

9.10.3 ANY CLAIM FOR REDRESS OR DAMAGES HEREUNDER SHALL BE FILED IN A COURT OF COMPETENT JURISDICTION WITHIN TWO (2) YEARS OF THE DATE ON WHICH SUCH CLAIM ALLEGEDLY AROSE. FAILURE TO INSTITUTE LITIGATION WITHIN SUCH TIME PERIOD SHALL BE DEEMED TO BE A WAIVER OF SUCH CLAIM AND THE CLAIM SHALL BE OF NO FURTHER FORCE OR EFFECT. THE ALLOCATIONS OF LIABILITY IN THIS RULE 9.10 REPRESENT THE AGREED AND BARGAINED FOR UNDERSTANDING OF THE PARTIES, AND EACH PARTY ACKNOWLEDGES THAT THE OTHER PARTY’S RIGHTS AND OBLIGATIONS HEREUNDER REFLECT SUCH ALLOCATIONS. THE PARTIES AGREE THAT THEY WILL NOT ALLEGE THAT THIS REMEDY FAILS ITS ESSENTIAL PURPOSE.

THE PARTY FURTHER AGREES THAT THE PROVISIONS OF THE RULES OF THE CLEARING HOUSE LIMITING THE LIABILITY OF THE CLEARING HOUSE TO ITS MEMBERS SHALL APPLY TO THE PARTY AS FULLY AS IF THE PARTY WERE A MEMBER OF THE CLEARING HOUSE MUTATIS MUTANDIS.

**9.11 Requirements for Non-U.S. Participants and Customers**

9.11.1 Nodal Exchange is permitted to allow Participants organized or located outside of the United States to place Orders and Transactions on the Exchange subject to the requirements in this Rule 9.11. Please see the document entitled “Non-U.S. Jurisdictions” available on the Nodal Exchange website for additional guidance on these topics, accessible at: <https://www.nodalexchange.com/regulation/nodal-exchange-regulation/jurisdictions/>.

9.11.2 FCM Participants shall ensure that Customers organized or located outside of the United States do not place Orders and Transactions on the Exchange from any non-U.S. jurisdiction except for:

- (a) ~~(i)~~ Brazil, on an unsolicited basis;
- (b) ~~(ii)~~ Denmark, on an unsolicited basis, *provided that* the Customer meets the definition of a “*per se* professional client” or a “eligible counterparty” under Danish law; ~~(iii)~~
- (c) ~~(iii)~~ Dubai International Financial Centre, Germany, the Netherlands, Switzerland, and the United Kingdom; ~~and (iv)~~
- (d) ~~(iv)~~ Spain, *provided that* if such Customer is an “Investment Firm” as defined under Spanish law, the Customer must obtain authorization from the Comisión Nacional del Mercado de Valores (CNMV) prior to placing Orders and Transactions on the Exchange;

(e) Portugal, provided that the Customer is either a “financial counterparty” or “professional non-financial counterparty” under Portuguese law; and

(a)(f) the province of Ontario, Canada, provided that (i) any such Customer is a registered futures commission merchant under the Commodity Futures Act (Ontario) (“CFA”); (ii) the FCM Participant is a registered futures commission merchant under the CFA; or (iii) the FCM Participant is regulated as a “dealer” (as that term is defined in subsection 1(1) of the CFA) in its home jurisdiction and any applicable Customer is a “Hedger” or is able to rely on another exemption from registration under the CFA.

9.11.29.11.3 FCM Participants shall not allow a Person to become a Customer from any non-U.S. jurisdiction, including those jurisdictions listed on the Nodal website, unless permitted under these Rules.

9.11.39.11.4 Participants and Customers are at all times responsible for ensuring that they are acting in compliance with Applicable Law and/or regulatory requirements and should therefore seek their own legal and tax advice when considering entering Orders and Transactions on the Exchange from outside the United States.