



**HSBC BANK A.S.**

**CAPITAL MARKET TRANSACTIONS  
GENERAL FRAMEWORK AND  
INVESTMENT TRANSACTIONS AGREEMENT**

**CAPITAL MARKET TRANSACTIONS  
GENERAL FRAMEWORK AND  
INVESTMENT TRANSACTIONS AGREEMENT**

**1. Definitions and Abbreviations**

**Recordkeeping Communiqué:** Communiqué No. III-45.1 on Documentation and Recordkeeping Order Regarding Investment Services and Activities and the Ancillary Services thereto.

**Code of Obligations:** Code of Obligations No. 6098

**Exchange:** Borsa Istanbul A.S.

**Board:** Capital Markets Board

**MKK:** Merkezi Kayit Kurulusu A.S. (Central Securities Depository)

**CML:** Capital Market Law No. 6362

**Takasbank:** Istanbul Takas ve Saklama Bankasi A.S. (Istanbul Clearing, Settlement and Custody Bank Inc.)

**Investment Services Communiqué:** Communiqué No. III-37.1 on Principles Regarding Investment Services and the Ancillary Services

**Investment Institutions Communiqué:** Communiqué No. III-39.1 on Principles Regarding the Establishment and Activities of the Investment Institutions

**2. Parties**

This Capital Market Transactions General Framework and Investment Transactions Agreement (the "**Agreement**") is hereby executed by and between the following parties:

- HSBC Bank A.S.,  
A bank, registered to the Istanbul Trade Registry with its principal office located at "Esentepe Mahallesi Buyukdere Caddesi No:128 Esentepe, 34394 Sisli - Istanbul (the "**Investment Institution**");  
and
- ..... (the "**Client**"),  
Country : .....  
Trade Registry Number : .....  
Address : .....  
E-mail Address : .....@.....  
Telephone Number : .....  
Fax Number : .....

**3. Subject Matter and Scope**

This Agreement sets out the principles for determining the general principles with respect to the legal relationship with the respective Investment Institution as well as the principles for opening of an account for the purpose of provision of the investment services as specified under Article 37 of

- **HSBC BANK A.S.**Address:Esentepe Mah.Buyukdere Cad.No:128 Sisli 34394 / Istanbul, Place of Registration: Istanbul Trade Register Registration Number:268376, MERSIS (Central Registration System) Number: 2587864588194500 , E-mail address:www.hsbc.com.tr, Telephone: (0212) 376 40 00, Fax:(0212) 3362939-3362638-3362141-3362260///Please inform us by means of the "Contact Us" menu available on www.hsbc.com.tr, or through the HSBC Bank A.S. Telephone Banking by dialing 0850 211 0 111, in respect of your **pleasure, suggestions and complaints.** //HSBC Bank A.S. Customer **Contact Department:**Address:Maslak Mah.Dereboyu Cad.No:16 Sariyer 34398 ISTANBUL Tel:0850 211 0 114 Fax:0212 336 29 39

the CML and the ancillary services thereto, as specified under Article 38 of the CML, in accordance with the regulations of the Board, Exchange, Takasbank, MKK as well as such other applicable laws and secondary regulations of the Republic of Türkiye and also the regulations of the regulatory authorities, organized exchanges, settlement, clearing and depository institutions of the respective countries, in case of any international trading, to be limited with the authorities of the Investment Institution as granted by the Board and disclosed to the public on <https://www.tspb.org.tr/kamuoyu-aydinlatma-formu/>.

The Client hereby acknowledges that an account will be opened in its name with the Investment Institution upon execution of the Agreement by and between the Parties hereto, and the Investment Institution hereby warrants that it shall perform any and all operations and transactions as required for opening of an account in the name of the Client. The Investment Institution shall also fulfill its obligations with respect to its identification obligations as per the provisions as prescribed under the Law No. 5549 on Prevention of Laundering of Crime Proceeds and also the applicable regulations, as well as its information obligations in accordance with the provisions as prescribed under the Law No. 6502 on Protection of Consumers and the applicable regulations thereto,.

#### **4. Framework agreements regarding the investment services and activities**

Following the performance of the account opening transactions hereunder, any and all such other principles with respect to the capital market transactions, which will be performed with/through the Investment Institution by the Client, in particular the principles with respect to provision of intermediation for trading of the capital market instruments at the organized markets and/or over-the-counter markets, and the principles with respect to portfolio management, investment advisory services, intermediation for public offering and custody service by and between the Client and the Investment Institution and also with respect to provision of the ancillary services thereto, and the principles with respect to safe-keeping, utilization of the cash/assets of the Client and payment/deposit of such cash/assets to the Client, and the principles with respect to the method of calculation and communication of the fees, expenses, commissions and such other costs to be reflected to the Client, and the principles with respect to the clearing and settlement of the transactions, the electronic trading platforms, the term and termination of this Agreement and the laws and such other regulations governing this Agreement, shall be determined separately by and between the Client and the Investment Institution by means of the framework agreement(s) to be executed in accordance with Article 5 of the Recordkeeping Communiqué, depending on the investment service and activity to be requested by the Client.

The framework agreements with respect to the investment services and activities to be provided by the Investment Institution as based on the request of the Client are available on the website of the Investment Institution, namely <https://www.hsbc.com.tr/hsbc/bilgi-formlari-ve-sozlesmeler>.

#### **5. Informing the Client About the Risks**

- **HSBC BANK A.S.**Address:Esentepe Mah.Buyukdere Cad.No:128 Sisli 34394 / Istanbul, Place of Registration: Istanbul Trade Register Registration Number:268376, MERSIS (Central Registration System) Number: 2587864588194500 , E-mail address:www.hsbc.com.tr, Telephone: (0212) 376 40 00, Fax:(0212) 3362939-3362638-3362141-3362260///Please inform us by means of the "Contact Us" menu available on www.hsbc.com.tr, or through the HSBC Bank A.S. Telephone Banking by dialing 0850 211 0 111, in respect of your **pleasure, suggestions and complaints.** //HSBC Bank A.S. Customer **Contact Department**:Address:Maslak Mah.Dereboyu Cad.No:16 Sariyer 34398 ISTANBUL Tel:0850 211 0 114 Fax:0212 336 29 39

The Investment Institution hereby acknowledges and warrants that the specific risk notification forms and statements with respect to the investment services and activities as specified under the capital market regulations shall be submitted to the Client before the execution of the framework agreement(s) electronically, and that an appropriateness test shall be conducted at such stage for the Client by the Investment Institution as per Article 33 of the Investment Institutions Communiqué, and that the Client shall be notified, in writing, of the result of such test, and also that, in the event that the Client wishes to receive portfolio management or investment advisory service, then a suitability test shall be conducted for the Client as per Article 40 of the Investment Services Communiqué.

This Agreement has been executed in 2 (two) original counterparts by and between the Parties hereto as per Article 5 of the Recordkeeping Communiqué, and an original counterpart hereof has been delivered in person to the Client. .../.../20..

the Client  
Signature

the Investment Institution  
Stamp/Signature of the Authorized Person

**Client ID Number** :  
**MKK ID Number** :  
**Agreement Number** :

**Schedules :**

1. General Risk Notification Form for Investment Services and Activities
2. Client Classification Information Note
3. Personal Statement Form Drawn Up As Per the Guide on Residency and Due Diligence Issued by the Revenue Administration
4. Ultimate Beneficial Owner Statement
5. ISDA Cross-Border Swaps Representation Letter

**GENERAL RISK NOTIFICATION FORM FOR INVESTMENT SERVICES AND  
ACTIVITIES****Please Note:**

Please be informed that the transactions you will perform at the capital markets may bring you profits, but you will also have the risk of loss thereto. Therefore, before making a decision for such trading, you should understand the risks you may encounter at the market, and make your decisions by taking into account your financial status and constraints.

For such purpose, you should understand the below listed matters as indicated on the "General Risk Notification Form For Investment Services and Activities" as prescribed under Article 25 of the "Communiqué No. III-39.1 on Principles Regarding Establishment and Activities of Investment Institutions".

**Warning :**

Before starting any trading, please check that whether the institution with which you are planning to work is authorized for the capital market transactions you wish to perform. You may inquire the banks and the capital market intermediary institutions authorized to perform capital market transactions, by visiting the websites [www.spk.gov.tr](http://www.spk.gov.tr) or [www.tspakb.org.tr](http://www.tspakb.org.tr).

**Risk Notification :**

In addition to the points as specified under the "Framework Agreement" to be executed by and between you and the investment institution, through which you will trade, it is of great importance for you to understand the following points.

1. For any account, you will open with an investment institution, and any transaction to be performed through any such account, the provisions as prescribed under any and all kinds of regulations and such other similar administrative regulations as promulgated by the Capital Markets Board, exchanges and clearance houses shall apply.
2. Capital market transactions are subject to risks at various levels. You might lose the entire amount you have deposited to the investment institution, as a consequence of the price fluctuations that might arise in the market, and your losses might even exceed the amount of the principal amount deposited, depending on the type of the transaction you will perform.
3. It should be considered that because of the leverage effect in the transactions such as margin trading or short selling, trading in the market with a low equity may be either advantageous

- or disadvantageous and in this perspective, the leverage effect could provide higher gains as it could cause losses.
4. Due consideration should be given to the fact that the information and the recommendations, which might be provided to you by an investment institution about the transactions you will perform at the markets, might be deficient, and might require verification.
  5. Due consideration should be given to the fact that the technical and the fundamental analysis with regards to the trading of the capital market instruments to be performed by the authorized personnel of the investment institution might vary depending on the respective person, and that the forecasts as per such analysis might not be proven right.
  6. Due consideration should be given to the fact that the transactions performed in any foreign currency embrace the currency risk in addition to the above mentioned risks, and that some loss of value on the basis of Turkish Lira might occur, and also that the states may restrict the foreign capitals and the foreign currency movements, and may impose any additional and/or new taxes, and also that the trading may not be accomplished timely.
  7. You should have all commissions and any such other transaction fees, you will be obliged to pay, confirmed by your investment institution in advance of conducting any transaction. If such fees are not expressed in monetary terms, you should request a written explanation which includes comprehensible examples with regards to how such fees would be reflected to you in monetary terms.

The purpose of this risk notification form for capital market transactions is to inform the clients in general terms about the present risks; and this risk notification form may not cover all of the risks which might arise from trading of the capital market instruments as well as the practice thereto. Therefore, you should conduct a careful inquiry before directing your savings towards such type of investments.

I hereby acknowledge and represent that I have read and understood all of the points and matters given herein above, and that I have executed this "Risk Notification Form For Investment Services and Activities" as based on my free will, on the condition that my rights to claim any damage/loss and rights of action, which may arise due to any negligence or omission of the Intermediary Institution/Bank during implementation of these principles, shall be reserved; and also that I have received a copy of this Form upon execution of the Agreement.

the CLIENT

.....

*\* The inscription "I have read and understood" shall be written herein only by the clients that fall under the "General Client" class, and such CLIENT shall affix its signature hereunder.*

**SCHEDULE 2**

**CLIENT CLASSIFICATION INFORMATION NOTE****I. Applicable Regulatory Provisions**

Clients shall be classified in accordance with the provisions of Articles 29 to 32 of the Investment Institutions Communiqué promulgated by the Board. The regulations as prescribed under the said Communiqué in respect of the classification are as follows:

**1. Client classification**

- a) Investment institutions must classify all of their clients either as a professional or a general client in accordance with the principles set out under the Investment Institutions Communiqué, and deliver their service or activity in accordance with such classification, and fulfill their obligations in compliance with such client classes.
- b) Investment institutions must inform their clients of the class, in which they are involved as per the Investment Institutions Communiqué as well as the provisions of the applicable regulations, and their rights to change the class in which they are involved, while classifying their clients.
- c) The Client shall be obliged to notify the investment institution of any such case, if any event, which may affect the class to which it is subject, occurs, and the investment institution shall be obliged to take the actions necessary for fulfillment of the obligations prescribed under the regulations, if it is informed of/becomes aware of occurrence of any case that may affect the class of the client. The client shall be liable for the accuracy of the details and information provided in accordance with the principles given herein above, and also for updating such details and information, if and when so required.
- d) Investment institutions shall be obliged to ask the clients to provide the documentation authenticating that they are professional clients, and to retain such documentation for the period as determined as per the regulations of the Board concerning documentation and recordkeeping.

**2. Professional Client and General Client**

- a) The term "professional client" refers to any client, which is capable of making its investment decision on its own, and which possesses the experience, knowledge and expertise to assess the risks undertaken by it. In order to classify a client as a

professional client, it is required that such client is any of the below listed organizations/companies or that it possesses the qualifications listed below:

- i. Brokerage institutions, banks, portfolio management companies, collective investment institutions, private pension funds, insurance companies, mortgage funding institutions, asset management companies and any organizations/institutions/companies, situated abroad, which are equivalent of the foregoing.
  - ii. Retirement and provident funds, and funds established pursuant to the provisional Article 20 of the Law No. 506 on Social Insurances dated 17/07/1964.
  - iii. Public organizations and institutions, the Central Bank of the Republic of Türkiye, and the international institutions such as the World Bank and the International Monetary Fund.
  - iv. Any other institutions which may be deemed to be similar to such institutions by their nature, by the Board.
  - v. The institutions which meet at least the two of the criteria of having total assets amounting to 50,000,000 Turkish Liras, annual net proceeds amounting to 90,000,000 Turkish Liras, and shareholders' equity over 5.000.000 Turkish Liras.
  - vi. The clients classified as elective professional clients described under Article 32 hereunder.
- b) It is stipulated that an investment institution informs its professional clients, in writing, of the provisions of the regulations from which they may not benefit, before performance of any activity or provision of any service for them.
- c) In cases where the client does not wish to be classified as a professional client, and communicates its such request, in writing, to the investment institution, the investment institution shall be obliged to take such request into account.
- d) Any client, which does not fall under the definition for the professional client, shall be classified as a "general client".

### **3. The clients to be regarded as elective professional clients**

- a) Those among the general clients, which meet the below listed qualifications, may benefit from the services and activities that may be delivered by the investment institution, as a professional client if they request in writing and document that they meet at least two of the requirements listed below. In order for being classified as a professional client, the client is required to meet at least two of the below listed requirements:



- i. To have performed at least 10 transactions with a volume of at least 500,000 Turkish Liras in each quarterly period within the last 1 year at the markets on which the transactions are requested to be performed;
  - ii. To have total amount of financial assets, including their cash deposits and the capital market instruments, over 1,000,000 Turkish Liras;
  - iii. To have served at any of the senior executive positions at the field of finance for a period of at least 2 years, or to have served as a specialized staff member at the field of capital markets for a period of at least 5 years, or to hold the Advanced Level License for Capital Market Activities or the License for Derivative.
- b) Such amounts may be changed by the Board if and when deemed required.
- c) Within the scope of the definition for the qualified investor as specified under the relevant regulations of the Board; in respect of determination of the clients which will be classified as elective professional clients, those who meet only the requirement as specified under the sub-paragraph (ii) among the requirements as specified under the paragraph (a) hereof shall be classified as a qualified investor.

## **II. Regulatory Provisions From Which the Professional Clients May Not Benefit**

- 1) As part of the activity of intermediation for trading, the investment institutions shall be obliged to provide the client with the explanation of the risks of the capital market instruments being traded, in addition to the general risk notification submitted to such client, before starting to deliver any services to their general clients. In respect of the professional clients, there is no such requirement but the professional client shall be entitled to request provision of such explanations to it.
- 2) As part of the activities of intermediation for trading and intermediation for public offering, the investment institutions shall be obliged to conduct an appropriateness test for the general clients, but shall not be obliged to conduct such test for the professional clients. Accordingly, the professional client shall, in person, determine that whether the services and the products to be provided to it by the investment institution are appropriate for such professional client, or not.
- 3) The investment institutions shall be obliged to provide their general clients with the explanations for the general risks in relation to the capital market instruments and the investment services and activities, and to deliver a copy of the "General Risk Notification Form For Investment Services and Activities", the minimum contents of which have been determined by the Board for such purpose, and to inform the general clients accordingly,

before executing the framework agreement as part of the investment services and activities. The professional clients are not required to be informed in such manner.

- 4) In accordance with the first paragraph of Article 68, titled "reconciliation between the client and the custodian", of the Investment Services Communiqué; the clients for which the custodian service is provided as well as the internal control unit or personnel of the investment institution authorized to hold in custody shall be obliged to provide an understanding, in writing, or electronically, at least once a calendar year, with respect to the capital market instruments and cash held by the client. As per the second paragraph of the said article; in the event that the consent, in writing, of the professional clients is obtained, then such agreement is not required to be reached.
- 5) As per the first paragraph of Article 69, titled "notifications regarding the client's assets", of the Investment Services Communiqué; investments institutions, authorized to provide custodian services, shall serve a notification at least once a month with respect to the client's capital market instruments and cash in accordance with the principles as specified in the documents and records as promulgated by the Board, and it shall be possible to execute an agreement with professional clients or incorporate such matter into the framework agreement in respect of the failure to serve such notice.

### **III. CLIENT's Statement**

I, as a CLIENT, hereby acknowledge and represent that:

I have been adequately informed about the procedures and principles regarding classification of the clients, as well as about the applicable regulatory provisions, before starting to perform any capital market transaction with HSBC hereunder, and that;

I shall be liable for the accuracy of the information and documents I have submitted in respect of my classification, as well as for updating any such information and documents if and when so required; and that;

the products and the services, provided in accordance with the Agreement, are provided in accordance with my own request, and that I have been warned about the fact that HSBC may not indoctrinate or give any advice to me in respect of such matter; and also that;

HSBC shall have the discretionary power in respect of provision of such products to me, if I request any product which is understood to have been not suitable for me in consequence of the appropriateness test, if conducted; and also I shall be fully liable for the consequences and the risks of such investments, if any such product is provided to me.

**PERSONAL STATEMENT FORM DRAWN UP AS PER THE GUIDE ON RESIDENCY  
AND DUE DILIGENCE ISSUED BY THE REVENUE ADMINISTRATION**

- 1) Registered Trade Name :
- 2) Registered Address :
- 3) Date and place of incorporation<sup>1</sup> :
- 4) Category of the account holder :

**a- Financial Institution**

- Investment institution<sup>2</sup>
- Other financial institutions

**b- Non-Financial Entity (“NFE”)**

- Public company or its subsidiary
- Public institution
- International organization
- Active NFE (Other)
- Passive NFE<sup>3</sup>

<sup>1</sup> To be completed by the persons controlling the accounts of the respective entity that is determined to be a passive NFE

<sup>2</sup> The entities, the gross income of which may be attributed to the investment, re-investment or trading of financial assets and which are managed by the entities listed as follows: (i) depository institution, (ii) custodian, (iii) certain insurance company, or (iv) the entities which carry out any or more of the money market instruments trading, foreign exchange trading, currency, interest rate and index instruments trading, transferable securities trading, commodity futures trading, individual and collective portfolio management, investment, management or operation of financial assets or cash otherwise in the name of other persons, as a regular profession, commercial or occupational activity.

<sup>3</sup> Except for the investment institutions as indicated in the footnote #3.

5) Tax Residence

Country of Residence	Tax ID Number

SIGNATURE

[DATE OF EXECUTION/CONFIRMATION]

**ULTIMATE BENEFICIAL OWNER STATEMENT**

Pursuant to Article 15 of the Law No. 5549 on Prevention of Laundering of Crime Proceeds, in respect of any transaction to be performed with or through the agency of our Company, which requires identification, any person, who acts for her/his/its own but on behalf of any other person, shall be obliged to notify the obligors, in writing, of the person on whose behalf she/he/it acts before performance of any such transaction, and any person, who would act in breach of such obligation, shall be sentenced to imprisonment for a period, starting from six months up to one year, or be imposed with a punitive fine up to five thousand days.

In accordance with the said provision, you should state that whether you are the ultimate beneficial owner of any such transaction in respect of the capital market transactions you would perform through the agency of our Company, and also you should provide the following statement with respect to the third party or parties which is/are the ultimate beneficial owner(s), in case the ultimate beneficial owner is a third party, as per the applicable regulations:

I shall perform the Transactions hereunder on behalf of me and as the "ultimate beneficial owner".

I shall perform the Transactions hereunder on behalf of me, but to the account of my sub-clients. I hereby acknowledge that I shall be obliged to disclose the identity details of any sub-client to the competent regulatory authorities and bodies situated in Türkiye, including the Capital Markets Board, and also to HSBC, upon request, and also that I shall act in compliance with such obligation.

In case of any change with respect to the contents of this statement of mine, HSBC should be notified of such case by means of the most expeditious means of communication. I hereby acknowledge and warrant that I shall remain liable for the accuracy and the consequences of the statement provided by me as stated herein above, until service of any such notice:

the Client

\_\_\_\_\_ (signature)

**REMARKS:**

**The Bank may not sell investment products to any real or legal person Client, who/which is categorized as a U.S. Person or resident in Canada, as per the international regulations and the HSBC Group guidelines. If and when they fall under the status of a U.S. Person or resident in Canada, the Clients shall be obliged to inform the Bank about such status, and to submit the documentation that might be requested by the Bank. Accordingly, the Client shall be obliged to execute the ISDA Cross-Border Swaps Representation Letter given herein below, and also to submit such letter to the Bank.**



**International Swaps and Derivatives Association, Inc.**

**CROSS-BORDER SWAPS REPRESENTATION LETTER**

**published on August 19, 2013  
by the International Swaps and Derivatives Association, Inc.**

---

On July 26, 2013, the CFTC published an “Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations” providing guidance as to when the CFTC will assert jurisdiction over swap transactions that have a non-U.S. element. This representation letter allows market participants to provide counterparties with status representations needed to determine whether compliance with various CFTC swap regulations is required by the Interpretive Guidance. The representations in this letter are solely for the purposes of making such determinations.

---

**Capitalized terms used in this letter are defined in Appendix I.**

---

**I. U.S. Person Representations.**

**Instructions: Please select one of the two representations provided below by checking the relevant box.**

*Not a U.S. Person.*

- We hereby represent that we reasonably believe that we do not fall within any of the U.S. Person Categories and believe in good faith that we would not otherwise be deemed to be a “U.S. person” under the Interpretive Guidance. This representation shall be deemed repeated each time we enter into a Swap Transaction with you unless we have

- HSBC BANK A.s.Address:Esentepe Mah.Buyukdere Cad.No:128 Sisli 34394 / Istanbul, Place of Registration: Istanbul Trade Register Registration Number:268376, MERSIS (Central Registration System) Number: 2587864588194500 , E-mail address:www.hsbc.com.tr, Telephone: (0212) 376 40 00, Fax:(0212) 3362939-3362638-3362141-3362260//Please inform us by means of the "Contact Us" menu available on www.hsbc.com.tr, or through the HSBC Bank A.S. Telephone Banking by dialing 0850 211 0 111, in respect of your **pleasure, suggestions and complaints.** //HSBC Bank A.S. Customer **Contact Department:**Address:Maslak Mah.Dereboyu Cad.No:16 Sariyer 34398 ISTANBUL Tel:0850 211 0 114 Fax:0212 336 29 39

notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction.

U.S. Person.

- We hereby represent that we reasonably believe that we do fall within one or more of the U.S. Person Categories or would otherwise be deemed to be a “U.S. person” under the Interpretive Guidance. This representation shall be deemed repeated each time we enter into a Swap Transaction with you unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction.

**II. Additional Representations for Non-U.S. Persons.**

**Instructions:** If you checked the first box in Part I (“Not a U.S. Person”), please complete Sections (A) and (B) below by checking one box in each Section.

This information is needed because certain CFTC Swap Regulations apply to transactions with non-U.S. persons if they are “affiliate conduits” or guaranteed by a U.S. person.

(A) **Affiliate Conduit Representations.**

Not an Affiliate Conduit.

- We hereby represent that we reasonably believe, based upon the relevant guidance in the Interpretive Guidance, including the Affiliate Conduit Factors, that we would not be classified under the Interpretive Guidance as an “affiliate conduit.”. This representation shall be deemed repeated each time we enter into a Swap Transaction with you unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction.

Affiliate Conduit:

- We hereby represent that we reasonably believe, based upon the relevant guidance in the Interpretive Guidance, including the Affiliate Conduit Factors, that we would be classified under the Interpretive Guidance as an “affiliate conduit.”. This representation shall be deemed repeated each time we enter into a Swap Transaction with you unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction.

(B) **Guarantee Representations.**

*No U.S. Person Guarantees.*

- We hereby represent to you as of each time we enter into a Swap Transaction with you that, unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction, our obligations to you in connection with the relevant Swap are not, supported by any Guarantee (of which we are aware) other than any Guarantee provided by a person who we reasonably believe does not fall within any of the U.S. Person Categories and who we believe in good faith would not otherwise be deemed a “U.S. person” under the Interpretive Guidance.

*U.S. Person Guarantees*

- We hereby represent to you as of each time we enter into a Swap Transaction with you that, unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction, our obligations to you in connection with the relevant Swap are supported by a Guarantee that is provided by a person that we reasonably believe falls within one or more of the U.S. Person Categories or would otherwise be deemed to be a “U.S. person” under the Interpretive Guidance.

**Additional Instructions: If you checked the second box in Section (B) (“U.S. Person Guarantees”), please further indicate in Section (C)(1) below whether such Guarantees are provided by Financial Entities and in Section (C)(2) below whether you are affiliated with a Swap Dealer.**

(C)(1) **Financial Entity Guarantees**

*No Financial Entity Guarantees.*

- We further represent to you as of each time we enter into a Swap Transaction with you that, unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction, we reasonably believe that no person who would be deemed to be a “U.S. person” under the Interpretive Guidance who is providing a Guarantee supporting our obligations to you in connection with the relevant Swap is a Financial Entity.

*Financial Entity Guarantees.*

- We further represent to you as of each time we enter into a Swap Transaction with you that, unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction, we reasonably believe that one or more persons who would be deemed to be a “U.S. person” under the Interpretive Guidance who is providing



a Guarantee supporting our obligations to you in connection with the relevant Swap is a Financial Entity.

(C)(2) **Swap Dealer Affiliates.**

No Swap Dealer Affiliates.

- We further represent to you as of each time we enter into a Swap Transaction with you that, unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction, we are not affiliated with a Swap Dealer.

Swap Dealer Affiliates.

- We further represent to you as of each time we enter into a Swap Transaction with you that, unless we have notified you to the contrary in a timely manner in writing prior to entering into such Swap Transaction, we are affiliated with a Swap Dealer and we do not engage in a level of Swap dealing activity that would require registration as a Swap Dealer with the CFT.

Executed and delivered with effect from the date first written above:

[Name of entity completing the letter]<sup>1</sup>  
[LEI/CICI: ]  
[Alternative Identifier: ]<sup>2</sup>

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

<sup>1</sup> If this letter is being delivered by an agent on behalf of one or more principals, the agent should insert “as agent for [name of principal][the principals named on the attached sheet].” If the agent is acting on behalf of more than one principal, (i) it may list the names of such principals on a separate sheet and (ii) this letter should be treated as if it were a separate letter with respect to each principal listed on such sheet. Similarly, if this letter is being delivered by a trustee on behalf of one or more trusts or trust funds, the trustee should insert “as trustee for [name of trust or trust fund][the [trusts][trust funds] named on the attached sheet].”

<sup>2</sup> If you would like to include an alternative identifier, please describe the type of identifier provided.

## Appendix I: Definitions

“**Affiliate Conduit Factors**” means the four factors identified in the Interpretive Guidance as relevant to considering whether a non-U.S. person is an “affiliate conduit.”<sup>3</sup> For informational purposes only, the text of the factors (but not the related interpretive material) is reproduced below:

- (i) the non-U.S. person is a majority-owned affiliate of a U.S. person.<sup>4</sup>
- (ii) the non-U.S. person is controlling, controlled by or under common control with the U.S. person;<sup>5</sup>
- (iii) the financial results of the non-U.S. person are included in the consolidated financial statements of the U.S. person; and
- (iv) the non-U.S. person, in the regular course of business, engages in swaps with non-U.S. third-party(ies) for the purpose of hedging or mitigating risks faced by, or to take positions on behalf of, its U.S. affiliate(s) and enters into offsetting swaps or other arrangements with its U.S. affiliate(s) in order to transfer the risks and benefits of such swaps with third-party(ies) to its U.S. affiliates.

“**CEA**”, means the U.S. Commodity Exchange Act, as amended.

“**CFTC**” means the U.S. Commodity Futures Trading Commission.

“**CFTC Swap Regulations**” means the rules, regulations, orders and interpretations adopted or issued by the CFTC, as in effect from time to time, that apply to Swaps and that are promulgated under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act or that are otherwise designated by the CFTC as being subject to the Interpretive Guidance.<sup>6</sup>

“**Financial Entity**” means a “financial entity,” as defined in Section 2(h)(7)(C) of the Commodity Exchange Act, as amended.

“**Guarantee**” means an agreement or arrangement under which a person commits to provide a financial backstop or funding against potential losses that may be incurred by another person in connection with a Swap.<sup>7</sup>

“**Interpretive Guidance**” means the *Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations*, 78 Fed. Reg. 45292 (July 26, 2013), as amended or supplemented by the CFTC from time to time.<sup>8</sup>

“**Swap**” means a “swap” as defined in the Section 1a(47) of the CEA and CFTC Regulation 1.3(xxx). The term “Swap” also includes any foreign exchange swaps and foreign exchange forwards that may be exempted from regulation as “swaps” by the Secretary of the Treasury pursuant to authority granted by Section 1a(47)(E) of the Commodity Exchange Act.

“**Swap Dealer**” means a “swap dealer” as defined in Section 1a(49) of the CEA and CFTC Regulation 1.3(ggg) thereunder.

“**Swap Transaction**” means any transaction that results in the creation of new Swap between two or more parties or in a change to the terms of an existing Swap between parties, including execution, termination, assignment, novation, exchange, transfer, amendment, conveyance, or extinguishing of rights or obligations of a Swap.

“**United States**” or “**US**” means the United States, its states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and any other territories or possessions of the United States government, or enclave of the United States government, its agencies or instrumentalities.

<sup>3</sup> For the full discussion of how the CFTC interprets the term “affiliate conduit” (or alternately “conduit affiliate”), see the Interpretive Guidance at pp. 45358-59. Note that the discussion indicates that the term “affiliate conduit” is not intended to include affiliates of swap dealers.

<sup>4</sup> The concept of a majority-owned affiliate for these purposes is discussed in fn. 591 of the Interpretive Guidance.

<sup>5</sup> The concept of “control” for these purposes is discussed in fn. 592 of the Interpretive Guidance.

<sup>6</sup> The application of the “U.S. person” concept to swap regulation is discussed at p. 45316 of the Interpretive Guidance and the related concept of “swaps activities” is discussed at p. 45297 & fn. 38.

<sup>7</sup> For a full discussion of how the CFTC interprets the term “guarantee,” see the Interpretive Guidance at p. 45320 & fn. 267 and also at p. 45355.

<sup>8</sup> Available at: <http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2013-17958a.pdf>.

“*U.S. Person Categories*” means the enumerated categories of “U.S. persons” that are provided in the Interpretive Guidance.<sup>9</sup> For informational purposes only, the text of the categories (but not the related interpretive materials) is reproduced below:

- (i) any natural person who is a resident of the United States;
- (ii) any estate of a decedent who was a resident of the United States at the time of death;
- (iii) any corporation, partnership, limited liability company, business or other trust, association, joint-stock company, fund or any form of enterprise similar to any of the foregoing (other than an entity described in prongs (iv) or (v), below) (a “legal entity”), in each case that is organized or incorporated under the laws of a state or other jurisdiction in the United States or having its principal place of business in the United States<sup>10,11</sup>
- (iv) any pension plan for the employees, officers or principals of a legal entity described in prong (iii), unless the pension plan is primarily for foreign employees of such entity;
- (v) any trust governed by the laws of a state or other jurisdiction in the United States, if a court within the United States is able to exercise primary supervision over the administration of the trust;
- (vi) any commodity pool, pooled account, investment fund, or other collective investment vehicle that is not described in prong (iii) and that is majority-owned by one or more persons described in prong (i), (ii), (iii), (iv), or (v) <sup>12</sup> except any commodity pool, pooled account, investment fund, or other collective investment vehicle that is publicly offered only to non-U.S. persons and not offered to U.S. persons;<sup>13</sup>
- (vii) any legal entity (other than a limited liability company, limited liability partnership or similar entity where all of the owners of the entity have limited liability) that is directly or indirectly majority-owned by one or more persons described in prong (i), (ii), (iii), (iv), or (v) and in which such person(s) bears unlimited responsibility for the obligations and liabilities of the legal entity; <sup>14</sup> and
- (viii) any individual account or joint account (discretionary or not) where the beneficial owner (or one of the beneficial owners in the case of a joint account) is a person described in prong (i), (ii), (iii), (iv), (v), (vi), or (vii).

<sup>9</sup> Interpretive Guidance at pp. 45316-17.

<sup>10</sup> See the Interpretive Guidance at p. 45309 regarding the inclusion of legal entities that engage in non-profit activities, U.S. state, county and local governments and their agencies and instrumentalities. The treatment of international financial institutions such as the World Bank is discussed at p. 45353 & fn. 531.

<sup>11</sup> The CFTC indicates that the concept of “principal place of business” as applied to collective investment vehicles requires special consideration due to the nature of such vehicles. In particular, the location of senior personnel responsible for implementing the vehicle’s investment strategy and for forming and/or promoting the vehicle is discussed. For discussion of the relevant considerations, see the Interpretive Guidance at pp. 45309-12.

<sup>12</sup> For purposes of making this determination, the CFTC indicates that collective investment vehicles should “look through” direct investors in certain circumstances. See the Interpretive Guidance at pp. 45313-14 for discussion of when a look-through is required. In addition, the Interpretive Guidance indicates that majority ownership for this purpose is “the beneficial ownership of more than 50 percent of the equity or voting interests.”

<sup>13</sup> See the Interpretive Guidance at p. 45314 regarding exclusion of collective investment vehicles that are publicly offered only to non-U.S. persons and not offered to U.S. persons from the U.S. Person Categories.

<sup>14</sup> Regarding the circumstances in which a majority of the owners of an entity are considered to be U.S. persons with unlimited responsibility for the obligations and liabilities of the legal entity, see the Interpretive Guidance at pp. 45312-13.