not, notify the other party of its exercise of rights under the Security Interest Provisions or other provision.