



November 19, 2019

Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Forty-Seventh Amendment to the UTP Plan

Dear Ms. Countryman:

Enclosed please find the above-captioned amendment to the Second Restatement of the UTP Plan (the “Plan”) as approved and executed by the Plan Participants, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long-Term Stock Exchange, Inc., Nasdaq BX, Inc., Nasdaq ISE, LLC, Nasdaq PHLX, Inc., The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (collectively, the “Participants”).

The Participants propose to adopt a confidentiality policy to provide guidelines for the Operating Committee and the Advisory Committee of the Plan, and all subcommittees thereof, regarding the confidentiality of any data or information generated, accessed, or transmitted to the Operating Committee, as well as discussions occurring at a meeting of the Operating Committee or any subcommittee. The confidentiality policy is designed to allow the Operating Committee to disclose confidential information to the Advisory Committee to obtain their input without concern that such confidential information may be shared beyond the Advisory Committee. Therefore, the Participants believe that the proposed amendment will allow for more sharing of information with the Advisory Committee regarding the operation of the Plan and elicit more input by the Advisory Committee on Plan matters that might otherwise be deemed confidential.

A. Rule 608(a)

1. Purpose of the Amendment

Background

Under Section IV.E.(d) of the Plan, the Advisory Committee has the right to attend all meetings of the Operating Committee and receive any information concerning Plan matters distributed to the Operating Committee. The Advisory Committee also can attend meetings of most subcommittees. The Operating Committee, however, may meet in Executive Session without the Advisory Committee to discuss items that require confidential treatment, as determined by majority vote of the Operating Committee. Last year, the Participants adopted an Executive

Session Policy, which provides a specified list of topics that are appropriate for Executive Session. Those topics include:

- fees that require discussion of confidential financial information;
- subscriber audit findings;
- discussions that require the disclosure of Material Non-Public Information;
- financial reports containing confidential financial information;
- the portion of a discussion or evaluation of administrator and processor performance that includes confidential, non-public information;
- contract negotiations, awards, and revocations that contain non-public information;
- Advisory Committee member selection;
- litigation matters; and
- confidential, non-public discussions with the Securities and Exchange Commission (“SEC”).

The Participants currently use Executive Sessions sparingly to discuss confidential information. When used, the Executive Session usually lasts less than thirty minutes and is used to discuss a limited set of topics, often consisting of a single, discrete topic. Although the Executive Session is sparingly used, the Participants are now seeking additional ways to include the Advisory Committee in more discussions and to share additional confidential information with the Advisory Committee.

Therefore, the Participants are proposing a confidentiality policy to allow the Operating Committee to share confidential information with the Advisory Committee without concern that such information would be more broadly disseminated. By sharing information that would in the ordinary course be considered appropriate for confidential treatment, the Participants believe that the Advisory Committee will be able to provide more informed advice and recommendations with respect to the operation and governance of the Plan. Further, the confidentiality policy is designed to protect against any potential misuse of confidential information by: (1) restricting the use and dissemination of customer-related information; (2) requiring the Administrator and Processor to maintain confidential information policies that will be reviewed by the Operating Committee at least every two years; (3) permitting disclosure of confidential information by a representative of a Participant to other employees or agents of the Participant or its affiliates only as needed to perform that representative’s function on behalf of the Participant; and (4) setting clear procedures regarding the treatment of various forms of confidential information.

The Participants discussed this proposal extensively with the Advisory Committee and this proposal reflects input and comments from the members of the Advisory Committee.

Proposed Confidentiality Policy

In an effort to expand the information that the Operating Committee may provide to the Advisory Committee, and also to provide guidelines about what information can and cannot be shared outside the meetings of the Operating Committee, the Participants are proposing to adopt a confidentiality policy.

The proposed confidentiality policy would apply to all representatives of the Participants, Pending Participants, the UTP Administrator and Processor, and the Advisory Committee. Additionally, it would apply to agents of the Operating Committee, including, but not limited to, attorneys, advisors, accountants, contractors or subcontractors (“Agents”), as well as any third parties invited to attend meetings of the Operating Committee or Plan subcommittees. These persons are collectively defined in the confidentiality policy as “Covered Persons.”¹

The proposed confidentiality policy creates three categories of confidential information: (1) Restricted Information; (2) Highly Confidential Information; and (3) Confidential Information. Restricted Information is defined as (i) highly sensitive customer-specific financial information, (ii) customer-specific audit information, (iii) other customer financial information, and (iv) Personal Identifiable Information. Highly Confidential Information is defined as (i) any data or information shared in an Executive Session or that would otherwise qualify for confidential treatment pursuant to the Plan’s Executive Session Policy;² and (ii) any other highly sensitive Participant-specific, customer-specific, individual-specific, or otherwise sensitive information relating to the Operating Committee, Participants, or customers that is not otherwise Restricted Information. Highly Confidential Information includes: a Participant’s contract negotiations with the Processor or Administrator; personnel matters; information concerning the intellectual property of Participants or customers; and any document subject to the Attorney-Client Privilege or Work Product Doctrine. Finally, Confidential Information is defined as (i) any non-public data or information designated as Confidential by a majority vote of the Operating Committee; (ii) any document generated by a Participant or Advisor and designated by that Participant or Advisor as Confidential; (iii) the minutes of the Operating Committee or any subcommittee thereof unless approved by the Operating Committee for release to the public; and (iv) the individual views and statements of Covered Persons and SEC staff disclosed during a meeting of the Operating Committee or any subcommittees thereunder.

The confidentiality policy outlines the procedures with respect to identifying documents as Restricted, Highly Confidential, or Confidential as well as the procedures regarding how to treat documents and information in each category. With respect to general procedures, the confidentiality policy places the obligation on the Administrator and the Processor to be the custodian of all documents and to maintain the classification of such documents. The Administrator will ensure that all documents are properly labeled with the appropriate category. The Administrator may, under delegated authority, designate documents as Restricted, Highly Confidential, or Confidential, which will be determinative unless altered by a majority vote of the Operating Committee. Finally, all contracts between the Operating Committee and its Agents will require the Operating Committee information to be treated as Confidential Information that may not be disclosed to third parties, except as necessary to effect the terms of the contract or as required by law.

¹ Covered Persons would not include staff of the Securities and Exchange Commission.

² Although Highly Confidential Information includes data or information shared in an Executive Session, the Participants plan on including more information in General Session rather than Executive Session. The proposed confidentiality policy allows the Participants to share more sensitive information with the Advisory Committee without concerns that such information would be more broadly disseminated. Therefore, the Participants intend to share additional information, previously designated for Executive Session, with the Advisory Committee, including confidential financial information.

Procedures Governing Restricted Information

With respect to Restricted Information, the proposed confidentiality policy provides that such information will be kept in confidence by the Administrator and Processor and will not be disclosed to the Operating Committee or any subcommittee thereof, or during Executive Session, or the Advisory Committee, except in the following circumstances:

1. If an Administrator determines that it is appropriate to share a customer's financial information with the Operating Committee or a subcommittee thereof, the Administrator will first anonymize the information by redacting the customer's name and any other information that may lead to the identification of the customer.
2. The Administrator may disclose the identity of a customer that is the subject of the Restricted Information in Executive Session only if the Administrator determines in good faith that it is necessary to disclose the customer's identity in order to obtain input or feedback from the Operating Committee or a subcommittee thereof about a matter of importance to the Plan. In such an event, the Administrator will change the designation of the information at issue from "Restricted Information" to "Highly Confidential Information."
3. The Administrator may share Restricted Information related to any willful, reckless, or grossly negligent conduct by a customer discovered by the Administrator with the CTA/CQ Administrator or with the SEC, as appropriate, upon majority vote of the Operating Committee in Executive Session, provided that, in any report by the Administrator during Executive Session related to such disclosure, the Administrator anonymizes the information related to the wrongdoing by removing the names of the party or parties involved, as well as any other information that may lead to the identification of such party or parties.

The Participants believe that the procedures governing Restricted Information will ensure the protection of customer identities and customer-related information, and such information will be disclosed only when necessary to conduct Plan-related business.

Procedures Governing Highly Confidential Information

With respect to Highly Confidential Information, the proposed confidentiality policy provides that such information may be disclosed only in Executive Session of the Operating Committee or to the Legal Subcommittee. Highly Confidential Information may also be disclosed to SEC staff, unless it is protected by the Attorney-Client Privilege or the Work Product Doctrine. Any disclosure of Highly Confidential Information to SEC staff will be accompanied by a FOIA Confidential Treatment Request. The confidentiality policy does not permit any other disclosure of Highly Confidential Information.

In addition, a Covered Person that is a representative of a Participant may disclose Highly Confidential Information to other employees or agents of the Participant or its affiliates only as needed for such Covered Person to perform his or her function on behalf of the Participant, as

reasonably determined by the Covered Person. A copy of the confidentiality policy will be made available to recipients of such information who are employees or agents of a Participant or its affiliates that are not Covered Persons, who will be required to abide by the confidentiality policy.

Further, because of the heightened concerns regarding the disclosure of Highly Confidential Information, in the event a Covered Person is determined by a majority vote of the Operating Committee to have disclosed Highly Confidential Information, the Operating Committee will determine the appropriate remedy for the breach based on the facts and circumstances of the event. For the representatives of a Participant, appropriate remedies include a letter of complaint submitted to the SEC, which may be made public by the Operating Committee. For a member of the Advisory Committee, appropriate remedies include removal of that member from the Advisory Committee.

Procedures Governing Confidential Information

Under the proposed confidentiality policy, Confidential Information may be disclosed to the Operating Committee, any subcommittee thereof, and the Advisory Committee. A Covered Person may not disclose Confidential Information to any individual that is not either a Covered Person or a member of the SEC staff, except with authorization of the Operating Committee, or as may be otherwise required by law. The Operating Committee or a subcommittee thereof may authorize the disclosure of Confidential Information by an affirmative vote of the number of members that represent a majority of the total number of members of the Operating Committee or subcommittee. However, with respect to Confidential Information that is generated by a Participant or member of the Advisory Committee, the Operating Committee may authorize its disclosure only with the consent of such Participant or member of the Advisory Committee.

In order to elicit industry feedback, members of the Advisory Committee may be authorized by the Operating Committee to disclose particular Confidential Information to enable them to consult with third-party industry representatives or technical experts, provided that the member of the Advisory Committee takes any steps requested by the Operating Committee to prevent further dissemination of that Confidential Information, including providing the individuals consulted with a copy of the confidentiality policy and requesting that person to maintain the confidentiality of such information in a manner consistent with the confidentiality policy.

A Covered Person that is a representative of a Participant may disclose Confidential Information to other employees or agents of the Participant or its affiliates only as needed for such Covered Person to perform his or her function on behalf of the Participant, as reasonably determined by the Covered Person. A copy of the confidentiality policy will be made available to recipients of such information who are employees or agents of a Participant or its affiliates that are not Covered Persons, who will be required to abide by the confidentiality policy.

A Covered Person may disclose his or her own individual views and statements that may otherwise be considered Confidential Information without obtaining authorization of the Operating Committee provided that the Covered Person is not disclosing the views or statements of any other Covered Person or Participant that are considered Confidential Information.

Finally, a Covered Person that discloses Confidential Information without the authorization of the Operating Committee will report such disclosure to the Chair of the Operating Committee. Such unauthorized disclosure of Confidential Information will be recorded in the minutes of the meeting of the Operating Committee and will contain: (a) the name(s) of the person(s) who disclosed such Confidential Information, and (b) a description of the Confidential Information disclosed. The name(s) of the person(s) who disclosed such Confidential Information will also be recorded in any publicly available summaries of Operating Committee minutes.

2. Governing or Constituent Documents

Not applicable.

3. Implementation of Amendment

Each of the Participants has approved the amendment in accordance with Section IV.C of the UTP Plan. The Participants also received and incorporated feedback from the Advisory Committee in preparing the confidentiality policy.

4. Development and Implementation Phases

Not applicable.

5. Analysis of Impact on Competition

The Participants believe that the proposed amendment does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Securities Exchange Act of 1934 (the “Act”).

The Participants believe that the proposed confidentiality policy will provide enhanced disclosure to the Advisory Committee regarding matters that the Participants consider confidential information. Currently, the Plan allows information to be discussed in Executive Session when the Operating Committee determines that an item of Plan business requires confidential treatment. Despite the confidential nature of the information, the Participants believe that inclusion of the Advisory Committee in certain discussions that involve confidential information would be beneficial for the operation and governance of the Plan. The confidentiality policy allows such information to be more freely shared with the Advisory Committee without concerns that the confidential information will be disseminated more broadly. Additionally, the confidentiality policy provides guidance to the representatives of Participants on how to treat confidential information that they obtained through the course of participating on the Operating Committee, thereby reducing confusion among the representatives of the Participants. Finally, by requiring Agents of the Operating Committee to adhere to the confidentiality policy, the confidentiality policy will ensure that such Agents will be subject to the same requirements as the Operating Committee when handling confidential information.

Additionally, the proposed confidentiality policy will protect customer-specific information in the possession of the Administrator and Processor. The procedures surrounding the use of

Restricted Information will help to ensure that the dissemination of Restricted Information is limited to instances when necessary for the operation of the Plan. Further, the confidentiality policy requires the Administrator and Processor to establish written confidential information policies that provide for the protection of information under their control. Therefore, the confidentiality policy is designed to protect confidential information obtained or generated by the Administrator and Processor in connection with the operation of the Plan.

Finally, as noted above, the proposal was vetted with the Advisory Committee to include its input into a policy that would enhance the amount of information available to the Advisory Committee.

6. Written Understanding or Agreements relating to Interpretation of, or Participation in, Plan

Not applicable.

7. Approval by Sponsors in Accordance with Plan

Section IV.C.1 of the UTP Plan requires the Participants to unanimously approve the amendment proposed herein. They have so approved it.

8. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

9. Terms and Conditions of Access

Not applicable.

10. Method of Determination and Imposition, and Amount of, Fees and Charges

Not applicable.

11. Method and Frequency of Processor Evaluation

Not applicable.

12. Dispute Resolution

Not applicable.

B. Regulation NMS Rule 601(a)

1. Equity Securities for which Transaction Reports Shall be Required by the Plan

Not applicable.

2. Reporting Requirements

Not applicable.

3. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

4. Manner of Consolidation

Not applicable.

5. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

6. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

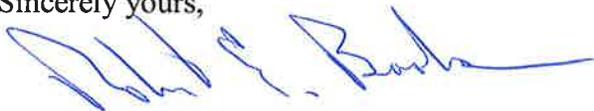
7. Terms of Access to Transaction Reports

Not applicable.

8. Identification of Marketplace of Execution

Not applicable.

Sincerely yours,



Robert Books
Chair, UTP Operating Committee

cc: UTP Plan Participants (w/o attachments)
Plan Advisory Committee Members
Michael Coe (SEC)

AMENDMENT NO. 47

**JOINT SELF-REGULATORY ORGANIZATION PLAN GOVERNING THE COLLECTION,
CONSOLIDATION AND DISSEMINATION OF QUOTATION AND TRANSACTION
INFORMATION FOR NASDAQ-LISTED SECURITIES TRADED ON EXCHANGES ON AN
UNLISTED TRADING PRIVILEGE BASIS (“UTP Plan”)**

Confidentiality Policy

AGREEMENT made as of the 15th day of November 2019, among Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long-Term Stock Exchange, Inc., Nasdaq BX, Inc., Nasdaq ISE, LLC, Nasdaq PHLX, Inc., The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., and NYSE National, Inc. (collectively, the “Participants”).

The Participants enter into this Agreement in order to adopt a confidentiality policy governing all representatives of the Participants, Pending Participants, the UTP Administrator and Processor, the Advisory Committee, agents of the Operating Committee, and third parties invited to attend meetings of the Operating Committee or UTP Plan subcommittees.

For those purposes, the Participants agree that:

- (a) Section IV.G to be added and read as follows:

G. Confidentiality Policy

The Participants have adopted the confidentiality policy set forth in Exhibit 4 to the Plan.

- (b) The Confidentiality Policy, as set forth in Addendum 2 to this Agreement, shall be attached to the UTP Plan as Exhibit 4.

* * * * *

Addendum 1 to this Agreement contains an additional version of Section IV.G, marked to show the proposed changes set forth in this Agreement. In Addendum 1, proposed additions are double-underlined and proposed deletions are [~~struck through and bracketed~~].

These amendments to the Plan will be effective upon approval by the Commission.

The Participants may execute this Agreement in counterparts, no one of which need contain all signatures of all executing parties. A set of those counterparts that contains all such signatures shall constitute one and the same instrument.

Except for the amendments contained in this amendment, the Plan is unchanged and remains in full force and effect.

CBOE BYX EXCHANGE, INC.

Dated: 11/19/2019

By *Ken Cavan*

CBOE BZX EXCHANGE, INC.

Dated: 11/19/2019

By *Ken Cavan*

CBOE EDGA EXCHANGE, INC.

Dated: 11/19/2019

By *Ken Cavan*

CBOE EDGX EXCHANGE, INC.

Dated: 11/19/2019

By *Ken Cavan*

CBOE EXCHANGE, INC.

Dated: 11/19/2019

By *Ken Cavan*

FINANCIAL INDUSTRY REGULATORY
AUTHORITY, INC.

Dated: _____

By _____

INVESTORS EXCHANGE LLC

Dated: _____

By _____

CBOE BYX EXCHANGE, INC.

Dated: _____

By _____

CBOE BZX EXCHANGE, INC.

Dated: _____

By _____

CBOE EDGA EXCHANGE, INC.

Dated: _____

By _____

CBOE EDGX EXCHANGE, INC.

Dated: _____

By _____

CBOE EXCHANGE, INC.

Dated: _____

By _____

FINANCIAL INDUSTRY REGULATORY
AUTHORITY, INC.

Dated: 11/19/19

By Thomas M. ...

INVESTORS EXCHANGE LLC

Dated: _____

By _____

CBOE BYX EXCHANGE, INC.

Dated: _____

By _____

CBOE BZX EXCHANGE, INC.

Dated: _____

By _____

CBOE EDGA EXCHANGE, INC.

Dated: _____

By _____

CBOE EDGX EXCHANGE, INC.

Dated: _____

By _____

CBOE EXCHANGE, INC.

Dated: _____

By _____

FINANCIAL INDUSTRY REGULATORY
AUTHORITY, INC.

Dated: _____

By _____

INVESTORS EXCHANGE LLC

Dated: 11-19-19

By  _____

LONG-TERM STOCK EXCHANGE, INC.

Dated: 11 / 18 / 2019

By *Sary Goldshalle*

NASDAQ BX, INC.

Dated: _____

By _____

NASDAQ ISE, LLC

Dated: _____

By _____

NASDAQ PHLX LLC

Dated: _____

By _____

NASDAQ STOCK MARKET LLC

Dated: _____

By _____

NEW YORK STOCK EXCHANGE LLC

Dated: _____

By _____

NYSE AMERICAN LLC

Dated: _____

By _____

LONG-TERM STOCK EXCHANGE, INC.

Dated: _____

By _____

NASDAQ BX, INC.

Dated: 11/18/19

By 

NASDAQ ISE, LLC

Dated: 11/18/19

By 

NASDAQ PHLX LLC

Dated: 11/18/19

By 

NASDAQ STOCK MARKET LLC

Dated: 11/18/19

By 

NEW YORK STOCK EXCHANGE LLC

Dated: _____

By _____

NYSE AMERICAN LLC

Dated: _____

By _____

LONG-TERM STOCK EXCHANGE, INC.

Dated: _____

By _____

NASDAQ BX, INC.

Dated: _____

By _____

NASDAQ ISE, LLC

Dated: _____

By _____

NASDAQ PHLX LLC

Dated: _____

By _____

NASDAQ STOCK MARKET LLC

Dated: _____

By _____

NEW YORK STOCK EXCHANGE LLC

Dated: 11/18/19

By 

NYSE AMERICAN LLC

Dated: 11/18/19

By 

NYSE ARCA, INC.

Dated: 11/18/19

By 

NYSE CHICAGO, INC.

Dated: 11/18/19

By 

NYSE NATIONAL, INC.

Dated: 11/18/19

By 

ADDENDUM 1

To the Forty-Seventh Amendment to the Plan

PROPOSED AMENDMENTS TO THE UTP PLAN

MARKED TO SHOW CHANGES FROM THE EXISTING PLAN
(Additions are double-underlined; Deletions are [~~struck through and bracketed~~].)

IV. Administration of Plan

A. – F. No change.

G. Confidentiality Policy

The Participants have adopted the confidentiality policy set forth in Exhibit 4 to the Plan.

ADDENDUM 2

UTP Confidentiality Policy

1. Purpose and Scope

- a. The purpose of this Confidentiality Policy (the “Policy”) is to provide guidance to the Operating and Advisory Committees of the UTP Plan (the “Plan”), and all Subcommittees thereof, regarding the confidentiality of any data or information (in physical or electronic form) generated, accessed, or transmitted to the Operating Committee, as well as discussions occurring at a meeting of the Operating Committee or any Subcommittee.
- b. This Policy applies to all representatives of the Participants, Pending Participants, and the UTP Administrator and Processor (“Administrator and Processor”); agents of the Operating Committee, including, but not limited to, attorneys, advisors, accountants, contractors or subcontractors (“Agents”); any third parties invited to attend meetings of the Operating Committee or Plan subcommittees; and all members of the Advisory Committee (collectively, “Covered Persons”). Covered Persons do not include staff of the Securities and Exchange Commission (“SEC”). All Covered Persons must adhere to the principles set out in this Policy.
- c. The Administrator and Processor may not disclose Restricted, Highly Confidential, or Confidential information except as consistent with this Policy and directed by the Operating Committee. The Administrator and Processor will establish written confidential information policies that provide for the protection of information under their control that is in addition to, and not less than, the protection afforded herein. Such policies will be made available to the Operating Committee for review every two years or when changes are made, whichever is sooner.

2. Definitions

- a. “**Restricted Information**” is highly sensitive customer-specific financial information, customer-specific audit information, other customer financial information, and Personal Identifiable Information (“PII”).
- b. “**Highly Confidential Information**” is: (i) any data or information shared in an Executive Session or that would otherwise qualify for confidential treatment pursuant to the Plan’s Executive Session Policy; and (ii) any other highly sensitive Participant-specific, customer-specific, individual-specific, or otherwise sensitive information relating to the Operating Committee, Participants, or customers that is not otherwise Restricted Information. Highly Confidential Information includes: a Participant’s contract negotiations with the Processor or Administrator; personnel matters; information concerning the intellectual property of Participants or customers; and any document subject to the Attorney-Client Privilege or Work Product Doctrine.

- c. “**Confidential Information**” is: (i) any non-public data or information designated as Confidential by a majority vote of the Operating Committee; (ii) any document generated by a Participant or Advisor and designated by that Participant or Advisor as Confidential; (iii) the minutes of the Operating Committee or any subcommittee thereof unless approved by the Operating Committee for release to the public; and (iv) the individual views and statements of Covered Persons and SEC staff disclosed during a meeting of the Operating Committee or any subcommittees thereunder.
- d. “**Public Information**” is: (i) any information that is not either Restricted Information or Highly Confidential Information or that has not been designated as Confidential Information; (ii) any confidential information that has been approved by the Operating Committee for release to the public; or (iii) any information that is otherwise publicly available. Public Information includes, but is not limited to, any topic discussed during a meeting of the Operating Committee, an outcome of a topic discussed, or a Final Decision of the Operating Committee, as defined below.
- e. A “**Final Decision of the Operating Committee**” is an action or inaction of the Operating Committee as a result of the vote of the Operating Committee, but will not include the individual votes of a Participant.
- f. The “**Operating Committee**” consists of the Participants, Pending Participants, Administrator and Processor, and designated Agents.
- g. An “**Executive Session**” of the Operating Committee consists of the Participants, Administrator and Processor and designated Agents.
- h. The “**Advisory Committee**” consists of any individual selected by the Operating Committee or a Plan Participant as an advisor to the Operating Committee.
- i. The “**Legal Subcommittee**” of the Operating Committee consists of the Participants, Administrator and Processor and Legal Counsel.

3. Procedures

- a. General
 - i. The Administrator and Processor will be the custodians of all documents discussed by the Operating Committee and will be responsible for maintaining the classification of such documents pursuant to this Policy.
 - ii. The Administrator may, under delegated authority, designate documents as Restricted, Highly Confidential, or Confidential, which will be determinative unless altered by a majority vote of the Operating Committee.

- iii. The Administrator will ensure that all Restricted, Highly Confidential or Confidential documents are properly labeled.
- iv. All contracts between the Operating Committee and its Agents shall require Operating Committee information to be treated as Confidential Information that may not be disclosed to third parties, except as necessary to effect the terms of the contract or as required by law, and shall incorporate the terms of this Policy, or terms that are substantially equivalent or more restrictive, into the contract.

b. Procedures Concerning Restricted Information

- i. Restricted Information will be kept in confidence by the Administrator and Processor and will not be disclosed to the Operating Committee or any subcommittee thereof, or during Executive Session, or the Advisory Committee, except as follows:
 - 1. If the Administrator determines that it is appropriate to share a customer's financial information with the Operating Committee or a subcommittee thereof, the Administrator will first anonymize the information by redacting the customer's name and any other information that may lead to the identification of the customer.
 - 2. The Administrator may disclose the identity of a customer that is the subject of Restricted Information in Executive Session only if the Administrator determines in good faith that it is necessary to disclose the customer's identity in order to obtain input or feedback from the Operating Committee or a subcommittee thereof about a matter of importance to the Plan. In such an event, the Administrator will change the designation of the information at issue from "Restricted Information" to "Highly Confidential Information," and its use will be governed by the procedures for Highly Confidential Information in paragraph (c) below.
 - 3. The Administrator may share Restricted Information related to any willful, reckless, or grossly negligent conduct by a customer discovered by the Administrator with the CTA/CQ Administrator or with the SEC, as appropriate, upon majority vote of the Operating Committee in Executive Session, provided that, in any report by the Administrator during Executive Session related to such disclosure, the Administrator anonymizes the information related to the wrongdoing by removing the names of the party or parties involved, as well as any other information that may lead to the identification of such party or parties.

c. Procedures Concerning Highly Confidential Information

i. Disclosure of Highly Confidential Information:

1. Highly Confidential Information may be disclosed only in Executive Session of the Operating Committee or to the Legal Subcommittee.
 2. Highly Confidential Information may be disclosed to the staff of the SEC, unless it is protected by the Attorney-Client Privilege or the Work Product Doctrine. Any disclosure of Highly Confidential Information to the staff of the SEC will be accompanied by a FOIA Confidential Treatment request.
 3. Apart from the foregoing, the Operating Committee has no power to authorize any other disclosure of Highly Confidential Information.
- ii. In the event that a Covered Person is determined by a majority vote of the Operating Committee to have disclosed Highly Confidential Information, the Operating Committee will determine the appropriate remedy for the breach based on the facts and circumstances of the event. For the representatives of a Participant, remedies include a letter of complaint submitted to the SEC, which may be made public by the Operating Committee. For a member of the Advisory Committee, remedies include removal of that member from the Advisory Committee.

d. Procedures Concerning Confidential Information

- i. Confidential Information may be disclosed to the Operating Committee, any subcommittee thereof, and the Advisory Committee. A Covered Person will not disclose Confidential Information to any individual that is not either a Covered Person or a member of the staff of the SEC, except with authorization of the Operating Committee as described below, or as may be otherwise required by law.
- ii. The Operating Committee or a subcommittee thereof may authorize the disclosure of Confidential Information by an affirmative vote of the number of members that represent a majority of the total number of members of the Operating Committee or subcommittee. Notwithstanding the foregoing, the Operating Committee will not authorize the disclosure of Confidential Information that is generated by a Participant or Advisor and designated by that Participant or Advisor as Confidential, unless such Participant or Advisor consents to the disclosure.
- iii. Members of the Advisory Committee may be authorized by the Operating Committee to disclose particular Confidential Information to enable them to consult with industry representatives or technical experts, provided that

the Member of the Advisory Committee takes any steps requested by the Operating Committee to prevent further dissemination of that Confidential Information, including providing the individual(s) consulted with a copy of this policy and requesting that person to maintain the confidentiality of such information in a manner consistent with this policy.

- iv. A Covered Person that is a representative of a Participant may disclose Confidential Information and Highly Confidential Information to other employees or agents of the Participant or its affiliates only as needed for such Covered Person to perform his or her function on behalf of the Participant, as reasonably determined by the Covered Person. A copy of this policy will be made available to recipients of such information who are employees or agents of a Participant or its affiliates that are not Covered Persons, who will be required to abide by this policy.
- v. A Covered Person may disclose their own individual views and statements that may otherwise be considered Confidential Information without obtaining authorization of the Operating Committee, provided that in so disclosing, the Covered Person is not disclosing the views or statements of any other Covered Person or Participant that are considered Confidential Information.
- vi. A Covered Person that discloses Confidential Information without the authorization of the Operating Committee will report such disclosure to the Chair of the Operating Committee. Such unauthorized disclosure of Confidential Information will be recorded in the minutes of the meeting of the Operating Committee and will contain: (a) the name(s) of the person(s) who disclosed such Confidential Information, and (b) a description of the Confidential Information disclosed. The name(s) of the person(s) who disclosed such Confidential Information will also be recorded in any publicly available summaries of Operating Committee minutes.