

- 3.3.5 If the Participant is not itself a Clearing Member, the Participant must also be party to an agreement with a Clearing Member in accordance with Rule 5.2.1.
- 3.3.6 A person approved as a Participant shall be subject to all of the Rules of the Exchange.
- 3.3.7 Each applicant and each Participant agrees (i) promptly to provide, or procure the provision of, such information and documents as the Exchange may reasonably request, and (ii) that the Exchange, without being prevented by any duty of confidentiality by any holder of information, may obtain such information and documents from any Clearing Member or from the Clearing House.
- 3.3.8 The Exchange shall grant access to independent software vendors that meet the requirements for Participants set out in this Rule 3.3.

### 3.4 Minimum Financial, Segregation and Related Reporting Requirements

3.4.1 A Participant that is not registered with the CFTC as an FCM must:

- (a) maintain total assets of not less than \$10,000,000; or
- ~~(b) maintain a net worth (excluding personal assets) of not less than \$1,000,000. For purposes of this Rule 3.4.1(b), “net worth” means the Participant’s total assets (excluding personal assets) less total liabilities as computed by generally accepted accounting principles applied on a consistent basis; or~~
- ~~(c) a corporation, business trust, partnership, limited liability company or similar business venture (other than a commodity pool), which has total assets in excess of \$5 million and satisfies at least one of the following portfolio requirements, derived from CFTC Regulation 4.7:~~
- ~~(a) the Participant owns securities and other investments with an aggregate market value of at least \$2 million, or~~
- ~~(b) the Participant has had on deposit with an FCM for their own account at any time during the 6 months preceding the date of the first block trade, at least \$200,000 initial margin and option premiums together with required minimum security deposits for retail forex transactions for commodity interest transactions; or~~
- ~~(c) the Participant meets a combination of the alternatives in 3.4.1(c)(a) and 3.4.1(c)(b) above, such that the sum of the amounts from both alternatives, when expressed as a % of~~

the minimum \$ requirement specified in each alternative, equals 100% (e.g., \$1 million in securities owned and \$100,000 in futures margin and premiums).

A Participant must immediately notify the Exchange or the Regulatory Service Provider, if any, if it no longer meets the financial requirements of 3.4.1 (a), ~~(b)~~ or (c) above.

3.4.2 Each Participant that is registered with the CFTC as an FCM and each FCM Clearing Member must:

- (a) comply with the minimum financial and related reporting requirements of Commission Regulations, including Commission Regulations 1.10, 1.12, 1.17 and 1.18;
- (b) comply with the customer funds segregation requirements of Commission Regulations 1.20 through 1.30, 1.32 and 1.49; and
- (c) file with the Exchange and the Regulatory Services Provider, if any, a copy of any notice or written report that it is required to file with the Commission pursuant to Commission Regulations 1.10 or 1.12.

3.4.3 A Participant that is registered with or authorized or supervised by a Governmental Authority shall comply with the rules and regulation of such Governmental Authority relating to minimum financial and related reporting and recordkeeping requirements and shall provide to the Exchange and to the Regulatory Services Provider, if any, a copy of such Participant's regulatory capital report, reasonably contemporaneously with the filing of such report and substantially in the form such report was filed with such Governmental Authority. A Participant that is not subject to such filing requirements shall provide the Exchange with such financial information as the Exchange may require from time to time.

3.4.4 A Participant that is not registered with the CFTC, or registered with or authorized or supervised by a Governmental Authority other than the CFTC, shall submit to the Exchange upon its request annual audited financial statements for the Participant or, if applicable, its parent company certified by a certified independent public accountant (or by a Person having similar qualifications if the Participant's books of account are kept outside the United States) within ninety calendar days of the Participant's fiscal year-end.

### **3.5 Duties and Responsibilities of Participants**

3.5.1 Each Participant shall, and shall cause its Authorized Users to: