ODVETNIKI ŠELIH & PARTNERJI
o.p., d.o.o.

Rudi Šelih em.

odvetniki
Nina Šelih
Gregor Simoniti
Nataša Pipan Nahtigal
Helena Vranić
Mia Kalaš
Blaž Ogorevc

Komenskega ulica 36
1000 Ljubljana
Slovenija
t: +386 1 300 76 60
f: +386 1 433 70 98
www.selih.si

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Legal collateral opinion – Non Situs

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

8 January 2013

Dear Sirs

FOA Collateral Opinion

You have asked us to give an opinion in respect of the laws of the Republic of Slovenia ("**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 persons which are (i) companies (*družbe*) incorporated under the Companies Act and (ii) banks (*banke*) and saving institutions (*hranilnice*) incorporated under the Banking Act,

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

1.2 However, this opinion is also given in respect of Counterparties providing Collateral to a Firm that are any of the following, subject to the terms of reference, definitions,

modifications and additional assumptions and qualifications set out in the applicable Schedule:

1.2.1 Brokerage companies (*borznoposredniške družbe)* organised under the Financial Instruments Market Act (Schedule 1);

1.2.2 Central clearing and depository houses *(centralne klirinškodepotne družbe*) organised under the Financial Instruments Market Act (Schedule 2);

1.2.3 Partnerships (*družbe z neomejeno odgovornostjo*) organised under the Companies Act (Schedule 3);

1.2.4 Insurance undertakings (*zavarovalnice*) incorporated under the Insurance Act (Schedule 4);

1.2.5 Individuals acting as independent entrepreneurs (*samostojni podjetniki*); (Schedule 5);

1.2.6 Individuals acting as private persons (*zasebniki*) (as defined in Schedule 6);

1.2.7 Consumers (*potrošniki*) (Schedule 7);

1.2.8 Investment fund management companies (*družbe za upravljanje*) organised under the Investment Funds and Management Companies Act (Schedule 8);

1.2.9 Investment funds (*investicijski skladi*) organised under the Investment Funds and Management Companies Act (Schedule 9);

1.2.10 The Republic of Slovenia (*Republika Slovenija*) and the municipalities (*občine*) (Schedule 10); and

1.2.11 Sovereign assets funds (as defined in Schedule 11).,

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

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

1.4 **Scope of the opinion**

1.4.1 This opinion is strictly limited to matters of the laws of this jurisdiction. We express no opinion whatsoever with respect to the laws of any other jurisdiction.

1.4.2 This opinion is given only as to circumstances existing on the date hereof and known to us and is limited to the laws of this jurisdiction as in force on the date hereof. We assume no obligation to update or supplement this opinion to reflect any relevant facts or circumstances which may come to our attention or any changes in law which may occur after the date hereof.

1.4.3 The purpose of the opinions and legal analyses stated herein is to provide general information on the legal system of this jurisdiction and/or certain specific risks which may arise thereunder. In no event shall such opinions and statements be considered as our legal advice in relation to any specific legal relationship.

1.4.4 This opinion describes and analyses concepts of Slovenian law in the English language and not in their original Slovenian wording; therefore it may not necessarily correspond to such concepts in the English legal language or in the reader's jurisdiction.

1.4.5 Each part of this opinion should be read and construed in conjunction with all other parts hereof.

1.4.6 We express no opinion as to any matter not specifically addressed in paragraph 3.

1.5 In this opinion letter:

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

1.5.2 "**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;

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

1.5.4 "**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.

1.5.5 in other instances other than those referred to at 1.5.4 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.

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

1.5.7 "**Member State**" means a member state of the European Union;

1.5.8 "**Companies Act**" means the Slovenian Companies Act: *Zakon o gospodarskih družbah (ZGD-1)* (Official Gazette of the Republic of Slovenia no. 42/2006, as amended);

1.5.9 "**Banking Act**" means the Slovenian Banking Act: *Zakon o bančništvu (ZBan-1)* (Official Gazette of the Republic of Slovenia no. 131/2006, as amended);

1.5.10 "**Financial Collateral Act**" means the Slovenian Financial Collateral Act: *Zakon o finančnih zavarovanjih (ZFZ)* (Official Gazette of the Republic of Slovenia no. 47/2004, as amended);

1.5.11 "**Financial Instruments Market Act**" means the Slovenian Financial Instruments Market Act: *Zakon o trgu finančnih instrumentov (ZTFI)* (Official Gazette of the Republic of Slovenia no. 67/2007, as amended);

1.5.12 "**Insolvency Act**" means the Slovenian Financial Operations, Insolvency Proceedings and Compulsory Dissolution Act: *Zakon o finančnem poslovanju, postopkih zaradi insolventnosti in prisilnem prenehanju (ZFPPIPP)* (Official Gazette of the Republic of Slovenia no. 126/2007, as amended);

1.5.13 "**Insurance Act**" means the Slovenian Insurance Act: *Zakon o zavarovalništvu (ZZavar)* (Official Gazette of the Republic of Slovenia no. 13/2000, as amended);

1.5.14 "**Investment Funds and Management Companies Act**" means the Slovenian Investment Funds and Management Companies Act: *Zakon o investicijskih skladih in družbah za upravljanje (ZISDU-1)* (Official Gazette of the Republic of Slovenia no. 87/2002);

1.5.15 "**Law of Property Code**" means the Slovenian Law of Property Code: *Stvarnopravni zakonik (SPZ)* (Official Gazette of the Republic of Slovenia no. 110/2002, as amended);

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

1.5.17 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 is valid as at the date of this opinion letter;

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

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

2. ASSUMPTIONS

We assume the following:

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

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

2.3 That the Security Interest Provisions are effective under the law of the place where the Collateral is located to create an enforceable security interest.

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

2.5 That each Party has obtained, complied with the terms of and maintained all authorisations, approvals, licences and consents, and has performed all necessary registrations, notifications and any other formal requirements required pursuant to the laws of jurisdictions other than this jurisdiction 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 any relevant jurisdiction.

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

2.7 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.

2.8 That the Agreement is entered into prior to the commencement of any Insolvency Proceedings in respect of either Party and at the time of entering into the Agreement and /or the Transaction each Party was not aware and was not obliged to be aware of insolvency of the other Party.

2.9 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.

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

2.11 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, and there are no other arrangements between the Parties amending or overriding the Parties' choice of the relevant governing law.

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

2.13 That the Counterparty will at the time of providing the Collateral have full legal title thereto, free and clear of any lien, claim, charge or encumbrance or any other interest of any third person (other than a lien routinely imposed on all securities in a relevant clearance or settlement system).

2.14 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.

2.15 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.

2.16 That any accounts and the assets expressed to be subject to a Security Interest pursuant to the Security Provisions shall at all relevant times be located outside this jurisdiction.

2.17 That any cash comprising the Collateral is in a currency that is freely transferable internationally under the laws of all relevant jurisdictions and any securities comprising the Collateral are freely transferrable.

2.18 All factual circumstances which may be relevant for the application of the provisions of the Agreement and/or the Transaction can be objectively determined.

2.19 When translated into the language of this jurisdiction for the purposes of any proceedings taking place in this jurisdiction the meaning of the English language terms used in the Agreement and the Transaction will remain identical.

3. OPINIONS

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

3.1 Valid Security Interest

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

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

3.1.3 Following exercise of the Firm's rights under the Security Interest Provisions, the ranking of the Firm's rights to the proceeds of realisation of the Collateral in relation to the interests of the Counterparty and any other person would be a matter to be determined under the law of the place where the Collateral is situated.

3.2 Further acts

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

4. QUALIFICATIONS

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

4.1 Applicability of the Financial Collateral Act:

4.1.1 The opinions given under paragraphs 3.1 and 3.2 apply (without further qualifications to the ones described in more detail in this paragraph 4.1.1 and in paragraphs 4.2 to 4.6) only provided that the Financial Collateral Act applies to the Agreement/Transaction/Collateral provided.

The Financial Collateral Act shall apply provided that the following conditions are cumulatively fulfilled:[1]

(1) At all times; and in particular at the time of institution of Insolvency Proceedings either:

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[1] Note also that the benefits of the Financial Collateral Act cannot be applied to contractual relationships arising before the date of entering into force of the Financial Collateral Act (i.e. 1 May 2004) or some of the relevant amendments thereof (i.e. 30 June 2011). Therefore, this opinion may not apply or its applicability may be limited in relation to Agreements and Transactions concluded and /or Collateral provided prior to the date of this opinion. Specific legal advice should be sought in relation to such Agreements / Transactions / Collateral.

(a) both parties to the Agreement fall within one of the following categories:[2]

(i) public sector bodies of Member States that are either (i) charged with the management of public debt; or (ii) authorised to hold accounts for clients;

(ii) central banks of Member States, the European Central Bank, the International Monetary Fund, the European Investment Bank, the Bank for International Settlements, and multilateral development banks as defined in point 20. of subsection 4.2. of Part 1 of Annex VI of Direction 2006/48/ES;

(iii) financial institutions subject to prudential supervision including: (i) credit institutions as defined in Article 4(1) of Directive 2006/48/EC, including the institutions listed in Article 2 of that Directive, (ii) investment firms as defined in Article 4(1)(1) of Directive 2004/39/EC; (iii) financial institutions as defined in Article 4(5) of Directive 2006/48/EC, (iv) insurance undertakings as defined in Article 1(a) of Directive 92/49/EEC or assurance undertakings as defined in Article 1(1)(a) of Directive 2002/83/EC, (v) undertakings for collective investment in transferable securities (UCITS) as defined in Article 1(2) of Directive 85/611/EEC, (vi) management companies as defined in Article 1a(2) of Directive 85/611/EEC;

(iv) central counterparties, settlement agents or clearing houses, as defined respectively in Article 2(c), (d) and (e) of Directive 98/26/EC; or

(b) at least one Party to the Agreement falls within one of the categories mentioned in sub-paragraph (a) above while the other qualifies (under the criteria laid down in the Companies Act) as a company **other than a micro company** (which are defined as companies which meet at least two of the following criteria: - the average number of employees in the respective business year does not exceed 10; - net sales turnover does not exceed EUR

[2] In this jurisdiction, the following entities qualify as falling within such categories: the Republic of Slovenia, the Bank of Slovenia, credit institutions (including SID Bank (SID – Slovenska izvozna in razvojna banka), insurance undertakings, investment funds, investment fund management companies, central clearing securities corporation, Health Insurance Institute of Slovenia, Pension and Disability Insurance Institute of Slovenia, Slovenska odškodninska družba, Kapitalska družba, other companies and funds established by the Republic of Slovenia, other regulated (supervised) financial organizations under the banking and financial services legislation.

2,000,000, and - value of assets does not exceed EUR 2,000,000).[3]

(2) The Parties have included in the Agreement an arrangement under which a Party (the collateral provider) is obliged to provide financial collateral to the other Party (the collateral taker), being either in a) the legal form of **transfer of title** or b) **pledge**[4] (including maximum pledge) over financial instruments,[5] receivables arising from bank loans or cash[6] (a financial collateral arrangement).

(3) The financial collateral is provided to secure claims to **pay a certain amount of money** or **claims for the delivery of financial instruments**. This condition will not be fulfilled where the Secured Obligations comprise obligations other than described, such as obligations for physical delivery of commodities.

(4) Transactions entered into under the Agreement shall be entered into on the financial market. This condition will not be met in case of Transactions such as physically settled commodities transactions and physically settled bullion transactions.

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[3] Companies other than micro are categorised into small, medium and large companies depending on the average number of employees, net sales turnover and the value of assets. Banks, insurance undertakings, the stock exchange and companies which are obliged to prepare consolidated annual reports always qualify as large.

[4] In this respect, we note that the relevant definition contained in the Financial Collateral Act is grammatically different than the definition contained in Directive 2002/47/EC.

Under Paragraph (c) of Article 1 of Directive 2002/47/EC "*'security financial collateral arrangement' means an arrangement under which a collateral provider provides financial collateral by way of security to or in favour of a collateral taker, and where the full or qualified ownership of, or full entitlement to, the financial collateral remains with the collateral provider when the security.*"

Under Point 6 of Article 3 of the Financial Collateral Act, a "*pledge on financial instrument, cash or a credit claim is financial collateral where the right on the financial instrument, cash or credit claim remains with the collateral provider, and the collateral taker obtains a pledge.*" "Pledge" is generally defined in Para 1 of Article 128 of the Law of Property Code as "*the right of the pledgee to be repaid (in case of non-payment) from the value of the pledged item upon maturity of the secured claim, together with interest and cost, prior to other creditors of the pledgor*". Considering that the Financial Collateral Act as a lex specialis envisages specific manners of enforcement of the pledge, including out-of court sale and appropriation, and also specifically regulates the right to use the collateral, we believe that generally the term "pledge" as used in the Financial Collateral Act corresponds to the term "security transfer financial collateral agreement" as used in Directive 2002/47/EC. However, there is no publicly available court practice confirming (or denying such a position). It is likely that when interpreting the provisions of the Financial Collateral Act, the courts of this jurisdiction would take into account the provisions of the Directive 2002/47/EC. However, a direct application of Directive 2002/47/EC by the courts of this jurisdiction could only be expected if Directive 2002/47/EC proved to be directly enforceable.

[5] For the purposes of the Financial Collateral Act, "financial instruments" include shares and other securities, bonds and other debt instruments intended for trading on the capital market, and securities issued in series by an individual issuer of shares or bonds which give the holder the right to purchase, sell or exchange these securities for other securities of the issuer and with the exercise of which a contract is concluded between the holder and the issuer on the purchase, sale or exchange of these securities (excluding instruments of payment), including transferable coupons of mutual funds, money market instruments, debt instruments issued by the Bank of Slovenia and all other rights and claims relating to the aforementioned financial instruments.

[6] For the purposes of the Financial Collateral Act, "cash" means money credited to an account in any currency, or a similar claim for repayment of money (such as money market deposits).

(5) The existence of the financial collateral agreement and the provision of financial collateral must be evidenced in writing (whereby this requirement is deemed to be fulfilled also in case of records in a durable medium, e.g. electronic record).

4.1.2 If the Financial Collateral Act does not apply to the Collateral, then under the law of this jurisdiction there is no clear and concise legal basis which would set out similar benefits for the Firm as does the Financial Collateral Act, including, *inter alia*, expressly recognised manners of enforcement of the Collateral by out-of-court sale, appropriation and set-off, an express provision that a financial collateral arrangement remains valid also in case of commencement of Insolvency Proceedings and similar. Therefore the opinions given under paragraphs 3.1 and 3.2 may be subject to other mandatory provisions of Slovenian law (to the extent that such provisions would take effect under the law of the jurisdiction where the Collateral is located), in particular mandatory provisions concerning Insolvency Proceedings.

However, as a potential comfort, under Article 282 of the Insolvency Act:

(1) If a creditor having a right to separate settlement (*ločitvena pravica)* has, under the **general rules which apply to his right to separate settlement**, the right to carry out an **out-of-court sale** of the relevant assets (objects of security), he shall maintain such right also after the initiation of bankruptcy proceedings.

(2) A creditor having the right to separate settlement **shall not be obliged to report** (*prijaviti*) **the right to separate settlement** (*ločitvena pravica*) referred to in sub-paragraph (1) above, and a claim (*terjatev*) secured by such right, in bankruptcy proceedings, but may enforce such right out-of-court in accordance **with the general rules that apply to such right to separate settlement.**

(3) However, sub-paragraph (2) above shall not apply to the unsecured part of such creditor's claim which represents the amount of the claim exceeding the value of the assets which are the subject of the right to separate settlement.

4.2 Regulations

If the definitions of "financial collateral" and "security financial collateral agreement" as contained in the "Regulations" (as defined in the Power to Charge Clause), do not materially correspond to the definitions of "financial collateral" and "financial collateral arrangement" under the Financial Collateral Act[7] then the Financial Collateral Act may not apply and the

[7] Whereby under the Financial Collateral Act, financial collateral may comprise a "pledge" or a "transfer of title" of the respective Collateral, and the definition of "pledge" generally corresponds to the definition of "security financial collateral agreement" of Directive 2002/47/EC, but please see footnote no. 4 for details (and other mentioned definitions of the Financial Collateral Act generally correspond to the same definitions of Directive 2002/47/EC).

opinions given in paragraph 3 may be subject to the additional qualification described in paragraph 4.1.2 above.

4.3 **Conflict of law rules - *Lex Registri*:**

Under Article 15 of the Financial Collateral Act, insofar that the Collateral is perfected by registration of the Security Interest into a register of financial instruments, the following aspects will be governed by the law of the state of the register:

(a) the legal nature of the financial collateral;

(b) the legal effects of the financial collateral;

(c) the requirements for perfecting the financial collateral;

(d) the requirements for enforcement of the financial collateral.

To the extent described above, this opinion would not apply given that it relates only to matters of Slovenian law.

4.4 **Power of Appropriation Clause:**

4.4.1 As the below rule (i) expressly provides for a manner of enforcement of Collateral and (ii) to the extent that such rule would take effect under the law of the jurisdiction where the Collateral is located (see also paragraph 4.1.2), under Para 2 of Article 8 of the Financial Collateral Act, the Firm (as the collateral taker) would be able to enforce the Collateral by appropriation if the financial collateral arrangement "contains elements for determination of the value of the financial instrument".

4.4.2 Where the Collateral comprises financial instruments, the court of this jurisdiction would likely consider that the Power of Appropriation Clause does not contain "elements for determination of the value of the financial instrument" due to (i) uncertainty of the valuation and (ii) absolute discretion in this respect of the Firm.[8]

4.5 **Lien Clause:**

The concept of a "general lien" is not recognised in the law of this jurisdiction and may be considered manifestly contrary to the public order of this jurisdiction, therefore as a matter of law of this jurisdiction the Lien Clause would not be enforceable (please see also paragraphs 4.1.2 and 4.6.2.

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[8] Note the wording in the Power of Appropriation Clause "For this purpose, you agree that the value of such financial collateral so appropriated shall be the amount of the margin, together with any accrued but unposted interest, at the time the right of appropriation is exercised" and wording of the provisions titled Non-cash margin: " Where we agree to accept non-cash collateral, it must be in a form acceptable to us. The value of the non-cash collateral and the proportion of that value to be taken into account for margin purposes shall be determined by us in our absolute discretion."

4.6 **Other general qualifications:**

4.6.1 If the fulfilment of any obligation of the Counterparty under the Agreement becomes impossible or unlawful, such obligation shall, by operation of the law of this jurisdiction, cease to be effective.

4.6.2 As a matter of the law of this jurisdiction, if bankruptcy (*stečaj*) is commenced over the Counterparty in this jurisdiction, the fact that the Collateral is located outside Slovenia should generally not make any difference in the Counterparty's bankruptcy, unless the Collateral is located in another Member State in which foreign secondary insolvency proceedings are performed pursuant to the Regulation 1346/2000/EC (Article 3) or another applicable EU legislation.

Pursuant to Article 4 of Regulation 1346/2000/EC the law of this jurisdiction shall, among others, determine "the assets which form part of the estate and the treatment of assets acquired by or devolving on the debtor after the opening of the insolvency proceedings", as well as "the respective powers of the debtor and the liquidator" and "the effects of the insolvency proceedings on proceedings brought by individual creditors, with the exception of lawsuits pending".

As provided in Para 1 of Article 5 of Regulation 1346/2000/EC, the opening of insolvency proceedings "shall not affect the rights *in rem* of creditors or third parties in respect of tangible or intangible, moveable or immoveable assets ... belonging to the debtor which are situated within the territory of another Member State at the time of the opening of proceedings". On the basis of Article 18 of Regulation 1346/2000/EC, the Slovenian bankruptcy administrator may remove the Counterparty's assets from the territory of the Member State in which they are situated, but subject to Article 5 (and Article 7) of the Regulation.

As also decided upon in Case C-444/07, only the opening of secondary insolvency proceedings under Regulation 1346/2000/EC is capable of restricting the universal effect of the main insolvency proceedings.

As a general rule, the Slovenian bankruptcy administrator shall be entitled to represent the bankrupt Counterparty and perform other operations necessary for bankruptcy proceedings also outside this jurisdiction (Article 451 of the Financial Operations, Insolvency Proceedings and Compulsory Dissolution Act and Regulation 1346/2000/EC). Express recognition of Slovenian bankruptcy proceedings in other Member States is not required, as the recognition is automatic. In case of jurisdictions other than Member States, the Slovenian bankruptcy administrator would in our opinion have to attempt to employ the respective local procedures and mechanisms to have the bankruptcy proceedings pending in Slovenia recognised (if possible).

The most important additional rules concerning bankruptcy proceedings pending concurrently in this jurisdiction and another jurisdiction can be summarised as follows:

Pursuant to the Insolvency Act, the court of this jurisdiction can conduct Bankruptcy Proceedings in the following circumstances:

(a) the debtor has its main centre of interest in this jurisdiction (being, in the absence of the proof to the contrary, the place of its registered seat); or

(b) if the assets of the debtor are situated in this jurisdiction (but in such case only in relation to such assets). In case the provisions of Regulation 1346/2000/EC apply, jurisdiction is narrowed by (i) the condition that the debtor must have an establishment [9] in this jurisdiction, and (ii) the rule that only secondary proceedings may be commenced (also in this case, restricted to the assets of the debtor located in this jurisdiction). In both cases, receivables shall be considered located in the jurisdiction where the person required to meet them has the centre of its main interests.

With the exception of the above, the authorities in this jurisdiction should defer to the proceedings in the bankrupt debtor's home jurisdiction (and the insolvency proceedings in the foreign bankrupt debtor's home jurisdiction would with no further formalities produce the same effects in this jurisdiction) where:

(a) the foreign bankrupt debtor is incorporated in a Member State subject to the provisions of Regulation 1346/2000/EC;

(b) the foreign bankrupt debtor is a credit institution incorporated in a Member State subject to the provisions of Directive 2001/24/EC;

(c) the foreign bankrupt debtor is an insurance undertaking incorporated in a Member State subject to the provisions of Directive 2001/17/EC;

Where the foreign bankrupt debtor does not fall under any of the categories stated under (a), (b) and (c) above, and subject to any international treaty entered into by the Republic of Slovenia providing otherwise,[10] insolvency proceedings instituted in the bankrupt debtor's home jurisdiction can take legal effects in this jurisdiction upon recognition thereof subject to detailed provisions of the Insolvency Act concerning in particular (i) type of recognised proceedings (main or secondary), (ii) legal effects of the recognised insolvency proceedings, (iii) legal assistance provided by the court of this jurisdiction to a foreign court or a foreign insolvency representative, (iv) authorisations of the foreign insolvency representative in this jurisdiction, (v) procedural rules and conditions [11] concerning the

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[9] Being any place of operations where the debtor carries out a non-transitory economic activity with human means and goods.

[10] Whereby we are not aware of any such treaty.

[11] In this respect, one of the conditions for recognition of foreign insolvency proceedings in this jurisdiction is that in the jurisdiction where proceedings subject of recognition are being conducted, the Insolvent Party has:

recognition and eventual temporary measures etc. [12] Parallel insolvency proceedings are possible (i.e. even if foreign insolvency proceedings are recognised, domestic bankruptcy proceedings can be commenced, but only as secondary proceedings).

4.6.3 As a general rule, if a petition for institution of bankruptcy proceedings against the Counterparty is initiated within 12 months as of entering into the Security Interest, or any transaction representing a part thereof[13] including payments and transfers of Collateral – and provided that bankruptcy proceedings are indeed instituted by the court following such petition – any Security Interest and/or payments or transfers of Collateral may be challenged by the Counterparty's bankruptcy administrator or any Counterparty's creditor (on behalf of the bankruptcy estate) for the reasons of a) decrease in the net value of the Counterparty's assets, so as to decrease payments to other creditors or, b) providing more favourable payment conditions for the Firm against the Counterparty's in bankruptcy.

Namely, under Article 271 of the Insolvency Act, any legal action of the Counterparty in bankruptcy, carried out within the 12-months challengeability period, shall be challengeable:

(i) if the consequences of such action are:

- either a decrease in the net value of assets of the Counterparty in bankruptcy, so as to enable other creditors to receive payment for their claims in a smaller portion than if the action had not been performed, or

- the Firm has acquired more favourable payment conditions for a claim against the Counterparty in bankruptcy,

and

(ii) if the Firm, at the time when such action has been executed, was aware of, or should have been aware of, the fact that the Counterparty was insolvent.

(a) in respect of recognition of main proceedings: **the centre of its main interest** (being, in the absence of the proof to the contrary, the place of its registered seat), or

(b) in respect of recognition of secondary proceedings: **a place of business.**

[12] In this respect, under Article 452 of the Insolvency Act the court of this jurisdiction may deny recognition of foreign insolvency proceedings and/or a request for legal assistance by a foreign court or a foreign insolvency representative if this could have a negative impact onto sovereignty, safety or public interest of the Republic of Slovenia.

[13] If bankruptcy proceedings are instituted against the Counterparty within 12 months as of entering into any transaction, any such transaction may be challengeable under the rules described in this paragraph, regardless of the fact whether the respective Agreement had been entered into more than 12 months prior to such institution.

In this respect, unless it proves otherwise, the Firm shall be deemed to have been aware of, or should have been aware of, the Counterparty's insolvency if (Article 272 of the Insolvency Act):

(a) it has received fulfilment of a claim prior to its maturity, or has received fulfilment in a form and manner which, according to business practices, usages or practice that existed between the parties, is not considered as a normal form or manner of fulfilment of liabilities based on legal transactions having characteristics equal to those of the legal transaction that represented the basis for the execution of fulfilment of the Counterparty, or

(b) the action was carried out within the last three months prior to the introduction of bankruptcy proceedings.

Non-knowledge of insolvency shall be irrelevant if the Firm came into possession of the Counterparty's assets without being liable to execute its counter-fulfilment, of for a counter-fulfilment of small value.

If the conditions for challenging debtor's legal actions in detail set forth in the Financial Operations, Insolvency Proceedings and Compulsory Dissolution Act are proven by the challenging party (whereby in certain cases the burden of proof is reversed), the challenged legal action shall be set aside and the payments or transfers of Collateral made to the Firm would be recovered.

However, if the Financial Collateral Act applies, the following special rules apply as an exception to the above general rules concerning claw-back:

(i) The financial collateral arrangement or the provision of Collateral concluded or carried out on the day of filing a petition for institution of Insolvency Proceedings shall not be without legal effect, null and void or challengeable if it had been concluded or secured prior to the moment of filing the respective petition or prior to the issuing of a resolution on institution of Insolvency Proceedings (and if it had been concluded or carried out after such moment on the same day, it shall not be without legal effect, null and void or challengeable if the Firm proved that it had been in good faith regarding such proceedings).

(ii) The obligation to establish a financial collateral arrangement or to provide additional Collateral and the provision of such additional Collateral in cases where there is a reduction in the value of the (existing) Collateral or an increase in the secured claim, or a contractual provision on the right to exchange the Collateral and the actual exchange of the Collateral shall not be without legal effect, challengeable or null and void if they had come to existence on the day of filing the petition for institution of Insolvency Proceedings but prior to filing of the respective petition or the issuing of the resolution (irrespective of whether the secured claim had already matured).

In respects other than mentioned in above, the provisions of the Financial Collateral Act shall not exclude the application of the provisions of the Insolvency Act relating to the challenging of debtor's legal actions in insolvency.

4.6.4 If the Security Interest is (for any reason) enforced by the Slovenian insolvency administrator, then certain costs of bankruptcy proceedings will have priority over the Firm's rights to the proceeds of realisation of the Collateral.

4.6.5 Derivatives transactions and collateral arrangements are not widely developed in this jurisdiction and no opinions of Slovenian legal scholars and / or court precedents are available thereon. Therefore, in relation to enforcement of its rights, the Firm may face lengthy proceedings and confusion in the jurisprudence.

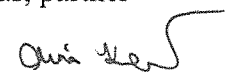
There are no other material issues relevant to the issues addressed in this opinion letter which we draw to your attention.

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,

Odvetniki Šelih & partnerji, o.p., d.o.o.

Mia Kalaš, partner



ODVETNIKI ŠELIH & PARTNERJI
o.p., d.o.o.
Komenskega ulica 36, 1000 Ljubljana, Slovenija

SCHEDULE 1
Brokerage Companies

Subject to the modifications and additions set out in this Schedule 1 (*Brokerage companies*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are Brokerage companies (*borznoposredniške družbe*). For the purposes of this Schedule 1 (*Brokerage companies*), "***Brokerage company***" means an investment firm[14] with the registered office in the Republic of Slovenia that is not a bank and that has obtained an authorisation from the Securities Market Agency (*Agencija za trg vrednostnih papirjev)* to provide investment services and activities (Para 2 of Article 11 of the Financial Instruments Market Act).[15]

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

None.

2. ADDITIONAL ASSUMPTIONS

None.

3. MODIFICATIONS TO OPINIONS

None.

4. ADDITIONAL QUALIFICATIONS

None.

5. MODIFICATIONS TO QUALIFICATIONS

The qualifications at paragraph 4 are deemed modified as follows.

Sub-paragraph 4.1.1(1) shall be read in such way that a Brokerage company shall be considered to fall within the category of "investment firms as defined in Article 4(1)(1) of Directive 2004/39/EC" as mentioned in sub-paragraph 4.1.1(1)(a)(iii).

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[14] Investment firm means a legal entity whose regular occupation or business is the provision of investment services for third parties or investment activities on professional basis (Para 1 of Article 11 of the Financial Instruments Market Act; Point 1. of Article 4 of Directive 2004/39/EC).

[15] This opinion does not cover so called "small brokerage companies" which are defined as brokerage companies:
1. which only provides the following investment services:
- transmission of orders in relation to transferable securities or the units of a collective investment undertakings to parent investment firms of Member States or EU parent investment firms (as defined in Article 32 of the Financial Instruments Market Act) or to management companies; or
- investment advice; and
2. the annual income of which does not exceed EUR 750,000.

SCHEDULE 2
Central clearing and depository houses

Subject to the modifications and additions set out in this Schedule 2 (*Central clearing and depository houses*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are central clearing and depository houses (*centralne klirinško depotne družbe*).[16] For the purposes of this Schedule 2 (*Central clearing and depository houses*), "***Central clearing and depository house***" means an entity organised in the legal form of a public limited company (*delniška družba*) or European public limited company (*evropska delniška družba*) allowed to perform (only) the following activities:

1. services of keeping a central register of book-entry securities and custody services in relation to corporation activities of the issuers of book-entry securities (as in more detail regulated in the Section IX. of the Book Entry Securities Act),
2. services of operation of a settlement system for the settlement of stock exchange transactions provided that it has obtain an authorisation of the Securities Market Agency to provide such services (as in more detail regulated in the Financial Instruments Market Act),
3. custody services in relation to the takeovers (as in more detail regulated in the Takeovers Act), 4. services related to guaranteeing of simultaneous fulfilment in respect of settlement of other transactions concerning book-entry securities,
4. services with regard to payment of returns arising from book-entry securities,
5. other services with regard to book-entry securities transactions and meeting of obligations / exercising of rights arising therefrom,
6. sale and maintenance of computer software developed for the provision of its services under points 1. to 6. above and other related transactions

(Articles 405 and 407 of the Financial Instruments Market Act).

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

None.

2. ADDITIONAL ASSUMPTIONS

None.

3. MODIFICATIONS TO OPINIONS

None.

4. ADDITIONAL QUALIFICATIONS

None.

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[16] As at the date of this opinion, the only Central clearing and depository house in this jurisdiction is the KDD - CENTRALNA KLIRINŠKO DEPOTNA DRUŽBA delniška družba.

5. MODIFICATIONS TO QUALIFICATIONS

The qualifications at paragraph 4 are deemed modified as follows.

Sub-paragraph 4.1.1(1) shall be read in such way that the KDD - CENTRALNA KLIRINŠKO DEPOTNA DRUŽBA delniška družba shall be considered to fall within the category mentioned in sub-paragraph 4.1.1(1)(a)(iv).

SCHEDULE 3
Partnerships

Subject to the modifications and additions set out in this Schedule 3 (*Partnerships*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are *Partnerships*. For the purposes of this Schedule 3 (*Partnerships*), "***Partnership***" means (i) an unlimited company (*družba z neomejeno odgovornostjo*) as a company established by two or more persons who are liable for the obligations of the company with all their assets (Para 1 of Article 76 of the Companies Act) or (ii) a limited partnership (*komanditna družba*) as a company formed by two or more persons in which at least one of the partners is liable for the liabilities of the company with all his assets (a general partner) and at least one partner is not liable for the liabilities of the company (a limited partner) (Para 1 of Article 135 of the Companies Act).

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

None.

2. ADDITIONAL ASSUMPTIONS

None.

3. MODIFICATIONS TO OPINIONS

None.

4. ADDITIONAL QUALIFICATIONS

None.

5. MODIFICATIONS TO QUALIFICATIONS

None.

SCHEDULE 4
Insurance undertakings

Subject to the modifications and additions set out in this Schedule 4 (*Insurance undertakings*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are Insurance undertakings. For the purposes of this Schedule 4 (*Insurance undertakings*), "***Insurance undertaking***" means a legal entity with its registered seat in this jurisdiction which has obtained a licence of the Insurance Supervision Agency for performance of insurance business (Para 1 of Article 1 of the Insurance Act).

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

None.

2. ADDITIONAL ASSUMPTIONS

None.

3. MODIFICATIONS TO OPINIONS

None.

4. ADDITIONAL QUALIFICATIONS

None.

5. MODIFICATIONS TO QUALIFICATIONS

The qualifications at paragraph 4 are deemed modified as follows.

Sub-paragraph 4.1.1(1) shall be read in such way that an Insurance undertaking shall be considered to fall within the category of "insurance undertakings as defined in Article 1(a) of Directive 92/49/EEC or assurance undertakings as defined in Article 1(1)(a) of Directive 2002/83/EC" as mentioned in sub-paragraph 4.1.1(1)(a)(iii).

SCHEDULE 5
Independent entrepreneurs

Subject to the modifications and additions set out in this Schedule 5 (*Independent entrepreneurs*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are Independent entrepreneurs. For the purposes of this Schedule 5 (*Independent entrepreneurs*), "***Independent entrepreneur***" means a natural person which independently pursues commercial activity in the scope of an organised business (Para 6 of Article 3 of the Companies Act) and who is liable for obligations arising therefrom with all his/her assets (Para 1 of Article 7 of the Companies Act).[17]

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

None.

2. ADDITIONAL ASSUMPTIONS

None.

3. MODIFICATIONS TO OPINIONS

None.

4. ADDITIONAL QUALIFICATIONS

None.

5. MODIFICATIONS TO QUALIFICATIONS

The qualifications at paragraph 4 are deemed modified as follows.

5.1 Throughout paragraph 4, all wording is deemed amended in such way (and to the extent appropriate) that the Financial Collateral Act does not apply to the Agreement and the Transactions entered into / Collateral provided by an Independent entrepreneur. In particular:

(a) any reference in paragraph 4. to the Financial Collateral Act, and the legal consequences and/or legal benefits thereof is not applicable; and

(b) any reference to a condition that the Financial Collateral Act applies shall be read as if has been confirmed that the Financial Collateral Act does not apply.

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[17] See footnote no. 1.

SCHEDULE 6
Private persons

Subject to the modifications and additions set out in this Schedule 6 (*Private persons*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are Private persons. For the purposes of this Schedule 6 (*Private persons*), "***Private person***" means an individual (natural person) who is not an Independent entrepreneur (as defined in Schedule 5) and performs an activity as occupation such as a farmer, a doctor, a notary, an attorney-at-law and similar (Para 7 of Article 7 of the Insolvency Act).

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

None.

2. ADDITIONAL ASSUMPTIONS

None.

3. MODIFICATIONS TO OPINIONS

None.

4. ADDITIONAL QUALIFICATIONS

None.

5. MODIFICATIONS TO QUALIFICATIONS

The qualifications at paragraph 4 are deemed modified as follows.

5.1 Throughout paragraph 4, all wording is deemed amended in such way (and to the extent appropriate) that the Financial Collateral Act does not apply to the Agreement and the Transactions entered into / Collateral provided by a Private person. In particular:

(a) any reference in paragraph 4. to the Financial Collateral Act, and the legal consequences and/or legal benefits thereof is not applicable; and

(b) any reference to a condition that the Financial Collateral Act applies shall be read as if has been confirmed that the Financial Collateral Act does not apply.

SCHEDULE 7
Consumers

Subject to the modifications and additions set out in this Schedule 7 (*Consumers*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are Consumers. For the purposes of this Schedule 7 (*Consumers*), "***Consumer***" means an individual (natural person) who is neither an Independent entrepreneur (as defined in Schedule 5) nor a Private person (as defined in Schedule 6) (Para 8 of Article 7 of the Insolvency Act).

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

None.

2. ADDITIONAL ASSUMPTIONS

None.

3. MODIFICATIONS TO OPINIONS

None.

4. ADDITIONAL QUALIFICATIONS

The opinions expressed in paragraph 3 are also qualified (to the extent appropriate) by the following:

Under Para 2 in connection with Para 1 of Article 6 of Regulation 593/2008/EC an agreement concluded between a Consumer and a Party which is acting in the exercise of his trade or profession (the "**Professional**"), where the Professional:

(a) pursues his commercial or professional activities in this jurisdiction, or

(b) by any means, directs such activities to this jurisdiction or to several countries including this jurisdiction;

and the agreement falls within the scope of such activities (whereby the Agreement and the Transactions will presumably fall within the above conditions), the Parties' choice of law may not result in depriving the Consumer of the protection afforded to him by the provisions that cannot be derogated from by agreement by virtue of the law of this jurisdiction.

Under subparagraph (d) of Para 4 of Article 6 of Regulation 593/2008/EC the above rule shall not apply to rights and obligations which constitute a financial

instrument as referred to in Article 4 of Directive 2004/39/EC[18] (i.e. in such case, the Parties shall choose the governing law freely without the above limitation).

In line with the above, insofar the relevant Agreement and Transactions do not comprise rights and obligations of the Parties which constitute a financial instrument, the courts of this jurisdiction will apply all provisions of the laws of this jurisdiction affording protection to Consumers which cannot be derogated from by agreement (in particular all mandatory provisions of the Slovenian Consumer Protection Act: *Zakon o varstvu potrošnikov (ZVPot)* (Official Gazette of the Republic of Slovenia no. 20/1998, as amended). The most relevant provisions thereof potentially relating to the Agreement and the Transactions would (example given) include:

- the requirement that the contractual conditions are fair towards the Consumer (including a list of provisions which are deemed unfair by the law itself and thus null and void, such as a waiver by the Consumer of his objections, undefined price, the Professional's option to unilaterally amend the contractual conditions, a contractual penalty in favour of the Professional, the Professional's exclusive right to interpret the contractual conditions etc.);

- that any unclarity in the wording of the Agreement and the Transactions shall be interpreted in favour of the Consumer.

5. MODIFICATIONS TO QUALIFICATIONS

The qualifications at paragraph 4 are deemed modified as follows.

5.1 Throughout paragraph 4, all wording is deemed amended in such way (and to the extent appropriate) that the Financial Collateral Act does not apply to the Agreement and the Transactions entered into / Collateral provided by a Consumer. In particular:

(a) any reference in paragraph 4. to the Financial Collateral Act, and the legal consequences and/or legal benefits thereof is not applicable; and

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[18] Under Section C of Annex 1 in connection with Article 4 of Directive 2004/39/EC financial instruments comprise: (1) transferable securities; (2) money-market instruments; (3) units in collective investment undertakings; (4) options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash; (5) options, futures, swaps, forward rate agreements and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event); (6) options, futures, swaps, and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market and/or an MTF; (7) options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in (6) and not being for commercial purposes, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are cleared and settled through recognised clearing houses or are subject to regular margin calls; (8) derivative instruments for the transfer of credit risk; (9) financial contracts for differences; (10) options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event), as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in Section C of Annex 1, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market or an MTF, are cleared and settled through recognised clearing houses or are subject to regular margin calls.

(b) any reference to a condition that the Financial Collateral Act applies shall be read as if has been confirmed that the Financial Collateral Act does not apply.

SCHEDULE 8
Investment fund management companies

Subject to the modifications and additions set out in this Schedule 8 (*Investment fund management companies*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are Investment fund management companies. For the purposes of this Schedule 8 (*Investment fund management companies*), "***Investment fund management company***" means a legal entity with registered seat in this jurisdiction which is performing services of management of investment funds on the basis of a licence obtained from the Securities Market Agency (Article 13 of the Investment Funds and Management Companies Act).

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

None.

2. ADDITIONAL ASSUMPTIONS

None.

3. MODIFICATIONS TO OPINIONS

None.

4. ADDITIONAL QUALIFICATIONS

None.

5. MODIFICATIONS TO QUALIFICATIONS

The qualifications at paragraph 4 are deemed modified as follows.

Sub-paragraph 4.1.1(1) shall be read in such way that an Investment fund management company shall be considered to fall within the category of "management companies as defined in Article 1a(2) of Directive 85/611/EEC" as mentioned in sub-paragraph 4.1.1(1)(a)(iii).

SCHEDULE 9
Investment funds

Subject to the modifications and additions set out in this Schedule 9 (*Investment funds*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are Investment funds. For the purposes of this Schedule 9 (*Investment funds*), "**Investment fund**" means a collective investment undertaking with the sole object of collecting assets from the public and further investing such assets into different types of investments pursuant to an investment policy set out in advance and solely to the benefit of the holders of the units of such investment fund (Para 1 of Article 5 of the Investment Funds and Management Companies Act).[19]

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

None.

2. ADDITIONAL ASSUMPTIONS

None.

3. MODIFICATIONS TO OPINIONS

None.

4. ADDITIONAL QUALIFICATIONS

None.

5. MODIFICATIONS TO QUALIFICATIONS

The qualifications at paragraph 4 are deemed modified as follows.

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[19] To summarise briefly, an investment fund may be formed as an UCITS fund (which is always open-ended) or as a non-UCITS fund (which may be open- or close-ended). In this jurisdiction, an investment fund may take one of the following forms: (i) a mutual fund (*vzajemni sklad*) (defined as an open-ended investment fund, formed as separate assets, the operation of which is regulated in Section 7 of the Investment Funds and Management Companies Act); (ii) a cover fund (*krovni sklad*) (defined as a mutual fund, composed of two or more sub-funds, which are formed as separate assets, the operation of which is regulated in Section 7 of the Investment Funds and Management Companies Act), (iii) an alternative fund (*alternativni sklad*) (defined as an open-ended investment fund, formed as separate assets, the operation of which is regulated in Section 10.2 of the Investment Funds and Management Companies Act), and (iv) an investment company (*investicijska družba*) defined as a close-ended investment fund, formed in the corporate form of a joint stock company with registered seat in this jurisdiction, the share capital of which is divided to shares of the same class, which are freely transferrable and traded on an organised market, and the operation of which is regulated in Section 10.3 of the Investment Funds and Management Companies Act). The mutual funds and the cover funds are UCITS funds and the alternative funds and investment companies are non-UCITS funds.

Sub-paragraph 4.1.1(1) shall be read in such way that an Investment fund shall be considered to fall (as appropriate) within the categories mentioned in sub-paragraph 4.1.1(1)(a).

SCHEDULE 10
The Republic of Slovenia and Municipalities

Subject to the modifications and additions set out in this Schedule 10 (*The Republic of Slovenia and Municipalities*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are *The Republic of Slovenia and/or Municipalities*. For the purposes of this Schedule 10 (*The Republic of Slovenia and Municipalities*), "***Municipality***" means a basic self-governing local community established as a legal person of public law under the Local Self-Government Act: *Zakon o lokalni samoupravi,* ZLS (Official Gazette of the Republic of Slovenia, no. 72/1993, 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

None.

2. ADDITIONAL ASSUMPTIONS

None.

3. MODIFICATIONS TO OPINIONS

None.

4. ADDITIONAL QUALIFICATIONS

The Republic of Slovenia and the Municipalities should as direct budget users assume all their obligations in writing (Article 50 of the Public Finance Act: *Zakon o javnih financah, ZJF* (Official Gazette of the Republic of Slovenia, no. 79/1999, as amended).

5. MODIFICATIONS TO QUALIFICATIONS

The qualifications at paragraph 4 are deemed modified as follows.

5.1 It is likely that the Financial Collateral Act does not apply to Municipalities. Therefore, in relation to Municipalities, throughout paragraph 4, all wording is deemed amended in such way (and to the extent appropriate) that there is a risk that the Financial Collateral Act does not apply to the Agreement and the Transactions entered into by a Municipality and Collateral provided by a Municipality. In particular:

(a) any reference to the Financial Collateral Act, and the legal consequences and/or legal benefits thereof may not be applicable; and

(b) any reference to a condition that the Financial Collateral Act applies shall be read with the reservation that this may not be the case.

5.2 Sub-paragraph 4.1.1(1) shall be read in such way that the Republic of Slovenia shall be considered to fall within the categories as mentioned in sub-paragraph 4.1.1(1)(a).

SCHEDULE 11
Sovereign assets funds

Subject to the modifications and additions set out in this Schedule 11 (*Sovereign assets funds*), the opinions, assumptions and qualifications set out in this opinion letter will generally also apply in respect of Parties which are *Sovereign assets funds*. For the purposes of this Schedule 11 (*Sovereign assets funds*), "***Sovereign assets fund***" means a public fund founded by the Republic of Slovenia for the purpose of performing activities in public interest.

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**

None.

2. **ADDITIONAL ASSUMPTIONS**

None.

3. **MODIFICATIONS TO OPINIONS**

None.

4. **ADDITIONAL QUALIFICATIONS**

If a Sovereign Asset Fund is a direct budget user it should assume all its obligations in writing (Article 50 of the Public Finance Act: *Zakon o javnih financah, ZJF* (Official Gazette of the Republic of Slovenia, no. 79/1999, as amended).

5. **MODIFICATIONS TO QUALIFICATIONS**

The qualifications at paragraph 4 are deemed modified as follows.

Sub-paragraph 4.1.1(1) shall be read in such way that the Sovereign assets funds shall be considered to fall within the categories as mentioned in sub-paragraph 4.1.1(1)(a).

ANNEX 1
FORM OF FOA AGREEMENTS

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

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

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

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

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

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

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

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

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

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

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

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

ANNEX 2
DEFINED TERMS RELATING TO THE AGREEMENTS

1. The "**Eligible Counterparty Agreements**" means each of the Eligible Counterparty Agreement 2007, the Eligible Counterparty Agreement 2009 and the Eligible Counterparty Agreement 2011 (each as listed and defined at Annex 1).

2. The "**Professional Client Agreements**" means each of the Professional Client Agreement 2007, the Professional Client Agreement 2009 and the Professional Client Agreement 2011 (each as listed and defined at Annex 1).

3. The "**Retail Client Agreements**" means each of the Retail Client Agreement 2007, the Retail Client Agreement 2009 and the Retail Client Agreement 2011 (each as listed and defined at Annex 1).

4. An "**Equivalent 2011 Agreement without Core Rehypothecation Clause**" means an Equivalent Agreement in the form of the Eligible Counterparty Agreement 2011, Retail Client Agreement 2011 or Professional Client Agreement 2011 but which does not contain the Rehypothecation Clause.

5. "**Core Provisions**" means:

   (a) with respect to all Equivalent Agreements, the Security Interest Provisions; and

   (b) with respect to Equivalent Agreements that are in the form of the Eligible Counterparty Agreement 2011, Retail Client Agreement 2011 or Professional Client Agreement 2011 (but not with respect to an Equivalent 2011 Agreement without Core Rehypothecation Clause), the Rehypothecation Clause.

   References to "**Core Provisions**" include Core Provisions that have been modified by Non-Material Amendments.

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 (***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 (***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. 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.