

Chapter 20 Confidentiality Obligations relating to Receipt of DMP Information

Confidentiality

2001. Each Clearing Member agrees and undertakes that, in consideration of it being provided the DMP Information (in such capacity, each a “**Receiving Clearing Member**”), it shall:

- (1) keep all the DMP Information confidential;
- (2) only use the DMP Information for the Permitted Purpose and comply with the provisions of the Default Management Process in respect thereof; and
- (3) upon demand by OTC Clear and to the extent reasonably practicable, promptly return to OTC Clear all or any part of the DMP Information in its possession in whatever form it may be by a secure method of transportation, or, save and except for any electronic back-up copies which are not readily accessible to the Receiving Clearing Member, destroy or procure the destruction of any copies or reproductions of any material, paper, programme or record incorporating the DMP Information including the destruction or expungement thereof from any memory device or medium, provided that the Clearing Member may retain copies of any DMP Information as required by law.

Upon demand by OTC Clear the Clearing Member shall provide to OTC Clear a written confirmation that all the provisions of sub-paragraph (3) above have been fully complied with.

2002. Each Receiving Clearing Member agrees and undertakes that it shall only disclose the DMP Information to its employees, officers, representatives, advisers or Affiliates for the Permitted Purpose (and to that extent only) on a “**strictly need to know**” basis.

2003. Each Clearing Member shall establish adequate procedures and mechanisms, including but not limited to the establishment of Information Barriers, to ensure that the DMP Information is, at all times, solely used for the Permitted Purpose by it and any of its employees, officers, representatives, advisers or Affiliates.

2004. Nothing in these Clearing Rules shall prohibit disclosure or use of the DMP Information if and to the extent:

- (1) it becomes publicly available otherwise than as a result of a breach of the provisions of these Clearing Rules by the Receiving Clearing Member and in particular the Default Management Process;
- (2) the Receiving Clearing Member is required to do so by order of a court of competent jurisdiction which arises as a result of an application by a third party;
- (3) the Clearing Member is required or requested to do so by any Regulatory Authority asserting jurisdiction over the Clearing Member; or
- (4) OTC Clear has given prior written approval to the disclosure.

Term

2005. In respect of each Receiving Clearing Member, the confidentiality obligations set out in this Chapter 20 shall continue for a period of two years from the date on which the DMP Information is provided by OTC Clear to such Receiving Clearing Member. The

immediately foregoing shall not prejudice any other confidentiality obligations imposed on the relevant Receiving Clearing Member under any Applicable Laws.

Rights to DMP Information

2006. The parties acknowledge that the DMP Information or any part of it shall remain the property of OTC Clear, neither the Receiving Clearing Member nor any of its employees, officers, representatives, advisers or Affiliates shall be entitled to any right or licence in respect thereof.

Liability of OTC Clear

2007. Subject to compliance with the terms of these Clearing Rules, and in particular, this Chapter 20, by the Receiving Clearing Member and any other person to whom the DMP Information is provided in accordance with the terms herein, OTC Clear acknowledges and agrees that, participation by a Clearing Member in the Default Management Process shall not prevent such Clearing Member from conducting any transaction, or otherwise providing investment services in respect of, investments that the Clearing Member may subsequently learn are the subject of DMP Information provided that, in such circumstances, the relevant Clearing Member shall establish appropriate Information Barriers to ensure its continued compliance with the terms of these Clearing Rules, and in particular, this Chapter 20. Without prejudice to any other provisions contained in these Clearing Rules and OTC Clear's right to enforce the same, OTC Clear agrees that, it shall not assert that there is a conflict of interest by the Clearing Member in doing so nor shall OTC Clear have a claim or action in respect of the foregoing against the Clearing Member.

Relief

2008. Each Receiving Clearing Member expressly acknowledges and agrees that the DMP Information may contain commercially sensitive information which if used otherwise than in accordance with the Default Management Process or for the Permitted Purpose, may result in irreparable harm to OTC Clear which damages alone may not be an adequate remedy, and will result in it gaining an unfair commercial advantage over other Clearing Members. Accordingly, each Receiving Clearing Member acknowledges that OTC Clear may seek injunctive relief, whether interim or final, specific performance, other equitable reliefs or any other combination of these remedies against the Receiving Clearing Member in the event of any threatened or actual breach of the terms of use of DMP Information as set out in this Chapter 20 by it or any of its employees, officers, representatives, advisers or Affiliates, and no proof of special damages will be necessary to enforce its rights to such remedies.

2009. The rights of OTC Clear under Clearing Rule 2008 shall be in addition to OTC Clear's other rights in law or in equity specific performance, other equitable reliefs or any other combination of these remedies.