

# 7.3

Réglementation des bourses, des  
chambres de compensation, des OAR et  
d'autres entités réglementées

---

---

### 7.3. RÉGLEMENTATION DES BOURSES, DES CHAMBRES DE COMPENSATION, DES OAR ET D'AUTRES ENTITÉS RÉGLEMENTÉES

#### 7.3.1 Consultation

##### **Refinitiv US SEF LLC – Demande de dispense de reconnaissance à titre de bourse et des obligations des Règlements 21-101 et 23-101**

L'Autorité des marchés financiers (l'« Autorité ») publie la demande de dispense (i) de reconnaissance à titre de bourse en vertu de la *Loi sur les instruments dérivés*, RLRQ, c. I-14.01, et (ii) des obligations du *Règlement 21-101 sur le fonctionnement du marché* et du *Règlement 23-101 sur les règles de négociation*, déposée par Refinitiv US SEF LLC.

L'Autorité invite toutes les personnes intéressées à lui présenter leurs observations relativement à cette demande.

(Le texte est reproduit ci-après.)

##### **Commentaires**

Toute personne désirant soumettre des commentaires est invitée à les faire parvenir par écrit, au plus tard le 20 septembre 2020 à :

M<sup>e</sup> Philippe Lebel  
Secrétaire général et directeur général des affaires juridiques  
Autorité des marchés financiers  
Place de la Cité, tour Cominar  
2640, boulevard Laurier, bureau 400  
Québec (Québec) G1V 5C1  
Télécopieur : 514 864-63811  
Courrier électronique : [consultation-en-cours@lautorite.gc.ca](mailto:consultation-en-cours@lautorite.gc.ca)

##### **Information complémentaire**

Pour de plus amples renseignements, on peut s'adresser à :

Pascal Bancheri, CFA, MBA  
Analyste expert aux OAR  
Direction des bourses et OAR  
Autorité des marchés financiers  
Téléphone : 514 395-0337, poste 4354  
Numéro sans frais : 1 877 525-0337, poste 4354  
Télécopieur : 514 873-7455  
Courrier électronique : [pascal.bancheri@lautorite.gc.ca](mailto:pascal.bancheri@lautorite.gc.ca)

Serge Boisvert  
Analyste à la réglementation  
Direction des bourses et des OAR  
Autorité des marchés financiers  
Téléphone : 514 395-0337, poste 4358  
Numéro sans frais : 1 877 525-0337, poste 4358  
Télécopieur : 514 873-7455  
Courrier électronique : [serge.boisvert@lautorite.gc.ca](mailto:serge.boisvert@lautorite.gc.ca)

November 27, 2019

**Sent by E-mail**

Autorité des marchés financiers  
800 Square Victoria, 22<sup>nd</sup> Floor  
C.P. 246, Tour de la Bourse  
Montréal, Quebec  
Canada, H4Z 1G3

Attention: Exemptive Relief Application

Dear Sirs/Mesdames:

**RE: Refinitiv US SEF LLC Application for Exemption from Recognition as an Exchange**

We act as Canadian legal counsel to Refinitiv US SEF LLC (the **Applicant** or **Refinitiv**) and are filing this application with the Autorité des marchés financiers (the **AMF**) on the Applicant's behalf. The Applicant is requesting an order (the **Permanent Order**) from the AMF exempting the Applicant from the following requirements:

- a decision under section 86 of the *Derivatives Act* (Quebec) (the **Act**) exempting the Applicant from the requirement to be recognised by the AMF as an exchange under section 12 of the Act in relation to the operation of a marketplace in the province;
- a decision under section 86 of the Act and section 15.1 of Regulation 21-101 (as defined below) exempting the Applicant from *Regulation 21-101 respecting Marketplace Operation* (**Regulation 21-101**); and
- a decision under section 86 of the Act and section 12.1 of Regulation 23-101 (as defined below) exempting the Applicant from *Regulation 23-101 respecting Trading Rules* (**Regulation 23-101**)

(collectively the **Requested Relief**).

**EXEMPTION FROM SECTION 12 OF THE ACT AND FROM REGULATIONS 21-101 AND 23-101**

**Exemption from the Requirement to be Recognised as an Exchange under section 12 of the Act**

As described in greater detail in this application (the **Application**), the Applicant is subject to the supervision of the Commodity Futures Trading Commission (the **CFTC**). Recognition requirements to be met by the Refinitiv Swap Execution Facility (the **Refinitiv SEF**) operated by the Applicant are stringent and do take into consideration elements such as governance, fees, fair and equitable access, regulation, market operations as well as systems and technology, as prescribed by the AMF.

Furthermore, Refinitiv confirms that it has the power to co-operate fully with the AMF and self-regulatory organizations in the Province of Quebec, and to provide information and documents with respect to its operations that could be reasonably requested by the AMF.

Based on the foregoing, the Applicant seeks an exemption from the requirement of section 12 of the Act allowing it to carry on derivatives activities in the Province of Quebec without being recognised by the AMF as an exchange or otherwise. We believe this exemption would not be detrimental to the protection of investors in the Province of Quebec and would contribute to the trading of derivatives in Quebec being more efficient.

### **Exemption from Regulation 21-101 and Regulation 23-101**

The Applicant submits to the AMF that the application of Regulation 21-101 and Regulation 23-101 regarding marketplace operation and trading rules to the Applicant would result in duplication of the CFTC regulatory framework and hereby seeks an exemption from Regulation 21-101 and Regulation 23-101.

\*\*\*\*\*

The AMF *Policy Statement respecting the Authorization of Foreign-Based Exchanges (Policy Statement)* outlines the AMF's approach to and interpretation of regulatory provisions regarding applications for authorization from foreign-based exchanges that are already recognized or authorized in their home jurisdiction. The Policy Statement sets out the information that the AMF expects to receive in support of such applications. This Application contains such information.

Capitalized terms that appear in this Application but are not defined in the body of this Application have the meanings ascribed thereto in the Refinitiv US SEF LLC Rule Book (the **Rules**).<sup>1</sup>

For convenience, this Application is divided into the following Parts:

- Part I            Background
- Part II           Application of Approval Criteria to the Refinitiv SEF
  - 1.    Regulation of the Refinitiv SEF
  - 2.    Governance
  - 3.    Regulation of Products
  - 4.    Access
  - 5.    Regulation of Participants on the Refinitiv SEF
  - 6.    Rulemaking
  - 7.    Due Process
  - 8.    Clearing and Settlement
  - 9.    Systems and Technology
  - 10.   Financial Viability
  - 11.   Trading Practices
  - 12.   Compliance, Surveillance and Enforcement
  - 13.   Record Keeping
  - 14.   Outsourcing
  - 15.   Fees
  - 16.   Information Sharing and Oversight Arrangements
  - 17.   IOSCO Principles
- Part III          Submissions
- Part IV          Other Matters

<sup>1</sup> The Rules can be found at <https://www.refinitiv.com/en/products/sef-swap-execution-facility> under the heading "SEF Rulebook".

## Part I Background

### Description of the Swap Execution Facility

- 1 The Refinitiv SEF is operated by Refinitiv, a Delaware limited liability company that is a member of the Refinitiv Group. The Refinitiv SEF was established to provide an appropriate swap execution facility (**SEF**) platform for the execution of non-deliverable forward swaps (**NDFs**) and foreign exchange options (**FX Options**), two kinds of instruments that are classified as swaps under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the **DFA**). The Refinitiv SEF offers a Central Limit Order Book (**Order Book**) and a Request for Quote (**RFQ**) system. The functionality for these instruments is provided using the FX Alliance (**FXall**) system technology. FXall and the Applicant are sister companies.
- 2 FX Options on deliverable currencies are currency options between two counterparties used to either hedge or speculate against currencies that are not subject to exchange controls. These transactions are generally based on major currencies and on reference prices that are publicly available on a timely basis. NDFs are cash settled currency forwards between two counterparties used to either hedge or speculate against currencies where exchange controls in a particular country make it difficult for foreigners to trade in the spot market directly. Instead, the entire transaction is settled in a widely traded currency, usually United States dollars (**USD**). FX Options on NDFs are cash settled currency options between two counterparties used to either hedge or speculate against currencies where exchange controls in a particular country make it difficult for foreigners to trade in the spot market directly. There is no exchange of the underlying currency. Instead, the entire transaction is settled in a widely traded currency, usually USD.
- 3 In the United States, the Applicant operates under the jurisdiction of the CFTC and obtained permanent registration with the CFTC to operate a SEF on January 22, 2016. In addition to being registered as a SEF in the United States, the Refinitiv SEF is regulated by the Ontario Securities Commission pursuant to an order dated June 13, 2016, by the Manitoba Securities Commission, pursuant to a similar order dated August 24, 2016, and by the British Columbia Securities Commission pursuant to an order dated September 23, 2016.
- 4 Title VII of the DFA amended the *Commodity Exchange Act* (the **CEA**) and created a new category of regulated markets for the execution of swaps on a multilateral basis. Under new section 5h of the CEA, entities that fall within the scope of the definition of a SEF must register with the CFTC and comply with certain core principles and other regulatory requirements. Consequently, any platform that facilitates the execution of swaps through a multiple-to-multiple trading mechanism must register as a SEF and comply with the core principles, as stipulated by the CFTC.
- 5 The market for currencies (the **Foreign Exchange Market** or **FX Market**) is, by its very nature, a global marketplace, and the impact of the DFA in regulating that market is far reaching. Many institutions have been required to, and have, registered as "Swap Dealers" or "Major Swap Participants" under the CFTC's regulations. These registrants include participants in the FX Market from many jurisdictions and are not limited to the United States. Their activities in the markets for NDFs and FX Options, to a great extent, are required to be conducted in accordance with CFTC rules.
- 6 In addition, many other entities who are active in the FX Markets (for example, multinational corporations) will wish to execute transactions in NDFs and/or FX Options with counterparties subject to CFTC rules; and in order to do so, these other entities need to seek admission to a SEF in order to access counterparties who may only trade through a SEF.

- 7 It should be remembered that retail investors do not have access to the Refinitiv SEF. Participants are typically large financial institutions with the requisite experience and resources to trade swap products on a wholesale market.
- 8 Under the terms of the Permanent Order, Refinitiv intends to offer direct access to trading on the Refinitiv SEF to participants that are located in the province of Quebec (**Quebec Participants**) and are appropriately registered as applicable under the Act or not subject to or are exempt from the registration requirement under section 7 of the Act and qualify as an “accredited counterparty” as defined in section 3 of the Act and as an “Eligible Contract Participant”, as defined in Section 1a(18) of the CEA and the CFTC’s rules and regulations promulgated thereunder. Quebec Participants may include Canadian financial institutions, registered dealers and advisers, government entities, pension funds and other well capitalized non-regulated entities. The Refinitiv SEF provides certain Quebec Participants with significant access to liquidity for which, at least for certain types of transactions, there is no appropriate alternative platform, and the Quebec capital markets will be disrupted if the Requested Relief is not granted.

#### Ownership and corporate structure

- 9 On October 1, 2018, The Blackstone Group LP and affiliates (**Blackstone**) completed its acquisition of a 55% stake in the financial-and-risk division of Thomson Reuters Corporation (**Thomson Reuters**). As a result of such acquisition, the financial and risk business became a wholly-owned subsidiary of a holding company indirectly owned 45% by Thomson Reuters and 55% by Blackstone, and has been renamed Refinitiv. The Blackstone Group L.P. is a Delaware Limited Partnership listed on the New York Stock Exchange under the symbol “BX” and files annual and quarterly reports, proxy circulars and other documents with the U.S. Securities and Exchange Commission.<sup>2</sup> Thomson Reuters is an Ontario, Canada corporation that has shares listed on the Toronto Stock Exchange (TSX) and the New York Stock Exchange (NYSE) under the symbol “TRI” and files annual and quarterly reports, proxy circulars and other documents with the Canadian securities regulatory authorities and the U.S. Securities and Exchange Commission.
- 10 On August 1, 2019, London Stock Exchange Group (**LSEG**) announced that it has agreed with Blackstone and Thomson Reuters (together the **Refinitiv Shareholders**) to acquire Refinitiv (including the Refinitiv SEF) in an all share transaction. Upon completion, the Refinitiv Shareholders will ultimately hold an approximate 37% economic interest in LSEG and less than 30% of the total voting rights of LSEG. This will impact the indirect ownership of the Applicant. The transaction is expected to close in Q4 2020. The transaction is subject to a number of conditions including approval of LSEG shareholders as well as anti-trust and regulatory clearances in a number of jurisdictions.

#### Products traded on Refinitiv SEF

- 11 Section 3.2 of this Application sets out the details of the products currently traded on the Refinitiv SEF.
- 12 In its capacity as a provider of the Refinitiv SEF, there are various activities that do not fall within the scope of the Applicant’s operations. With respect to the Refinitiv SEF, the Applicant does not itself provide:
- (a) trading in any principal, proprietary or agency capacities;

<sup>2</sup> Effective July 1, 2019, Blackstone converted from a publicly traded LP structure to a corporation. Refinitiv does not expect this change to affect the business or operations of the SEF.

- (b) access to third party trading venues;
- (c) clearing, settlement or payment systems;
- (d) asset management services; or
- (e) portfolio services.

## **Part II Application of Exemption Criteria to the Refinitiv SEF**

### **1 REGULATION OF THE EXCHANGE**

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

1.1.1 Refinitiv SEF is regulated by the CFTC and has obtained permanent registration with the CFTC to operate a SEF. As a registered SEF, Refinitiv SEF must comply with several types of regulatory obligations, including compliance with the “core principles” applicable to SEFs. The core principles relate to: (1) compliance with the core principles; (2) compliance with the CFTC's rules; (3) facilitating swaps that are not readily susceptible to manipulation; (4) monitoring of trading and trade processing; (5) the ability to obtain information; (6) position limits or position accountability; (7) financial integrity of transactions; (8) emergency authority; (9) timely publication of trading information; (10) recordkeeping and reporting; (11) antitrust considerations; (12) conflicts of interest; (13) financial resources; (14) system safeguards; and (15) designation of the chief compliance officer. These core principles are included in Section 5h of the CEA and Part 37 of the CFTC's regulations. Other regulations applicable to SEFs are included in Parts 1, 9, 16, 40, 43 and 45 of the CFTC's regulations, among others. The CFTC undertakes periodic oversight reviews and Refinitiv SEF is subject to inspections, reviews and ad hoc questions from the CFTC.

1.1.2 Pursuant to the core principles applicable to SEFs, Refinitiv SEF is obliged to have requirements governing (among other things) the conduct of its participants, and is required to monitor compliance with those requirements and to discipline participants. By way of a Regulatory Services Agreement (**RSA**), Refinitiv SEF has retained the National Futures Association (**NFA**) as a Regulatory Services Provider (**RSP**).

1.1.3 The NFA provides several services to Refinitiv SEF, including but not limited to: trade practice surveillance; market surveillance; inquiries, investigations, and disciplinary matters; reporting and recordkeeping; arbitration services; enforcement of audit trail requirements; and financial surveillance.

1.1.4 The Applicant and the Refinitiv SEF are also subject to authorization, exemption, recognition or accreditation by the following regulatory bodies in other jurisdictions:

- Swiss Financial Market Supervisory Authority (FINMA);
- British Columbia Securities Commission (British Columbia);
- Manitoba Securities Commission (Manitoba); and
- Ontario Securities Commission (Ontario).

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

### Scope of authority

1.2.1 CFTC regulations describe the obligations of a SEF. Pursuant to regulation 37.3(b)(6)(i), the CFTC grants registration to a SEF upon a determination, in its own discretion, that the SEF has demonstrated compliance with the CEA and the CFTC's regulations applicable to SEFs.

1.2.2 At any time, the CFTC may request information from the Applicant. Upon the CFTC's request, Refinitiv must file information related to the Refinitiv SEF in the form and manner and within the time period as specified in the CFTC's request.

1.2.3 Moreover, at any time, the CFTC may request a demonstration of compliance. Upon such a request, Refinitiv SEF must file with the CFTC a written demonstration, containing supporting data, information, and documents that it is in compliance with the core principles or with its other obligations under the CEA or CFTC regulations.

1.2.4 The Applicant's Chief Compliance Officer (**CCO**) must prepare, sign and file an Annual Compliance Report to the CFTC (the **ACR**), which contains a description of: (i) the compliance of Refinitiv SEF with the CEA; and (ii) the policies and procedures (including the code of business conduct and ethics policy and Compliance Manual) of Refinitiv SEF. Each ACR must be accompanied by appropriate financial reports and a certification that, under penalty of law, the report is accurate and complete, and has also been presented to the SEF Board of Directors for review.

1.2.5 The core CFTC regulation applicable to SEFs is Part 37, whereby the CFTC adopted new rules, guidance, and acceptable practices to implement certain statutory provisions enacted by Title VII of the DFA. The final rules, guidance, and acceptable practices, which apply to the registration and operation of SEFs, implement the DFA's new statutory framework that, among other requirements, adds a new section 5h to the CEA concerning the registration and operation of SEFs and also adds a new section 2(h)(8) to the CEA concerning the mandatory execution of certain swaps on SEFs.

1.2.6 Section 2(h)(8) of the CEA requires that certain swaps that are already subject to the mandatory clearing requirement of CEA section 2h occur on a designated contract market (**DCM**) or SEF, unless no DCM or SEF makes the swap available to trade.

1.2.7 Section 5h of the CEA provides the final regulations, guidance, and acceptable practices governing the registration and general obligations of SEFs under the core principles, including, but not limited to:

- Trading and product requirements;
- Compliance obligations;
- Surveillance obligations;
- Operational capabilities; and
- Financial information and resource requirements.



### Authorizing statutes

1.2.8 The CFTC was created in 1974 by the *Commodity Futures Trading Commission Act of 1974*. The CFTC derives its authority, powers and functions relating to swaps from the DFA. It has power, under various pieces of legislation, to issue regulations and rules.

1.2.9 Title VII of the DFA provides for a comprehensive framework for the regulation of swaps. The primary goals of Title VII of the DFA are to minimize systemic risk of derivatives trading, create transparency in derivatives markets and prohibit entities holding customer deposits from engaging in speculative derivatives activity.

### Financial protections afforded to customer funds

1.2.10 Refinitiv SEF does not and will not hold any client money.

## 2 GOVERNANCE

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

#### (a) Effective oversight of the SEF,

2.1.1 Refinitiv SEF has adopted and impartially enforces a comprehensive set of rules for the operation and conduct of the exchange, available at [www.refinitiv.com/en/products/sef-swap-execution-facility](http://www.refinitiv.com/en/products/sef-swap-execution-facility). The Rules, in conjunction with the Refinitiv SEF Compliance Manual (the **Compliance Manual**), the Refinitiv SEF LLC Agreement (the **LLC Agreement**), United States regulatory requirements and Delaware law, govern Refinitiv SEF. The LLC Agreement is available on the CFTC website at: <https://www.cftc.gov/sites/default/files/stellent/groups/public/@otherif/documents/lfdocs/trsefexhibtg1.pdf>

2.1.2 Refinitiv SEF is governed by a Board of Directors (the **Board**) with a total of three members (**Directors**). The Board manages the day to day business operations of Refinitiv SEF in accordance with the LLC Agreement and applicable law. Refinitiv SEF has officers (**Officers**) who are appointed by the Board and whose powers and duties are set out in the LLC Agreement.

2.1.3 The Board has the power and authority to call for review, and to affirm, modify, suspend or overrule any and all decisions and actions of standing committees or special committees of the Board or any panel of the Officers related to the day to day business operations of the Applicant. The Board may act only by the decision of an absolute majority in number of the Directors, either by vote at a meeting or by written consent without a meeting, or as otherwise set forth in the LLC Agreement.

2.1.4 The Board has adopted procedures to remove a member from the Board where the conduct of such member is likely to be prejudicial to the sound and prudent management of Refinitiv SEF.

2.1.5 Refinitiv SEF has a Regulatory Oversight Committee (**ROC**) made up of three members, which are currently the three Directors. The ROC is responsible for: (1) providing independent oversight of the regulatory program, including trade practice, market and financial surveillance, (2) assisting the Board in minimizing potential conflicts of interest of Refinitiv SEF, (3) confirming that the regulatory program is fair and impartial to Refinitiv SEF members, and (4) monitoring the regulatory program for sufficiency, effectiveness, and independence.

2.1.6 The Rules establish the rules of the SEF for operations and conduct, including, but not limited to: (2) the ownership and governance of the Refinitiv SEF; (3) requirements relating to participants; (4) services provided by the SEF; (5) obligations of participants; (6) transactions supported on the SEF; (7) execution methods; (9) trading practices and business conduct; (10) disciplinary rules; (11) arbitration rules; and (13) contract terms and conditions.

2.1.7 The Rules establish Refinitiv SEF's authority to maintain a fair and orderly market and to assist Refinitiv SEF in complying with its legal and regulatory obligations, and with the core principles as approved by the CFTC.

2.1.8 Changes to the Rules are self-certified and need not be approved by the CFTC. However, clearly any such proposed changes must remain in compliance with all legal and regulatory obligations. As standard supervisory engagement between Refinitiv and the CFTC, the CFTC may request a copy of the current version of the Rules at any time and seek from Refinitiv any information, explanations, etc. the CFTC deems necessary.

2.1.9 The SEF undergoes an annual self-assessment of compliance pursuant to the CFTC's Core Principles as set out in CFTC Regulation 37.3 as part of the Annual Chief Compliance Officer Report. This review covers the written policies and procedures that apply to the SEF and any material changes made thereto, a description of financial, managerial, and operational resources set aside for compliance with the CEA and CFTC's rules, a description of material compliance issues and corresponding actions taken or remediation plans, and a catalogue of investigations and disciplinary actions taken.

**(b) Refinitiv SEF's business and regulatory decisions are in keeping with its public interest mandate,**

2.1.10 Under Section VIII.E of the Compliance Manual, Refinitiv SEF's CCO is generally responsible for, among other things: (1) overseeing and reviewing Refinitiv SEF's compliance with Section 5h of the CEA and any related rules adopted by the CFTC; and (2) in consultation with the Board, resolving any conflicts of interest that may arise.

2.1.11 Additionally, pursuant to Rule 207, the ROC is responsible for overseeing all facets of the regulatory program. This includes ensuring that Refinitiv SEF maintains fair, vigorous and effective regulation. In its oversight of Refinitiv SEF's regulatory program, the ROC is responsible for providing independent oversight of the regulatory program (including trade practices, market and financial surveillance), assisting the Board in minimizing potential conflicts of interest of Refinitiv SEF, confirming that the regulatory program is fair and impartial to the SEF Participants, and monitoring the regulatory program for sufficiency, effectiveness, and independence.

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

- (i) appropriate representation of independent directors, and**
- (ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange,**

2.1.12 The CFTC has proposed rules that would require SEFs to have a certain percentage of directors that qualify as "Public Directors." The proposed definition of a Public Director is intended to ensure that such directors are independent from the SEF and its members. The CFTC has not yet finalized this requirement, however, so all of Refinitiv SEF's Directors are currently officers or employees of Refinitiv. The criteria for a person to be considered to be a Director are set forth in Rules 202 and 204.

2.1.13 Rule 202 provides that each Director must satisfy the fitness standards and requirements to serving as a director of a SEF under the CEA and CFTC regulations. Pursuant to these fitness standards, each Director must (among other things): (1) exhibit independence, objectivity and be capable of serving as a representative of not only the shareholder but also other core constituencies; and (2) represent the interests of a diversity of members. Additionally, at least one Director must not be: (a) a member of Refinitiv SEF; (b) currently a salaried employee of Refinitiv SEF; (c) primarily performing services for Refinitiv SEF in a capacity other than as a director; or (d) an officer, principal or employee of a firm which is a member of Refinitiv SEF either in its own name or through an employee on behalf of the firm. The compensation of non-executive members of the Board is not linked to the business performance of the Applicant.

2.1.14 Currently, Refinitiv SEF does not directly employ any employees and each Director is an employee of Refinitiv. As such, each Director meets the standards set out in section 2.1.12 above as no Director is: (a) a member of Refinitiv SEF; (b) a salaried employee of Refinitiv SEF; or (c) primarily performing services for Refinitiv SEF in a capacity other than as a director. Additionally, no Director is currently an officer, principal or employee of a firm which is a member of Refinitiv SEF either in its own name or through an employee on behalf of the firm.

2.1.15 Based on the above, Refinitiv SEF is currently in compliance with the CEA and CFTC regulations regarding the directors of the Refinitiv SEF. However, as set out in section 2.1.11, the CFTC has proposed rules requiring a certain number of "Public Directors" to serve on the Board. Refinitiv SEF will make any necessary changes to the members of the Board if and when such proposed rules are enacted.

2.1.16 While the Board does not contain a representative of Participants, the representation of a broad range of functions from within Refinitiv's business ensures that the interests of different persons and companies using the Refinitiv SEF are balanced and that feedback from various constituencies is passed on to and considered by the Board. For instance, the Board includes the President/CEO of the SEF as well as one individual representing sales and product development and one individual representing the technology and support functions of the SEF.

**(d) The SEF has policies and procedures in place to appropriately identify and manage conflicts of interest, and**

2.1.17 In consultation with the Board, the CCO manages and resolves any conflicts of interest that arise, including:

- a) conflicts between business considerations and compliance requirements;
- b) conflicts between business considerations and the requirement that the Applicant provide fair, open, and impartial access as set forth in CFTC regulations; and
- c) conflicts between Refinitiv SEF's management and members of the Board.

2.1.18 Also pursuant to Section VIII.E of the Compliance Manual, the CCO is required to notify Refinitiv SEF's ROC in the event that the CCO identifies a conflict of interest between his or her position as CCO or exercise of authority as CCO, and his or her personal interests. The ROC, upon receipt of such notice from the CCO, or on its own initiative if it identifies a conflict of interest involving the CCO through its oversight of the CCO, shall reassign the conflicted matter to an alternate employee who does not report to the CCO and who does not possess a conflict of interest.

2.1.19 Rule 210 outlines the Applicant's conflict of interest policy. Pursuant to Rule 210, a Director, Officer, disciplinary panel member or other person authorized to exercise the Applicant's authority concerning any inquiry, investigation, disciplinary proceeding, summary

suspension, or other summary actions (any such action, a **SEF Proceeding** and, collectively, **SEF Proceedings**), or emergency actions taken pursuant to Rule 209 or emergency disciplinary action taken pursuant to Rule 1014 (each such SEF Proceeding or emergency action, a **Self-Regulatory Action**) who knowingly has a “material conflict of interest” (as set out below) between his or her position as a Director, Officer, panel member or exercise of authority concerning a Self-Regulatory Action and his or her personal interests (each, an **Interested Person**) may not participate in any deliberations or vote of the Board, committee or panel, or exercise any authority with respect to such Self-Regulatory Action involving his or her personal interest, except as described in Rule 210(d). Before considering any Self-Regulatory Action, an Interested Person must disclose in writing to the Board the material facts concerning his or her relationship or interest in the matter.

2.1.20 For the purposes of Rule 210, a “material conflict of interest” means a Director, Officer, disciplinary panel member or other person:

- a) being named as a respondent or potential respondent in the Self-Regulatory Action;
- b) being an employer, employee, fellow employee or an affiliate of a respondent or potential respondent in the Self-Regulatory Action;
- c) having any significant, ongoing business relationship with a respondent or potential respondent in the Self-Regulatory Action;
- d) having a family relationship with a respondent or potential respondent in a Self-Regulatory Action (including the individual's spouse, co-habitator, former spouse, parent, step-parent, child, step-child, sibling, step-brother, step-sister, grandparent, grandchild, uncle, aunt, nephew, niece, father-in-law, mother-in-law, brother-in-law or sister-in-law);
- e) having a direct and substantial financial interest in the result of the deliberations or vote based upon either exchange or non-exchange positions (as referenced in CFTC regulations), other than a direct or indirect equity or other interest in Refinitiv, that could reasonably be expected to be affected by the action. A direct and substantial financial interest includes positions in contracts in accounts of, controlled by, or affiliated with the Interested Person or in any other types of direct and substantial financial positions of the Interested Person that are reasonably expected to be affected by the deliberations or vote; and/or
- f) any other circumstance that gives rise to a conflict between the Directors, Officers, disciplinary panel members or other person's exercise of authority concerning any Self-Regulatory Action and his or her personal interests.

2.1.21 However, any Interested Person who would otherwise be required to abstain from deliberations and voting as a result of having a direct and substantial financial interest in the result of the deliberations and vote may participate in deliberations, prior to a vote on the matter, if:

- a) the material facts about the Interested Person's financial interest in the matter are disclosed or known to the Board, committee, or disciplinary panel;
- b) the Board, committee, or disciplinary panel determines that the participation by the Interested Person would be consistent with the public interest; and
- c) a majority of the Directors (excluding any Interested Persons) vote to allow the Interested Person to participate in deliberations on the matter.

2.1.22 If a determination is made that an Interested Person may participate in deliberations prior to a vote, then the minutes of the meeting of the Board or committee thereof will reflect the determination and the reasons for the determination.

2.1.23 Where all Directors are Interested Persons with respect to a matter subject to a vote by the Board, the Chief Executive Officer (CEO) will appoint a panel of individuals who are not Interested Persons with respect to such matter, which will have the same authority and powers over such matter that the Board would have if the Directors were not Interested Persons with respect to such matter.

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

2.1.24 See section 2.1.14 and section 2.2.1 of this Application for information regarding the qualification of directors and officers.

2.1.25 The LLC Agreement provides that a Director shall not be liable under a judgment, decree or order of court, or in any other manner, for a debt, obligation or liability of Refinitiv SEF.

2.1.26 Pursuant to Rule 203(d), each Director and Officer is entitled to indemnification with respect to matters relating to Refinitiv SEF or otherwise relating to Refinitiv. The LLC Agreement specifically provides that Refinitiv SEF will indemnify Directors and Officers against any losses, claims or damages such Directors or Officers may become subject to by reason of the formation, operation or termination of Refinitiv SEF or its affiliates.

2.1.27 Rule 931 provides a general limit to the liability of Refinitiv SEF and its Directors, Officers and employees to \$25,000 for all losses suffered on a single day, \$100,000 for all losses suffered in a month and \$500,000 for all losses suffered in a year.

2.1.28 Rule 202 provides that compensation of the non-executive members of the Board shall not be linked to the business performance of the Refinitiv SEF.

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

2.2.1 Rule 204 sets forth the qualifications for Directors, disciplinary panel members, committee members and Officers. According to Rule 204, an individual may not serve as a Director, or serve on a committee established by the Board or a disciplinary panel if the individual:

- (a) within the prior three years has been found, by a final decision in any action or proceeding brought in a court of competent jurisdiction, the CFTC, or any self-regulatory organization, to have committed a disciplinary offense;
- (b) within the prior three years has entered into a settlement agreement in which any of the findings or, in the absence of such findings, any of the acts charged, included a disciplinary offense;
- (c) is currently suspended from trading on a contract market, is suspended or expelled from membership in a self-regulatory organization, is serving any sentence or probation, or owes any portion of a fine or penalty related to either:

- (i) a finding of a disciplinary offense by a final decision in any action or proceeding brought in a court of competent jurisdiction, the CFTC, or any self-regulatory organization; or
- (ii) a settlement agreement in which any of the findings or, in the absence of such findings, any of the acts charged included a disciplinary offense;
- (d) is currently subject to an agreement with the CFTC or self-regulatory organization not to apply for registration with the CFTC or for membership in the self-regulatory organization;
- (e) is currently, or within the past three years has been, subject to a revocation or suspension of registration by the CFTC;
- (f) has been convicted of a felony listed under the CEA; or
- (g) is currently subject to a denial, suspension or disqualification from serving on a disciplinary committee, arbitration panel or governing board of any self-regulatory organization as that term is defined in the *Securities Exchange Act of 1934*.

2.2.2 Refinitiv SEF's Directors are also subject to fitness standards as set out in the Applicant's Fitness Standards and Director Composition policy. This policy requires that directors must be of good repute and possess skills and expertise to fulfil their responsibilities in overseeing the governance of Refinitiv SEF. They receive sufficient training so they have a clear understanding of their responsibilities, including their fiduciary duty to the company as well as their responsibility to exercise sound judgment about the operations, management, growth and compliance of Refinitiv SEF.

2.2.3 The fitness standards also support the creation of a composition of the Board that provides a diversified set of talents and perspectives. Specifically, the Directors must:

- (a) behave ethically and with integrity in business and in life;
- (b) exhibit independence, objectivity and be capable of serving as a representative of not only the shareholder but also other core constituencies;
- (c) have the availability, commitment and personal qualities to be able to make a substantial active contribution to Board deliberations. These qualities include intelligence, self-assuredness, a high moral standard, inter-personal and communication skills, independence, courage, and a willingness to ask the difficult questions;
- (d) have no prior judgment or regulatory sanction issued against them;
- (e) have experience in the capital or analogous markets and/or in technology;
- (f) have an exemplary reputation and record for honesty in his or her personal dealings and business or professional activity;
- (g) have significant educational and business experience;
- (h) represent the interests of a diversity of members;
- (i) have an appreciation of, and experience with, a regulatory environment sufficient to foster a culture of compliance within Refinitiv SEF; and
- (j) have the ability to develop a good working relationship with other directors and contribute to the Board's working relationship with the senior management of Refinitiv SEF as well as regulators.

2.2.4 To meet the fitness standards, Refinitiv SEF completes a background check and/or has applicants fill out questionnaires.

### 3 REGULATION OF PRODUCTS

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

3.1.1 All products traded on Refinitiv SEF are submitted to the CFTC and are subject to requirements established by CFTC regulations. The addition of new products eligible for trading on the Refinitiv SEF beyond NDFs and FX Options would be subject to the approval of the CFTC.

3.1.2 Refinitiv SEF may also list certain new products, such as a new currency pair for the trading of NDFs and FX Options, through a self-certification process, which requires the Applicant to submit product information electronically to the CFTC the day preceding the new product's listing. The CFTC may request additional information to confirm the new product meets CEA requirements and CFTC regulations.

3.1.3 As an alternative to self-certification, the Applicant can elect to request prior CFTC approval of a new product before listing for trading by submitting a request to the CFTC containing the following:

- a) a properly completed cover sheet;
- b) a copy of the new product's rules, including all rules relating to the new swap's terms and conditions;
- c) an explanation and analysis of the product and its compliance with applicable provisions of the CEA and CFTC regulations, including documentation relied upon to establish the basis for compliance with applicable law;
- d) a description of any agreements or contracts with third parties to support trading of the product on Refinitiv SEF;
- e) a certification that Refinitiv SEF has posted a notice of pending product certification, and a copy of the submission, on Refinitiv SEF's public website; and
- f) any additional evidence requested by the CFTC staff.

3.1.4 The request is submitted electronically to the CFTC and is deemed approved 45 days after receipt unless it is rejected on the grounds that the terms and conditions of the swap violate the CEA or CFTC regulations.

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

3.2.1 Products traded on Refinitiv SEF are currently limited to NDFs and FX Options. The terms and conditions of trading these products are in conformity with the usual commercial customs and practices for trading as described in Refinitiv SEF listings.

3.2.2 For NDFs, the usual commercial customs and practices include:

- Fixing date;
- Settlement procedure;
- Quoting Convention and Trading Increment;
- Minimum Size;
- Forward Rate; and
- Trading Hours.

3.2.3 For FX Options, the usual commercial customs and practices include:

- Option Style - European only;
- Option Type (put or call); and
- Expiration Date and Time.

3.2.4 Refinitiv SEF ensures conformity to these commercial customs and practice for trading by utilizing market standards for reference data and definitions.

**3.3 Risks Associated with Trading Products – The SEF maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange, including, but not limited to, margin requirements, intra-day margin calls, daily trading limits, price limits, position limits, and internal controls.**

3.3.1 Rule 924(a) states that to reduce the potential threat of market manipulation or congestion, the SEF shall adopt for each of the contracts listed on the platform, as is necessary and appropriate, position limitations or position accountability levels for speculators. Refinitiv SEF does not currently have position limits or position accountability levels set for any contract because it has determined that, at this time, setting position limits or accountability levels for contracts on Refinitiv SEF is not necessary and appropriate. This is due to the fact that the contracts do not have a deliverable supply. Instead, the contracts are cash settled and such settlement does not depend on the supply of physical commodities or related securities. Further, the contracts are not subject to minimum position limits under statute or CFTC regulations. The CFTC has not yet imposed any position limits or accountability levels for swaps. Refinitiv SEF will establish appropriate position limits and/or position accountability levels should the CFTC promulgate such limits related to the contracts.

3.3.2 Rule 928 requires pre-execution credit checks to be performed for transactions executed on the Order Book. If the credit check fails, a trade is not permitted.

3.3.3 Rule 929 outlines the Applicant's risk controls for trading. Refinitiv SEF reserves the right to modify, adjust, or cancel any transaction where:

- a) The transaction is unlawful, off market, the result of error, or otherwise incompatible with the Rules, the user agreement, or the efficient and secure operation of Refinitiv SEF, including, but not limited to, excessive electronic traffic sent by any Participant, to Refinitiv SEF.



b) Such action is necessary to mitigate market disrupting events caused by the improper or erroneous use of the platform or by system defects.

c) Allowing the trade to stand as executed may have a material, adverse effect on the integrity of the market.

3.3.4 In addition, the Applicant reserves the right to take any action to reduce the potential of market disruption, including but not limited to, market restrictions that pause or halt trading in market conditions prescribed by Refinitiv SEF if such action is in the best interest of the swap markets.

3.3.5 Lastly, Refinitiv SEF maintains rules applicable during an emergency (the "Emergency Rules", and each an "Emergency Rule"). Pursuant to Rule 209(b), the ROC may adopt Emergency Rules that authorize Refinitiv SEF, the Board, any committee of the Board, the CEO, CCO, or any other Officer to take actions necessary or appropriate to respond to the emergency, including, but not limited to: imposing or modifying position limits, imposing or modifying price limits, imposing or modifying intraday market restrictions, imposing special margin requirements, ordering the liquidation or transfer of open positions in any contract, ordering the fixing of a settlement price, extending or shortening the expiration date or the trading hours, suspending or curtailing trading in any contract, transferring customer contracts and the margin, or altering any contract's settlement terms or conditions, or if applicable, providing for the carrying out of such actions through its agreements with the RSP. These Emergency Rules give Refinitiv SEF the authority to intervene as necessary to maintain markets with fair and orderly trading and to prevent or address manipulation or disruptive trading practices, whether the need for intervention arises exclusively from the Refinitiv SEF market or as part of a coordinated, cross-market intervention.

3.3.6 Under Rule 209(e), Refinitiv SEF is required to use reasonable efforts to notify the CFTC prior to implementing, modifying or terminating any Emergency Rule. Where prior notification is not possible or practicable, Refinitiv SEF is required to notify the CFTC as soon as is possible or reasonably practicable. Under Rule 209(f), any decision to take emergency action shall be documented, and Refinitiv SEF will explain to the CFTC its decision-making process, the reasons for using its emergency authority, and how conflicts of interest were minimized under Rule 209(g).

3.3.7 Refinitiv SEF conducts pre-execution credit checks through an automated system check only for the Order Book because it is an anonymous execution system. A Credit Engine manages credit limits for bilaterally settled contracts. At the start of the trading day, the Credit Engine loads each Participant's credit limits and open positions. The Participant's outstanding credit available with each provider is calculated using a Net Open Position model. Positions are converted to their USD equivalents using the prevailing market rates. Utilization is determined by looking at the greater of the sum of the long or short currency positions netted to the USD. Available credit is adjusted intraday as a result of:

- Executed transactions - the credit needed for the transaction is "reserved" at the time of the check. It is rolled back if the transaction is not completed; and
- Instructions from a provider to change a Participant's limits.

3.3.8 The Order Book trading components transmit requests to the Credit Engine to perform real-time pre-trade credit checks on a trade-by-trade basis. If a potential trade exceeds the limit for one or both counterparties, the transaction is rejected by the Credit Engine.

3.3.9 Refinitiv SEF employs several real-time risk controls to manage and mitigate risks associated with trading. These include:

- **Maximum Order Quantity** - Participants can elect to configure a maximum order quantity to be used for all orders. Participants are blocked from entering orders for amounts that exceed the pre-set quantity through the Order Book GUIs, and through the Order Book API.

- **Order Book Price Bands** - For order book GUI users, there is a global price tolerance in effect. It is 1% from the current best bid or offer. If an order price exceeds the price tolerance, the Participant is prompted with a warning screen. The Participant may override the warning and submit the order at the original price.

3.3.10 As the RFQ trading modalities are fully disclosed (meaning, the counterparties already know how much credit they have with each other), and are currently bilaterally settled, pre-trade credit checks are unnecessary. A provider can reject an order from a client for any reason, including a lack of available credit.

3.3.11 At such time when clearing is mandated for products traded on the Refinitiv SEF, pre-trade clearing checks will be put in place for all trading modalities.

3.3.12 The Refinitiv SEF does not impose margin requirements or intra-day margin calls on its Participants as Refinitiv does not hold funds on behalf of Participants and is not involved with the settlement of trades. As such, each Participant handles its own counterparty risk independently of the Applicant which negates the need for the Applicant to impose any margin-related requirements.

## 4 ACCESS

### 4.1 Fair Access

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

- (i) Participants are appropriately registered as applicable under the Act, or not subject to or exempted from these requirements,**
- (ii) The competence, integrity and authority of systems users, and**
- (iii) Systems users are adequately supervised.**

4.1.1 Refinitiv SEF does not and will not provide direct access to an eligible participant unless the said eligible participant is appropriately registered as applicable under the Act or not subject to or is exempt from the registration requirement under section 7 of the Act and qualifies as an "accredited counterparty" as defined in section 3 of the Act and as an "Eligible Contract Participant", as defined in Section 1a(18) of the CEA and the CFTC's rules and regulations promulgated thereunder.

4.1.2 Refinitiv SEF requires Quebec Participants to notify Refinitiv SEF if their registration under Quebec securities laws has been revoked, suspended, or amended by the AMF, or if they are no longer exempt from or become subject to those requirements. Following notice from the Quebec Participant and subject to applicable laws, Refinitiv SEF promptly withdraws the Quebec Participant's access to Refinitiv SEF if that user is no longer an eligible Quebec Participant.

4.1.3 Refinitiv SEF makes available to Quebec Participants appropriate platform training for each person who has access to trade on Refinitiv SEF.

4.1.4 Refinitiv SEF's access criteria are set out in Rule 301. To be eligible for admission as a Participant, an applicant must demonstrate to the satisfaction of Refinitiv SEF that it:

- a) is an eligible contract participant (**ECP**) (which may be demonstrated through a representation);
- b) is of good reputation and business integrity;
- c) maintains adequate financial resources and credit;
- d) is of the age of majority in the individual's state of residence (if an individual);
- e) is validly organized, in good standing, and authorized by its governing body and, if relevant, documents of organization, to trade any swap, contract, agreement or transaction approved for trading on the Refinitiv SEF (**Contracts**) (if an entity);
- f) has not filed for bankruptcy;
- g) is not prohibited from using the services of Refinitiv SEF for any reason whatsoever;
- h) holds all registrations required under applicable law, including any swap dealer, major swap participant, introducing broker, futures commission merchant, commodity pool operator, commodity trading advisor or associated person registration, as applicable;
- i) is not subject to statutory disqualification under the CEA;
- j) consents to Refinitiv SEF's jurisdiction pursuant to Rule 311; and
- k) satisfies any other criteria that Refinitiv SEF may require from an eligible contract participant.

4.1.5 In addition to the access criteria set out in Rule 301, before giving any person access to the Refinitiv SEF as a Quebec Participant, Refinitiv ensures that it, if applicable:

- a) obtains a written certificate from the person indicating that the person is an accredited counterparty as defined in the DA and an "accredited counterparty" as defined in section 3 of the Act and as an "Eligible Contract Participant", as defined in Section 1a(18) of the CEA and the CFTC's rules and regulations promulgated thereunder;
- b) informs the person that the certificate referred to above shall be deemed to be fully binding each time the person performs a trade or enters an order, requests a quote or answers a request for a quote;
- c) is immediately notified by the person when such person is no longer a Quebec Participant;
- d) obtains a written confirmation from the person that the appropriate clearing arrangements for the clearing and the settlement of each of the transactions on the Refinitiv SEF have been implemented;
- e) obtains confirmation from the person that the entity responsible for the clearing or the settlement of a transaction performed by that person on the Refinitiv SEF of which it is a member is duly recognized or exempt from being recognized as a clearing house or settlement system in Quebec by the AMF;
- f) obtains confirmation from the person that such person will act on its own behalf, unless the person is a dealer or an advisor duly registered under the Act or exempt from those requirements; and

g) obtains confirmation from the Investment Industry Regulatory Organization of Canada (**IIROC**) that the person who is a dealer-member of IIROC complies with IIROC regulations.

4.1.6 If a Quebec Participant's status changes, such Quebec Participant must immediately notify Refinitiv SEF of such change. At all times once admitted, a Quebec Participant must continue to comply with the Rule 301 eligibility criteria.

4.1.7 Pursuant to Rules 504, 507 and 510, Refinitiv SEF receives certain financial and related information from members. The NFA periodically reviews Quebec Participants' financial information as it deems appropriate to ensure that they continue to qualify as ECPs.

4.1.8 Rule 406 stipulates that Refinitiv SEF monitor trading on the platform in order to prevent manipulation, price distortion, and disruptions of the delivery or cash settlement process through surveillance, compliance, and disciplinary practices and procedures, including through the real-time monitoring of trading, and comprehensive trade reconstruction.

4.1.9 Refinitiv SEF supervises participants of the system through its utilization of the NFA's surveillance system, NFA Participant audits, and daily real-time monitoring by Refinitiv SEF using email alerts (i.e. Bank Connectivity Alerts, Offer to Deal Timeout, Failed Database Insert Notifications, and Dealfeed-DTCC Submission Rejects) and support tools (i.e., Relationship Trading Trade and Event Viewers, Market Data Snapshot Viewer and Dealfeed Viewer).

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

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

4.1.10 Refinitiv SEF provides fair, open and impartial access to the SEF. Accordingly, the application process, as set out in Rule 302, is documented and the same for all applicants. Any person who desires to become a Participant must:

- a) enter into a user agreement or SEF addendum;
- b) agree to abide by the Rules and applicable law;
- c) provide such information and documentation as may be requested by Refinitiv SEF pertaining to the Participant or the Participant's clients if the Participant is an account manager, and follow the procedures established by Refinitiv SEF for admission; and
- d) if the Participant is organized or located outside of the United States, enter into a written agreement acceptable to Refinitiv SEF appointing a third party as its U.S. agent for service of process, and shall provide Refinitiv SEF with a copy of the agreement.

4.1.11 Refinitiv SEF reviews eligibility determinations in conjunction with the Rules so as to prevent unfair discrimination among Participants. In considering an application from a potential Participant, Refinitiv SEF may require additional information from the applicant, or conduct an investigation to verify information submitted by the applicant, or both. In determining whether to admit an applicant as a Participant, Refinitiv SEF will evaluate, among other things, the applicant's disciplinary history and financial and operational soundness. Refinitiv SEF may deny, condition or terminate the Participant status of any person:

- a) If such person is unable to satisfactorily demonstrate its ability to satisfy the eligibility criteria to become or remain a Participant;
- b) If such person is unable to satisfactorily demonstrate its capacity to adhere to all applicable Rules;

c) If such person would bring Refinitiv SEF into disrepute as determined by Refinitiv SEF in its sole discretion; or,

d) for such other cause as Refinitiv SEF may reasonably determine.

4.1.12 If Refinitiv SEF decides to decline or condition an application for admission as a Participant, or terminate a person's status as a Participant, it promptly notifies such person (the **Affected Person**). Such Affected Person may, within seven calendar days, request in writing that Refinitiv SEF provide the reasons for the denial, conditioning or termination of Participant status. Within fourteen calendar days after receiving such written request, Refinitiv SEF sends a written response to the Affected Person setting forth the reasons for the denial, conditioning or termination. Within fourteen calendar days of receiving Refinitiv SEF's written response, the Affected Person may request in writing that the Board reconsider the determination pursuant to Rule 302.

4.1.13 Within twenty-eight calendar days of receiving any request for reconsideration, the Board either confirms, reverses or modifies the denial, conditioning or termination of the Affected Person as a Participant, and promptly notifies the Affected Person accordingly in writing. The Board may, within its discretion, schedule a hearing (in-person or by teleconference); request additional information from the Affected Person; or, establish any other process that it believes is necessary and appropriate to consider the request for reconsideration. The Board's decision is final and is not subject to appeal.

4.1.14 Refinitiv SEF continuously monitors participants to ensure they satisfy requirements. The Market Regulation Department (**MRD**) reviews regulatory and industry alerts daily for information regarding disciplinary actions taken against any SEF participants. Participant Legal Entity Identifiers (LEIs) are checked routinely with the Global Markets Entity Identifier (GMEI) Portal to ensure that all entity representations regarding Legal Entity Identifiers and domicile made on original onboarding documentation are accurate and up to date.

**(d) The exchange does not**

- a. permit unreasonable discrimination among participants, or**
- b. impose any burden on competition that is not reasonably necessary and appropriate.**

4.1.15 Refinitiv SEF's Rules and business plan are designed to avoid unreasonable restraints of trade or the imposition of any material anticompetitive burden on trading, as do the specifications for each contract approved for trading on the platform. In particular, access to the platform does not require the acquisition of any equity interest and is available to a broad range and potentially unlimited number of Participants, on a fair, equitable and timely basis.

4.1.16 The Refinitiv SEF Order Book and RFQ platforms both permit Participants to interact and trade with any other Participant with whom they have a credit arrangement for uncleared swaps.

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

4.1.17 Refinitiv SEF's MRD keeps records of the membership process for each applicant. The MRD reports to the SEF CCO, who oversees the monitoring, surveillance and other enforcement functions of Refinitiv SEF with the support of the MRD. The MRD consists of Refinitiv SEF staff supported by NFA personnel. Refinitiv SEF has contracted with the NFA, its designated RSP, to perform many of Refinitiv SEF's trading and market surveillance, audit and investigatory functions. The MRD supervises the effectiveness of the services provided by the NFA and has authority to investigate matters within its jurisdiction.

4.1.18 Refinitiv SEF's MRD can initiate an investigation upon the receipt of a request from the CFTC or upon the discovery or receipt of information that, in the judgment of the MRD, indicates a possible basis for finding that a violation has occurred or will occur.

4.1.19 Records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access, are kept for a period of seven years.

## 5 REGULATION OF PARTICIPANTS ON THE EXCHANGE

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

### 5.1 Members and other participants are required to demonstrate their compliance with these requirements

5.1.1 Refinitiv SEF is a self-regulatory organization and, consequently, imposes certain self-reporting obligations on Participants.

5.1.2 All Participants accessing, entering any orders or submitting any Contracts in the platform agree: (1) to be bound by, and comply with, the Rules; (2) to become subject to the jurisdiction of Refinitiv SEF; (3) to permit the NFA to access any and all information relevant to activities related to Refinitiv SEF business; and (4) to assist Refinitiv SEF in complying with its legal and regulatory obligations (including through cooperation with Refinitiv SEF and the CFTC in any inquiry and investigation).

5.1.3 Chapter 5 of the Rules sets forth the obligations of Participants, which includes certain disclosure obligations to Refinitiv SEF. Under Rule 503, Refinitiv SEF may, directly or through the NFA: (1) inspect a Participant's systems, equipment and software; (2) access a Participant's systems, equipment, software or premises; and (3) copy or reproduce certain Participant data. Additionally, under Rule 205(d), the CCO may, directly or through the NFA, inspect the books and records of any Participant or require any Participant to appear before him or her and produce its books and records and answer questions regarding alleged violations of the Rules.

5.1.4 The Rules establish compliance with the rules of Refinitiv SEF, including, but not limited to: (1) the terms and conditions of any swaps traded or processed on or through Refinitiv SEF; (2) access rules for Refinitiv SEF; (3) trade practice rules; (4) audit trail requirements; (5) disciplinary rules; and (6) mandatory trading requirements.

5.1.5 As stated in Rule 207, the ROC has the authority to monitor Refinitiv SEF's regulatory program for sufficiency, effectiveness and independence, and to oversee all facets of Refinitiv SEF's regulatory program. Subject to the oversight of the ROC, the CCO oversees the monitoring, surveillance and other enforcement functions of Refinitiv SEF with the support of the MRD. Refinitiv SEF has contracted with the NFA, its designated RSP, to perform many of Refinitiv SEF's trading and market surveillance, audit and investigatory functions in accordance with Rule 212. The MRD supervises the effectiveness of the services provided by the NFA.

5.1.6 As stated in Rule 406 (Monitoring of Trading and Trade Processing), Refinitiv SEF, with the assistance of the NFA, monitors trading on the platforms in order to prevent manipulation, price distortion, and disruptions of the delivery or cash settlement process through surveillance, compliance, and disciplinary practices and procedures, including through the real-time monitoring of trading through comprehensive trade reconstruction. Refinitiv SEF's technology collects, arrays and transmits bid, offer and other data to the NFA. For real-time trade

monitoring, Refinitiv SEF has an automated system in place to detect market anomalies and potentially manipulative behaviour. In addition, Refinitiv SEF coordinates with the NFA to ensure that such real-time monitoring is integrated with the NFA's T+1 surveillance of manipulative trade practice (for example, front-running, wash trading, pre-arranged trading, fraudulent trading, money passes).

5.1.7 In addition to surveillance and market monitoring, the NFA assists with: conducting inquiries, investigations, disciplinary proceedings and appeals from disciplinary proceedings, summary imposition of fines and summary suspensions.

5.1.8 Chapter 10 of the Rules sets forth Refinitiv SEF's disciplinary and enforcement process, which includes steps to inquire into, investigate, adjudicate and sanction potential rule violations within the disciplinary jurisdiction of Refinitiv SEF. The authority of the MRD to investigate matters within its jurisdiction and the obligations of each Participant to cooperate with such investigations are set forth in the Rules.

5.1.9 In certain circumstances, emergency disciplinary actions may be required that do not conform to the full set of procedures provided for in Chapter 10 of the Rules. Such disciplinary actions (including suspensions) may be conducted under Rule 1014 when the CCO reasonably believes that such emergency disciplinary action is necessary to protect the public or the best interests of Refinitiv SEF.

5.1.10 Currently, all swaps traded on Refinitiv SEF are uncleared. There is no mandate for FX swaps to be cleared. On an ongoing basis, Refinitiv SEF monitors the CFTC notifications regarding any further mandates to clear swaps.

5.1.11 Trade reporting is handled the same way for all trading modalities. A separate trade reporting server receives the trade data in real-time, formats them, and sends them to the SDR.

5.1.12 Refinitiv SEF contracts with the NFA to monitor trade practice violations on a T+1 basis. The NFA on a daily basis looks at generated exception reports designed to identify various types of potential trading abuses and other anomalous trading activity. The types of exceptions noted include, among others, those abuses prohibited by the CFTC including: front-running, wash trading, pre-arranged trading, fraudulent trading, money passes, manipulative trading, disruptive trading, trading ahead of customer orders, trading against customer orders, accommodation trading, and improper cross trading, and any other trading practices that a SEF deems to be abusive. The NFA also monitors trading as it occurs and may contact the SEF's Help/Control Desk in instances that are identified to warrant contacting the Participant. In the event that a suspicious trade is detected, the NFA raises it to Refinitiv SEF and Refinitiv SEF makes the decision regarding whether further investigation is necessary.

5.1.13 The MRD reviews SEF activity daily and regularly tracks and updates disciplinary history, trader authorizations, and legal entity information of its participants. The MRD also tracks any reporting issues, system incidents or outages, and receives weekly reports regarding canceled and amended SEF trades. All trading exceptions discovered by either the MRD or NFA under MRD oversight are sent to the CCO for review. The MRD receives alerts for service disruptions and new regulatory or reporting requirements/specifications and informs the CCO upon receipt of such.

5.1.14 Refinitiv SEF Order Book has an off-market alert system. This is a post-trade process that automatically notifies Trading Operations staff whenever a transaction has overstepped a pre-defined bid-offer spread. Operations staff has the ability to define the acceptable bid-offer spread for any transaction, and when this spread is found to have been violated by an executed trade, an email alert is generated and broadcast to Trading Operations staff. This capability gives the Trading Operations staff a proactive method for detecting off-market transactions rather than relying solely on counterparties to report such trades.

5.1.15 The MRD is in regular communication with NFA staff assigned to monitor Refinitiv SEF activity. The NFA monitors trading as it occurs on a T+1 basis; the MRD oversees this. There is an Incident Management Log that Refinitiv SEF MRD has access to via the NFA Portal. If a potential exception is detected by the NFA, they indicate this in the Incident Management log and alert the MRD. The MRD reviews internally to determine whether Refinitiv SEF has additional information about the incident. If an explanation can be found for the exception or pattern of activity in question, the MRD informs the NFA of such. If the activity remains suspicious in nature after the MRD investigates, the MRD would then ask the NFA to investigate further. Both the MRD and NFA (under MRD authority) may take disciplinary action against a participant for improper trading practices.

5.1.16 The Refinitiv SEF MRD work closely with the NFA to review and vet the NFA surveillance alerts and processes. To date, no major customizations have been needed to the NFA surveillance system to handle Refinitiv SEF trading modalities. Refinitiv SEF staff and the NFA hold regular update calls to discuss any data issues that arise and may impact NFA surveillance processes.

## 6 RULEMAKING

### 6.1 Purpose of Rules

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

6.1.1 Refinitiv SEF maintains a comprehensive set of rules and policies designed to govern the operation of the SEF. Chapter 5 of the Rules lays out the obligations of Participants on Refinitiv SEF. Chapter 9 includes the Rules governing trading practices and conduct. The Rules do not impose an unreasonable, unnecessary or inappropriate burden on competition.

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

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

6.1.2 The Rules are designed to ensure compliance with applicable law.

6.1.3 Pursuant to Rule 205(a)(1), the CCO is obligated to oversee and review Refinitiv SEF's compliance with the CEA and any regulations adopted by the CFTC.

6.1.4 Refinitiv SEF must comply with CFTC Regulations - Part 37, along with recordkeeping and reporting requirements for CFTC Regulations - Parts 43 and 45. Refinitiv SEF must also comply with section 5h of the CEA. Refinitiv SEF has various daily and weekly reviews performed by the MRD that enable the CCO to review and oversee the SEF's compliance with key regulations. The MRD reviews SEF activity and Participant information regularly. The MRD is in communication with the NFA with respect to monitoring SEF activity and any potential exceptions they may find.

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

6.1.5 Rules 905 through 910 prohibit Participants from engaging in fraudulent or manipulative acts.

6.1.6 Pursuant to Chapter 9 of the Rules (Trading Practices and Business Conduct), Participants are prohibited from engaging in the following fraudulent and manipulative practices:



- a) Fraudulent acts, whereby no Participant shall engage in any fraudulent act or engage in any scheme to defraud, deceive, trick, or mislead in connection with or related to any SEF activity.
- b) Fictitious, wash, or non-competitive transactions, whereby no Participant shall create, place or accept fictitious transactions, wash transactions, or non-competitive transactions except, in the case of non-competitive transactions, as otherwise authorized by the Rules, or execute any such order with knowledge of its nature as a fictitious transaction, wash transaction, or non-competitive transaction. Participants are prohibited from placing or accepting to buy and sell orders in the same Unique Swap Identifier, where the person knows or reasonably should know that the purpose of the orders is to avoid taking a bona fide market position exposed to market risk. Buy and sell orders for different accounts with common beneficial ownership that are entered with the intent to negate market risk or price competition shall also be deemed to violate the prohibition on wash transactions. Additionally, no person shall knowingly execute or accommodate the execution of such orders by direct or indirect means.
- c) Market disruptions, whereby orders entered into the platform for the purpose of upsetting the equilibrium of the market in any contract or creating a condition in which prices do not or will not reflect fair market values are prohibited, and any Participant who makes or assists in entering any such order with knowledge of the purpose thereof or who, with such knowledge, in any way assists in carrying out any plan or scheme for the entering of any such order, will be deemed to have engaged in an act detrimental to the SEF.
- d) Market manipulation, whereby no participant shall directly or indirectly manipulate or attempt to manipulate the market in any contract, the price of any swap, or of any contract in interstate commerce.
- e) Disruptive trading practices, whereby no Participant shall engage in any trading practice or conduct that constitutes a disruptive trading practice which includes, but is not limited to, engaging in conduct that violated bids or offers, or, is of the character of, or is commonly known to the trade as, "spoofing".
- f) Abusive trading practices, whereby no Participant shall engage in any abusive trading practice, including front-running, wash transactions, pre-arranged trading (except with regard to block trades), fraudulent trading or money passes.
- g) Misstatements, whereby no Participant shall make any knowing misstatement of a material fact to the SEF, any SEF official, any Board of Directors committee or SEF panel, or the Regulatory Services Provider.
- h) Acts detrimental to the welfare of the SEF, whereby no Participant shall engage in any act that is detrimental to the SEF.
- i) Adherence to law, whereby no Participant shall engage in conduct that is a violation of the CEA or CFTC Regulations.
- j) Misuse of the platform, whereby it shall be deemed an act detrimental to the SEF to permit unauthorized use of the platform, to assist any Person in obtaining unauthorized access to the platform, to trade on the platform without a User Agreement, to alter the equipment associated with the platform (except with the SEF's consent), to interfere with the operation of the platform, to intercept or interfere with information provided thereby, or in any way to use the platform in a manner contrary to the Rules.

k) Withholding orders, whereby any Participant entering orders on the platform shall not withhold or withdraw from the market any order, or any part of an order, for the benefit of any Person other than for the customer for whom the Participant is placing the order.

l) Priority of customers' orders, whereby no Participant shall enter an order into the platform for his own account, an account in which he has a direct or indirect financial interest or an account over which he has discretionary trading authority, including, without limitation, an order allowing discretion as to time and price, when such Participant is in possession of any unsubmitted customer order based on the same contract and with the same fixing date or expiration date and that the platform is capable of accepting.

m) Handling of customers' orders, whereby no Participant in possession of a customer order shall knowingly trade ahead of a customer order or take, directly or indirectly, the opposite side of such order for its own account, an account in which it has a direct or indirect financial interest, or an account over which it has discretionary trading authority; and whereby no Participant in possession of a customer order shall engage in accommodation trading or improper cross-trading (except for Block Trades or the 15-Second Rule conducted in accordance with Rule 602 and 920, respectively).

n) Disclosing orders, whereby no Participant shall disclose another customer's order to buy or sell except to a designated SEF Official or the CFTC, and no Participant shall solicit or induce another Participant to disclose order information. No person shall take action or direct another to take action based on non-public order information, however acquired. The mere statement of opinions or indications of the price at which a market may open or resume trading does not constitute a violation.

o) Pre-arranged and non-Competitive trades, whereby no Person shall pre-arrange any purchase or sale or noncompetitively execute any transaction, except in accordance with certain exception(s) and other Rules.

p) Discretionary orders, whereby no Participant shall submit a discretionary order to the platform for any account of another person, without the prior specific written consent of such other person to the exercise of such discretion.

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

6.1.7 Pursuant to Rule 501, each Participant must observe high standards of integrity, market conduct, commercial honour, fair dealing, and just and equitable principles of trade while conducting or attempting to conduct any activities on Refinitiv SEF. Pursuant to Rule 904, it is a violation for a Participant to violate any Rule or any agreement made with Refinitiv SEF, or to engage in fraud, dishonourable or dishonest conduct, or in conduct which is inconsistent with just and equitable principles of trade.

6.1.8 Refinitiv SEF has numerous personnel and systems controls in place to ensure the duties of and responsibilities of participants are monitored. The MRD reviews SEF trading activity daily. The Refinitiv SEF onboarding team follows specific guidelines when performing client onboarding and setup. The NFA performs T+1 surveillance of the daily SEF trading activity of participants. The NFA performs a recordkeeping audit trail exam of participants. The MRD reviews disciplinary actions taken against participants by other SROs, reviews news regarding participants, and the operations team performs real-time monitoring.

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

6.1.9 Pursuant to Rule 211, Refinitiv SEF may enter into information-sharing agreements or other arrangements or procedures to coordinate surveillance with other markets on which financial instruments related to the Contracts trade.

6.1.10 Refinitiv SEF has not entered into any information-sharing agreements or other arrangements or procedures to coordinate surveillance with other markets.

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

6.1.11 Chapter 7 of the Rules sets out the procedures for investigations, sanctions and appeals.

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

6.1.12 The Rules provide the framework for ensuring a fair and orderly market. Pursuant to Rule 907, orders entered into the platform for the purpose of upsetting the equilibrium of the market in any Contract or creating a condition in which prices do not or will not reflect fair market values are prohibited, and any Participant who makes or assists in entering any such order with knowledge of the purpose thereof or who, with such knowledge, in any way assists in carrying out any plan or scheme for the entering of any such order, will be deemed to have engaged in an act detrimental to Refinitiv SEF.

6.1.13 In the event of an emergency, Rule 209 provides for Emergency Rules (as previously described in Section 3 of this Application) granting the Applicant authority to intervene as necessary to maintain markets with fair and orderly trading and to prevent or address manipulation or disruptive trading practices, whether the need for intervention arises exclusively from the Refinitiv SEF market or as part of a coordinated, cross-market intervention.

## **7 DUE PROCESS**

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

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

7.1.1 Section 5 and section 12.2 of this Application provide information on Refinitiv SEF's disciplinary and enforcement process, generally.

7.1.2 Rule 302 sets out the procedure for an Affected Person when Refinitiv SEF decides to decline or condition an application for admission as a Participant, or terminate a person's status as a Participant. This procedure is previously described in Section 4 of this Application.

7.1.3 Pursuant to Rule 1005 (Notice of Charges), Rule 1006 (Answer to Notice of Charges), Rule 1007 (Settlements), Rule 1008 (Respondent Review of Evidence), Rule 1009 (Hearings), and Rule 1010 (Decision of Hearing Panel), parties are given an opportunity to be heard or make representation and to review the decisions of TR SEF.

7.1.4 Pursuant to Rule 1005 (Notice of Charges), if the review panel determines that a reasonable basis exists for finding a violation and adjudication is warranted, it must direct that the person or entity alleged to have committed the violation be served with notice of charges, which the Refinitiv SEF MRD will prepare and serve. Such a notice will state the acts, conduct,

or practices in which the respondent is alleged to have engaged, the rule(s) alleged to have been (or about to be) violated, and advise the respondent that he is entitled to a hearing upon request. Upon being served with a notice of charges, a respondent will have the right to be represented by legal counsel or any other representation of its choosing in all succeeding stages of the disciplinary process.

7.1.5 Pursuant to Rule 1006 (Answer to Notice of Charges), if the respondent determines to answer a notice of charges, the respondent must (in writing) specify the allegations they deny or admit, specify the allegations they do not have sufficient information to deny or admit, specify any specific facts that contradict the notice, any affirmative defenses to the notice, and sign and serve the answer to the CCO. Any failure by the respondent to timely serve an answer to a notice, to answer one or more allegations in a notice, and any allegations in a notice that the respondent fails to expressly deny, will all be deemed to be an admission to those allegations. If a respondent admits to allegations through such a failure to respond, the Hearing Panel will impose appropriate sanctions, prior to which the Hearing Panel will notify the respondent in writing and advise respondent that it may request a hearing on such a sanction within a specified period of time. If such a hearing is not requested within 20 days of being served with such notice, the respondent will be deemed to have accepted the sanction.

7.1.6 Pursuant to Rule 1007 (Settlements), a respondent or potential respondent may at any time propose in writing an offer of settlement related to anticipated disciplinary proceedings, which should contain proposed findings and sanctions and be signed by the respondent or potential respondent. Disciplinary proceedings may be settled without the admission or denying of findings contained in the order of the disciplinary proceedings, but must accept the jurisdiction of the Refinitiv SEF over it and over the subject matter of the proceedings. After an offer of settlement is received, if the MRD and Hearing Panel agree to accept the offer of settlement, the offer shall be accepted and the Hearing Panel will issue a written decision specifying the rule violations it has a reason to believe were committed and any sanctions to be imposed, including full customer restitution where customer harm is demonstrated. Once the offer of settlement is accepted by the Hearing Panel, the respondent's submission of the offer will be deemed to constitute a waiver of the right to notice, opportunity for a hearing and review, as well as appeal under the Rules. If the offer of settlement is not accepted or is withdrawn by the respondent or potential respondent, the matter will proceed as if the offer had not been made.

7.1.7 Pursuant to Rule 1008 (Respondent Review of Evidence), respondents will be given the opportunity to review all books, records, documents, papers, transcripts of testimony and other tangible evidence in possession or under control of the Refinitiv SEF that the MRD will use to support the allegations and proposed sanctions in the notice of charges. No respondent will have the right to view, and the Refinitiv SEF will have no obligation to disclose, any information protected by attorney-client privilege. Information which could adversely affect the competitive position of the person providing the information, or if such information might compromise other investigations being conducted by the MRD, the MRD may redact, edit, or code such information before furnishing it to the respondent. Notwithstanding the foregoing, the MRD will not redact, edit, or code competitive or investigative information contained in documents in a manner that would impair the respondent's ability to defend against the allegations or proposed sanctions in the notice of charges.

7.1.8 Pursuant to Rule 1009 (Hearings), hearings shall be fair, conducted before members of the Hearing Panel, and shall be promptly convened after reasonable notice to the respondent. The Hearing Panel shall consist of no fewer than three members, who shall be appointed by the CCO or the NFA. Each Hearing Panel shall represent the interests of a diversity of Participants so as to ensure fairness and to prevent special treatment or preference for any Person in the conduct of the Hearing Panel's responsibilities, and shall consist of at least one individual who is not an employee of Refinitiv SEF, a member of the NFA, an employee of a member of the NFA, or an employee of the NFA. No member of the Refinitiv SEF MRD or person involved in adjudicating any other stage of a proceeding shall participate in a Hearing Panel for such proceeding.

7.1.9 After reasonable notice to each respondent, the Hearing Panel will promptly convene a hearing to conduct the disciplinary proceedings with respect to such respondent. Parties include each respondent and the MRD. The chair of the Hearing Panel may continue, adjourn, or otherwise conduct the hearing as he or she may deem appropriate, and will determine all procedural and evidentiary matters (including the admissibility and relevance of any evidence proffered). Once admitted during the hearing, the Hearing Panel may consider, and attach the weight it believes appropriate to, evidence or other materials. The Hearing Panel may summarily impose sanctions on any Participant that impedes or delays the progress of a hearing, and no interlocutory appeals of rulings of any Hearing Panel or chair of Hearing Panel are permitted.

7.1.10 Pursuant to Rule 1010 (Decision of Hearing Panel), Hearing Panels will issue written orders rendering their decisions based on the weight of the evidence contained in the record of the disciplinary proceedings as promptly as reasonable after a hearing. A decision by a majority of the Hearing Panel will constitute the decision of the Hearing Panel. The Chief Compliance Officer will serve a copy of the order of the disciplinary proceedings on the respondent and the MRD. The order will include the notice of charges or summary of allegations, the answer, if any, or a summary of the answer, a summary of evidence introduced at the hearing or, where appropriate, incorporation by reference of the investigation report, findings of fact and conclusions concerning each allegation, each specific Rule and provision of applicable law that the respondent is found to have violated, and the imposition of sanctions, if any, including the basis for such sanctions and the effective date of each sanction.

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

7.1.11 Pursuant to Rule 403(a), Refinitiv SEF maintains complete and accurate books and records of all activities relating to the business of Refinitiv SEF, including investigatory files, disciplinary files, and all books and records required to be maintained pursuant to the CEA and CFTC regulations.

7.1.12 Section 13.1 of this Application provides additional information regarding record keeping.

7.1.13 Pursuant to Rule 1101 (Disputes Subject to Arbitration), the following may be submitted for arbitration through the National Futures Association Arbitration Program:

a) claims of a Customer or Client that is not a Participant against a Participant that relate to or arise out of any Transaction on or subject to the Rules, including any disputes brought under Rule 922(a);

b) at the discretion of the CCO, any claim involving the interests of the SEF, its Participants, their business relations or trading in general not otherwise arbitrable under these rules, provided the parties have consented to such arbitration.

7.1.14 Quebec Participants are subject to the same rules and regulations as all other participants.

7.1.15 Pursuant to Rule 1012, an appeal of a suspension, expulsion, disciplinary or access denial action, or other adverse action, including summary actions imposed by the Refinitiv SEF pursuant to the Rules may be taken pursuant to Part 9 of the CFTC Regulations. If an applicant has been refused access or granted access subject to appeal, the applicant may appeal to the Board pursuant to Rule 302.

## 8 CLEARING AND SETTLEMENT

### 8.1 Clearing Arrangements

The exchange has or requires its participants to have appropriate arrangements for the clearing and settlement of transactions for which clearing is mandatory through a clearing house.

### 8.2 Risk Management Clearing House

The exchange has assured itself that the clearing house has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls.

Refinitiv SEF does not facilitate the trading of anything subject to mandatory clearing, so this section is not applicable.

## 9 SYSTEMS AND TECHNOLOGY

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

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

9.1.1 Refinitiv SEF has outsourced the development, support, and operation of its platform to FXall. All policies, procedures, and services performed by FXall are performed as part of the Master Services Agreement (**MSA**) between FXall and Refinitiv SEF.

9.1.2 FXall is subject to all of Refinitiv's policies and standards of business conduct, ethics, and operations/governance, all of which ultimately fall within the scope of the Refinitiv Regulatory Compliance Group (the **Compliance Group**). The Compliance Group reports to the Refinitiv CCO and also has reporting responsibilities to the Internal Audit Committee Chair and General Counsel. The Compliance Group monitors, assesses and analyses organizational risks and controls and performs reviews and confirms compliance with policies and standards. The

Compliance Group also provides assurance that key internal controls are designed and operating properly, performs financial and operational reviews, tests key financial application implementations, and performs anti-money laundering investigations and awareness activities.

9.1.3 Refinitiv SEF contracts with the NFA to monitor trade practice violations on a T+1 basis. The NFA looks at generated exception reports designed to identify various types of potential trading abuses and other anomalous trading activity on a daily basis. The types of exceptions noted include, among others, those abuses prohibited by the CFTC including: front-running, wash trading, pre-arranged trading, fraudulent trading, money passes, manipulative trading, disruptive trading, trading ahead of customer orders, trading against customer orders, accommodation trading, improper cross trading, and any other trading practices that a SEF deems to be abusive. In the event that a suspicious trade is detected, the NFA raises it to Refinitiv SEF and Refinitiv SEF makes the decision regarding whether further investigation is necessary.

9.1.4 FXall maintains controls used to ensure the proper function, adequate security and capacity of automated trading systems and related systems such as those used for dissemination of market data and recording and safe storage of audit trail information. These controls include periodic, objective testing and the review of automated systems to ensure that these systems are reliable, secure and have adequate scalable capacity.

9.1.5 FXall adopts principles and elements of practice from industry IT control and risk management frameworks, including based on the ISO 27001 framework to manage the business risks arising from the use of information technology and change management in support of our critical business processes.

9.1.6 The Technology Group is guided by the following principles in assessing and managing IT risks:

- IT risk decisions are made after examining each situation in consideration of overall enterprise-wide risk management; and
- the IT risk management program relies on representatives from each region and business area that share in performance, accountability and ownership.

9.1.7 The IT risk management program strives to:

- protect FXall systems and customer information at a level commensurate with its value;
- enable secure access to information resources;
- collaborate with FXall business management team to nurture a strong culture of IT risk management; and
- comply with corporate information security policies, standards and relevant regulations.

9.1.8 The compliance function of the Corporate Compliance and Audit Group provides assurance that key internal controls are designed and operating properly for business processes.

9.1.9 IT compliance function targets environments including critical business environments, business applications, information systems and networks. The Refinitiv IT compliance role is part of the Cyber Security & Risk Management function, which reports to the CISO and regularly provides input reporting to the FXall Risk Committee. The FXall Information Security Office employs dedicated experienced staff with certifications from the International Information System

Security Certification Consortium (ISC<sup>2</sup>). In the course of performing audits, FXall also contracts an independent and licensed CPA and PCAOB registered firm for the audit of Service Organization Controls (**SOC**). The scope of the audits includes:

- SOC 1 examination assesses the internal control over financial reporting; and
- SOC 2 reports information and the CPA firm's opinion about controls relevant to security, availability, processing integrity, confidentiality and privacy.

9.1.10 Regularly scheduled internal audits include the access recertification process for all critical systems. Findings from audits are tracked to resolution.

**9.2 System Capability/Scalability - Without limiting the generality of section 9.1, for each of its systems supporting order entry, order routing, execution, data feeds, trade reporting and trade comparison, the exchange:**

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

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

9.2.1 In order to ensure adequate capacity and performance planning, FXall employs a process of determining the production capacity needed using theoretical extrapolations and design and hardware selection and then performing ad-hoc reviews of the compiled underlying archives of data. Where there are indications that established thresholds are being exceeded (additional resources are typically triggered at 50% of capacity at face value), the results and remediation are reported to the FXall operating committee. Refinitiv SEF undertakes capacity stress tests to ensure systems can adequately process transactions.

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

9.2.2 FXall uses an industry leading commercial Vulnerability Management (**VM**) protocol to help automate the lifecycle of network auditing and VM. Network perimeter unauthenticated scans are performed weekly on all external facing IP addresses for the FXall data centers and offices. Each time a scan is run, reports are generated to identify vulnerabilities. This serves for tracking remediation. High severity or high risk vulnerabilities are flagged and targeted to be remediated as priority. For lower severity vulnerabilities, reports are distributed to security personnel in various infrastructure groups to review, track, and remediate where practical and provided there is no adverse business impact. Interior network authenticated scans are scheduled to be performed quarterly on hosts in the data center.

9.2.3 In the event of a physical or natural disaster, the data center facility has contingencies in place to keep the infrastructure functioning, despite potential disruptions such as lengthy power outages. To maintain power availability, high-capacity, redundant generators are utilized that guarantee power availability even during regional power outages. In addition, the data centers are built on raised floors and have high-volume, zoned temperature and humidity control systems which are monitored on a 24/7 basis. Redundant HVAC units are employed with emergency electrical systems to maintain availability. The fire suppression system utilized in the data centers is built around the VESDA (**Very Early Smoke Detection Apparatus**) detection system - a state-of-the-art "sniffer" system that detects smoke from the earliest stages of combustion. Finally, leak detection is built into the data center's building automation/management system.



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

9.2.4 FXall utilizes Synopsis service to perform application security penetration tests and code review. The objectives of the review are to find security vulnerabilities, validate the proper use of security mechanisms, and evaluate the use of best practices in the application. Synopsis uses a combination of source code analysis and manual penetration testing to identify the issues in the application. Synopsis analyzes the application's security mechanisms for architecture, implementation, and configuration issues. In addition, Synopsis searches the application for vulnerabilities common to similar applications.

9.2.5 FXall is using the Veracode service for application security scans to identify security flaws using automated static, automated dynamic security analysis techniques. FXall has integrated Veracode security review into its Software Development Life Cycle (**SDLC**) to improve security posture. From the application security scans, identified risks ranked high and above are prioritized for remediation and require a security re-scan to validate the fixes. The vulnerability findings are reviewed and validated by security personnel, distributed to system owners as appropriate and material risk items are tracked for remediation through the trouble ticketing system. Issues with a medium risk or below are remediated after the threat has been reviewed, and no adverse business impact determined.

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

9.2.6 FXall maintains control over the configuration of its IT system and applications through a defined set of processes and procedures. A tool is used to maintain the process of inventory information gathering. Information gathered includes hardware attributes (manufacturer, model, serial number, processor, and memory), software attributes (operating system, version number, patch and/or release level), and operational information (system hostname, network interfaces, IP addresses). The inventory information is regularly archived.

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

9.2.7 FXall adopts compliance requirements and industry standard SDLC concepts and practices. The development team is responsible for system design and development. Upon completion, the development team performs full functional testing of the system before formally handing it over to the Quality Assurance Team (the **QA Team**). The QA Team reviews the system upon formal hand-over from the development team. If acceptable to the QA Team, the system is subject to the team's own independent testing. QA testing focuses on functionality, ~~security~~ and performance. Issues uncovered during QA are documented and tracked for resolution. Additionally, where there is a regulatory requirement being included in the software update, the Compliance Group also performs a review and approval.

9.2.8 Upon passing QA, the system is promoted to Refinitiv SEF's integration environment where it is subject to extensive user acceptance testing and change management processes. The application support team, a part of the trading operations department, determines when the system under testing in the integration environment is ready for production release with formal sign-off in a controlled (and where possible, staggered) manner. Once the system has been deployed in the integration environment, the scope of the release is assessed to determine the level of user acceptance testing required in this environment (i.e. user acceptance testing period, the readiness for production deployment) before the release is ready to move to production.

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

9.2.9 Refinitiv SEF maintains a Business Continuity and Disaster Recovery (**BC-DR**) plan. The FXall information security team monitors changes introduced into FXall controlled environments, and alerts management to any detected deviation from the defined change management process.

9.2.10 FXall utilizes the Cyxtera data centre (the **Cyxtera Data Center**) in Sterling, VA as its BC-DR site. The Cyxtera Data Center is a warm, self-managed site located approximately 350 miles from the primary production site. The site has similar network and server hardware to the primary production site to function as a warm disaster recovery site. FXall servers in the Cyxtera Data Center are housed in a locked cage that is solely dedicated to FXall. The equipment is either owned by FXall or is completely dedicated to FXall usage. Cyxtera is responsible for the operation of the facility, including redundant power, climate control, internet connectivity, building security, video surveillance, and on-site operations staff. Operations staff is limited to acting at the direction of FXall personnel.

9.2.11 FXall depends on providers to ensure the availability of market data. However, the trading data FXall systems generate and capture is secured and made available through industry standard practices. The data is stored on a high-availability storage device in RAID configuration. Data is also replicated near real time from the production site to the warm BC-DR site to minimize data loss in case that the primary data center becomes unavailable.

9.2.12 FXall maintains dedicated tape backups in both primary and secondary (BC-DR) data centers. Incremental backups are performed daily and full backups weekly. Archival tapes are stored at a secure off-site facility. Data restoration from tape is tested monthly. Authorized FXall personnel manage and support the BC-DR site remotely through VPN access.

9.2.13 FXall participates in the annual industry wide BC-DR testing organized by Security Industry and Financial Markets Association (**SIFMA**) (see <http://www.sifma.org/services/bcp/industry-testing/> for the overall description of that test and results). In that test, FXall simulates a DR event that incapacitates its primary production data center in Weehawken, NJ. Providers and traders that use FXall's platform are able to perform testing on connectivity and certain simulated market activities through FXall's BC-DR site in Sterling, VA. SIFMA Members can sign up to participate in the test with FXall and their other providers for the annual test. The results of business continuity tests are provided to the CFTC annually.

**9.3 Information Technology Risk Management Procedures – The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and circuit breakers.**

9.3.1 Refinitiv SEF has tools and procedures in place to perform appropriate risk management, including the ability to modify, adjust, or cancel any transaction, including block trades and to pause or halt the market in compliance with Rule 929.

**10 FINANCIAL VIABILITY AND REPORTING**

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

10.1.1 Refinitiv SEF maintains financial resources that exceed the total amount that would enable it to cover its operating costs for a one-year period, as calculated on a rolling basis, and maintains liquid financial resources equal to at least six months' operating costs.

## 11 TRADING PRACTICES

### 11.1 Trading Practices - Trading practices are fair, properly supervised and not contrary to the public interest.

11.1.1 Chapter 9 of the Rules imposes an extensive set of restrictions designed to protect Participants from forms of abusive, disruptive, fraudulent, uncompetitive and unfair conduct and trade practices. Prohibited conduct and trade practices include, but are not limited to, fictitious, wash, or non-competitive transactions (Rule 906), trading ahead of and against customer orders (Rules 917 and 918), accommodation trading (Rule 918), improper cross-trading (Rule 918), front-running (Rule 910), wash trading (Rules 906 and 910), fraudulent trading (Rule 905), and other manipulative, disruptive or abusive trading practices (Rules 905, 907, 908 and 910).

11.1.2 As stated in Rule 910 and enforced by the RSA with the NFA, Refinitiv SEF prohibits abusive trading practices on its markets by Participants. See section 5.1 of this Application for additional information.

11.1.3 Refinitiv SEF, with the assistance of the NFA, implements a compliance program which conducts market surveillance and trade practice monitoring on a real-time and T+1 basis. For real-time trade monitoring, Refinitiv SEF has an automated system in place to detect market anomalies and potentially manipulative behaviour. In addition, Refinitiv SEF coordinates with the NFA to ensure that such real-time monitoring is integrated with the NFA's T+1 surveillance of manipulative trade practice (for example, front-running, wash trading, pre-arranged trading, fraudulent trading, money passes). The MRD supervises the effectiveness of the services provided by the NFA.

11.1.4 As part of its surveillance program, Refinitiv SEF maintains all data reflecting the details of each order entered into the platform, including:

- a) all data that are input into the trade entry or matching system for the transaction to match;
- b) the categories of participant for which each trade is executed, including whether the person executing a trade was executing it for his/her own account or an account for which he/she has discretion;
- c) timing and sequencing data adequate to reconstruct trading; and
- d) identification of each account to which fills are allocated.

11.1.5 The NFA's automated system is able to detect and flag specific trade execution patterns and trade anomalies; compute, retain and compare trading statistics; compute trade gains, losses and swap-equivalent positions; reconstruct the sequence of market activity; perform market analyses; and perform in-depth analyses and ad hoc queries of trade-related data.

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

11.2.1 Chapter 6 (Supported Transactions) and Chapter 7 (Execution Methods) of the Rules specify trading procedures to be followed by Participants when entering and executing orders traded or posted on the platform, including block trades.

11.2.2 Pursuant to Rule 602(a), Refinitiv SEF publishes the list of contracts for which it permits and facilitates the bilateral trading and execution of block trades on its website. A block trade must be for a quantity that is at or in excess of the applicable minimum block size pursuant to CFTC Regulation 43.6.

11.2.3 The Refinitiv SEF platform includes a price-time priority Order Book and an RFQ system.

11.2.4 Through the Order Book, all Participants can enter multiple bids and offers, observe bids and offers entered by other market participants, and choose to transact on such bids and offers. For certain permitted transactions, Participants must have an agreement governing the execution and settlement of such permitted transaction.

11.2.5 Through the RFQ platform, Participants can transmit an RFQ to buy or sell a specific instrument to other Participants, to which all such Participants may respond. The RFQ Platform is a fully disclosed trading system.

**11.3 Transparency – The SEF has adequate arrangements to record and publish accurate and timely trade and order information. This information is provided to all participants on an equitable basis.**

11.3.1 Refinitiv SEF records and reports all data required by CFTC regulations. Refinitiv SEF has an agreement with DTCC Data Repository (U.S.) LLC (**DTCC**) to utilize the DTCC's swap data repository (**SDR**) to make public timely information regarding swaps as prescribed by CFTC regulations. The Refinitiv SEF platform electronically captures trade information executed on the facility. All of the trading systems electronically send trade information through a centralized server, the Deal Feed Server (**Deal Feed**). The Deal Feed service connects to the DTCC SDR server (as prescribed by the DTCC) and electronically transmits all trade information executed on the platform as soon as practicable.

11.3.2 Refinitiv SEF disseminates trade information to Participants and to the public (through DTCC) on a continuous basis without distinction between different Participants.

11.3.3 Refinitiv SEF also posts on its website data about the volume of NDFs and FX Options executed on the platform, as well as rule filings and product listings, which are freely available to the public at: <https://www.refinitiv.com/en/products/sef-swap-execution-facility#sef-volumes>.

11.3.4 If a transaction is executed as a block trade pursuant to the Rules, then the reporting counterparty must report the swap to Refinitiv SEF pursuant to Rule 602(c)(7), and Refinitiv SEF will report the transaction and pricing data to a SDR as soon as possible and pursuant to CFTC regulation.

**12 COMPLIANCE, SURVEILLANCE AND ENFORCEMENT**

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

12.1.1 Refinitiv SEF is a self-regulatory organization and, consequently, has certain self-regulatory obligations.

12.1.2 As discussed above, Refinitiv SEF is under the jurisdiction of and regulated by the CFTC. Pursuant to Rule 205(b), the CCO has the authority and resources to develop and enforce policies and procedures necessary to fulfil the requirements set forth in the Rules, CEA and CFTC regulations.

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

12.2.1 Refinitiv SEF's CCO oversees the MRD which maintains appropriate resources to evaluate and ensure compliance with exchange and legislative requirements by Refinitiv SEF and its Participants. As stated in Rule 207, Refinitiv SEF's ROC has the authority to oversee all facets of the regulatory program, including reviewing the size and allocation of the regulatory budget and resources, and number, hiring, termination and compensation of regulatory personnel. See also Section 5 of this Application for additional information on the Refinitiv SEF's disciplinary process.

12.2.2 Chapter 10 of the Rules sets forth the disciplinary and enforcement process, which includes steps to inquire into, investigate, adjudicate and sanction potential rule violations within the disciplinary jurisdiction of Refinitiv SEF. Through the NFA, the Applicant maintains disciplinary panels. The composition of any disciplinary panel meets all applicable CFTC requirements. The MRD prosecutes potential violations of the Rules.

12.2.3 The decision as to whether to initiate an investigation is made by Refinitiv SEF under Rule 1004. The decision as to whether to impose sanctions and, if so, the form of such sanctions is taken by Refinitiv SEF under Rules 1010 and 1011. As stated in Rule 1011 (Sanctions), Refinitiv SEF imposes sanctions if any Participant or other user is found to have violated or to have attempted to violate a Rule or provisions of applicable law for which Refinitiv SEF possesses disciplinary jurisdiction.

12.2.4 Refinitiv SEF may impose one or more of the following sanctions or remedies:

- censure;
- limitation of trading privileges, ability to otherwise access the platform, and/or other activities, functions or operations;
- suspension of trading privileges and/or ability to otherwise access the platform;
- fine;
- restitution or disgorgement;
- termination of trading privileges and/or ability to otherwise access the platform; or
- any other sanction or remedy deemed to be appropriate.

12.2.5 As part of the SEF application process, Refinitiv SEF performed an assessment of resources dedicated to compliance and submitted same to the CFTC. At least annually, the CCO re-evaluates this formally as part of the annual CCO report. If there is a change in resource needs in the interim, the CCO performs an evaluation and brings his findings to the President and Regulatory Oversight Committee for review.

12.2.6 Pursuant to Rule 205(f), the CCO annually prepares and signs a report pursuant to the requirements in Section 37.1501(e) and 37.1501(f) of the CFTC regulations which must contain a description of: (i) the compliance of the SEF with the CEA; and (ii) the policies and procedures, including the code of ethics and conflict of interest policies, of the SEF. Such annual report includes a certification that, under penalty of law, it is accurate and complete and be submitted to the CFTC.

12.2.7 Section 37.1501 (e)(2)(ii) of the CFTC regulations requires that the annual report include a self-assessment as to the effectiveness of the policies and procedures of the SEF. Section 37.1501 (e)(2)(iii) requires that the annual report include a discussion of areas for improvement and recommends potential or prospective changes or improvements to the compliance program and resources of the SEF.

12.2.8 Section 37.1501(e)(4) of the CFTC regulations requires that the annual report include a catalogue of investigations and disciplinary actions taken since the last annual compliance report, and a review of the performance of disciplinary committees and panels. Where applicable, this may include metrics to determine whether investigations are completed in a timely manner.

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

12.3.1 All books and records kept pursuant to Rule 403 are reported to the CFTC as requested by the CFTC and are open to inspection and examination by the CFTC and the Securities and Exchange Commission. Under Rule 503, Refinitiv SEF will provide any information in its possession to the CFTC, and may share such information with other regulatory organizations (including the AMF), data repositories, and reporting services as required by the CFTC or as otherwise necessary and appropriate to fulfil its self-regulatory and reporting responsibilities.

12.3.2 Refinitiv SEF retains volume reports, as well as reports of service-impacting outages to put together volume numbers and incidents reports for the AMF upon request on a timely basis.

**13 RECORD KEEPING**

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

13.1.1 Refinitiv SEF keeps complete and accurate books and records of all activities relating to the business of the SEF, including a complete audit trail for all swaps executed on or subject to the rules of Refinitiv SEF, investigatory files, and disciplinary files, and all books and records required to be maintained pursuant to the CEA and CFTC regulations.

13.1.2 Refinitiv SEF retains all such books and records for at least five years. All records relating to swaps are kept for at least five years following final termination of the swap. Records relating to swaps are readily accessible via real time electronic access by Refinitiv SEF throughout the life of the swap and for two years following the final termination of the swap, and are retrievable by Refinitiv SEF within three business days through the remainder of the period following final termination of the swap during which it is required to be kept.

13.1.3 Refinitiv SEF has manual and automated processes in place to ensure that all audit trail information is captured and securely stored. As stated in the RSA with the NFA, Refinitiv SEF works with the NFA in enforcing its audit trail and recordkeeping program for all Participants. The NFA enforces Refinitiv SEF's audit trail and recordkeeping requirements through at least annual reviews of all Participants subject to SEF's recordkeeping requirements. Such reviews include reviewing randomly selected samples of front-end audit trail data for order routing systems; reviewing the process by which user identifications are assigned and user identifications records are maintained; reviewing usage patterns associated with user identifications to monitor for violations of user identification rules and reviewing account numbers in trade records to test for accuracy and improper use.

13.1.4 CEA Sections 2(a)(13)(G), 4r and 21(b) relate to regulatory reporting and swap data recordkeeping requirements. CEA Section 2(a)(13) establishes standards and requirements relating to real-time reporting and the public availability of data relating to swap transactions. SEFs must retain books and records for at least five years. All records relating to swaps shall be kept for at least five years following final termination of the swap.

13.1.5 Trading data is captured, secured and made available through industry standard practices. The data is stored on a high-availability RAID configuration. Data is also replicated near real time from the production site to the warm BC-DR site to minimize data loss in case that the primary data center becomes unavailable.

13.1.6 FXall maintains dedicated tape backups in both primary and secondary (BC-DR) data centers. Incremental backups are performed daily and full backups are performed weekly. Archival tapes are stored at a secure off-site facility. Data restoration from tapes is tested monthly.

## 14 OUTSOURCING

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

14.1.1 Refinitiv SEF has the following agreements in place for key services or systems:

(a) RSA between Refinitiv SEF and the NFA.

(i) The services provided by the NFA include trade and market practice surveillance and inquiries, investigations and disciplinary matters.

(b) MSA between Refinitiv SEF and FXall.

(i) The services provided by FXall under the MSA include: marketing and customer support services, regulatory and compliance services, relationship management and other support services.

(c) A Technology License Agreement (TLA) between Refinitiv SEF and FXall.

(i) Pursuant to the TLA, FXall provides and maintains the FXall platform as a software platform that can be accessed by Refinitiv SEF's customers.

14.1.2 The MRD supervises the effectiveness of the services provided by all of the above agreements. The systems and services provided by these service providers are in accordance with industry best practices.

## 15 FEES

### 15.1 Fees

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

15.1.1 Rule 401 (a)(5) states that Refinitiv SEF has the authority to charge fees for the transmission of transaction and pricing data to a real-time disseminator for transactions executed on the platform or pursuant to the Rules, provided, however, that such fees shall be equitable and non-discriminatory.

15.1.2 Refinitiv SEF is required pursuant to CFTC Regulation 37.202 to provide Participants with impartial access to Refinitiv SEF, which includes: (i) establishing access criteria that are impartial, transparent and applied in a fair and non-discriminatory manner and (ii) establishing comparable fee structures for Participants receiving comparable access or services.

15.1.3 The transaction fees assessed by Refinitiv SEF are similar in nature and structure to the fees assessed on the FXall platform. On the FXall platform, clients trading on a disclosed basis with their relationship banks (RFQ) do not pay a transaction fee; rather the relationship bank pays for the trading activity. On the FXall platform, all Participants trading anonymously in the Order Book pay an identical transaction fee for posting or removing liquidity. This same logic was followed when devising the transaction fees for Refinitiv SEF.

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

15.1.4 Rule 305 sets out Refinitiv SEF's dues, assessments and fees, which are also posted on Refinitiv SEF's website. The Applicant sets the amounts and times of payment for dues, assessments or fees required to be paid by Participants. Such charges may include: platform fees, brokerage fees, transaction surcharges, transaction data transmission fees and regulatory reporting fees. Refinitiv SEF does not privately negotiate dues, assessments or fees.

15.1.5 Each Participant agrees to pay such dues, assessments and fees when due. If a Participant fails to pay, and such payment obligation remains unsatisfied for thirty days after its due date, Refinitiv SEF may suspend, revoke, limit, condition, restrict or qualify the Participant's trading privileges and/or ability to otherwise access the platform as it deems necessary or appropriate.

15.1.6 Refinitiv SEF may modify or amend such dues, assessments or fees as are published by posting such modification or amendments to the Refinitiv SEF website, and any such amendment shall be effective twenty-five days after it is posted on the Refinitiv SEF website.

15.1.7 Refinitiv SEF's fee schedule is submitted to the CFTC for review via self-certification process per CFTC Regulation 40.6.

## **16 INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS**

### **16.1 Information Sharing and Regulatory Cooperation – The exchange has mechanisms in place to enable it to share information and otherwise co-operate with the AMF, self-regulatory organizations, other exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.**

16.1.1 Rule 211 permits Refinitiv SEF to enter into information sharing agreements to coordinate surveillance with other markets on which financial instruments related to the Contracts are traded. Pursuant to Rule 211, Refinitiv SEF may:

- a) provide market surveillance reports to other markets;
- b) share information and documents concerning current and former Participants with other markets;
- c) share information and documents concerning ongoing and completed investigations with other markets; and/or
- d) require its current or former Participants to provide information and documents to the platform at the request of other markets with which the platform has an information-sharing agreement or other arrangements or procedures.



16.1.2 Pursuant to Rule 211, Refinitiv SEF may disclose to any person or entity information concerning or associated with a Participant or other person that it believes is necessary and appropriate in exercising a legal or regulatory function, whether or not a formal arrangement governing the disclosure exists or a request for information was made. In addition, Rule 211(b) provides that Refinitiv SEF may enter into any arrangement with any person or body (including, without limitation, a foreign regulatory authority) if Refinitiv SEF considers such arrangement to be in furtherance of Refinitiv SEF's purpose or duties or any law or regulation.

16.1.3 Under Rule 503, Refinitiv SEF will provide any information in its possession to the AMF upon request, and may share such information with other regulatory organizations, data repositories, and reporting services as required by the AMF or as otherwise necessary and appropriate to fulfil its self-regulatory and reporting responsibilities. Refinitiv SEF will enter into international information-sharing agreements as the AMF may require from time to time.

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

16.2.1 Satisfactory information sharing and oversight agreements exist between the AMF and the Foreign Regulator pursuant to a memorandum of understanding (**MOU**) between the AMF and CFTC that provides a comprehensive framework for consultation, cooperation and information-sharing related to the day-to-day supervision and oversight of cross-border regulated entities. The MOU came into effect on March 25, 2014.

16.2.2 As described above, pursuant to Rule 211, Refinitiv SEF may disclose to any person or entity information concerning or associated with a Participant or other person that it believes is necessary and appropriate in exercising a legal or regulatory function, whether or not a formal arrangement governing the disclosure exists or a request for information was made. In addition, Rule 211(b) provides that Refinitiv SEF may enter into any arrangement with any person or body (including, without limitation, a foreign regulatory authority, including the AMF) if Refinitiv SEF considers such arrangement to be in furtherance of Refinitiv SEF's purpose or duties or any law or regulation.

**17 IOSCO PRINCIPLES**

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

17.1.1 To the extent it is consistent with the laws of Delaware and the United States, as applicable, the Applicant adheres to the standards of the International Organisation of Securities Commissions, including those set out in the “Principles for the Regulation and Supervision of Commodity Derivatives Markets (2011)”.

17.1.2 The Refinitiv SEF adheres to the IOSCO principles set out in the “Objectives and Principles of Securities Regulation” (2003) applicable to exchanges and trading systems. The Refinitiv SEF maintains operations to achieve the following:

- a. ensure the integrity of trading through fair and equitable rules that strike an appropriate balance between the demands of different market Participants;
- b. promote transparency of trading;
- c. detect and deter manipulation and other unfair trading practices; and
- d. ensure proper management of large exposures, default risk and market disruption.

### **Part III Submissions by Applicant**

#### ***Submissions Concerning the Requested Relief***

1. The instruments for which the Applicant seeks approval for Quebec Participants to trade on the Refinitiv SEF fall under the definition of “derivative,” as set forth in section 3 of the Act.
2. The Refinitiv SEF falls under the definition of “published market” set out in section 3 of the Act because it brings together buyers and sellers of derivatives and uses established, non-discretionary methods under which orders interact with each other.
3. An “exchange” is not defined under the Act; however, subsection 3.1(2) of the Policy Statement to Regulation 21-101 respecting Marketplace Operation (the **Policy Statement**) provides that a “marketplace” is considered to be an “exchange” if it, among other things, sets requirements governing the conduct of marketplace participants. A swap execution facility has certain obligations to monitor participants’ trading activity. Because a swap execution facility sets requirements for the conduct of its participants and surveils the trading activity of its participants, it will be considered by the AMF to be an exchange for purposes of the Act.
4. An exchange and a published market fall under the definition of “regulated entity” set out in section 3 of the Act.
5. Pursuant to the Policy Statement and section 12 of the Act, no regulated entity may carry on derivatives activities in Quebec unless it is recognized by the AMF as an exchange or as a published market or exempt from recognition by the AMF.
6. The Applicant submits that an exemption from recognition is appropriate for the Refinitiv SEF because the Applicant is subject to regulation by the CFTC and full regulation by the AMF would be duplicative and inefficient. In addition, the Refinitiv SEF provides certain Quebec Participants with significant access to liquidity for which, at least for certain types of transactions, there is no appropriate alternative platform, and the Quebec capital markets will be disrupted if the Requested Relief is not granted.
7. The Applicant understands that this Application will be reviewed and discussed with Staff and that it will be published, along with a draft order, for a 30-day comment period.
8. Based on the foregoing, we submit that it would not be prejudicial to the public interest to grant the Requested Relief.

#### ***Similar Relief has been Granted***

Refinitiv notes that exemptive relief similar to the Requested Relief has been granted by the AMF in (i) In the Matter of NEX SEF Limited (Decision n° 2017-SMV-0059) and (ii) In the Matter of 360 Trading Networks Inc. (Decision n° 2017-SMV-0047).

### **Part IV Other Matters**

In support of this Application, we are enclosing the following: (a) a verification statement from an officer of the Applicant confirming our authority to prepare and file this application, and certifying the truth of the facts contained herein as Appendix A; and (b) a draft Order for the Requested Relief, including draft terms and conditions.

The Applicant consents to the publication of this Application for public comment in the AMF Bulletin.

**Appendix A**

**Verification Certificate**

**To: Autorité des marchés financiers**

Dear Sirs/Mesdames:

**Re: Application by Refinitiv US SEF LLC**

I, Jill Sigelbaum, as Chief Executive Officer of Refinitiv US SEF LLC, do hereby certify that the preparation and compilation of the attached application to the Autorité des marchés financiers is authorized and confirm the truth of the facts contained therein as they relate to the operation of the Refinitiv US SEF LLC.

DATED **27 November**, 2019

  
\_\_\_\_\_  
President, Refinitiv US SEF LLC

### 7.3.2 Publication

Aucune information