

B.11.2 Marketplaces

B.11.2.1 SpectrAxe, LLC – Application for Exemption from Recognition as an Exchange – Notice and Request for Comment

NOTICE AND REQUEST FOR COMMENT

APPLICATION BY SPECTRAXE, LLC FOR EXEMPTION FROM RECOGNITION AS AN EXCHANGE

A. Background

SpectrAxe, LLC (**SpectrAxe**) has applied to the Commission for an exemption from the requirement to be recognized as an exchange pursuant to subsection 21(1) of the Securities Act (Ontario) (**OSA**).

SpectrAxe is a marketplace for trading derivatives that are regulated as swaps by the United States Commodity Futures Trading Commission (**CFTC**). SpectrAxe offers trading of uncleared bilateral options in various currencies, which are regulated as swaps by the CFTC.

SpectrAxe will enable clients to access its platform to enter transactions. In addition, SpectrAxe intends to provide access to trading on its marketplace to participants located in Ontario and therefore is considered to be carrying on business in Ontario.

As SpectrAxe will be carrying on business in Ontario, it is required to be recognized as an exchange under the OSA or apply for an exemption from this requirement. SpectrAxe has applied for an exemption from the recognition requirements on the basis that it is already subject to regulatory oversight by the CFTC.

B. Application and Draft Exemption Order

In the application, SpectrAxe has outlined how it meets the criteria for exemption from recognition. The specific criteria can be found in Appendix 1 to Schedule “A” of the draft exemption order. Subject to comments received, Staff intends to recommend that the Commission grant an exemption order with terms and conditions based on the draft exemption order. The application and draft exemption order are available on our website at www.osc.ca.

C. Comment Process

The Commission is publishing for public comment the SpectrAxe application and the draft exemption order. We are seeking comment on all aspects of the application and draft exemption order.

Please provide your comments in writing, via e-mail, on or before November 27, 2023, to the attention of:

Ontario Securities Commission
20 Queen Street West
22nd Floor
Toronto, Ontario M5H 3S8
Fax: 416-593-2318
Email: comments@osc.gov.on.ca

The confidentiality of submissions cannot be maintained as the comment letters and a summary of written comments received during the comment period will be published.

Questions on may be referred to:

Alex Petro
Trading Specialist, Market Regulation
Email: apetro@osc.gov.on.ca

Mark Delloro
Senior Accountant, Market Regulation
Email: mdelloro@osc.gov.on.ca

Tim Reibetanz
Senior Legal Counsel, Derivatives
Email: treibetanz@osc.gov.on.ca

September 6, 2023

Ontario Securities Commission
20 Queen Street West
Suite 1900, Box 55
Toronto, Ontario M5H 3S8
Fax: (416) 593-2318

Attention: Secretary

Dear Sirs/Mesdames:

Re: SpectrAxe, LLC – Application for Exemption from Recognition as an Exchange

SpectrAxe, LLC, a limited liability company organized under the laws of Delaware (the “**Applicant**” or “**SpectrAxe**”), is requesting an order for the following relief (collectively, the “**Requested Relief**”) relating to the operation by SpectrAxe of a marketplace (the “**SEF Platform**”) for trading swaps that is regulated by the United States Commodity Futures Trading Commission (“**CFTC**”) under the terms of the U.S. Commodity Exchange Act (“**CEA**”), in the Province of Ontario:

- a) exempting the Applicant from the requirement to be recognized as an exchange under subsection 21(1) of the *Securities Act* (Ontario) (the “**OSA**”) pursuant to section 147 of the OSA; and
- b) exempting the Applicant from the requirements in National Instrument 21-101 *Marketplace Operation* (“**NI 21-101**”) pursuant to section 15.1(1) of NI 21-101, the requirements of National Instrument 23-101 *Trading Rules* (“**NI 23-101**”) pursuant to section 12.1 of NI 23-101 and the requirements of National Instrument 23-103 *Electronic Trading and Direct Electronic Access to Marketplaces* (“**NI 23-103**”) pursuant to section 10 of NI 23-103.

SpectrAxe offers trading of uncleared bilateral swap transactions involving various underlying currencies (each a “**SEF Contract**”), which SEF Contracts are regulated as swaps by the CFTC.

SpectrAxe will enable sophisticated persons, each of which must be an “eligible contract participant” (“**ECP**”) as defined in the CEA (each a “**Participant**”), to access the SEF Platform. Each Participant is further required to execute all transactions through a prime broker (each a “**Participating Financial Institution**” or “**PFI**”), whether the Participant is trading for its own account or on behalf of a client account (“**Client Account**”). The Applicant does not offer access to retail clients.

SpectrAxe intends to provide access to trading on its SEF Platform to Participants located in Ontario, including such entities with their headquarters or legal address in Ontario (e.g., as indicated by their Legal Entity Identifier (LEI)), and all traders conducting transactions on behalf of a Participant, regardless of the traders’ physical location (inclusive of non-Ontario branches of Ontario legal entities), as well as any trader physically located in Ontario who conducts transactions on behalf of any other entity (“**Ontario Users**”).

The Applicant has no physical presence and does not otherwise intend to carry on business in Ontario except as described herein.

The Applicant seeks the Requested Relief on the basis that it is already subject to regulatory oversight by the CFTC.

This application is divided into the following Parts I to V, Part III of which describes how the Applicant satisfies criteria for exemption of a foreign exchange, that allows customers to trade uncleared bilateral swaps (i.e., OTC derivatives), from recognition as an exchange set by staff of the Ontario Securities Commission (the “**Commission**”).

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PART I INTRODUCTION

1. Description of the Applicant's Services to Ontarians

- 1.1 The Applicant operates the SEF Platform, which is a swap execution facility (“SEF”), an exchange for the trading swaps that is regulated by the CFTC. The Applicant's SEF Platform offers trading of uncleared bilateral options in various currencies, which are regulated as swaps by the CFTC. Additional products may be added in the future, subject to obtaining any required regulatory approvals. The SEF Platform enables Participants to engage in transactions using the trading methodologies described in Section IV of the Applicant's rulebook (the “SpectrAxe Rulebook”), available online at <https://www.spectraxesef.com>. As explained in the SpectrAxe Rulebook, all the SEF Contracts allowed to be traded on the SEF Platform are uncleared bilateral swaps that are Permitted Transactions (as the term “Permitted Transactions” is defined in the CFTC's Regulations under the CEA). As set forth in Rule 404 of the SpectrAxe Rulebook, the SEF Platform offers Participants the following execution method for SEF Contracts: “Participants shall have the ability to post Orders on the Order Book in any Swap offered on the SEF in accordance with these Rules, for its own account or the account of any Client Account for whom it acts.”

The SpectrAxe Rulebook provides the following definition of “Order Book” in Rule 101: “The term “Order Book” means the portion of the SEF in which Participants in the trading system or platform have the ability to enter Orders designated for the Order Book, observe or receive such Orders entered by other Participants, and execute such Orders.”

Note that the SEF Platform's Order Book has no automatic algorithmic matching engine; instead, a Participant (Participant #1) may accept an open Order posted on the Order Book (*i.e.*, an open bid to purchase (“Bid”) or an open offer to sell (“Offer”) a SEF Contract) that has been posted by another Participant (Participant #2) in the Order Book. However, Participants are not allowed to selectively choose their counterparty. The Applicant offers a central limit order book for all products listed for trading on the SEF Platform where prices in that order book are ordered by price and then time priority. A Participant is ‘matched’ with another Participant by dealing on the best available price ordered by price/time priority.

- 1.2 The Applicant will offer direct access to trading on its SEF Platform to Ontario Users that satisfy the criteria for an ECP as defined in Section 1a(18) of the CEA and as further described in Part III below. Ontario Users may include Canadian financial institutions, registered dealers and advisors, government entities, pension funds and other well-capitalized, non-regulated entities.
- 1.3 The Applicant has no physical presence in Ontario and does not otherwise intend to carry on business in Ontario except as described herein.

PART II BACKGROUND OF THE APPLICANT

1. Ownership of the Applicant

- 1.1 The Applicant is a limited liability company organized under the laws of Delaware. The ultimate parent company of the Applicant is Spectra Holdings, LLC, a limited liability company organized under the laws of Delaware (“Spectra Holdings”).
- 1.2 The Applicant is registered with the CFTC as a SEF under the terms of the CEA.

2. Products Traded on the Applicant's SEF Platform

- 2.1 The Applicant will provide its Participants with trading and execution services for uncleared bilateral swaps. A full list of the products traded on the Applicant's SEF Platform can be found on the Applicant's website, at <https://spectraxesef.com>.

3. Participants

- 3.1 The Applicant's SEF Platform will enable Participants to access the SEF Platform as an agent of their PFI to enter transactions on their own behalf or on behalf of Client Accounts. Persons seeking direct access to the SEF Platform as a Participant to post an open Order or accept an open Order for a SEF Contract using the Order Book, and submit indicative Bids/Offer or accept Bids/Offer of firm Orders for a SEF Contract, must apply for “Trading Privileges” pursuant to Rule 302 of the SpectrAxe Rulebook. In order for a person to become a Participant, such person must first enter into a Participant Agreement, which affirms that the person will abide by the SpectrAxe Rulebook and all other applicable terms. For the purposes of this application, holders of Trading Privileges on the SEF Platform are referred to as “Participants”.
- 3.2 Participants include a wide range of sophisticated persons, including commercial and investment banks, corporations and other institutional customers. Each person that wishes to trade directly on the SEF Platform as a Participant must

qualify as an ECP. Further, Participants with Client Accounts must certify that each Client Account that such Participant acts on behalf of when using the SEF Platform is also an ECP.

3.3 The SEF Platform's requirements for Participants are described more fully in Part III, Paragraph 4.1 below.

PART III APPLICATION OF EXEMPTION CRITERIA TO THE APPLICANT

The following is a discussion of how the Applicant meets the criteria of the Commission for exemption of a foreign exchange that allows participants to trade OTC derivatives from recognition as an exchange.

1. Regulation of the Exchange

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

1.1.1 The Applicant is registered with the CFTC to operate a SEF in the U.S. pursuant to the CEA effective on and after December 5, 2022. The Applicant is subject to regulatory supervision by the CFTC. The Applicant is obligated to give the CFTC access to all records unless prohibited by law or such records are subject to attorney-client privilege. The CFTC reviews, assesses and enforces the Applicant's adherence to the CEA and the regulations thereunder on an ongoing basis, including the fifteen core principles for SEFs (each a "**Core Principle**" and collectively the "**SEF Core Principles**") required by Section 5h of the CEA. The SEF Core Principles relate to the operation and oversight of SEFs, including financial resources, systems and controls, maintenance of an orderly market, execution and settlement of transactions, rule-making and investor protection.

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

1.2.1 The CFTC carries out the regulation of U.S. domiciled SEFs in accordance with certain provisions of the CEA. To implement SEF regulation, the CFTC has promulgated regulations ("**CFTC Regulations**") and guidelines that further interpret the SEF Core Principles and govern the conduct of SEFs. The CFTC also undertakes periodic in-depth audits or rule reviews of a SEF's compliance with certain of the SEF Core Principles.

1.2.2 The Applicant is required to demonstrate its compliance with the SEF Core Principles applicable to all U.S. SEFs. Among other things, the SEF Core Principles and CFTC Regulations require SEFs to have a rulebook and a compliance program, including a Chief Compliance Officer and a compliance manual ("**SpectrAxe Compliance Manual**"). A SEF's access criteria for Participants must be impartial and transparent and must be applied in a fair and non-discriminatory manner. The CFTC requires each SEF to have certain required trading protocols. A SEF must publish on its website certain daily trading data for each swap contract listed on the SEF and must report, or cause to be reported, all transactions executed on the SEF to a swap data repository. The CFTC reviews, assesses and enforces a SEF's adherence to CFTC Regulations on an ongoing basis.

1.2.3 A SEF is a self-regulatory organization under CFTC Regulations. A SEF is obliged under CFTC Regulations to have requirements governing the conduct of Participants, to monitor compliance with those requirements and to discipline Participants, including by means other than exclusion from the marketplace. The Applicant conducts market surveillance of trades on its platform for potential violations of the Applicant's rules through a combination of automated internal and human surveillance by the SEF Platform's Market Control Center and Compliance Department personnel. The Applicant does not use a third-party regulatory services provider.

2. Governance

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

(a) Effective Oversight of the Exchange

2.1.1 The board of Directors of the Applicant (the "**Board**") has the power to manage, operate and set policies for the Applicant. The Board has the power to appoint such officers of the Applicant as it may deem necessary or appropriate from time to time.

2.1.2 The Board has the power by itself or through agents, and is authorized and empowered on behalf and in the name of the Applicant, to perform all acts and enter into other undertakings that it may in its discretion deem necessary or advisable in order to promote the sound and efficient operation of the SEF Platform (except such as otherwise required by applicable law), including, but not limited to, the following:

- (a) ensuring that the SEF Platform complies with all statutory, regulatory and self-regulatory responsibilities under the CEA;
 - (b) reviewing, approving and monitoring major strategic, financial and business activities, the Applicant's budget and financial performance;
 - (c) evaluating risks and opportunities facing the Applicant and proposing options for addressing such issues;
 - (d) overseeing and reviewing recommendations from the Applicant's committees and the Chief Compliance Officer; and
 - (e) having the sole power to set the payment dates and amounts of any dues, assessments or fees to be levied on holders of Trading Privileges, subject, of course, to all CFTC regulatory authorizations.
- 2.1.3 Each Director is expected to comply with all applicable law and Applicant policies and promote compliance by the Applicant and all of its employees with all applicable law and Applicant policies. The Board discharges its responsibilities and exercises its authority in a manner, consistent with applicable legal and regulatory requirements that promotes the sound and efficient operation of the Applicant and its swap execution activities.
- 2.1.4 The Board provides effective oversight of the SEF Platform as described in greater detail below.

Fitness Standards

- 2.1.5 The Applicant has established fitness standards for the Board as set forth in Chapter 2 of the SpectrAxe Rulebook (the "**Governance Provisions**"). The Governance Provisions have been adopted by the Board and included in the SpectrAxe Rulebook to assist the Board in the exercise of its responsibilities. The Governance Provisions are not intended to supersede or interpret any applicable law, and operate in conjunction with the Applicant's Second Amended and Restated Limited Liability Company Agreement, dated September 7, 2021 ("**LLC Agreement**"). The standards set for the Board reflect the Applicant's commitment to compliance in its role as a SEF subject to oversight by the CFTC and to the institutions and individuals who rely on the Applicant to provide swap execution services.
- 2.1.6 The Board is committed to conducting itself in a legal and ethical manner in fulfilling its responsibilities. Each Director is expected to comply with all applicable laws, rules and regulations, and Applicant's policies, and promote regulatory compliance by the Applicant and all of its employees. The Board discharges its responsibilities and exercises its authority in a manner consistent with applicable legal and regulatory requirements, and that promotes the sound and efficient operation of the Applicant and its swap execution activities.

Composition

- 2.1.7 Rule 201(b) of the SpectrAxe Rulebook provides that, at all times, at least 35% of the Directors of SpectrAxe shall be Public Directors (as defined below).
- 2.1.8 The Board currently consists of three Directors, two of which are Public Directors.

Rule 208 of the SpectrAxe Rulebook requires that a Public Director must "meet the qualifications of a Public Director specified by such CFTC Regulations, the CEA, [the SpectrAxe] Rulebook and other Applicable Law in effect for the period of such service."

Rule 201(c) provides that a Public Director must be found by the Board to have no material relationship with SpectrAxe, both at the time of nomination or appointment and as often as necessary in light of all circumstances relevant to such Director but in no case less than annually. A "material relationship" with SpectrAxe is defined in Rule 201(c)(i) as a relationship that reasonably could affect the independent judgment or decision-making of the Director. Rule 201(c)(i) states that the Board need not consider previous service as a Director of the SEF to constitute a "material relationship." Additionally, a Director shall be considered to have a "material relationship" with the SEF if any of the following circumstances exist or have existed within the past year:

- (i) Such Director is an Officer or an employee of the SEF, or an officer or an employee of an Affiliate of the SEF;
- (ii) Such Director is a Participant or Owner of the SEF;
- (iii) Such Director is a director, an officer, or an employee of a Participant or Owner of the SEF;
- (iv) Such Director is an officer of another entity, which entity has a compensation committee (or similar body) on which any Officer of the SEF serves;

- (v) Such Director, or an entity with which the Director is a partner, an officer, an employee, or a director, receives more than \$100,000 in combined annual payments for legal, accounting, or consulting services from the Applicant or its Affiliate, any Participant, or PFI, or any Affiliate of such Participant or PFI. Compensation for services as a Director of the Applicant or as a director of an Affiliate thereof does not count toward the \$100,000 payment limit, nor does deferred compensation for services rendered prior to becoming a Director, so long as such compensation is in no way contingent, conditioned, or revocable; or
- (vi) Notwithstanding section (v) above, in the case of a Public Director that is a member of the Regulatory Oversight Committee (“**ROC**”) or the Participant Committee, such Public Director accepts, directly or indirectly, any consulting, advisory, or other compensatory fee from the Applicant or its Affiliate or any Participant or PFI, or any Affiliate of such Participant or PFI, other than deferred compensation for service rendered prior to becoming a member of the ROC or the Participant Committee, provided that such compensation is in no way contingent, conditioned, or revocable. This section (vi) does not apply to compensation received in the Public Director’s capacity as a member of the ROC or Participant Committee.

2.1.9 Each Director (including Public Directors) shall be elected in accordance with the LLC Agreement, and shall serve for a term of two years from the date of his or her election (or the remainder of any Public Director term to which he or she is elected as a replacement) and until his or her successor is duly appointed, or until his or her earlier resignation, removal for cause or dismissal pursuant to the LLC Agreement.

Qualifications

2.1.10 In order to fulfill their responsibilities, Directors (including Public Directors) are selected based on their experience, qualifications, attributes, skills and the understanding that their leadership will play an integral role in fulfilling the Applicant’s business objectives and legal obligations. In particular, Directors should:

- (a) Demonstrate sufficient experience in the Applicant’s scope or intended scope of financial services (including ancillary services valuable for the Applicant to fulfill its business purposes); and
- (b) Be of sufficiently good repute, including the absence of any of the categories that would be disqualifying under CFTC Regulation 1.63(b). Additionally, in accordance with CFTC Regulation 1.64(b), 20% or more of the regular voting members of the Board shall be persons who: (i) are knowledgeable of futures trading or financial regulation or are otherwise capable of contributing to governing board deliberations; (ii) are not Participants on the SEF Platform, (iii) are not currently salaried employees of SpectrAxe; (iv) are not primarily performing services for SpectrAxe in a capacity other than as a member of the Board; and (v) are not officers, principals or employees of a firm which is a Participant on the SEF Platform either in its own name or through an employee on behalf of the firm. No person may serve on the Board who meets any of the categories listed in CFTC Regulation 1.63(b).

Verification of Qualifications

2.1.11 In order to verify that each Director is qualified to serve, the Applicant requires that each prospective Director provide a written summary of qualifications, biographical information and related background information that is then verified through a background check.

Each Director must inform the Applicant’s Chief Compliance Officer in writing if any of the information provided materially changes thereafter. In addition, each Director must complete an annual board member disciplinary panel form attestation, confirming that the Director continues to be qualified to serve on the Board.

Conflicts of Interest

2.1.12 As set forth in Rule 213 of the SpectrAxe Rulebook and in Core Principle 12 of Section 5h(f) of the CEA, SpectrAxe shall (A) establish and enforce rules to minimize conflicts of interest in its decision-making process; and (B) establish a process for resolving the conflicts of interest.

2.1.13 Pursuant to Rule 213(b) of the SpectrAxe Rulebook and CFTC Regulation 1.69(b), a member of SpectrAxe’s Board, Disciplinary Committee, Disciplinary Panel or Appeals Panel (collectively, the “**Oversight Panels**”) must abstain from such body’s deliberations and voting on any matter involving a named party in interest where such member:

- (a) is a named party in interest;
- (b) is an employer, employee or fellow employee of a named party in interest;

- (c) has any other significant, ongoing business relationship with a named party in interest, not including relationships limited to executing transactions opposite of each other or to clearing transactions through the same clearing member;
- (d) has a family relationship with a named party in interest (where a “family relationship” exists between a named party in interest or potential named party in interest in an Executive Proceeding and a potential Interested Person if one person is the other’s spouse, former spouse, parent, stepparent, child, stepchild, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece or in-law) (each of (a) through (d) being a **“Relationship Conflict of Interest”**); or
- (e) has a direct and substantial financial interest in the result of the deliberations or vote of such body based upon either Applicant or non-Applicant positions that could reasonably be expected to be affected by the action (a **“Financial Conflict of Interest”**).

2.1.14 Prior to the consideration of any matter involving a named party in interest, each member of the deliberating body must disclose to SpectrAxe’s Chief Compliance Officer (the **“CCO”**) whether he or she has one of the Relationship Conflicts of Interest or a Financial Conflict of Interest with a named party in interest. The CCO must then determine, based upon the information disclosed by the member and any other source of information that is held by and reasonably available to SpectrAxe, and taking into consideration the exigency of the matter, whether the member is subject to a conflicts restriction in any matter involving the named party in interest.

2.1.15 Rule 213(c)(ii) of the SpectrAxe Rulebook stipulates that, prior to the consideration of any significant action, each member of the deliberating body who does not choose to abstain from deliberations and voting may disclose to the CCO, or his designee, any information that may be relevant to a determination of whether such member has a direct and substantial financial interest in the result of the vote, including:

- (A) Gross positions held at the Derivatives Clearing Organizations, as such term is defined in Section 1a(15) of the CEA (**“DCOs”**) for such member’s personal accounts or “controlled accounts,” as defined in CFTC Regulation 1.3;
- (B) Gross positions held at the DCOs in accounts of any entity in which such member is a “principal,” as defined in CFTC Regulation 3.1(a); and
- (C) Any other types of positions, whether maintained at the DCOs or elsewhere, held in such member’s personal accounts or the proprietary accounts of such member’s Affiliated firm, that the Company reasonably expects could be affected by the significant action

The CCO, or his designee, shall determine whether any member of the relevant deliberating body is subject to a conflicts restriction based upon a review of the most recent large user reports and clearing records available to the Applicant, information provided by such member with respect to positions pursuant to the above and any other source of information that is held by and reasonably available to the Applicant that the CCO or his designee deems to be accurate, taking into consideration the exigency of the significant action being contemplated.

2.1.16 Any Officer or member of the Board, Standing Committee, or Oversight Panel of SpectrAxe who would otherwise be required to abstain from deliberations and voting pursuant to paragraph 213(c) of the SpectrAxe Rulebook (excluding the CCO) may participate in deliberations, but not voting, if the deliberating body, after considering the factors specified below, determines that such participation would be consistent with the public interest; provided, however, that before reaching any such determination, the deliberating body shall fully consider any information disclosed pursuant to Rule 213(c)(ii). In making its determination, the deliberating body shall consider:

- (A) whether such member’s participation in deliberations is necessary to achieve a quorum; and
- (B) whether such member has unique or special expertise, knowledge or experience in the matter being considered.

2.1.17 The minutes of any meeting to which the conflicts determination procedures set forth in Rule 213 of the SpectrAxe Rulebook apply shall reflect the following information:

- (A) the names of all members of the relevant deliberating body who attended such meeting in person or who otherwise were present by electronic means;
- (B) the name of any member of the relevant deliberating body who voluntarily recused himself or herself or was required to abstain from deliberations or voting on a matter and the reason for the recusal or abstention, if stated;
- (C) information that was reviewed for each member of the relevant deliberating body, including position information in the case of a significant action conflict; and

(D) any determination made with respect to the member's participation in, or abstention from, deliberations or voting.

2.1.18 Pursuant to Section 10.6 of the SpectrAxe Compliance Manual, the CCO and Deputy CCO will resolve any conflicts of interest that may arise on the SEF Platform including: (i) conflicts between business considerations and compliance requirements; (ii) conflicts between business considerations and the requirement that the SEF Platform provide fair, open and impartial access as set forth in the CFTC Regulations; and (iii) conflicts between SpectrAxe's management and members of the Board. The CCO and Deputy CCO will also keep the ROC apprised of significant conflicts of interest on an ongoing basis, and less significant conflicts of interest on a quarterly basis.

2.1.19 Conflicts between SpectrAxe's Subsidiaries, Participants or PFIs

All employees, officers and Directors must avoid and report any actual or perceived conflict of interest or misappropriation of information which may improperly benefit one business unit of SpectrAxe, a Participant, or a PFI to the detriment of another business unit of SpectrAxe, a Participant, or a PFI. Conflicts of interest of employees should be reported as soon as the conflict or potential conflict is discovered. It is the responsibility of every employee, officer and Director of SpectrAxe to accurately and timely report any actual or potential conflict of interest as soon as the conflict or potential conflict is discovered. A report of conflict of interest involving SpectrAxe should be made to the CCO of SpectrAxe.

2.1.20 Conflicts with the CCO or Deputy CCO

In the event that the CCO or any other person becomes aware of any conflict of interest involving the CCO, such matter shall promptly be resolved by the Deputy CCO without the involvement of the CCO. If the Deputy CCO also has a conflict of interest, then the ROC shall appoint an individual without such conflict and meeting to the greatest extent practicable the requirements of a CCO to serve as CCO for the specific matter giving rise to the conflict.

Compensation

2.1.21 Compensation awarded to Public Directors and other non-executive Directors is not linked to the Applicant's business performance.

Certification and Compliance

2.1.22 Each Director must become familiar with, and abide by, the Governance Provisions. Each prospective Director and Director must, before taking office, acknowledge his or her receipt and understanding of the Governance Provisions, as well as upon any publication of a revised set of Governance Provisions or amendment thereto. In addition, (i) upon request from the Applicant, the Director shall certify that the qualification information he/she provided to the Applicant before being elected as a Director has not changed materially, and (ii) from time to time the Director shall provide an updated statement of qualification information that reflects any material changes.

2.1.23 Directors are required to report suspected violations of the Governance Provisions or of any applicable law, rule or regulation by any Director to the Board, the ROC or the CCO (who will subsequently relay any such suspected violations to the Board or the ROC, unless such reported violation is proven incorrect after a prompt initial review of its merits). The Board or the ROC, as applicable, shall determine whether to conduct an investigation and what appropriate action should be taken. Directors may consult with the CCO or legal counsel if there is any doubt as to whether a particular transaction or course of conduct complies with or is subject to the Governance Provisions.

Removal for Cause

2.1.24 Any Director failing to comply with, or certify compliance with, the Governance Provisions, or whose conduct otherwise is likely to be prejudicial to the sound and prudent management of the Applicant, may be removed for cause at any time by a majority-in-interest of the Members, pursuant to Section 4.07 of the LLC Agreement.

Board Committees

2.1.25 The Applicant's Governance Provisions contemplate three standing committees of the Board: the Nominating Committee, the Participant Committee, and the ROC. The Board may from time to time constitute and appoint additional standing committees as it may deem necessary or advisable. The Board may also from time to time establish one or more special committees as it may deem necessary or advisable.

2.1.26 The purpose of the Nominating Committee is to (1) identify individuals qualified to serve on the Board, consistent with the criteria approved by the Board and the composition requirements of Applicable Law and (2) administer a process for the nomination of individuals to the Board.

2.1.27 The ROC consists only of Public Directors. Each member of the ROC shall serve for a term of two calendar years from the date of his or her appointment or for the remainder of the term to which he or she is appointed as a replacement, and

until the due appointment of his or her successor, or until his or her earlier resignation or removal (as a member of the ROC or as a member of the Board) for cause or dismissal pursuant to the LLC Agreement. The ROC has responsibility to:

- (i) Monitor SpectrAxe's self-regulatory program for sufficiency, effectiveness, and independence;
- (ii) Oversee all facets of SpectrAxe's self-regulatory program, including trade practice, market surveillance, audits, examinations and other regulatory responsibilities with respect to participants (including ensuring compliance with, if applicable, financial integrity, financial reporting, sales practice, recordkeeping, and other requirements), and the conduct of investigations;
- (iii) Review the size and allocation of SpectrAxe's regulatory budget and resources; and the number, hiring and termination, and compensation of regulatory personnel;
- (iv) Review the performance of the CCO, and make recommendations with respect to such performance to the Board;
- (v) Review all regulatory proposals prior to implementation and advise the Board as to whether and how such changes may impact regulation;
- (vi) Maintain minutes and records of its meetings, deliberations and analyses, including records of all decisions made by the ROC such as decisions resolving conflicts of interest in accordance with the procedures described above under "Conflicts of interest;"
- (vii) Recommend changes to SpectrAxe's self-regulatory program that would ensure fair, vigorous, and effective regulation; and
- (viii) Exercise any other functions expressly assigned to it in the SpectrAxe Rulebook or the ROC charter.

(b) That business and regulatory decisions are in keeping with its public interest mandate,

2.1.28 The Applicant is committed to ensuring the integrity of its SEF Platform and the stability of the financial system, in which market infrastructure plays an important role. The Applicant must ensure the integrity of a transaction that occurs on the SEF Platform under Core Principle 7 – Financial Integrity of Transactions ("**Core Principle 7**"). The Applicant fulfills this requirement in part through compliance with other SEF Core Principles, such as Core Principle 3 – Swaps Not Readily Subject to Manipulation ("**Core Principle 3**"). Stability of the market infrastructure is enhanced through compliance with Core Principle 13 – Financial Resources ("**Core Principle 13**"). Core Principle 13 requires that SpectrAxe maintain adequate financial resources to discharge its responsibilities and ensure orderly operation of the market. The rules, policies and activities of the Applicant are designed and focused on ensuring that they maintain best practices and fulfill this public interest mandate. The Applicant operates on a basis consistent with applicable laws and regulations, and best practices of other SEFs and derivatives trading facilities.

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

2.1.29 At all times, at least 35% of the Directors shall be Public Directors. Each Director (including Public Directors) shall be elected in accordance with the LLC Agreement, and shall serve for a term of two years from the date of his or her election (or the remainder of any Public Director term to which he or she is elected as a replacement) and until his or her successor is duly appointed, or until his or her earlier resignation, removal for cause or dismissal pursuant to the LLC Agreement. The Board has two (2) Public Directors. The Board shall designate two of its members to serve as the ROC. Both members shall be Public Directors. Paragraph 2.1.8 above contains a discussion of the criteria for Public Director independence. Paragraph 2.1.10 above contains a discussion of director qualification. The Board complies with CFTC Regulation 1.64(b)(3), which requires that the Board's membership fairly represents the diversity of interests at such self-regulatory organization and is otherwise consistent with the composition requirements listed in CFTC Regulation 1.64.

(d) the exchange has policies and procedures to appropriately identify and manage conflicts of interest for all officers, directors and employees, and

2.1.30 The Applicant, through its conflicts of interest rules, policies and procedures in Rule 213 of the SpectrAxe Rulebook, as well as its compliance with Core Principle 12 – Conflicts of Interest ("**Core Principle 12**"), has established a robust set

of safeguards designed to ensure that the SEF Platform operates free from conflicts of interest or inappropriate influence as described above. The CFTC also conducts its own surveillance of the markets and market participants and actively enforces compliance with applicable CFTC Regulations. In addition to this regulatory oversight, the Applicant separately establishes and enforces rules governing the activity of all market participants in its market. The Applicant's conflict of interest policies are described in greater detail in Paragraphs 2.1.12 through 2.1.20 above.

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

2.1.31 See Paragraph 2.1.10 above for information on the qualifications of Directors. Members of the Applicant's Management Team are recruited for their particular position based upon their skills and expertise. Their individual goals and performance are regularly assessed by their direct manager as part of the Applicant's performance management process.

2.1.32 Pursuant to the SpectrAxe Rulebook, the liability of each employee of the Applicant to third parties for obligations of the Applicant is limited to the fullest extent provided in the CEA and other applicable law. The Applicant's LLC Agreement provides for the indemnification by the Applicant against losses or damages sustained by a person with respect to third-party actions or proceedings due to the fact that such person is a Director or other officer of the Applicant. In addition, Rule 413 of the SpectrAxe Rulebook provides for limitation of liability of the Applicant, its Affiliates, their respective Directors, officers, managers and employees with respect to the SEF Platform's operations, except in case of fraud, gross negligence or willful misconduct.

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 See Paragraphs 2.1.5 and 2.1.6 above for a description of the Applicant's fitness standards for the Board. See Paragraph 2.1.11 above for a description of the Applicant's policies and procedures for ensuring that each Director is a fit and proper person. See Paragraph 2.1.30 above for a description of the assessment applicable to the Applicant's Management Team.

3. Regulation of Products

3.1 Review and Approval of Products – The products traded on the exchange and any changes thereto are submitted to 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 The SEF Core Principles relevant to products traded on the SEF Platform include: Core Principle 2 – Compliance with Rules (“**Core Principle 2**”), Core Principle 3, Core Principle 4 – Monitoring of Trading and Trade Processing (“**Core Principle 4**”), Core Principle 6 – Positions Limits or Accountability, Core Principle 7, and Core Principle 9 – Timely Publication of Trading Information (“**Core Principle 9**”). As noted previously, Core Principle 3 requires SEFs to demonstrate that new products are not susceptible to manipulation.

3.1.2 Rules 401 and 902 of the SpectrAxe Rulebook describe the policies and procedures for adding new products or changing existing products (*i.e.*, SEF Contracts) as follows:

Rule 401. Swaps Traded on the SEF

- (a) The Company shall determine which Swaps can be traded from time to time pursuant to these Rules, provided that any determination in respect of listing a Swap for trading pursuant to these Rules shall be submitted to the CFTC as required by the CEA and CFTC Regulations. As of the date of this Rulebook, the SEF will facilitate limit orders only.
- (b) Subject to compliance with the CEA and CFTC Regulations, Swaps traded on the SEF may be uncleared swaps. As of the date of this Rulebook, the SEF does not permit the trading of cleared swaps.
- (c) The Company shall permit trading only in Swaps that are not readily susceptible to manipulation and for which the Company has, prior to listing the Swap, submitted to the CFTC the information required in Appendix C to Part 38 of the CFTC's Regulations (Demonstration of Compliance that a Contract is not Readily Susceptible to Manipulation). The Company shall make such submission pursuant to Part 40 of the CFTC's Regulations.

Rule 902. Swap Specification Procedures

Each Swap will meet such specifications, and all trading in such Swap will be subject to such procedures and requirements, as described in the terms and conditions governing such Swap (as set forth below and in the Company's technical specifications) and will be posted on the website of the Company. The specifications for, and the procedures and requirements for trading, any Swap may not be modified in any respect without the prior approval of the Company.

In order to submit a swap to the CFTC as self-certified, SpectrAxe must: (i) meet the submission criteria contained in CFTC Regulation 40.2; (ii) determine that the swap is "not readily susceptible to manipulation" in accordance with Core Principle 3 and CFTC Regulations 37.300 and 37.301; and (iii) include in the self-certified submission the information required by Appendix C to Part 38 of the CFTC Regulations.

Section 7.1 of the SpectrAxe Compliance Manual states:

"When listing a swap for trading, the CCO shall review the Swap to determine that it is not readily susceptible to manipulation, paying special attention to the reference price used to determine the cash flow exchanges. Once a Swap has been reviewed and approved by the CCO, the terms and conditions of the Swap must be submitted to the CFTC in accordance with the requirements of Parts 37 and 40 of the Commission Regulations. The CCO shall have authority to submit a Swap to the CFTC either with a request for prior approval pursuant to Commission Regulation § 40.3 (Voluntary Submission of New Products for Commission Review and Approval), or with a self-certification pursuant to Commission Regulation § 40.2 (Listing Products for Trading by Certification)."

Section 7.2 of the SpectrAxe Compliance Manual states:

"At the time the SEF submits a new Swap to the CFTC in accordance with Part 40 of the Commission Regulations, it will include the information required by Appendix C to Part 38 of the Commission Regulations, titled "Demonstration of Compliance that a Contract is not Readily Susceptible to Manipulation." In addition, when listing a contract for trading, the SEF will identify the reference price to be used by a contract and ensure that the reference price is not readily susceptible to manipulation. When identifying the reference price of a contract, the SEF will calculate its own reference price using suitable and well-established acceptable methods or carefully select a reliable third-party index."

- 3.1.3 Only uncleared bilateral swaps that are Permitted Transactions may be traded as SEF Contracts on the SEF Platform.
- 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 Among other things, the requirement that new swaps comply with the SEF Core Principles means that they contain an analysis of the underlying cash market and the deliverable supply of the underlying product. In response to the Applicant's process for introducing a new product or changing an existing product, as described above, the CFTC has the right to follow up with questions requesting additional information on the underlying market including, but not limited to: supply and demand characteristics, participant composition, market concentration, deliverable supply estimates, the relation of the swap size to the underlying market, the quality of the product across various delivery facilities and the delivery facilities used for the product. If the Applicant is unable to provide satisfactory answers to the CFTC's questions, it may require the Applicant to withdraw the proposed product addition or change. It is the Applicant's experience that the terms and conditions of swaps that trade on the SEF Platform are standardized, generally accepted and understood by its Participants.
- 3.3 **Risks Associated with Trading Products – The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange that may include, but are not limited to, daily trading limits, price limits, position limits, and internal controls.**
 - 3.3.1 Paragraph 9.3.1 of this Application covers the way that the Applicant measures, manages and mitigates the trading risk associated with products traded on the SEF Platform.
 - 3.3.2 The Applicant's compliance function is responsible for ensuring that surveillance systems monitor trading by Participants to prevent manipulation, price distortion and other violations of SpectrAxe Rules and applicable law. The Applicant uses an automated system to detect market manipulation, price distortion, and other egregious activity on the SEF Platform. The automated system operates a number of algorithms to detect unusual patterns of order and trade data in real time, and raises potential incidents and threats via its case management tool. Consistent with other SEFs, the Applicant has determined that it is not necessary and appropriate to set position limits or position accountability levels for swaps at this time.

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 Ontario securities laws, or exempted from such requirements,**
 - (ii) the competence, integrity and authority of systems users, and**
 - (iii) systems users are adequately supervised.**
- (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.**
- (d) The exchange does not:**
- (iv) permit unreasonable discrimination among participants, or**
 - (v) impose any burden on competition that is not reasonably necessary and appropriate.**
- (e) The exchange keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.**

4.1.1 Consistent with applicable law, including the SEF Core Principles, the SEF Platform provides access to Participants on a fair, non-discriminatory and open basis. Participant status, and access to, and usage of, the SEF Platform in such capacity, is available to all market participants that meet the criteria set forth by the Applicant and engage in transactions on the SEF Platform in accordance with the SpectrAxe Rulebook. Chapter 3 of the SpectrAxe Rulebook sets out the admission and eligibility criteria that Participants must meet. Among other requirements, the SpectrAxe Rulebook requires that a Participant must:

- be of good financial standing and meet the financial and related reporting requirements set forth in the SpectrAxe Rulebook;
- upon initial application for Trading Privileges, represent to the Applicant that it is an ECP;
- notify SpectrAxe immediately upon becoming aware that it fails to meet its minimum financial requirements; and
- demonstrate a capacity to adhere to the SpectrAxe Rulebook and all applicable CFTC Regulations, including those concerning record-keeping, reporting, financial requirements and trading procedures.

4.1.2 Ontario Users using the SEF Platform must be registered under Ontario securities laws, exempt from such registration requirements, or not subject to such registration requirements.

4.1.3 Core Principle 11 requires that, unless necessary or appropriate to achieve the purposes of applicable law, a SEF should avoid (a) adopting any rules or taking any actions that result in any unreasonable restraints of trade; or (b) imposing any material anticompetitive burden on trading. As such, the Applicant does not implement rules that would impose any burden on competition that is not reasonably necessary and appropriate, because such rules would not meet SEF Core Principle requirements.

4.1.4 The Applicant may deny the grant of Trading Privileges, or prevent a person from becoming or remaining a Participant, if it would cause the Applicant to be in violation of any applicable law. The Applicant keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access. Under Rule 507 of the SpectrAxe Rulebook, if SpectrAxe determines that the condition of a Participant is such that to allow that Participant to continue to have access to the SEF Platform would adversely affect SpectrAxe or the financial markets, SpectrAxe may impose additional limits (including, but not limited to, product restrictions and trade volume limits) on such Participant or terminate, in whole or in part, the Trading Privileges of such Participant, as well as the exercise of such Trading Privileges by its Authorized Traders.

4.1.5 Pursuant to Rule 204 of the SpectrAxe Rulebook, any person who is denied Trading Privileges or any Participant who has Trading Privileges removed may request a review of such decision by the SEF Participant Committee. As described

in Rule 204: The SEF Participant Committee “shall (i) determine the standards and requirements for initial and continuing Participant eligibility, (ii) review appeals of staff denials of Participant applications, and (iii) approve Rules that would result in different categories or classes of Participants receiving disparate access to the SEF” and “shall not permit [SpectrAxe] to, restrict access or impose burdens on access to the SEF in a discriminatory manner, within each category or class of Participants or between similarly-situated categories or classes of Participants.”

Pursuant to Rule 302 of the SpectrAxe Rulebook, a person whose application for Trading Privileges has been denied or granted conditionally, and any Participant or Authorized User (as defined in the SpectrAxe Rulebook) whose Trading Privileges or status, respectively, is revoked, suspended or limited pursuant to Rules 303 or 305, may appeal the Applicant’s decision to the Applicant’s Compliance Department or a Disciplinary Panel in accordance with the provisions of Chapter 7 of the SpectrAxe Rulebook. A determination of the Applicant to revoke, suspend or limit a person’s access to the SEF Platform pursuant to Rules 303 and 305 shall not take effect until the review procedures under Chapter 7 have been exhausted or the time for review has expired. Any decision by the Compliance Department or a Disciplinary Panel then made constitutes the final action of the SEF Platform with respect to the matter in question. In the event that the Compliance Department or a Disciplinary Panel upholds the decision to deny access, the person may then submit its dispute to arbitration under Chapter 8 of the SpectrAxe Rulebook.

5. Regulation of Participants on the Exchange

5.1 Regulation – The exchange 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.

5.1.1 A SEF is a self-regulatory organization under CFTC Regulations. A SEF is obliged under CFTC Regulations to have policies governing the conduct of its participants; to monitor participant compliance with applicable requirements; and to discipline participants, including by means other than exclusion from the marketplace. Participants are required to comply with a significant number of rules governing trading on the SEF Platform pursuant to the SpectrAxe Rulebook. The applicable rules are primarily located in Chapters 3 through 8 of the SpectrAxe Rulebook.

5.1.2 The Applicant is responsible for conducting trade practice surveillance and market surveillance of the SEF Platform. This includes reviewing deals on an ongoing basis to determine if there are any potential violations of the SpectrAxe Rulebook and monitoring compliance with market manipulation rules and the orderly liquidation of physically delivered expiring swaps. The Applicant’s Compliance Department uses a **surveillance system** that triggers alerts for human review based on suspicious trading activities or results to effectively and efficiently profile markets and Participants and conduct daily monitoring of prices, volume and market news. In addition to the information reviewed passively, information is gathered, reviewed and/or audited by Applicant staff from a variety of random samples of trade data.

5.1.3 The Applicant expends considerable human, technological and financial resources that are focused on the maintenance of fair, efficient, competitive and transparent markets, and the protection of all SEF Platform Participants from fraud, manipulation and other abusive trading practices. The Applicant’s market surveillance activities include a broad range of interconnected efforts that include trade practice reviews, data quality assurance audits and enforcement activities. To fulfill its mandate to effectively monitor and enforce the SEF Platform’s rules, the Applicant has established a trade surveillance system capable of detecting potential trade practice violations of the SpectrAxe Rulebook. As noted above, Participants are required to comply with a significant number of rules governing trading on the SEF Platform, pursuant to the SpectrAxe Rulebook.

5.1.4 Investigating and enforcing rule violations are necessary components of regulatory safeguards. The SEF Platform’s disciplinary rules include establishing review panels, conducting investigations, prosecuting violations and imposing sanctions, as set forth in Chapter 7 of the SpectrAxe Rulebook, which is discussed below in Part 7.

5.1.5 The Applicant is dedicated to safeguarding the integrity of its SEF Platform and ensuring that it is free from manipulation and other abusive practices. The efforts described in this Part 5 are a necessary component of markets that work efficiently and safely, thereby allowing Participants that use the SEF Platform to have access to a marketplace that is open, transparent and free from manipulation and market abuse.

5.1.6 Specifically with reference to regulatory technology, the Applicant has made significant investments in this area, including staff dedicated solely to the support and continuous development of its regulatory technology infrastructure, ensuring that the Applicant’s regulatory and market protection capabilities anticipate and evolve with the changing dynamics of the marketplace. The Applicant has developed an audit trail of market activity, as well as powerful and flexible data query and analytical tools that allow its regulatory staff to examine real-time and historical orders and transaction data, maintain profiles of markets and Participants, and detect trading patterns potentially indicative of market abuses.

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 Pursuant to its obligations under the regulatory oversight under the CEA and under CFTC Regulations, the Applicant has instituted rules, policies and agreements that govern the operations and activities of its Participants. The Applicant's rules are covered across 11 chapters in the SpectrAxe Rulebook. The Applicant believes that its rules and policies that govern the activities of Participants are consistent with the rules and policies of other derivatives marketplaces and therefore do not impose any burden on competition that is not reasonably necessary or appropriate.

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

- (i) **ensure compliance with applicable legislation,**
- (ii) **prevent fraudulent and manipulative acts and practices,**
- (iii) **promote just and equitable principles of trade,**
- (iv) **foster co-operation and co-ordination with persons or companies engaged in regulating, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange,**
- (v) **provide a framework for disciplinary and enforcement actions, and**
- (vi) **ensure a fair and orderly market.**

6.1.2 The SpectrAxe Rulebook is subject to the standards and requirements outlined by the SEF Core Principles. At a high level, the SpectrAxe Rulebook seeks to ensure fair and orderly markets accessible to all eligible Participants. This aim is accomplished by establishing rules that reflect the criteria in the SEF Core Principles, that are not contrary to the public interest, and are designed to:

- (i) **ensure compliance with applicable legislation.** The Applicant is obligated to comply with the CEA, the SEF Core Principles and the CFTC Regulations (collectively, the "**U.S. SEF Regulations**"). As a result, the Applicant must implement rules that require compliance with the U.S. SEF Regulations by its Participants. SEF Core Principle 1 requires a swaps trading facility to comply with all applicable CFTC Regulations to be designated a SEF and maintain such designation. The Applicant proactively ensures compliance with all applicable laws and regulations, evidenced in part by its regular dialogue with the CFTC. Core Principle 2 requires SEFs to ensure participants' consent to SEF rules and jurisdiction prior to accessing its markets. Chapter 3 of the SpectrAxe Rulebook governs membership requirements and establishes compliance with the rules, including one that requires Participants to consent to the jurisdiction of the SEF Platform and U.S. SEF Regulations.
- (ii) **prevent fraudulent and manipulative acts and practices.** Core Principle 2 requires a SEF to collect information, examine participant records, direct supervision of the market, maintain sufficient compliance staff, establish procedures for and conduct audit trail reviews, perform real-time market monitoring and market surveillance and establish an automated trade surveillance system. The Applicant has instituted all these controls. Core Principle 3 requires a SEF to ensure the swaps it trades are not readily susceptible to manipulation. The Applicant complies with this Core Principle by including narrative descriptions of the product terms and conditions of every swap and by certifying in its CFTC Rule 40.2 submission that each swap is not readily susceptible to manipulation in accordance with Core Principle 3 and the criteria set forth in Appendix C to Part 38 of the CFTC Regulations. Also, Chapters 4 and 6 of the SpectrAxe Rulebook prescribe trading practices and trading conduct requirements and provide details on prohibited trading activities and the SEF Platform's prohibitions on fictitious trades, fraudulent activity and manipulation.
- (iii) **promote just and equitable principles of trade.** Core Principle 9 requires a SEF to promote transparency by making timely public disclosures of trading information. The Applicant conforms to this Core Principle by publishing daily information on settlement prices, volume, open interests, and opening and closing ranges for actively traded swaps, where applicable to the method of execution and products traded on the SEF Platform. Core Principle 7 requires a SEF to ensure the financial integrity of transactions entered into on its markets. The Applicant's data and order entry feed systems offer simultaneous and equivalent access to all Participants. Core Principle 11 prohibits the imposition of unreasonable restraints or uncompetitive burdens on trade. Throughout the SpectrAxe Rulebook, the Applicant has established transparent and objective standards to prevent

unreasonable restraints on trade and foster competitive and open market participation. Additionally, Section 26.1 of the SpectrAxe Compliance Manual requires that compliance personnel ensure the Applicant does not adopt any rule or take any action that would result in any unreasonable restraint of trade or impose any material anticompetitive burden on trading. The Applicant believes that compliance with these Core Principles, which require transparency, financial integrity, fair access and fair competition among Participants, promotes just and equitable principles of trade.

- (iv) **foster co-operation and co-ordination with persons or companies engaged in regulating, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange.** Rule 1107 of the SpectrAxe Rulebook authorizes the Applicant to enter into information-sharing arrangements as it determines necessary or advisable to obtain any necessary information, to perform any monitoring of trading or trade processing, to provide information to the CFTC upon request and to carry out such international information-sharing agreements as the CFTC may require. Furthermore, the Applicant may enter into any arrangement with any other person (including any governmental authority, such as the Ontario Securities Commission, or trading facility) where the Applicant determines such person exercises a legal or regulatory function under any applicable law or considers the arrangement to be in furtherance of the operation or duties of the Applicant under applicable law.
- (v) **promote a framework for disciplinary and enforcement actions.** Core Principle 2 requires a SEF to adopt a rule enforcement program, disciplinary procedures and sanctions. In response to this requirement, Chapter 7 of the SpectrAxe Rulebook describes the SEF Platform's rules for rule enforcement and Chapter 8 prescribes the Applicant's procedures for dispute resolution.
- (vi) **ensure a fair and orderly market.** Core Principle 2 requires a SEF to establish rules governing the operation of the SEF, including orderly trading procedures and rule enforcement programs. Core Principle 3 requires a SEF to ensure that swaps traded on the facility are not readily subject to manipulation. Core Principle 4 requires a SEF to establish procedures for monitoring of trading and trade process. The Applicant complies with these Core Principles by prescribing trading rules, collecting and evaluating market activity data, by maintaining and auditing its real-time monitoring program, and by auditing historical data to detect trading abuses. Core Principle 9 requires timely public disclosure of trade information, all of which is published daily. Core Principle 14 requires a SEF to establish and maintain risk analysis, emergency procedure, and periodic systems testing programs. The Applicant periodically reviews its programs and procedures, including risk analysis, emergency planning, and systems testing. The Applicant regularly audits systems and technology tests both for technical and regulatory compliance. The Applicant believes that compliance with these SEF Core Principles, which require effective trading rules, real-time and post-trade monitoring, public data dissemination and risk management procedures and testing, ensure a fair and orderly market.

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**
 - (b) **it keeps a record of, gives reasons for, and provides for appeals or reviews of its decisions.**
- 7.1.1 Core Principle 2 requires the Applicant to adopt a rule enforcement program, disciplinary procedures and sanctions. In response to this requirement, Chapter 7 of the SpectrAxe Rulebook sets out the Applicant's rules for discipline and rule enforcement and Chapter 8 prescribes the Applicant's dispute resolution procedures.
- 7.1.2 The Applicant has the authority to initiate and conduct investigations, and enforce remedial action for breaches, and to impose sanctions for such violations. It is the duty of the Applicant's CCO to enforce the rules, but the CCO may also delegate specific responsibilities to its compliance department, which consist of employees of the Applicant and may consist of personnel that the Applicant may hire on a contract basis ("**Compliance Department**").
- 7.1.3 The Compliance Department has the authority to conduct investigations of possible violations of the Rulebook, prepare written reports respecting such investigations, furnish such reports to the Applicant's disciplinary panel ("**Disciplinary Panel**") and conduct the prosecution of such violations. An investigation must be commenced upon receipt of a request from CFTC staff or receipt of information by the Applicant that, in the judgment of its Compliance Department, indicates a reasonable basis for finding that a violation has occurred or will occur. The Applicant maintains records of all investigations conducted by the Applicant in accordance with its recordkeeping policy.
- 7.1.4 If it is concluded that a violation may have occurred, the Participant may be issued a warning letter or an investigation report concerning the matter may be filed with the Disciplinary Panel, depending on the outcome of the Compliance Department's investigation. No more than one warning letter may be issued to the same person found to have committed

the same violation more than once in a rolling 12-month period. The investigation report must include the reason the investigation was initiated; a summary of the complaint, if any; the relevant facts; the Compliance Department's analysis and conclusions; and a recommendation as to whether disciplinary action should be pursued. The report may also include the Participant's disciplinary history at the SEF Platform, including copies of any warning letters.

After the completion of an Investigation Report and the receipt of any submission made by the potential respondent, the Compliance Department will, within 30 days, take one of the following actions:

- (i) If the Compliance Department determines that additional investigation or evidence is needed to decide whether a reasonable basis exists to believe that a violation within the Applicant's jurisdiction has occurred or is about to occur, it will conduct further investigation.
- (ii) If the Compliance Department determines that a reasonable basis exists to believe that a violation within the Applicant's jurisdiction has occurred or is about to occur, the potential respondent will be served with a notice of charges and proceed in accordance with Chapter 7 of the SpectrAxe Rulebook.
- (iii) If the Compliance Department determines that disciplinary proceedings are unwarranted, it may issue a warning letter setting forth, in writing, the facts and analysis supporting the decision.
- (iv) If the Compliance Department determines that no reasonable basis exists to believe that a violation within the Applicant's jurisdiction has occurred or is about to occur, it may direct that no further action be taken. Upon such determination, the Compliance Department will provide a written statement setting forth the facts and analysis supporting the decision.

If the Compliance Department decides to serve a notice of charges to the respondent, the respondent must file an answer within 20 days after being served with such notice, or within such other time period determined appropriate by the CCO. To answer a notice of charges, the respondent must in writing: (i) for each allegation set forth in the notice of charges, (A) admit such allegation, (B) deny such allegation, or (C) affirmatively state that the respondent does not have and is unable to obtain sufficient information to admit or deny such allegation, which shall have the effect of a denial of such allegation. Any failure by the respondent to timely serve an answer to a notice of charges will be deemed to be an admission to the allegations in such notice. Any failure by the respondent to answer one or more allegations in a notice of charges will be deemed to be an admission of that allegation or those allegations. Any allegation in a notice of charges that the respondent fails to expressly deny will be deemed to be admitted. If a respondent admits or fails to specifically deny any of the allegations in the notice of charges, the Disciplinary Panel shall find that the violations set forth in such allegations have been committed and shall impose a sanction for such violations. A respondent shall be granted a hearing before a Disciplinary Panel for every instance in which such respondent (i) denies an allegation and requests a hearing in accordance with the SpectrAxe Rulebook's procedures, or (ii) requests a hearing in accordance with the SpectrAxe Rulebook's procedures.

- 7.1.5 If, after a hearing, the Disciplinary Panel determines that a reasonable basis exists for finding a violation, the CCO shall serve a notice of charges ("**Notice**") on the Participant alleged to have been responsible for the violation.
- 7.1.6 The respondent may appeal the notice of charges to the CCO within twenty (20) days of the date of service of the Notice. The written request for appeal must state in writing the grounds for appeal, including the findings of fact, conclusions or sanctions to which the respondent objects.
- 7.1.7 Formal hearings on any Notice shall be conducted by a Hearing Panel (whether a Disciplinary or Appeals Panel) selected by the CCO. The Hearing Panel may not include any members of the Compliance Department, or of any Disciplinary Panel involved in the matters on appeal. The Hearing Panel must meet the composition detailed in CFTC Regulation 1.64(c), which requires that whenever a Hearing Panel is acting with respect to a disciplinary action in which the respondent is a member of the Board, the Hearing Panel, or when the suspected violation involves manipulation (or attempted manipulation) of the price of a SEF Contract or conduct which directly results in financial harm to a non-member of the SEF Platform that: (a) at least one member of the Hearing Panel is not a member of the SEF Platform; and (b) the Hearing Panel include sufficient different membership interests so as to ensure fairness and to prevent special treatment or preference for any person in the conduct of the Hearing Panel's responsibilities.
- 7.1.8 Prior to the commencement of any hearing, the Hearing Panel may accept a written offer of settlement from the respondent, whereby the respondent, without either admitting or denying any violations must accept the jurisdiction of the Applicant over it and over the subject matter of the proceedings and consent to the entry of the findings and sanctions imposed under such offer of settlement.
- 7.1.9 Chapter 7 of the SpectrAxe Rulebook sets out the Applicant's procedures for holding a hearing. After the hearing is complete, Rule 714 requires the Hearing Panel to render a written decision based upon the weight of evidence and to provide a copy to the respondent. Rule 716 allows a respondent to appeal a decision by the Disciplinary Panel to be

heard by an Appeal Panel appointed by the CCO. In addition, a disciplinary action may be appealed to the CFTC pursuant to Part 9 of the CFTC Regulations.

8. Clearing and Settlement

8.1 **Clearing Arrangements** – Per Rule 401 of the SpectrAxe Rulebook, the SEF Platform does not offer any SEF Contracts that are intended to be cleared. As explained in Rule 401(b), “the SEF does not permit the trading of Cleared Swaps.” Consequently, trades made on the SEF Platform are not cleared and no Participant or PFI is subject to CFTC Regulations related to clearing due to their activities on the SEF Platform.

8.2 **Settlement Arrangements** – Trades made on the SEF Platform are settled between the respective PFIs of the two Participant counterparties. The Applicant ensures that the trades are settled correctly, as it is responsible for reporting those trades under CFTC Regulations. All Participants and PFIs are subject to the CFTC Regulations related to swaps trading, as the SpectrAxe Rulebook makes clear. However, in terms of specific regulatory burdens, the Applicant and the PFIs handle the reporting requirements under CFTC Regulations.

9. Systems and Technology

9.1 **System 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; and**
- (h) **financial reporting.**

9.1.1 The SEF Platform 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.

9.1.2 The Applicant has put safeguards and security tools in place to protect the critical data and system components of its SEF Platform. As discussed in Paragraph 5.1.2 above, the Applicant uses a trade surveillance program that is capable of detecting potential trade practice violations of the SpectrAxe Rulebook, and maintains full responsibility for compliance obligations.

9.1.3 The Applicant captures and retains all audit trail data necessary to detect, investigate, and prevent customer and market abuses. Such data shall be sufficient to reconstruct all trades and trade-related activity within a reasonable period of time and to provide evidence of any violations of the SEF Platform's rules or policies. The Applicant has also developed risk monitoring tools and risk controls to prevent and reduce the potential risk of market disruptions, including but not limited to market restrictions that could pause or halt trading under market conditions prescribed by the Applicant.

9.1.4 The Applicant has established a business continuity plan and disaster recovery procedures with respect to the SEF Platform. The plan describes the Applicant's response to and addresses both small-scale and wide-scale service disruptions to the Applicant's SEF Platform. The main objectives of the Applicant's business continuity plan and disaster recovery procedures are to enable timely recovery and resumption of the SEF Platform's operations and the resumption of the Applicant's fulfillment of its responsibilities and obligations following any disruptions to SEF Platform operations, including: order processing; price reporting; market surveillance; and maintenance of a comprehensive audit trail.

9.1.5 The Applicant operates and provides to Participants a robust and scalable platform. Standard system monitoring metrics include capacity and performance level alerts. Additionally, the Applicant's system server provider allows for system capacity to expand on a use-as-needed basis. This ensures that the SEF Platform is well-positioned to provide adequate responsiveness to Participants. Systems, policies and processes are continually monitored by the SEF Platform's IT staff

and periodically audited in conjunction with the Applicant's Compliance Department, including as described in Paragraph 9.2.4 below.

9.2 **Without limiting the generality of Paragraph 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;**
- (c) **reviews the vulnerability of those systems and data center computer operations to internal and external threats, including physical hazards and natural disasters;**
- (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;**
- (e) **ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;**
- (f) **maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and**
- (g) **maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.**

9.2.1 The SEF Platform uses technology for its electronic trading platform that includes software provided by third-party vendors (see discussion of outsourcing in Paragraph 14.1.1 below).

9.2.2 The SEF Platform's system server provider allows for system capacity to expand on a use-as-needed basis.

9.2.3 The Applicant conducts regular performance and capacity tests in a production test environment which matches production in its size, scope and infrastructure.

9.2.4 The Applicant has internal policies and controls that govern system access, failures, and errors. Also, the Applicant and/or its service providers periodically conduct risk audits, internal physical security compliance inspections and covert internal and external intrusion tests. Additionally, the Applicant performs cybersecurity vulnerability testing. Such tests are designed to periodically assess the operating effectiveness of security controls as well as to monitor internal compliance with security policies and procedures. External threats such as physical hazards and natural disasters are addressed in the Applicant's business continuity plan and disaster recovery procedures.

9.2.5 The Applicant and/or its service providers review the configuration of SEF Platform's systems as part of its regular control procedures and conducts reviews as needed when issues are identified and resolved through its enterprise risk management and governance protocols. Configuration management is the subject of internal audits and is also included in the Applicant's business continuity plan and disaster recovery procedures.

9.2.6 The Applicant reviews and keeps current the development and testing methodology of the above systems pursuant to procedures contained in the SpectrAxe Compliance Manual, company policy, and the Applicant's business continuity plan and disaster recovery procedures. The Applicant's business continuity plan and disaster recovery procedures are designed to allow for the recovery and resumption of operations and the fulfillment of the duties and obligations of the Applicant following a disruption. The Applicant performs periodic tests to verify that the resources outlined in its business continuity plan and disaster recovery procedures are sufficient to ensure continued fulfillment of all duties of the Applicant under the CEA and CFTC Regulations.

9.2.7 Full and incremental backups are performed on a regular basis for audit logs and files that are irreplaceable, have a high replacement cost or are considered critical. Amazon Web Services ("AWS") provides systems server hosting and data backup services to the Applicant.

SpectrAxe will store all relevant data for two years for immediate retrieval and will keep it for a total of five years, as required by its record retention policy. Data is being backed up, in near real time, in two locations: (1) at the primary AWS site in Ohio and (2) at the backup AWS site in Virginia.

9.3 Information Technology Risk Management Procedures – The exchange has appropriate risk management procedures in place, including those that handle trading errors and trading halts, and those that respond to market disruptions and disorderly trading.

9.3.1 The Applicant provides extensive market integrity controls to ensure fair and efficient markets. As described in Rules 408, 409, and 412 of the SpectrAxe Rulebook, the Applicant has risk monitoring tools and risk controls to prevent and reduce the potential risk of market disruptions, such as by (i) imposing or modifying position limits, position accountability levels, price limits or intraday market restrictions; (ii) ordering the liquidation or transfer of open positions in any Swap; (iii) ordering the fixing of a settlement price of any SEF Contract; (iv) extending, limiting or changing the trading hours or expiration date in respect of one or more SEF Contracts; (v) suspending or curtailing trading, or limiting trading to liquidation only, in any or all SEF Contracts; (vi) transferring SEF Contracts and associated margin, or altering any SEF Contract's settlement terms or conditions; (vii) modifying or suspending any provision of the SpectrAxe Rulebook; and/or (viii) taking market actions as may be directed by the CFTC. The Applicant has not implemented any standing position limits or position accountability levels for swaps at this time but regularly reviews whether such limits or accountability levels are appropriate. SpectrAxe's Rulebook makes clear that the Applicant has the authority to impose such limits or accountability levels, separate and apart from any requirements that may be required by the CFTC. The Applicant also has the ability to impose certain other market restrictions under its emergency powers.

10. Financial Viability

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 The Applicant has adequate financial and staff resources to carry on its activities in full compliance with its regulatory requirements and with best practices. Under U.S. SEF Regulations, a SEF must submit financial statements to the CFTC and maintain adequate financial resources to cover its operating costs for a period of at least one year, calculated on a rolling basis. A SEF must also hold liquid financial assets equal to at least the greater of three months operating costs or the projected costs needed to wind down the SEF's operations. The Applicant maintains no less than the current minimum capital amounts needed and will maintain any future minimum capital amounts needed to comply with U.S. SEF Regulations.

11. Trading Practices

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

11.1.1 The Applicant is obligated to comply with U.S. SEF Regulations, which, as described in Paragraph 6.1.2 above, require trading practices that are fair, properly supervised and not contrary to the public interest. The U.S. SEF Regulations also require that the Applicant implement rules that require compliance with the U.S. SEF Regulations by its Participants. The SpectrAxe Rulebook, which addresses the SEF Platform's trading requirements and processes, is subject to the standards and requirements outlined by the SEF Core Principles. At a high level, the SEF Core Principles and the SpectrAxe Rulebook both seek to ensure fair and orderly markets accessible to all eligible Participants that are properly supervised and operated in a manner consistent with the public interest.

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 Rules pertaining to order size and limits are set forth in Chapter 4 of the SpectrAxe Rulebook. As noted in Paragraph 11.1.1 above, the SpectrAxe Rulebook is subject to the standards and requirements outlined by the SEF Core Principles and is subject to periodic review by the Applicant to ensure that the limits are fair, equitable and appropriate for the market. The Applicant submits that its rules for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.

11.3 Transparency – The exchange has adequate arrangements to record and publish accurate and timely information as required by the Foreign Regulator. This information is also provided to all participants on an equitable basis.

11.3.1 Core Principle 9 requires a SEF to make public timely information concerning swaps transactions executed on the SEF. The Applicant fulfills Core Principle 9 by posting trade data to its website daily, and by reporting swaps data to DTCC, the swap data repository for the SEF Platform.

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 The Applicant operates a platform that is regulated by the CFTC as a SEF. A SEF is a self-regulatory organization under CFTC rules and has certain obligations to monitor Participants' trading activity on the platform under CFTC Regulation 37.203(e), 37.401, 37.402 and 37.403.

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 Core Principle 2 requires a SEF to collect information, examine Participant records, direct supervision of the market, maintain sufficient compliance staff, establish procedures for and conduct audit trail reviews, perform real-time market monitoring and market surveillance and establish an automated trade surveillance system. The Applicant has instituted all these controls and has adequate resources available to ensure that controls are properly applied. Core Principle 2 also requires a SEF to adopt a rule enforcement program, disciplinary procedures and sanctions. Paragraph 7 of this application describes the resources available to the SEF Platform to investigate and discipline Participants for rule violations. Also, Chapter 7 of the SpectrAxe Rulebook sets out the Applicant's disciplinary rules and Chapter 8 prescribes the Applicant's dispute resolution procedures.

12.2.2 The CCO is appointed by the Board and assists the Applicant in meeting its regulatory obligations, as set out by the CFTC.

12.2.3 It is the duty of the CCO to enforce the SEF Platform's rules and to assess the quality of its compliance oversight and disciplinary policies and procedures. As noted in this application, the Applicant's Compliance Department, under the direction and direct supervision of the CCO, is responsible for conducting investigations of possible violations of any of the Applicant's rules ("Violations"), preparing written reports with respect to such investigations, furnishing such reports to the Applicant's disciplinary panels and conducting the prosecution of any Violations in accordance with Chapter 7 of the SpectrAxe Rulebook. The CCO, on an ongoing basis, reviews the performance of staff and, where necessary, establishes procedures for the remediation of noncompliance issues. The CCO reports directly to the Board. The CCO is supervised by the Board's ROC. The CCO is required to meet with the ROC at least quarterly and review the SEF Platform's self-regulatory program, including compliance oversight and disciplinary processes. The ROC reviews the performance of the CCO.

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 Commission, on a timely basis.**

12.3.1 Please see Paragraph 16.1.1 below.

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 The Applicant collects data on a daily basis related to its regulated activity in compliance with Core Principle 10. The Applicant is required to maintain records of all activities relating to its business, including data related to order messaging, order execution and pricing. The Applicant maintains a precise and complete data history, referred to as the audit trail, for every order entered and transaction executed across the SEF Platform. Audit trail information for each transaction includes the order instructions, entry time, modification time, execution time, price, quantity, account identifier and parties to the transaction. Files of all electronic orders are regularly archived and copies are stored at multiple locations to ensure redundancy and critical safeguarding of the data. Furthermore, as a safeguard, the CFTC and the Applicant require Participants to maintain all audit trail data in the manner, and for the time period, prescribed by the CEA, CFTC Regulations and the SpectrAxe Rulebook.

14. Outsourcing

14.1 **Outsourcing – Where the exchange 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 The Applicant has entered into several licensing and services agreements with unaffiliated third parties for the use of (i) trade reporting technology, (ii) front, middle and back office functionality (including monitoring, invoicing and billing), (iii) software and (iv) various support services, including operations and compliance support, trade reporting, books and records, on-boarding of clients, telecommunications and information technology. These agreements permit the Applicant to meet its obligations and are in accordance with industry best practices. The outsourcing arrangements have terms that allow the Applicant to monitor the services provided to ensure that the Applicant meets its regulatory obligations with respect to the outsourced service and that any services are provided in accordance with industry best practices. The Applicant at all times retains responsibility for any functions delegated to any service provider and is the ultimate decision-making authority.
- 14.1.2 As described more fully in Paragraph 5.1.2 above, the Applicant employs an internal framework to perform surveillance, investigative and regulatory functions under the SpectrAxe Rulebook.

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 an unreasonable condition or limit on access by participants to the services offered by the exchange.**

15.1.1 The CFTC requires that the Applicant must charge comparable fees for Participants receiving comparable access to, or services from, the SEF Platform. The Applicant complies with this requirement and therefore fees charged by the Applicant do not create an unreasonable condition or limit on access by Participants.

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

15.1.2 The Applicant is required by CFTC Regulations to charge all Participants fees that are impartial, transparent and applied in a fair and non-discriminatory manner. The Applicant has the sole authority to set the times and amounts of any assessments or fees to be paid by Participants. All fee changes must be submitted to the CFTC for certification or approval under Part 40 of the CFTC Regulations prior to their implementation. The Applicant provides its fee schedule to each Participant pursuant to the applicable notice requirements in the CFTC Regulations and the SpectrAxe Rulebook.

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 cooperate with the Commission, self-regulatory organizations, other exchanges, and other appropriate regulatory bodies.**

16.1.1 It is the Applicant's policy to respond promptly and completely, through its Compliance Department and/or legal counsel, to any proper regulatory inquiry or request for documents. All inquiries and other communications from the Commission will be referred immediately to the Applicant's CCO.

16.1.2 Rule 1107 of the SpectrAxe Rulebook authorizes the Applicant to enter into information-sharing agreements or other arrangements or procedures necessary to allow the Applicant to obtain any necessary information to perform any monitoring of trading and trade processing, provide information to other markets, the CFTC, the Commission or any other governmental body with jurisdiction over the Applicant upon request and which allow the Applicant to carry out such international information-sharing agreements as may be required. Also, the Applicant may enter into any information-sharing arrangement with any person or body (including the CFTC, the Commission, any self-regulatory organization, any SEF, DCM, market, clearing organization or governmental body). The Applicant shares or will share information with DTCC, which is its swap data repository.

- 16.2 Oversight Arrangements – Satisfactory information sharing and oversight agreements exist between the Ontario Securities Commission and the Foreign Regulator.**

16.2.1 The CFTC has entered into memorandum of understanding (“**MOU**”) arrangements for co-operative enforcements with foreign regulatory authorities in numerous jurisdictions. The MOUs typically provide for access to non-public documents and information already in the possession of the regulatory authorities, and often include undertakings to obtain documents and to take testimony of, or statements from, witnesses on behalf of a requesting regulatory authority. The CFTC and the Commission are parties to an MOU that was entered into by the parties on March 25, 2014. The MOU is available at: <https://www.osc.ca/en/about-us/domestic-and-international-engagement/international-mous/notice-memorandum-understanding-4>.

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 Organisation of Securities Commissions (IOSCO) including those set out in the “Principles for the Regulation and Supervision of Commodity Derivatives Markets” (2011).

17.1.1 The Applicant adheres to the standards of IOSCO by virtue of the fact that it must comply with the CEA and CFTC Regulations, which reflect the IOSCO standards. The Applicant is regularly examined by the CFTC and during these examinations the IOSCO standards to which they are subject are taken into account.

PART IV SUBMISSIONS BY THE APPLICANT

1.1 The swaps that trade on the SEF Platform fall under the definition of “derivative” set out in Section 1(1) of the OSA. The SEF Platform operated by the Applicant falls under the definition of “marketplace” set out in Section 1(1) of the OSA because it brings together buyers and sellers of derivatives and uses established, non-discretionary methods under which orders interact with each other.

1.2 An “exchange” is not defined under the OSA; however, subsection 3.1(1) of the companion policy to National Instrument 21-101 – *Marketplace Operation* provides that a “marketplace” is considered to be an “exchange” if it, among other things, sets requirements governing the conduct of marketplace participants or disciplines marketplace participants. A SEF is a self-regulatory organization under CFTC rules and has certain obligations to monitor participants' trading activity. Because a SEF regulates the conduct of its participants, it is considered by the Commission to be an exchange for purposes of the OSA.

1.3 Pursuant to OSC Staff Notice 21-702 – *Regulatory Approach for Foreign-Based Stock Exchanges*, the Commission considers an exchange located outside Ontario to be carrying on business as an exchange in Ontario if it provides Ontario Users with direct access to the exchange. Since the Applicant provides Ontario Users with direct access to trading derivatives on its SEF Platform, it is considered by the Commission to be “carrying on business as an exchange” in Ontario and therefore must either be recognized or exempt from recognition by the Commission.

1.4 The Applicant satisfies all the criteria for exemption from recognition as an exchange set out by Commission Staff, as described under Part III of this application. Ontario market participants that trade in swaps would benefit from the ability to trade on the Applicant's SEF Platform, as they would have access to a range of swaps and swap counterparties that otherwise may not be available in Ontario. Stringent CFTC oversight of the SEF Platform as well as the sophisticated information systems, regulations and compliance functions that have been adopted by the Applicant will ensure that Ontario Users of the SEF Platform are adequately protected in accordance with international standards set by IOSCO.

1.5 Based on the foregoing, we submit that it would not be prejudicial to the public interest to grant the Requested Relief.

PART V CONSENT TO PUBLICATION

The Applicant consents to the publication of this application for public comment.

Yours very truly,

(signed) Ramandeep Grewal

Ramandeep K. Grewal

Encl. SpectrAxe, LLC Verification Statement

Cc: Alvin Chopra, *Chief Operating Officer, SpectrAxe, LLC*

Michael Lee, *Chief Compliance Officer, SpectrAxe, LLC*

Annex I
Draft Order

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S. 5,
AS AMENDED
(THE ACT)

AND

IN THE MATTER OF
SPECTRAXE, LLC

ORDER
(Section 147 of the Act)

WHEREAS SpectrAxe, LLC (**Applicant**) has filed an application dated September 6, 2023 (**Application**) with the Ontario Securities Commission (**Commission**) requesting the following relief (collectively, the **Requested Relief**):

- (a) **exempting the Applicant from the requirement to be recognized as an exchange under subsection 21(1) of the Act pursuant to section 147 of the Act; and**
- (b) **exempting the Applicant from the requirements in National Instrument 21-101 *Marketplace Operation* (NI 21-101) pursuant to section 15.1 of NI 21-101, the requirements of National Instrument 23-101 *Trading Rules* (NI 23-101) pursuant to section 12.1 of NI 23-101 and the requirements of National Instrument 23-103 *Electronic Trading and Direct Electronic Access to Marketplaces* (NI 23-103) pursuant to section 10 of NI 23-103;**

AND WHEREAS the United States Commodity Futures Trading Commission (**CFTC**) granted the Applicant permanent registration as a swap execution facility (**SEF**) on December 5, 2022;

AND WHEREAS the Applicant has represented to the Commission that:

1.1 The Applicant is a limited liability company organized under the laws of Delaware. The ultimate parent company of the Applicant is Spectra Holding, LLC, a Delaware private limited liability company. At all times, at least 35% of the Directors shall be Public Directors (which have no ownership interest in the Applicant and no "material relationship" with the Applicant);

1.2 The Applicant is a marketplace for trading derivatives that are regulated as swaps by the CFTC. The Applicant's SEF Platform supports an order book and request for quote functionality. Additional trading functionality may be added in the future, subject to obtaining any required regulatory approvals;

1.3 In the United States, the Applicant operates under the jurisdiction of the CFTC and obtained registration with the CFTC to operate a SEF on December 5, 2022;

1.4 The Applicant is obliged under CFTC Regulations to have requirements governing the conduct of Participants, to monitor compliance with those requirements and to discipline Participants, including by means other than exclusion from the marketplace;

1.5 The Applicant employs an internal framework to administer surveillance;

1.6 Because the Applicant regulates the conduct of its Participants, it is considered by the Commission to be an exchange;

1.7 Because the Applicant has Participants located in Ontario, including (a) entities with their headquarters or legal address in Ontario (e.g., as indicated by their Legal Entity Identifier (**LEI**)) and all traders conducting transactions on behalf of such Participants, regardless of the traders' physical location (inclusive of non-Ontario branches of Ontario legal entities), and (b) traders physically located in Ontario who conduct transactions on behalf of any other entity, it is considered by the Commission to be carrying on business as an exchange in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;

1.8 The Applicant does not offer access to retail clients;

1.9 The Applicant has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described above; and

1.10 The Applicant satisfies all the SEF Criteria as described in Appendix 1 to Schedule "A";

AND WHEREAS the products traded on the Applicant's SEF Platform are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and the Applicant is not considered to be carrying on business as a commodity futures exchange in Ontario;

AND WHEREAS the Applicant has acknowledged to the Commission that the scope of the Requested Relief and the terms and conditions imposed by the Commission attached hereto as Schedule "A" to this Order, or the determination whether it is appropriate that the Applicant continue to be exempted from the requirement to be recognized as an exchange, may change as a result of the Commission's monitoring of developments in international and domestic capital markets or the Applicant's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

AND WHEREAS based on the Application, together with the representations made by and acknowledgements of the Applicant to the Commission, the Commission has determined that Applicant satisfies the criteria set out in Appendix 1 to Schedule "A" and that the granting of the Requested Relief would not be prejudicial to the public interest;

IT IS HEREBY ORDERED by the Commission that, (i) pursuant to section 147 of the Act, the Applicant is exempt from recognition as an exchange under subsection 21(1) of the Act, and (ii) pursuant to sections 15.1(1) of NI 21-101, 12.1 of NI 23-101 and 10 of NI 23-103, the Applicant is exempt from the requirements in NI 21-101, NI 23-101 and NI 23-103;

PROVIDED THAT the Applicant complies with the terms and conditions contained in Schedule "A" .

DATED _____, 2023.

**Schedule “A”
Terms and Conditions**

Meeting Criteria for Exemption

1. The Applicant will continue to meet the criteria for exemption included in Appendix 1 to Schedule “A” to this Schedule.

Regulation and Oversight of the Applicant

2. The Applicant will maintain its registration as a swap execution facility (**SEF**) with the United States Commodity Futures Trading Commission (**CFTC**) and will continue to be subject to the regulatory oversight of the CFTC.
3. The Applicant will continue to comply with the ongoing requirements applicable to it as a SEF registered with the CFTC.
4. The Applicant must do everything within its control, which includes cooperating with the Ontario Securities Commission (**Commission**) as needed, to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the *Securities Act* (Ontario) in compliance with Ontario securities law.

Access

5. The Applicant will not provide direct access to a Participant in Ontario, including such entities with its headquarters or legal address in Ontario (e.g., as indicated by their Legal Entity Identifier (**LEI**)), and all traders conducting transactions on its behalf, regardless of the traders' physical location (inclusive of non-Ontario branches of Ontario legal entities), as well as any trader physically located in Ontario who conducts transactions on behalf of any other entity (**Ontario Users**) unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as an “eligible contract participant” under the United States’ Commodity Exchange Act, as amended (**CEA**).
6. For each Ontario User provided direct access to its SEF Platform, the Applicant will require, as part of its application documentation or continued access to the SEF Platform, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
7. The Applicant may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, provided the Applicant notifies such Ontario User that this representation is deemed to be repeated each time it enters an order, request for quote or response to a request for quote on the Applicant.
8. The Applicant will require Ontario Users to notify the Applicant if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, the Applicant will promptly restrict the Ontario User’s access to the SEF Platform if the Ontario User is no longer appropriately registered or exempt from those requirements.

Trading by Ontario Users

9. The Applicant will not provide access to an Ontario User to trading in products other than swaps, as defined in section 1a(47) of the CEA (and for greater certainty, excluding security-based swaps), without prior Commission approval.

Submission to Jurisdiction and Agent for Service

10. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission’s regulation and oversight of the activities of the Applicant in Ontario, the Applicant will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
11. The Applicant will submit to the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of, related to, concerning or in any other manner connected with the Commission’s regulation and oversight of the Applicant’s activities in Ontario.

Prompt Reporting

12. The Applicant will notify staff of the Commission promptly of:
 - (a) any authorization to carry on business granted by the CFTC is revoked or suspended or made subject to terms or conditions on the Applicant’s operations;

- (b) the Applicant institutes a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate the Applicant or has a proceeding for any such petition instituted against it;
- (c) a receiver is appointed for the Applicant or the Applicant makes any voluntary arrangement with creditors;
- (d) the Applicant marketplace is not in compliance with this order or with any applicable requirements, laws or regulations of the CFTC where it is required to report such non-compliance to the CFTC;
- (e) any known investigations of, or disciplinary action against, the Applicant by the CFTC or any other regulatory authority to which it is subject; and
- (f) the Applicant makes any material change to the eligibility criteria for Ontario Users.

Semi-Annual Reporting

13. The Applicant will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a semi-annual basis (by July 31 for the first half of the calendar year and by January 31 of the following year for the second half), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Users and whether the Ontario User is registered under Ontario securities laws or is exempt from or not subject to registration, and, to the extent known by the Applicant, other persons or companies located in Ontario trading as customers of Participants (**Ontario Customers**);
 - (b) the LEI assigned to each Ontario User, and, to the extent known by the Applicant, to Ontario Customers in accordance with the standards set by the Global Legal Entity Identifier System;
 - (c) a list of all Ontario Users against whom disciplinary action has been taken since the previous report by the Applicant (or its regulation services provider ("**RSP**") acting on its behalf), or, to the best of the Applicant's knowledge, by the CFTC with respect to such Ontario Users' activities on the Applicant and the aggregate number of disciplinary actions taken against all Participants since the previous report by the Applicant (or its RSP acting on its behalf);
 - (d) a list of all active investigations since the previous report by the Applicant (or its RSP acting on its behalf) relating to Ontario Users and the aggregate number of active investigations since the previous report relating to all Participants undertaken by the Applicant;
 - (e) a list of all Ontario applicants for status as a Participant who were denied such status or access to the Applicant since the previous report, together with the reasons for each such denial; and
 - (f) for each product,
 - (i) the total trading volume and value originating from Ontario Users, and, to the extent known by the Applicant, from Ontario Customers, presented on a per Ontario User or per Ontario Customer basis; and
 - (ii) the proportion of worldwide trading volume and value on the Applicant conducted by Ontario Users, and, to the extent known by the Applicant, by Ontario Customers, presented in the aggregate for such Ontario Users and Ontario Customers;

provided in the required format.

Information Sharing

14. The Applicant will provide (or, if applicable, cause its RSP to provide) such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

**Appendix 1 to Schedule “A”
Criteria for Exemption of a Foreign Exchange Trading OTC Derivatives from
Recognition as an Exchange**

PART 1 REGULATION OF THE EXCHANGE

1.1 Regulation of the Exchange

The exchange is regulated in an appropriate manner in another jurisdiction by a foreign regulator (Foreign Regulator).

1.2 Authority of the Foreign Regulator

The Foreign Regulator has the appropriate authority and procedures for oversight of the exchange. This includes regular, periodic oversight reviews of the exchange by the Foreign Regulator.

PART 2 GOVERNANCE

2.1 Governance

The governance structure and governance arrangements of the exchange ensure:

- (a) effective oversight of the exchange,
- (b) that business and regulatory decisions are in keeping with its public interest mandate,
- (c) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, 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,
- (d) the exchange has policies and procedures to appropriately identify and manage conflicts of interest for all officers, directors and employees, and
- (e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

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.

PART 3 REGULATION OF PRODUCTS

3.1 Review and Approval of Products

The products traded on the exchange and any changes thereto are submitted to 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.

3.2 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.

3.3 Risks Associated with Trading Products

The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange that may include, but are not limited to, daily trading limits, price limits, position limits, and internal controls.

PART 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 Ontario securities laws, or exempted from these requirements,
 - (ii) the competence, integrity and authority of systems users, and
 - (iii) systems users are adequately supervised.
- (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.
- (d) The exchange does not
 - (i) permit unreasonable discrimination among participants, or
 - (ii) impose any burden on competition that is not reasonably necessary and appropriate.
- (e) The exchange keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.

PART 5 REGULATION OF PARTICIPANTS ON THE EXCHANGE

5.1 Regulation

The exchange 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.

PART 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.
- (b) The Rules are not contrary to the public interest and are designed to
 - (i) ensure compliance with applicable legislation,
 - (ii) prevent fraudulent and manipulative acts and practices,
 - (iii) promote just and equitable principles of trade,
 - (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 the products traded on the exchange,
 - (v) provide a framework for disciplinary and enforcement actions, and
 - (vi) ensure a fair and orderly market.

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

PART 8 CLEARING AND SETTLEMENT

8.1 Clearing Arrangements

The exchange does not offer products which are intended to be cleared.

8.2 Risk Management of Clearing House

The exchange does not offer products which are intended to be cleared.

PART 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, and
- (h) financial reporting.

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;
- (c) reviews the vulnerability of those systems and data center computer operations to internal and external threats, including physical hazards and natural disasters;
- (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;
- (e) ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;

- (f) maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and
- (g) maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

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 respond to market disruptions and disorderly trading.

PART 10 FINANCIAL VIABILITY

10.1 Financial Viability

The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

PART 11 TRADING PRACTICES

11.1 Trading Practices

Trading practices are fair, properly supervised and not contrary to the public interest.

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.

11.3 Transparency

The exchange has adequate arrangements to record and publish accurate and timely information as required by applicable law or the Foreign Regulator. This information is also provided to all participants on an equitable basis.

PART 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.

12.2 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.

12.3 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 Commission, on a timely basis.

PART 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.

PART 14 OUTSOURCING

14.1 Outsourcing

Where the exchange 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.

PART 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 an unreasonable condition or limit on access by participants to the services offered by the exchange.
- (b) The process for setting fees is fair and appropriate, and the fee model is transparent.

PART 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 Commission, self-regulatory organizations, other exchanges, and other appropriate regulatory bodies.

16.2 Oversight Arrangements

Satisfactory information sharing and oversight agreements exist between the Commission and the Foreign Regulator.

PART 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 Organisation of Securities Commissions (IOSCO) including those set out in the “**Principles for the Regulation and Supervision of Commodity Derivatives Markets**” (2011).