

CLS Bank International Rules

CLS Bank International and CLS Services Ltd. have not sought, nor have they received, any authorization from the U.K. Financial Conduct Authority or the U.K. Prudential Regulation Authority under the U.K.'s Financial Services and Markets Act 2000, as amended from time to time.

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DOCUMENT HISTORY

CLS Bank International Rules	April 29, 2002
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1 GENERAL PROVISIONS

1.1 DEFINITIONS

“*Account*” means the single, multi-currency account carried on the books and records of CLS Bank for a Settlement Member; *provided*, that as provided in Rule 2.1.3(d), with the approval of CLS Bank in its sole discretion, a Post-Merger Settlement Member may maintain two Accounts during an Operational Integration Period.

“*Account Balance*” means, subject to the following sentence, as at the time calculated, in respect of a Settlement Member, the sum of the positive and negative Currency Balances included in such Settlement Member’s Account, each such Currency Balance expressed in its Base Currency Equivalent. The Account Balance of each Account held by a Post-Merger Settlement Member maintaining two Accounts shall be calculated individually in accordance with the preceding sentence; *provided, however*, that, where a specific Rule or Chapter of the Member Handbook provides that a Post-Merger Settlement Member maintaining two Accounts during an Operational Integration Period shall be considered to be a single Settlement Member maintaining a single Account, such Post-Merger Settlement Member’s “*Account Balance*” shall mean a single sum determined by (i) adding the positive and negative Currency Balances with respect to each Eligible Currency included in each of such Post-Merger Settlement Member’s Accounts to determine an aggregate Currency Balance for each such Eligible Currency, and (ii) calculating the sum of such aggregate Currency Balances, each such aggregate Currency Balance expressed in its Base Currency Equivalent.

“*Add-On Component*” means, with respect to an Eligible Currency, the number, expressed as a percentage, determined from time to time by the Board of Directors, that is added to the historic foreign exchange volatility component used in determining the Haircut for such Eligible Currency.

“*Adjusted Account Balance*” means the Account Balance adjusted by the applicable Haircut for each Currency Balance.

“*Affiliate*” means, in relation to any person, any entity (i) controlled, directly or indirectly, by the person, (ii) that controls, directly or indirectly, the person or (iii) directly or indirectly under common control with the person. For this purpose, “control” of any entity or person means ownership of a majority of the voting shares of the entity or person or actual control over the business and affairs of such person.

“*Affiliated User Member*” means a User Member that is an Affiliate of a Settlement Member or a User Member; *provided, however*, that if the User Member is an Affiliate of another User Member(s) and is not an Affiliate of a Settlement Member, CLS Bank shall determine which of the User Members shall not be an “*Affiliated User Member*” for purposes of the CLS Bank Documents.

“*Aggregate Short Position*” means the sum of a Settlement Member’s Short Positions, each such Short Position expressed in its Base Currency Equivalent and adjusted by the applicable Haircut.

“*Aggregate Short Position Limit*” means, in respect of a Settlement Member and a Settlement Session, the maximum Aggregate Short Position that such Settlement Member is permitted to incur at any time during such Settlement Session.

“*Amend Instruction*” means an instruction submitted by a Member through the Submission Process directing CLS Bank to change or modify a specified Instruction previously submitted by that Member.

“*Americas Same-Day Settlement Session*” means the settlement session in addition to the Main Settlement Session for which only those Instructions authorized by Chapter 4.7 of the Member Handbook (and Amend Instructions and Rescind Instructions relating thereto) may be submitted by a Member through the Submission Process.

“*Approved Payment System*” means a payment system for effecting payments into and out of CLS Bank’s account with a Central Bank as specified in Chapter 3 of the Member Handbook; *provided, however*, that if such payments cannot be made through such payment system as a result of an unanticipated technical problem, payments made into or out of CLS Bank’s account with a Central Bank through such alternate system or method as may be authorized by the Central Bank shall be deemed made pursuant to the relevant related Approved Payment System.

“*Approved Payment System Closing Time*” means, in respect of an Eligible Currency, the time at which the Approved Payment System for that Eligible Currency is regularly scheduled to cease operations on a Banking Day.

“*Approved Payment System Opening Time*” means, in respect of an Eligible Currency, the time at which the Approved Payment System for that Eligible Currency is regularly scheduled to commence operations on a Banking Day.

“*Approved Settlement Member*” means a Settlement Member that is on the list of approved Settlement Members maintained by another Settlement Member in accordance with Rule 2.1.8.

“*Banking Day*” means, for an Eligible Currency, a calendar date on which the applicable Approved Payment System in respect of such Eligible Currency is regularly scheduled to be operational.

“*Base Currency*” means the U.S. dollar, or such other Eligible Currency as the Board of Directors may designate as the Base Currency from time to time.

“*Base Currency Equivalent*” means, as at the time calculated, (i) for any amount denominated in the Base Currency, that amount, and (ii) for any amount denominated in any other Eligible Currency, such amount converted into the Base Currency at the prevailing mid-rate using the average of the bid and offer quotations of the spot rate of exchange of such Eligible Currency (as provided by the rates sources determined by CLS Bank, in its reasonable discretion, to be representative of the market rate for such Eligible Currency).

“*BEI Code*” means, in respect of an entity, a Business Entity Identifier (ISO 9362) identified with such entity in the BIC Directory most recently issued by S.W.I.F.T. or otherwise verified by CLS Bank.

“*BIC*” means, in respect of an entity, a Business Identifier Code (ISO 9362) identified with such entity in the BIC Directory most recently issued by S.W.I.F.T. or otherwise verified by CLS Bank.

“*Bilateral Net Receives*” means, with respect to a Settlement Member’s allocated share of the losses resulting from the failure of a Responsible Party to satisfy its Pay-Ins on a Failure Date, the sum of such Settlement Member’s bilateral positive currency receives from such Responsible Party for all Eligible Currencies. For purposes of this definition, the bilateral positive currency receives for an Eligible Currency shall be calculated as the greater of (i) the sum of all credits and debits to such Settlement Member’s Currency Balance in that Eligible Currency (expressed in its Base Currency Equivalent) that resulted from Settlement of Instructions with such Responsible Party on such specified Failure Date and (ii) zero.

“*Bilateral Rescind Deadline*” means, in respect of an Eligible Currency and a Settlement Session, the time on a Business Day beyond which a Settlement Member may not bilaterally rescind an Instruction.

“*Board of Directors*” means the Board of Directors of CLS Bank.

“*Bridge Entity*” means a “bridge” or other entity that is established, authorized, or licensed to temporarily take over and maintain or transfer, directly or indirectly, any or all of the assets, liabilities, operations, and business of a Settlement Member in connection with the Settlement Member’s Regulatory Reorganization.

“*BRRD*” means Directive 2014/59/EU of the European Parliament and of the Council of 15th May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms.

“*Business Day*” means a calendar date which is a Banking Day for at least two Eligible Currencies; *provided, however*, that with respect to any such calendar date, the relevant “*Business Day*” (A) shall begin at the earlier of (x) the earliest Approved Payment System Opening Time with respect to the Eligible Currencies specified in Instructions expected to Settle in any Settlement Session on such calendar date and (y) the earliest time at which an Approved Payment System with respect to such Eligible Currencies actually commences operations, and (B) shall end at the later of (x) the latest Approved Payment System Closing Time with respect to such Eligible Currencies and (y) the latest time at which an Approved Payment System for such Eligible Currencies actually ceases operations, as further specified in the Introduction to the Member Handbook.

“*Category A User Member*” means a User Member that is an “indirect participant” and treated as a participant by the “designating authority”, each within the meaning of the Settlement Finality Regulations.

“*Category B User Member*” means a User Member that is not a “participant” within the meaning of the Settlement Finality Regulations.

“*CCS Component*” means the initial deliverable leg of a cross-currency swap or the final deliverable leg of a cross-currency swap.

“*CCS Instruction*” means an FX Instruction relating to an underlying CCS Component.

“*Central Bank*” means (i) in respect of an Eligible Currency, the central monetary authority of the country that issues such Eligible Currency or, if applicable, that circulates such Eligible Currency for the issuing country, *provided* that the European Central Bank shall be considered the central monetary authority for the euro; and (ii) in respect of a Central Bank Settlement Member, in addition to (i), the central bank of a member state in the European Union that has adopted the euro, *provided* that such adoption is recognized by the Council of the European Union.

“*Central Bank Settlement Member*” means a Settlement Member that is a Central Bank, *provided* that CLS Bank has permitted Members to submit Instructions to the CLS System which identify the Eligible Currency of the Central Bank for Settlement.

“*CLS Bank*” means CLS Bank International, an Edge corporation organized under the laws of the United States of America.

“*CLS Bank Documents*” means the Rules, the Member Handbook and the applicable Member Agreement.

“*CLS Group Holdings AG*” means a company limited by shares incorporated under the laws of Switzerland having its registered office in Zurich.

“*CLS Group Holdings Shareholder*” means an entity which holds registered shares of CLS Group Holdings AG, which are registered in the name of the entity on the books of CLS Group Holdings AG as a shareholder in respect of those shares; *provided, however*, that if such entity is holding shares of CLS Group Holdings AG on behalf of another unaffiliated entity, the unaffiliated entity shall be considered a “CLS Group Holdings Shareholder” for purposes of the CLS Bank Documents if the unaffiliated entity demonstrates, to the satisfaction of CLS Bank, its beneficial ownership and control of the requisite shares of CLS Group Holdings AG and associated voting rights. Notwithstanding the foregoing, no shares of CLS Group Holdings AG shall be counted towards meeting the required number of shares set forth above if such shares have not been acquired with the express consent of the CLS Group Holdings AG Board of Directors.

“*CLS In/Out Swap Agreement*” means an Agreement Relating to the Provision of Services by CLS Services Ltd. to CLS Settlement Members Participating in the “In/Out” Swap Program.

“*CLS Interface*” means an interface through which a Member connects to the CLS System, as such interfaces are described in Chapter 1 of the Member Handbook.

“*CLS Services*” means CLS Services Ltd., a private limited company incorporated on December 29, 2000 under the laws of England and Wales (registered number 04132704).

“*CLS System*” means the computer hardware and software system used by CLS Bank to deliver the services described in the CLS Bank Documents.

“*Combined Loss Allocatee*” has the meaning ascribed to such term in Rule 9.1.4(a).

“*Combined Loss Allocation*” means the allocation in a specified Eligible Currency of interest, fees, obligations, costs, expenses and other liabilities associated with such amounts to Settlement Members as set forth in Rule 9.1.4.

“*Commencement of the Settlement Session*” means, with respect to a Settlement Session, the time on a Business Day when CLS Bank will commence the processing of Settlement Eligible Instructions that specify a Settlement Date equal to such Business Day for Settlement.

“*Contingency Request*” has the meaning ascribed to such term in Rule 4.6.1.

“*Control Function*” means, with respect to a Settlement Member, the authority, either through electronic contact or through certain designated officers or other authorized persons, to act as the main point(s) of contact between CLS Bank, CLS Services and the Settlement Member and in so acting to send certain information to, and receive certain information from, CLS Bank or CLS Services through one or more Control Function Interfaces. Such authority shall include the authority to (i) submit Instructions, Amend Instructions or Rescind Instructions; (ii) send and receive information in respect of all Instructions, Amend Instructions, Rescind Instructions and other communications and notices submitted by the Settlement Member and, if applicable, any User Member on behalf of which the Settlement Member, in its capacity as a Designated Settlement Member, acts; (iii) receive all Pay-In Schedules, Pay-In Calls and all other requests for payments in respect of the Settlement Member; (iv) receive all notices sent by CLS Bank or CLS Services to the Settlement Member; (v) receive information on Pay-Outs in respect of the Settlement Member; (vi) view all information related to the Settlement Member’s Account and grant access to such information; (vii) manage applicable Static Data; and (viii) take all action relating to the Settlement Member’s activities relating to paragraphs (i) through (vii) and bind the Settlement Member without any further action by any other designated officer or authorized person of the Settlement Member. Each Settlement Member shall provide (1) a contact point (including telephone and electronic mail addresses) to allow CLS Bank and CLS Services to contact at all times at least one such designated officer or authorized person exercising the Control Function and (2) operational contact details in Static Data.

“*Control Function Interface*” means, in respect of a Settlement Member, an information link established by a software program that makes available to the Settlement Member the functionality necessary to exercise the Control Function.

“*Covered General Loss Allocation*” means the allocation of a General Loss (other than a General Loss described in Rule 9.2.1(c)(ii)) to Members as set forth in Rule 9.2.

“*Covered Non-Member Instruction*” means a Non-Member Instruction relating to an underlying Transaction in which the non-Member is a Transaction Counterparty that is acting in its capacity as an FMI or is a Global SIFI.

“*Currency Balance*” means, as at the time calculated, the current amount (positive or negative) of a particular Eligible Currency included in an Account, as indicated on the books and records of CLS Bank. A Currency Balance is not a separate Account.

“*Currency Close Deadline*” means, in respect of an Eligible Currency and a Settlement Session, the time (between the applicable Pre-Currency Close Deadline and Approved Payment System Closing Time) at which the CLS System will, in the ordinary course of business, reject Instructions on the Settlement Processing Queue that have not Settled.

“*Currency Splitting Threshold*” means, in respect of an Eligible Currency, the maximum amount of such Eligible Currency that may be debited or credited to an Account with respect to a single Settlement.

“*Derivative Instruction*” means an Instruction relating to an underlying Derivative Transaction.

“*Derivative Settlement Amount*” has the meaning ascribed to such term in Rule 4.2.3.

“*Derivative Settlement Currency*” means a currency that has been (and remains) approved as a Derivative Settlement Currency pursuant to Rule 3.2.1.

“*Derivative Transaction*” means a single derivative transaction, whose value is based on the performance of an underlying financial asset, index or other investment, of a type specified in Chapter 4 of the Member Handbook.

“*Designated Settlement Member*” means, in respect of a User Member, a Settlement Member, other than a Central Bank Settlement Member, that has agreed to assume, as a principal, the obligation to make payments necessary to Settle the Instructions submitted by such User Member that have been authorized by such Settlement Member in accordance with Rule 4.3.7.

“*Eligible Currency*” means a currency that has been (and remains) designated as an Eligible Currency pursuant to Rule 3.1 in respect of which CLS Bank will offer Settlement services.

“*Failure Adjustment*” means an adjustment made to a Settlement Member’s Account by (i) debiting such Account for amounts equal to any interest, fees, obligations, costs and expenses and other liabilities associated with a failure to fund such Settlement Member’s Account in accordance with the CLS Bank Documents, (ii) debiting any Long Positions in an amount necessary to satisfy such Settlement Member’s obligations with respect to any Short Positions in its Account and (iii) applying any amount debited pursuant to clause (ii) to satisfy any Short Positions in the Account.

“*Failure Date*” means the Business Day on which (i) a Settlement Member’s action, or failure to act, in contravention of the Rules (alone or together with the actions or failures of any other

Settlement Member) causes its Account Balance to be negative at any time during the applicable calendar date and/or (ii) a Settlement Member fails to satisfy its Pay-Ins in accordance with the Rules.

“*FATF*” means the G-7 Financial Action Task Force.

“*Fitch*” means Fitch, Inc. or any successor rating agency thereto.

“*FMP*” means a financial market infrastructure that is a multilateral system among participating institutions, including the operator of the system, used for the purposes of clearing, settling, or recording payments, securities, derivatives, or other financial transactions (including a systemically important payment system, central securities depository, securities settlement system or central counterparty), or an affiliate of such a system.

“*Following Initial Pay-In Schedule Period(s)*” means, with respect to a Settlement Session, the time period(s) during which CLS Bank places Following Initial Pay-In Schedule Instructions on the Settlement Processing Queue for that Settlement Session.

“*Following Initial Pay-In Schedule Instruction*” means, with respect to a Settlement Session, an Instruction that is classified as a Settlement Eligible Instruction after the Initial Pay-In Schedule Deadline on the Settlement Date specified in such Instruction; *provided, however*, that if a pair of Settlement Eligible Instructions includes at least one Submitting Member that is a User Member, each Instruction in the pair shall be classified as a Following Initial Pay-In Schedule Instruction only after all applicable authorizations have been given in accordance with Rule 4.3.7.

“*Force Majeure*” means an event caused, directly or indirectly, by (i) revolution or other civil disorders, wars or acts of enemies, (ii) labor disputes, (iii) fires, floods, electrical outages, or acts of God, or (iv) without limiting the foregoing, any other causes not within an entity’s reasonable control, and which, by the exercise of reasonable diligence, it is unable to prevent, whether of the class of causes herein before enumerated or not.

“*FX Instruction*” means an Instruction relating to an underlying FX Transaction.

“*FX Transaction*” means a single deliverable foreign exchange spot or forward transaction, a single leg of a deliverable foreign exchange swap transaction, a CCS Component, a single exercised deliverable foreign exchange option transaction, or any similar single deliverable foreign exchange transaction.

“*General Loss*” has the meaning ascribed to such term in Rule 9.2.

“*General Loss Allocatee*” has the meaning ascribed to such term in Rule 9.2.

“*General Loss Allocation*” means the allocation of a General Loss to Members as set forth in Rule 9.2.

“*General Loss Allocation Cap*” has the meaning ascribed to such term in Rule 9.2.

“*Global SIFT*” means an entity that the Financial Stability Board identifies as a global systemically important financial institution, which includes a global systemically important bank, or any affiliate of such entity.

“*Governmental Authority*” means (i) a regulator, resolution authority, supervisor, judicial authority or other governmental authority (which may be a Central Bank), (ii) an entity that conducts one or more Regulatory Reorganizations and that is owned or otherwise directly or indirectly controlled by a government or governmental authority, or (iii) a person appointed by any of the foregoing.

“*Guarantor*” means an entity acceptable to CLS Bank that guarantees the obligations of a Settlement Member (or an applicant to become a Settlement Member) pursuant to a guarantee in form and substance acceptable to CLS Bank.

“*Haircut*” means, with respect to an Eligible Currency, the percentage increase of a negative Currency Balance or reduction of a positive Currency Balance and is based on (i) the volatility of the historic foreign exchange movements in the applicable Eligible Currency determined by CLS Bank, (ii) an Add-On Component and (iii) any other factors that CLS Bank may identify in Chapter 3 of the Member Handbook.

“*Head or Home Office*” means a Member’s principal office in the jurisdiction where its primary prudential regulators supervise the Member’s operations.

“ *Holding Company*” means, with respect to a Settlement Member (or an applicant to become a Settlement Member), an immediate or ultimate parent-company of the Settlement Member (or applicant), so long as the parent-company controls, directly or indirectly, more than fifty percent of the voting shares of the Settlement Member (or applicant).

“*Identification Code*” means a BIC or BEI Code of an entity or any other identifier indicated in Chapter 4 of the Member Handbook as a valid code for the identification of an entity. Each Identification Code that is used to identify a Member as a Submitting Member or a Designated Settlement Member (i) may not be identified with an entity other than such Member or an Affiliate of such Member, (ii) must be included in that Member’s Static Data and (iii) shall be deemed to refer only to such Member. A Member may not identify itself by or with an Identification Code of any other Member.

“*Increased Cap Determination*” has the meaning ascribed to such term in Rule 9.2.2(b).

“*Increased Cap Determination Date*” means the date on which CLS Bank notifies the relevant Members that there has been an Increased Cap Determination.

“*Initial Non-Member Instruction*” means, with respect to a Member, the first Non-Member Instruction that the Member submits to the CLS System, regardless of whether the Member subsequently submits Non-Member Instructions as principal and on behalf of other non-Members. For the avoidance of doubt, a Member will not have more than one Initial Non-Member Instruction.

“*Initial Pay-In Schedule Deadline*” means, with respect to a Settlement Session, the time on a Business Day at which CLS Bank will, in the ordinary course of business, begin to generate the initial Pay-In Schedule for that Settlement Session.

“*Insolvency Event*” means, in respect of an entity, when the entity (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger where the surviving entity expressly assumes all rights and obligations of the entity under the CLS Bank Documents and, in the case where the surviving entity is a Member, in the manner reasonably satisfactory to CLS Bank); (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, the proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within thirty days of the institution or presentation thereof (unless, in the case where the entity is a Member, CLS Bank determines, in its sole discretion, that the entity has demonstrated to CLS Bank that the proceeding is without merit and nonetheless could not reasonably be dismissed, discharged, stayed or restrained within thirty days); (v) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (vi) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (vii) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and the secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty days thereafter; (viii) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (vii) (inclusive); or (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

“*Instruction*” means (i) an instruction submitted by a Member through the Submission Process directing CLS Bank to Settle certain payment entitlements and obligations arising pursuant to a Transaction and (ii) an instruction resulting from the split of Settlement Eligible Instructions in accordance with Rule 5.1.2. An Instruction may be a Derivative Instruction or an FX Instruction.

“*Liability Loss*” means any loss, liability, cost or expense incurred or sustained by a Member arising from the failure of CLS Bank or CLS Services to act or not act in accordance with the CLS Bank Documents, but only to the extent thereof, in connection with the CLS System or the processing or Settlement of Instructions, including a loss resulting directly or indirectly from a failure to receive, authenticate, accept, validate, reject, match or otherwise process or Settle or not Settle an Instruction or from an error caused by the CLS System.

“*Liquidity Facilities*” has the meaning ascribed to such term in Rule 8.

“*Liquidity Provider*” means a financial institution with whom CLS Bank enters into and maintains Liquidity Facilities.

“*Long Position*” means, in respect of a Currency Balance that is greater than zero, the amount by which such Currency Balance is greater than zero.

“*Main Settlement Session*” means the main settlement session for which Instructions, Amend Instructions, and Rescind Instructions may be submitted by a Member through the Submission Process.

“*Matched Instructions*” means two Instructions for which the information set forth in Rule 4.3.2 is matched in accordance with the parameters specified in Rule 4.3.2.

“*Member*” means a Settlement Member or a User Member.

“*Member Agreement*” means a Settlement Member Agreement or User Member Agreement, as applicable.

“*Member Handbook*” means the Member Handbook of CLS Bank.

“*Member Merger*” means a consolidation, amalgamation, merger or other business combination or Regulatory Reorganization (i) that involves the transfer to one or more Settlement Members of all or a portion of the business of one or more other Settlement Members that includes the latter Settlement Member(s)’ rights and obligations under the CLS Bank Documents or (ii) pursuant to which one Settlement Member becomes an Affiliate of another Settlement Member.

“*Moody’s*” means Moody’s Investors Service Inc. or any successor rating agency thereto.

“*Negative Adjusted Account Balance*” means an Adjusted Account Balance that is less than zero.

“*Non-Investment Grade Sovereign*” means a sovereign that has been assigned a foreign currency or local currency sovereign credit rating that is less the S&P BBB- (or equivalent), determined by reference to the lower of the foreign currency or the local currency sovereign credit rating assigned by any of the Rating Agencies.

“*Non-Member Instruction*” means, with respect to a Member, an Instruction that the Member submits to the CLS System, as principal and on behalf of a non-Member, pursuant to a direct or indirect private arrangement between the Member and the non-Member.”

“*Nostro Agent*” means a financial institution that acts as agent for a Settlement Member to facilitate payments from or to such Settlement Member’s Account in an Eligible Currency.

“*Operational Integration Period*” means the period of time commencing on the date that a Member Merger referred to in clause (i) of the definition of that term is consummated and continuing until a date determined by CLS Bank in its sole discretion, during which a Settlement

Member may maintain two Accounts on the books and records of CLS Bank in order to facilitate the resulting operational consolidation.

“*Other Submitting Member*” means, with respect to a Submitting Member of an Instruction, the Member that is expected to submit an Instruction with respect to the same Transaction.

“*Pay-In*” means a payment made by a Settlement Member to CLS Bank in accordance with Rule 6.

“*Pay-In Call*” means a notice delivered by CLS Bank to a Settlement Member to make a Pay-In in accordance with Rule 6.2.

“*Pay-In Call for Account Value*” has the meaning ascribed to such term in Rule 6.2.2(a).

“*Pay-In Call for Currency Close*” has the meaning ascribed to such term in Rule 6.2.2(c).

“*Pay-In Call for Positive Adjusted Account Balance*” has the meaning ascribed to such term in Rule 6.2.2(d).

“*Pay-In Call for Settlement*” has the meaning ascribed to such term in Rule 6.2.2(b).

“*Pay-In Schedule*” means, with respect to a Settlement Session, a schedule delivered by CLS Bank to a Settlement Member indicating the currency amounts that such Settlement Member must Pay-In on or before certain specified times on a given Business Day in accordance with Rule 6.1. A Pay-In Schedule may also include other information relevant to a Settlement Member, and shall include estimated Pay-Outs to be made to such Settlement Member for such Settlement Session by the end of such Business Day in each Eligible Currency assuming Settlement of all its Settlement Eligible Instructions (and those submitted by User Members that such Settlement Member has authorized in accordance with Rule 4.3.7) with a Settlement Date equal to such Business Day.

“*Pay-Out*” means a payment made by CLS Bank to a Settlement Member in accordance with Rule 7.

“*Pay-Out Algorithm*” means the algorithm used by CLS Bank to calculate Pay-Outs at particular times during a Business Day.

“*Permanent Settlement Disruption*” has the meaning ascribed to such term in Rule 5.4(a)(iv).

“*Positive Adjusted Account Balance*” means an Adjusted Account Balance that is equal to or greater than zero.

“*Post-Merger Settlement Member*” means, on and after the date of consummation of a Member Merger, the entity that ultimately maintains membership in CLS Bank.

“*Pre-Currency Close Deadline*” means, in respect of an Eligible Currency and a Settlement Session, the time (prior to the applicable Approved Payment System Closing Time) at which CLS Bank will, in the ordinary course of business, issue Pay-In Calls for, and complete Pay-Outs in, such Eligible Currency and after which CLS Bank will no longer Settle Instructions that remain on the relevant Settlement Processing Queue involving such Eligible Currency.

“*Predecessor Settlement Member*” means (i) following a Member Merger, the Settlement Member that is not the Post-Merger Settlement Member and (ii) with respect to a Transition Settlement Member (or an applicant applying to be a Transition Settlement Member), the Settlement Member from which the Transition Settlement Member (or applicant) obtains its membership in CLS Bank; *provided, however*, that in each case if more than one Settlement Member satisfies the definition of “Predecessor Settlement Member,” CLS Bank shall have the sole discretion to determine which Settlement Member(s) shall be deemed to be the “Predecessor Settlement Member(s)” for purposes of any or all of the relevant provisions of the CLS Bank Documents.

“*Primary Loss Allocation Component*” has the meaning set forth in Rule 9.1.4(b).

“*Rating Agency*” means Fitch, Moody’s, or S&P.

“*Regulatory Filter*” means the regulatory filter operated by CLS Bank which electronically scans Instructions to identify Instructions which might be prohibited from Settlement or require blocking or notification to relevant authorities by economic sanctions legislation, regulations or executive orders in the United States.

“*Regulatory Reorganization*” means, in respect of an entity,

- (i) the exercise of powers by a Governmental Authority, including any proceeding or action, to liquidate, rehabilitate, reorganize, or resolve the entity or an Affiliate that controls the entity (including the exercise of powers to direct removal of deficiencies or impediments to recoverability, the exercise of powers to address or remove impediments to resolvability, the application of an early intervention measure, the appointment of a special manager or temporary administrator, or an intended or actual transfer to another institution, including a Bridge Entity, of the portion of the entity’s business that includes the entity’s rights and obligations under the CLS Bank Documents) that is generally undertaken to minimize disruption to the financial system or further other significant policy concerns of an applicable Governmental Authority; or
- (ii) any conversion, restructuring, write-down or write-off of any indebtedness or capital instruments of the entity at the option of the relevant Governmental Authority, upon the occurrence of a decision by the Governmental Authority that the entity would become non-viable without such action or upon the occurrence of a decision to make a public sector injection of capital or equivalent support to the entity without which the entity would have become non-viable, as determined by the relevant Governmental Authority.

“*Remedial Action*” means the imposition of fees, charges or payments on a Member or limitations or conditions on such Member’s continued use of CLS Bank’s services as described in Rule 10.1.2(b).

“*Rescind Instruction*” means an instruction submitted by a Member through the Submission Process directing CLS Bank to cancel a specified Instruction previously submitted by that Member or authorized by that Member as Designated Settlement Member.

“*Responsible Party*” has the meaning ascribed to such term in Rule 9.1.3.

“*Rules*” means these CLS Bank International Rules.

“*S&P*” means Standard & Poor’s Ratings Service, a Division of The McGraw-Hill Companies, Inc., or any successor rating agency thereto.

“*Secondary Loss Allocation Component*” has the meaning set forth in Rule 9.1.4(b).

“*Settlement*” (and related expressions) means the settlement of Settlement Eligible Instructions pursuant to Rule 5.2.2 across the books and records of CLS Bank by the simultaneous making of debits and credits to the Accounts of the respective Settlement Members specified in the applicable Settlement Eligible Instructions.

“*Settlement Date*” means the date specified in an Instruction as the date on which such Instruction is scheduled for Settlement by CLS Bank.

“*Settlement Disruption Event*” means any event, including those described in Rule 1.17, which in the good faith judgment of CLS Bank makes it impossible, impracticable, or inadvisable to proceed with the Settlement of Settlement Eligible Instructions for a particular Business Day.

“*Settlement Eligible Instructions*” means Matched Instructions which are classified as eligible for Settlement pursuant to Rule 4.3.3.

“*Settlement Finality Regulations*” means Directive 98/26/EC of the European Parliament and of the Council of 19th May, 1998 on settlement finality in payment and securities settlement systems and the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 that implement that Directive in the United Kingdom.

“*Settlement Member*” means an entity that has been approved as a Settlement Member of CLS Bank, has received an executed copy of its Settlement Member Agreement from CLS Bank in accordance with Rule 2.1.2(b)(ii) and has not been terminated pursuant to Rule 2.1.5 or Rule 10.2; *provided, however*, that in no event shall such entity be a Settlement Member for purposes of the CLS Bank Documents at any time prior to the effectiveness of its Settlement Member Agreement.

“*Settlement Member Agreement*” means (i) with respect to each Settlement Member other than a Transition Settlement Member, the agreement among such Settlement Member, CLS Bank and

CLS Services substantially in the form set forth in Exhibit 2-B to the Member Handbook and (ii) with respect to each Transition Settlement Member, the agreement(s) between the Transition Settlement Member, CLS Bank and CLS Services and such other information and materials, in each case as CLS Bank may require as a condition for the Transition Settlement Member's membership in CLS Bank.

"Settlement Period" means, in respect of an Eligible Currency and a Settlement Session, the period commencing with the Commencement of the Settlement Session and, under normal circumstances, terminating upon the Pre-Currency Close Deadline (but in no event later than the Currency Close Deadline) for such Eligible Currency and Settlement Session.

"Settlement Processing Queue" means, with respect to a Settlement Session, the list of all Settlement Eligible Instructions to be processed by CLS Bank during that Settlement Session on a particular Business Day in accordance with Rule 5.1.

"Settlement Session" means the Main Settlement Session or the Americas Same-Day Settlement Session, as applicable.

"Short Position" means, in respect of Currency Balance that is less than zero, the amount by which such Currency Balance is less than zero.

"Short Position Limit" means, in respect of an Eligible Currency and a Settlement Session, the maximum Short Position a Settlement Member may have at any time in that Eligible Currency and, unless otherwise reduced by CLS Bank, shall equal (i) the total amount of all available committed Liquidity Facilities in such Eligible Currency (or such lesser amount that CLS Bank may determine from time to time) *minus* (ii) any amounts drawn under such Liquidity Facilities minus (iii) the amount of the largest available committed Liquidity Facility among such Liquidity Facilities (after taking into account any amounts already drawn).

"Stand-Alone Credit Rating" means a Bank Financial Strength Rating (BFSR) issued by Moody's, a Viability Rating issued by Fitch, or a Standalone Credit Profile issued by S&P.

"Static Data" means the information supplied by a Member as amended from time to time in accordance with its Member Agreement that CLS Bank and CLS Services will use in interacting with such Member.

"Subject Actions" has the meaning ascribed to such term in Rule 4.6.1.

"Subject Instruction" has the meaning ascribed to such term in Rule 4.6.1.

"Subject UM Instruction" has the meaning ascribed to such term in Rule 4.6.1.

"Submission Location" means, with respect to a Member, a location that has been authorized by the Member as a location from which the CLS System may be accessed using the SWIFTNet InterAct network or the SWIFTNet Browse network (as such networks are described in Chapter 1

of the Member Handbook) and Instructions, Amend Instructions, and Rescind Instructions may be submitted to the CLS System.

“*Submission Process*” means, with respect to a Settlement Session, the process by which a Member may submit (i) Instructions, (ii) Amend Instructions and Rescind Instructions, and (iii) other data, in each case to CLS Bank over the SWIFT FIN network, the SWIFTNet InterAct network, or the SWIFTNet Browse network, as such process and networks are described in Chapter 1 of the Member Handbook.

“*Submitting Member*” means a Member that submits an Instruction, Amend Instruction, or Rescind Instruction to the CLS System.

“*S.W.I.F.T.*” means the Society for Worldwide Interbank Financial Telecommunication, s.c.r.l., a company incorporated under the laws of Belgium.

“*Termination Amount*” means the amount determined by CLS Bank as the Member’s final obligations, if any, to CLS Bank and CLS Services arising under the CLS Bank Documents which shall equal (i) in respect of a Settlement Member, the Settlement Member’s positive or negative Account Balance, if any, less any (a) unpaid interest, fees, obligations, costs and expenses assessed by CLS Bank, including unpaid amounts due as a result of Remedial Action imposed on such Settlement Member, (b) costs or expenses associated with the termination of such Settlement Member pursuant to Rule 10.2, (c) other amounts owed by the Settlement Member to CLS Bank and (d) interest due on any such amounts calculated using the rate specified in Chapter 11 of the Member Handbook, or (ii) in respect of a User Member, any (a) unpaid interest, fees, obligations, costs and expenses assessed by CLS Bank, including unpaid amounts due as a result of Remedial Action imposed on such User Member, (b) costs or expenses associated with the termination of the User Member pursuant to Rule 10.2, (c) other amounts owed by the User Member to CLS Bank and (d) interest due on any such amounts calculated using the rate specified in Chapter 11 of the Member Handbook.

“*Termination Time*” means, in respect of a Member, the time on the effective date of termination of the Member pursuant to Rule 2.1.5(b), Rule 2.2.5(b) or Rule 10.2.2.

“*Transaction*” means a Derivative Transaction or an FX Transaction.

“*Transaction Counterparty*” means, with respect to an Instruction, the original counterparty to the Transaction referenced in such Instruction.

“*Transition Settlement Member*” means a Settlement Member that is a TSM Entity.

“*TSM Entity*” means an entity that (i) in connection with a Settlement Member’s Regulatory Reorganization, either (a) has acquired a portion of the Settlement Member’s business that includes the Settlement Member’s rights and obligations under the CLS Bank Documents or (b) is the resulting or surviving entity after the Settlement Member (or a Bridge Entity relating to the Settlement Member) has consolidated or amalgamated with, or merged with or into, it and

(ii) was not a Settlement Member immediately prior to the acquisition, consolidation, amalgamation, or merger described in clause (i).

“*Unilateral Rescind Deadline*” means, in respect of an Eligible Currency and a Settlement Session, the time on a Business Day beyond which a Member may not unilaterally rescind an Instruction pursuant to Rule 4.4.2(a).

“*User Member*” means an entity that has been approved as a Category A User Member or Category B User Member of CLS Bank, has received an executed copy of its User Member Agreement from CLS Bank in accordance with Rule 2.2.2(b) and has not been terminated pursuant to Rule 2.2.5 or Rule 10.2; *provided, however*, that in no event shall such entity be a User Member for purposes of the CLS Bank Documents at any time prior to the effectiveness of its User Member Agreement.

“*User Member Aggregate Short Position Limit*” means, with respect to the User Member Authorization Guidelines established for a User Member and with respect to a Settlement Session, a limit set by the User Member’s Designated Settlement Member, on the maximum sum of the negative balances of all Eligible Currencies for Settlement (each expressed in its Base Currency Equivalent) that such Designated Settlement Member intends to permit at any time in respect of Instructions submitted by such User Member that are authorized by such Designated Settlement Member.

“*User Member Agreement*” means, with respect to each User Member, the agreement among such User Member and CLS Bank substantially in the form set forth in Exhibit 2-C to the Member Handbook.

“*User Member Authorization Guidelines*” means, in respect of a User Member, those risk assessment tests described in Rule 2.1.7(c) which are set by a Settlement Member to automate the approval of Settlement Eligible Instructions submitted by such User Member for which such Settlement Member is a Designated Settlement Member.

“*User Member Credit Limit*” means, with respect to the User Member Authorization Guidelines established for a User Member, a limit set by its Designated Settlement Member on the maximum amount by which (i) the sum of the negative amounts in all Eligible Currencies for Settlement may exceed (ii) the sum of the positive amounts in all Eligible Currencies for Settlement (each such balance expressed in its Base Currency Equivalent) at any time in respect of Instructions submitted by such User Member that have been authorized by such Settlement Member.

“*User Member Short Position Limit*” means, in respect of a User Member and a Settlement Session, a limit set by its Designated Settlement Member on the maximum negative balance in each Eligible Currency that such Designated Settlement Member intends to permit at any time in respect of Instructions submitted by such User Member that have been authorized by such Settlement Member.

1.2 AMENDMENT OF RULES

The Board of Directors may waive any term of, or amend, the Rules from time to time. CLS Bank shall provide notice to each Member and Liquidity Provider of any proposed waiver of or amendment to the Rules not fewer than sixty days prior to the effectiveness of any such waiver or amendment. During this sixty-day period, CLS Bank shall provide the Members with an opportunity to review and comment on the waiver or amendment. If, as a result of such review and comment period, the Board of Directors determines that the Rules shall be modified in a manner that differs from the original proposed waiver or amendment to the Rules, CLS Bank shall provide the Members and the Liquidity Providers, and any applicable legal or regulatory authority to the full extent required by applicable law, regulation or agreement, with not less than fifteen days' advance notice of the effectiveness of such modifications. Notwithstanding the foregoing, the Board of Directors or Chief Executive Officer of CLS Bank may cause any waiver or amendment to become effective at any time prior to the end of such sixty-day review and comment period or fifteen day advance notice period, as applicable, if the Board of Directors or Chief Executive Officer of CLS Bank determines in its, his or her reasonable discretion that exigent circumstances exist which require such waiver or amendment to become effective for the protection of CLS Bank or its Members or to comply with legal or regulatory requirements or requests, and CLS Bank will provide notice thereof to each Member and Liquidity Provider as soon as practicable.

1.3 MEMBER HANDBOOK; RELATIONSHIP BETWEEN THE CLS BANK DOCUMENTS

1.3.1 Adoption of and Modification to the Member Handbook

CLS Bank shall adopt a Member Handbook that describes certain operational procedures, policy statements and other information and instructions relating to CLS Bank, CLS Services and its Members. CLS Bank may amend the Member Handbook from time to time, *provided* that any such amendment may not be inconsistent with the Rules. Except as otherwise provided in the Member Handbook, any amendment to the Member Handbook will become effective on the thirtieth day following the date on which such amendment is generally distributed to the Members or on such later date as CLS Bank may specify; *provided, however*, that CLS Bank may specify an earlier effective date, but in no event a date earlier than the date such amendment is generally distributed to Members, if CLS Bank determines in its reasonable discretion that such earlier effective date is desirable for the protection of CLS Bank or its Members or to comply with legal or regulatory requirements.

1.3.2 Relationship between the Rules, Member Handbook and Member Agreement

The provisions of the Member Handbook will be binding upon CLS Bank, CLS Services and each Member, and the provisions of each Member Agreement will be binding upon CLS Bank, CLS Services and the relevant Member; *provided, however*, that if there is any conflict between the Rules, the Member Handbook and a Member Agreement, the Rules will prevail unless otherwise specifically provided in the Member Agreement.

1.4 DELEGATION OF AUTHORITY; AGENCY

Where the Rules provide that an action may be taken or a determination may be made by CLS Bank, that action or determination may be taken or made (a) by the Board of Directors or the management of CLS Bank, or by any designated officer of CLS Bank as specified by the management of CLS Bank, or (b) to the extent authorized by CLS Bank, by CLS Services or any other Affiliate of CLS Bank, as agent. Where the Rules provide that an action or determination may be taken or made by the Board of Directors, that action or determination may be taken or made only by the Board of Directors as provided in CLS Bank's by-laws.

1.5 INTEREST, FEES, OBLIGATIONS, COSTS AND EXPENSES

CLS Bank will furnish schedules or notices to its Members from time to time specifying the interest, fees, obligations, costs and expenses and other liabilities associated with such amounts payable by Members to CLS Bank as may be established by the Board of Directors for services rendered by CLS Bank and the accounts to which such amounts should be paid. Each Member must pay all applicable interest, fees, obligations, costs and expenses promptly upon demand by CLS Bank or in accordance with the time frames specified in these schedules or notices. CLS Bank may impose fees for late payments. Upon the imposition of Remedial Actions on or the termination of a Settlement Member pursuant to Rule 10, CLS Bank shall, in addition to any right of deduction or set-off explicitly set forth in the Rules, be entitled to deduct from such Settlement Member's Account amounts due to CLS Bank in connection herewith.

1.6 LAW AND JURISDICTION

1.6.1 Governing Law

The Rules and the Member Handbook and all rights and obligations arising under or in connection with the Rules and the Member Handbook are governed by English law.

1.6.2 Jurisdiction

(a) *Submission.* CLS Bank, CLS Services and each Member agree (i) that the courts of England, the Federal Courts of the United States and the courts of the State of New York are to have jurisdiction to settle any disputes in connection with the CLS Bank Documents and submit to the non-exclusive jurisdiction of the English courts located in London and the Federal Courts of the United States and courts of the State of New York located in the Borough of Manhattan in The City of New York in connection herewith and (ii) to waive any objection which it may have at any time to the laying of venue of any proceedings brought in any such court, waive any objection that such proceedings have been brought in an inconvenient forum and further waive the right to object, with respect to such proceedings that such court does not have jurisdiction over the Member, CLS Bank or CLS Services. If a Member is required by the law of its country or state of domicile expressly and separately to submit to the jurisdiction of the English courts, the courts of the State of New York or the Federal Courts of the United States, it shall do so in a manner complying with that law prior to its becoming a Member.

- (b) *Service of Process.* Without prejudice to any other mode of service:
- (i) each Member appoints the persons in London and New York City notified to CLS Bank in Schedule A of such Member's Member Agreement (or such other persons in London and New York City as may be subsequently notified to CLS Bank on not less than thirty days' written notice) as its agent for service of process relating to any proceedings before the English courts or courts in the State of New York, respectively, in connection with that Member; *provided, however,* that in the case of a Member with an office or branch in London or New York City, such Member may, in lieu of such appointment, agree that service on such office or branch constitutes effective service of process on such Member;
 - (ii) CLS Bank hereby appoints CLS Services to act as its agent for service of process in respect of any proceeding brought against CLS Bank in England; and
 - (iii) CLS Services hereby appoints CLS Bank to act as its agent for service of process in respect of any proceeding brought against it in the State of New York.
- (c) *Non-exclusivity of Proceedings*

Nothing in this Rule 1.6.2 limits the right of a Member, CLS Bank or CLS Services to bring proceedings against any Member in connection with the CLS Bank Documents (i) in any other court of competent jurisdiction or (ii) concurrently in more than one jurisdiction.

1.6.3 *Mediation by CLS Bank*

No provision of Rule 1.6 shall be construed as limiting the ability of the Board of Directors, directly or through one of its committees, designated officers or other authorized persons, to mediate any disputes between any Members, CLS Bank and CLS Services if so requested by a Member; *provided, however,* that any member of the Board of Directors or such committee or any such designated officer or other authorized person that is employed by a party (or an Affiliate of such party) to such dispute shall recuse himself or herself from any such mediation. Mediation under this Rule 1.6.3 is intended to supplement, and not to preempt or supersede, any other rights available to a Member under applicable law in accordance with Rule 1.6 or Rule 10.3.

1.7 BANK RECORDS

All books and records of CLS Bank and CLS Services shall be presumed to be accurate and will be binding upon each Member in the absence of manifest error.

1.8 LIABILITY OF CLS BANK AND CLS SERVICES

1.8.1 *Limitation of Liability*

(a) Except as specifically provided in this Rule 1.8.1, neither CLS Bank nor CLS Services shall have any obligation to any person, including a Member, to process or Settle Instructions, and neither CLS Bank nor CLS Services guarantees the Settlement of any Instruction that is submitted to the CLS System for Settlement. Notwithstanding any contrary provisions in the CLS Bank Documents, neither CLS Bank nor CLS Services shall have any obligation to any person, including a Member, to take or refrain from taking any action (including processing or Settling any Instruction(s)) that CLS Bank or CLS Services, as the case may be, determines in its good faith judgment may violate applicable laws or regulations, may contravene any regulatory requirements or requests, may not be in the best interests of CLS Bank or its Members, may affect the ability of CLS Bank to continue to provide its services in a safe and sound manner, or may adversely affect the enforceability of the CLS Bank Documents or any provision thereof, whether before or after an Insolvency Event or Regulatory Reorganization, including with respect to finality, unity of account, netting or set-off in any relevant jurisdiction. Except as provided in Rule 2.1.5(c), Rule 2.2.5(c), Rule 4.3, Rule 4.5, Rule 4.6, Rule 5.4 and Rule 10.2.3, CLS Bank and CLS Services are not the agents of any Member or Transaction Counterparty in respect of a Transaction and have no responsibility for any payments made between any Transaction Counterparty and any Member or between any User Member and any Settlement Member. The CLS Bank Documents do not, are not intended to, and will not be construed to establish or create any right in, or duty or obligation to, any party other than CLS Bank, CLS Services, Members, and in respect of Rule 8.5, Liquidity Providers. For the avoidance of doubt, the CLS Bank Documents do not, are not intended to, and will not be construed to, address the nature or terms of the relationship between Members and their customers or other third parties.

(b) In no case shall CLS Bank or CLS Services have any duty, obligation or liability to any person other than a Member under the terms of the CLS Bank Documents, each of which is intended for the exclusive benefit of CLS Bank, CLS Services, Members, and in respect of Rule 8.5, Liquidity Providers. In no event shall CLS Bank or CLS Services be liable to any person, including a Member, for punitive, special or consequential damages, including loss of business profits whether arising from negligence, breach of contract or otherwise even if CLS Bank or CLS Services is advised of the possibility of such damages. Neither CLS Bank nor CLS Services shall have any liability to any person, including a Member, based upon any allegation that CLS Bank or CLS Services (i) failed to monitor the compliance of any Member with the CLS Bank Documents, (ii) failed to take Remedial Action against a Member for a violation of any of the provisions in the CLS Bank Documents, (iii) failed to monitor the compliance of any Member or any other party with any applicable law or regulation, including exchange and capital controls, or (iv) failed to limit the risk(s) presented by any Member or other party to CLS Bank, other Members, or any other party.

(c) Subject to the limitations set forth in this Rule 1.8.1 or in the applicable Member Agreement, CLS Bank and CLS Services shall indemnify each Member for such Member's Liability Loss, but only to the extent amounts due in respect of an indemnity described in Rule 1.8.4, as the case may be, are received by CLS Bank.

(d) Neither CLS Bank nor CLS Services shall limit its liability for death or personal injury arising from its negligence or that of its employees, agents or sub-contractors.

1.8.2 Responsibility for Instructions

(a) Each Settlement Member agrees that each Instruction submitted by it, or by a User Member for which it acts as a Designated Settlement Member when and if any such Instruction has been authorized by such Settlement Member and all obligations arising in connection therewith under the CLS Bank Documents, is the sole responsibility of such Settlement Member in its corporate capacity at its Head or Home Office, notwithstanding (i) any identification of a jurisdiction from which such Instruction is submitted, (ii) that such Settlement Member or User Member is acting on behalf of or as agent for another person or entity or (iii) that an Instruction is submitted by or on behalf of a particular branch, office or booking location of such Settlement Member or User Member.

(b) CLS Bank and CLS Services will deal with each Settlement Member as principal in respect of (i) the submission and processing of all Instructions identifying the Settlement Member as the Submitting Member, (ii) the processing of all Instructions that have been authorized by the Settlement Member as a Designated Settlement Member and (iii) all Instructions that are Settled through such Settlement Member's Account, and the liability of a Settlement Member hereunder and under the CLS Bank Documents shall in all cases be that of principal, and not as agent or trustee, regardless of any understandings or agreements which a Settlement Member may otherwise have with any party other than CLS Bank and CLS Services and regardless of whether CLS Bank or CLS Services has knowledge of any such understandings or agreements or the identity of such parties.

1.8.3 Communications

(a) Unless explicitly provided for in the CLS Bank Documents, all communications between CLS Bank or CLS Services and a Member (including any notices, statements or reports issued by CLS Bank) will be made in the manner and form set forth in Chapter 12 of the Member Handbook and shall be deemed effective at the times specified therein; *provided, however*, that CLS Bank or CLS Services may not specify a time earlier than the time such communication is transmitted to the Member and, in the event of a disagreement between the reported status of any information in a communication and the books and records of CLS Bank and CLS Services, the books and records of CLS Bank and CLS Services shall control in the absence of manifest error.

(b) CLS Bank and CLS Services may accept or rely upon any communication, given to CLS Bank or CLS Services by a Member in accordance with the Rules (including the

transmission of any Instruction which has been authenticated in accordance with Rule 4.3.1(a) or other procedures described in Chapter 4 of the Member Handbook).

(c) Each Member shall enter into its own arrangements with S.W.I.F.T. and other necessary agents for transmission of communications to CLS Bank and CLS Services. CLS Bank and CLS Services shall have no responsibility for the actions of any Member or agent of any Member, including S.W.I.F.T. CLS Bank and CLS Services are not required to act on any communication (including an Instruction received by CLS Bank or CLS Services) that would violate (i) the CLS Bank Documents, (ii) any other written agreement between CLS Bank, or CLS Services, and a Member, (iii) any applicable law or (iv) any other agreement to which CLS Bank or CLS Services is a party (*provided* that CLS Bank or CLS Services shall have disclosed to the relevant Member the relevant restrictions under such other agreement).

1.8.4 *Indemnification by Members*

(a) Each Member shall indemnify CLS Bank and CLS Services, and any of their respective agents, officers, employees and members of their respective boards of directors or committees, for, and hold each harmless against, any loss, liability or expense incurred or sustained as a result of any of the following (except to the extent that such loss, liability or expense was caused by the gross negligence, fraud or wilful misconduct of CLS Bank, CLS Services or any of their respective agents, officers, employees and members of their respective boards of directors or was caused by another Member):

- (i) any act done in reliance upon the authenticity of any Instruction, Amend Instruction, Rescind Instruction or other communications received by CLS Services from that Member (and, if applicable, transferred to CLS Bank);
- (ii) the inaccuracy of any information contained in any Instruction, Amend Instruction, Rescind Instruction or other communications received by CLS Services or CLS Bank from that Member (and, if applicable, transferred to CLS Bank);
- (iii) Settlement of an Instruction in reliance upon any information contained in any Instruction, Amend Instruction, Rescind Instruction or other communications received by CLS Services from that Member (and, if applicable, transferred to CLS Bank); and
- (iv) any payment relating to any such Instruction or communication (including any payment to any Settlement Members, User Members or other parties) received by CLS Services from that Member (and, if applicable, transferred to CLS Bank);

provided, that CLS Bank or CLS Services is acting in accordance with the CLS Bank Documents and that any such Instruction, Amend Instruction, Rescind Instruction or other communication has satisfied the evaluations set forth in Rule 4 and Rule 5, even

though such Instruction, Amend Instruction, Rescind Instruction, or other communication on which CLS Bank or CLS Services is relying may be inaccurate or not authentic.

(b) Notwithstanding the limitations on the liability of CLS Bank or CLS Services in Rule 1.8.1(b), any Member that receives punitive, special or consequential damages from CLS Bank or CLS Services shall indemnify CLS Bank and CLS Services for, and hold each harmless against, the amount of any such damages.

(c) Notwithstanding the provisions of Rule 1.14, any Member that seeks to create any charge, lien, security interest or other encumbrance over any Account or over any CLS Bank account with any Central Bank shall indemnify CLS Bank, CLS Services and each Settlement Member for, and hold each harmless against, any loss, cost or expense incurred or sustained by CLS Bank, CLS Services or such Settlement Member in connection therewith.

(d) Amounts due in respect of any indemnity described in paragraphs (a), (b) and (c) above shall be paid by the Member upon demand by the relevant indemnified party. CLS Bank may take such other actions as it deems necessary in accordance with Rule 10 in the event that such payment from the Member to CLS Bank or CLS Services is not paid upon such demand. In the case of a Settlement Member, CLS Bank is authorized to deduct from such Settlement Member's Account the amount due to CLS Bank or CLS Services with respect thereto.

(e) If CLS Bank or CLS Services becomes liable for a Liability Loss, each Member, including any Member suffering or alleging a Liability Loss and excluding any Affiliated User Member, shall indemnify CLS Bank and CLS Services for, and hold each harmless against, the amount of the Liability Loss, respectively. The amount of such indemnity shall be assessed and calculated by CLS Bank and satisfied by such Member in accordance with Rule 9.2.

1.9 LIMITATION ON LIABILITY OF MEMBERS

In no event shall a Member be liable to CLS Bank or CLS Services for punitive, special or consequential damages, including loss of business profits whether arising from negligence, breach of contract or otherwise even if the Member is advised of the possibility of such damages. If, notwithstanding the preceding sentence, CLS Bank or CLS Services receives punitive, special or consequential damages from any Member, CLS Bank or CLS Services, as the case may be, shall indemnify the Member for, and hold it harmless against, the amount of any such damages.

1.10 ERRORS IN RECEIPT OF FUNDS

(a) If a Settlement Member receives funds in any currency from CLS Bank that were paid to the Settlement Member in error, (i) the Settlement Member must promptly inform CLS Bank of the error and return the funds to the account specified by CLS Bank on the same day it received the funds in error and (ii) CLS Bank shall be entitled to deduct the amount of any unreturned

funds from the Settlement Member's Account. If any such funds are not returned to CLS Bank on the same day the Settlement Member received the funds in error, the Settlement Member shall also pay to CLS Bank interest for the period such Settlement Member retained such funds at the rate specified in Chapter 11 of the Member Handbook.

(b) If CLS Bank receives funds from a Settlement Member and such funds are not clearly indicated to be for the Account of another Settlement Member, such funds will, after internal validation (or other review of such payment) by CLS Bank, be included in the Account Balance of the Settlement Member sending such funds, whether or not paid to CLS Bank in error, and will be treated the same as other Currency Balances in the Settlement Member's Account; *provided, however*, that CLS Bank shall have the discretion to determine at what time it will pay out such amounts, if applicable, to such Settlement Member.

1.11 TIMES; DATES; SETTLEMENT OF INSTRUCTIONS ON BUSINESS DAY

Unless otherwise specified, references in the Rules or the Member Handbook (a) to times of day are to Central European Time (C.E.T.) or Central European Summer Time (C.E.S.T.), as applicable, and (b) to a date or calendar date are to the date in the jurisdiction or jurisdictions in which actions or events are scheduled to occur. CLS Bank will only process Instructions for Settlement on a Business Day.

1.12 NETTING

In all cases, the obligations and entitlements of each of CLS Bank and a Settlement Member with respect to the Account of such Settlement Member shall be a net amount calculated in accordance with the definition of Account Balance less all interest, fees, obligations, costs and expenses and other liabilities associated with such amounts due from such Settlement Member.

1.13 BINDING CONTRACT

The obligations of CLS Bank, CLS Services and each Member under the Rules and the Member Handbook are valid, binding and enforceable in accordance with their terms. No party other than (a) CLS Bank, (b) CLS Services, (c) Members, and (d) in respect of Rule 8.5, Liquidity Providers, shall have any rights under the CLS Bank Documents or under the Contracts (Rights of Third Parties) Act 1999 of the United Kingdom.

1.14 ASSIGNMENT; ATTACHMENT

Each Account is a special account that may be used by a Settlement Member only for the purpose of Settling Instructions as provided in the CLS Bank Documents. Neither a Settlement Member nor any other person or entity shall have any right to make deposits into (other than with respect to Pay-Ins on behalf of such Settlement Member) or withdrawals from such Settlement Member's Account. All payments into and out of any such Account shall be made strictly in accordance with procedures set forth in the CLS Bank Documents. To the full extent permitted by applicable law, no Account is assignable, either in law or in equity, nor is it subject to any charge, lien, security interest or other encumbrance purported to be created over it by any person, including a Member, except as expressly provided in the CLS Bank Documents, and each Member agrees that it shall not seek, or participate in, or cooperate with,

any action that seeks, to create any charge, lien, security interest or other encumbrance over any Account or over any CLS Bank account with any Central Bank. Notwithstanding the foregoing, CLS Bank may act in any manner it deems appropriate in response to the purported existence of any charge, lien, security interest or other encumbrance, including deducting amounts from a Settlement Member's Account Balance in (a) determining whether such Settlement Member's Instructions shall Settle, (b) determining amounts specified in a Pay-In Schedule, Pay-In Call and amounts, if any, for Pay-Outs and (c) determining the Account Balance for purposes of Rule 9.

1.15 REFERENCES; INTERPRETATION; SEVERABILITY

- (a) In the CLS Bank Documents, unless the context otherwise requires, references to:
 - (i) *the Rules, the Member Handbook or contract (including a Member Agreement)* refer to the Rules, the Member Handbook or contract as amended, modified, supplemented or replaced from time to time;
 - (ii) any *Rule* refers to a rule in these Rules;
 - (iii) any *statute, regulation, Directive or other legislation* refer to the statute, regulation, Directive or other legislation as amended, modified, supplemented or replaced from time to time (and, in the case of a statute, include any rules and regulations promulgated under the statute) and to any *section or other part of any statute, rule, regulation, Directive or other legislation* include any successor to the section or part; and
 - (iv) unless the context requires otherwise, the words *include* and *including* will be deemed to be followed by the words *without limitation*.
- (b) The *table of contents* and *headings* contained in the Rules are for reference purposes only and in no way define, limit or describe the scope or intent of any provisions of the Rules.
- (c) Solely for purposes of the implementation of the BRRD, including the Settlement Finality Regulations:
 - (i) no "crisis prevention measure" or "crisis management measure," each as defined in the BRRD, will be treated as an Insolvency Event under the CLS Bank Documents; and
 - (ii) upon the occurrence of a Regulatory Reorganization in respect of a Member, the substantive obligations of the Member under the CLS Bank Documents shall be deemed to continue to be performed by the Member unless and until:
 - (A) CLS Bank terminates the Member's membership in CLS Bank under Rule 10.2.1(a), or

(B) CLS Bank determines, after due consideration of any risks to it and its Members, that the Member should no longer be deemed to be performing its substantive obligations under the CLS Bank Documents;

provided, that any deemed performance by the Member of its substantive obligations under this Rule 1.15(c)(ii) will not affect the right or ability of CLS Bank to take any Remedial Action against the Member under the CLS Bank Documents.

(d) If an event or occurrence that otherwise would constitute an Insolvency Event also constitutes a Regulatory Reorganization, it will be treated as a Regulatory Reorganization and not as an Insolvency Event under the CLS Bank Documents.

(e) In case one or more provisions (or portions thereof) contained in the Rules shall be invalid, illegal or unenforceable in any respect under any applicable law, unless such provision is so integral to the terms of the Rules that its invalidity would be contrary to the intent of the parties agreeing to the Rules, the validity, legality and enforceability of the remaining provisions (or portions thereof) contained herein shall not be affected or impaired thereby.

1.16 PROVISION OF INFORMATION

Pursuant to the Settlement Finality Regulations, each Member agrees to:

(a) provide any person with a legitimate interest who requests it, within fourteen days of such request, without charge (or, at the Member's discretion, only upon the payment of a reasonable reproduction fee that is established by the Member) with the following information:

- (i) details of the systems which are designated for the purposes of the Settlement Finality Regulations in which the Member participates; and
- (ii) information regarding the main rules governing the functioning of those systems; and

(b) notify CLS Bank, CLS Services and the Bank of England upon the passing of a creditors' voluntary winding up resolution or upon a trust deed granted by such Member becoming a protected trust deed (each as defined in the Settlement Finality Regulations) that such a resolution has been passed, or, as the case may be, that such a trust deed has become a protected trust deed.

1.17 FORCE MAJEURE, ACT OF STATE AND ILLEGALITY

If by reason of Force Majeure or act of state, CLS Bank or CLS Services is prevented from or hindered or delayed in the performance of any of its obligations under the CLS Bank Documents, or if it becomes or, in the good faith judgment of CLS Bank or CLS Services, may become unlawful or impossible for CLS Bank or CLS Services to perform any of its obligations under the CLS Bank Documents, CLS Bank or CLS Services, as the case may be, shall (a) notify the relevant Members as soon as practicable when it becomes aware of any such impediment or preclusion to the performance of any such obligations and

(b) be relieved of its obligations to perform such obligations until CLS Bank or CLS Services, as the case may be, concludes in its sole discretion that such impediment or preclusion no longer exists.

1.18 TRANSITION PERIODS

In connection with any substantial update or change to the functionality of the CLS System or the Settlement services provided by CLS Bank, with respect to any Settlement Session, CLS Bank may restrict the submission of Instructions to the CLS System by one or more Members that could in any reasonable way be expected to use, involve or adversely affect such functionality or Settlement services or is otherwise determined by CLS Bank to be appropriate under the circumstances for the protection of CLS Bank or its Members or to comply with legal or regulatory requirements. The restrictions shall be for such period of time as determined by CLS Bank. CLS Bank shall notify the relevant Members of such restrictions as soon as practicable.

1.19 EFFECTIVENESS OF CERTAIN RULES

Rule 1.8.1(c), Rule 1.8.4(e) and Rule 9 will not be effective in respect of a Member until the date CLS Bank determines as the date on which such Member may first submit Instructions to the CLS System for Settlement.

1.20 THE CLS SYSTEM – NORMAL AND CONTINGENCY CONDITIONS

The CLS System comprises several computer hardware and software components which may be used by CLS Bank to deliver the services described in the CLS Bank Documents. Use of such components, or subset of such components, may depend on whether the CLS System is operating under normal (non-contingency) or contingency conditions. If there are contingency conditions affecting the CLS System, certain functionality of the CLS System generally available or used under normal conditions may not be available or used and, as a result, (i) the ability of CLS Bank or CLS Services to perform some of the processes described in the Rules which are performed under normal conditions may be restricted or timing may be impacted and/or (ii) CLS Bank or CLS Services may interact with the Member(s) in a manner that is different from normal operations. Any such differences, if reasonably known to CLS Bank or CLS Services, shall be identified in Chapter 1 of the Member Handbook.

2 MEMBERSHIP

2.1 SETTLEMENT MEMBERSHIP

2.1.1 *Settlement Membership Criteria*

Only an applicant that satisfies each of the following criteria may be approved as a Settlement Member of CLS Bank:

- (a) *CLS Group Holdings Shareholder; Fees in Lieu of Shareholding.*
 - (i) The applicant, other than one applying to be a Central Bank Settlement Member, is a CLS Group Holdings Shareholder or an Affiliate of a CLS Group Holdings Shareholder. CLS Bank may waive this requirement, in its sole discretion, for an applicant applying to be a Transition Settlement Member.
 - (ii) In the case of an applicant applying to be a Central Bank Settlement Member, any fees applicable to and due from the applicant prior to approval of the applicant by CLS Bank as a Central Bank Settlement Member shall have been paid to CLS Bank.
- (b) *Restriction on Affiliates.* The applicant is not an Affiliate of a Settlement Member (unless such Settlement Member's Termination Time is prior to the effective date of the applicant's membership in CLS Bank); *provided, however,* that an applicant applying to be a Transition Settlement Member may be an Affiliate of a Settlement Member.
- (c) *Qualifying Entity Requirement.* The applicant:
 - (i) either:
 - (A) is a bank or trust company, subject to prudential supervision by a governmental authority acceptable to CLS Bank;
 - (B) is a broker or dealer registered under the U.S. Securities and Exchange Act of 1934;
 - (C) is an investment firm (as defined in Article 4.1.1 of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments) which carries on a regulated activity in the United Kingdom for the purposes of the Financial Services and Markets Act of 2000 but which is not a EEA firm or a Treaty firm (as those terms are used in that Act) qualifying for authorization under Schedules 3 and 4, respectively, to that Act;

- (D) is a Central Bank if the applicant is applying to be a Central Bank Settlement Member; or
 - (E) is a TSM Entity if the applicant is applying to be a Transition Settlement Member; or
 - (ii) does not qualify under paragraphs (A), (B), (C), (D), or (E) above, but has demonstrated to the Board of Directors that its business and capabilities permit it to use CLS Bank's services without undue risk to CLS Bank, its Members or CLS Services and is subject to prudential supervision by an authority acceptable to CLS Bank; and
 - (iii) is a "financial institution" within the meaning of 12 U.S.C. §4402 and a "participant" within the meaning of the Settlement Finality Regulations.
- (d) *No Special Factors; Adequate Resources and Capabilities*
- (i) CLS Bank shall have received no information that would reasonably be seen to adversely reflect on the present or prospective business, operations, management or financial condition, operational capabilities, or applicable regulatory supervision or requirements of, or access to liquidity in respect of, the applicant, including the financial ability of the applicant to satisfy its obligations under Rule 9, to such an extent that the applicant should be denied membership in CLS Bank; *provided, however*, that after due consideration by CLS Bank of any risks to it and its Members, CLS Bank may waive, in its sole discretion, this requirement for an applicant applying to be a Transition Settlement Member; and
 - (ii) the applicant shall not have business practices, internal risk management controls or any other factor or condition that would create undue risk for CLS Bank, its Members or CLS Services.
- (e) *Operating Capability.* The applicant shall execute a testing and trialing agreement substantially in the form set forth in Exhibit 2-A to the Member Handbook, participate in testing and trialing as requested by CLS Bank from time to time, and satisfy such minimum operating capabilities as may be established from time to time by CLS Bank, including:
- (i) an ability to submit Instructions, Amend Instructions, and Rescind Instructions to CLS Bank through the Submission Process, including (A) satisfying trials involving submission, matching and Settlement of Instructions with respect to each Submission Location, applicable Pay-Ins and Pay-Outs (as more particularly set forth in operational trialing protocols for Settlement Members) and (B) demonstrating that a Submission Location (and subsequently any additional requested Submission Location) operates effectively before any additional Submission Location may be introduced;

- (ii) an ability to satisfy operationally, directly or through its applicable Nostro Agent, the requirements necessary to deliver funds in each Eligible Currency to CLS Bank within specified times so as to satisfy the Pay-In requirements described in Rule 6;
- (iii) adequate contingency plans in the event of its inability, or any of its Nostro Agents' inability, to satisfy the funding requirements described in paragraph (ii) above;
- (iv) adequate contingency plans for maintaining its operational capabilities if a natural disaster, operational or technical failure, or other extraordinary event occurs;
- (v) appropriate procedures and contingencies for the effective operation and management of its Control Function, including the ability to effectively operate and manage any existing or new Control Function Interface or Submission Location and manage applicable Static Data; and
- (vi) in the case of an applicant applying to be a Transition Settlement Member, any other connectivity architecture, operational ability, and Static Data requirements (including certifications) that CLS Bank may identify in the Member Handbook;

provided, however, that after due consideration by CLS Bank of any risks to it and its Members, CLS Bank may waive, in its sole discretion, the requirement in clause (i)(A) above, any of the requirements in clauses (ii) through (v) above, and the requirement to execute a testing and trialing agreement for an applicant applying to be a Transition Settlement Member.

In the case of an applicant applying to be a Central Bank Settlement Member, the applicant must also have the authority to act on all matters related to its membership in CLS Bank and the CLS Bank Documents in order to satisfy its obligations thereunder.

(f) *Financial Requirements*

(i) *Minimum Capital and Capital Ratio Requirements.* An applicant must maintain capital equal to or in excess of the capital and capital ratio requirements imposed from time to time by its primary regulator; *provided, however,* that this Rule 2.1.1(f)(i) shall not apply to an applicant applying to be a Central Bank Settlement Member.

(A) In the case of banks and trust companies (described in Rule 2.1.1(c)(i)(A)), the minimum capital and capital ratio requirements will be those determined in accordance with the home country regulatory authorities of the Head or Home Office of the applicant; *provided,*

however, that those requirements must be consistent with the minimum standards established by the Basel Committee on Banking Supervision.

(B) In the case of U.S. broker-dealers (described in Rule 2.1.1(c)(i)(B)), the minimum capital and capital ratio requirements will be those determined by the U.S. Securities and Exchange Commission.

(C) In the case of U.K. investment firms (described in Rule 2.1.1(c)(i)(C)), the minimum capital and capital ratio requirements will be those determined by the appropriate regulator, either the U.K. Financial Conduct Authority or the U.K. Prudential Regulation Authority.

If an applicant is not subject to any of the requirements described in paragraphs (A) through (C) above, CLS Bank may require that the applicant comply with capital and capital ratio requirements that exceed those imposed by the applicant's primary regulator if CLS Bank determines, in its reasonable discretion, that the capital and capital ratio requirements imposed by the applicant's primary regulator are less than those described in paragraphs (A) through (C) above and the excess capital and capital ratio requirements are reasonably necessary for the protection of CLS Bank and its Members.

(ii) *Minimum Long-Term Internal Rating Requirements.*

(A) As part of its application process, an applicant must provide CLS Bank with evidence of each long-term rating and Stand-Alone Credit Rating, if any, that it (and, if applicable, its Guarantor) has from any of the Rating Agencies.

(B) CLS Bank will assign an internal long-term rating for each applicant (and, if applicable, its Guarantor). CLS Bank's determination of the internal long-term rating of an applicant (and, if applicable, its Guarantor) may be based, with reference to the applicant (and, if applicable, its Guarantor), on, among other things:

- (1) the public ratings of its asset-backed securities, applicable derivative instruments, or other financial products;
- (2) its credit reports;
- (3) its contingent liabilities;
- (4) all publicly available long-term ratings of it, if any, by the Rating Agencies; and

(5) its capital position, asset quality, management, earnings, and liquidity, in each case based on its most recent corporate disclosure and financial statements.

(C) No applicant will be eligible for membership if CLS Bank assigns an internal long-term rating to the applicant that is less than BB-.

(D) In the case of an applicant applying to be a Transition Settlement Member, CLS Bank may waive, in its sole discretion, any of the requirements of this Rule 2.1.1(f)(ii) after due consideration by CLS Bank of any risks to it and its Members.

(iii) *Enhancements.*

(A) In the case of an applicant that CLS Bank has assigned an internal long-term rating that is less than BBB-, CLS Bank may require, in its sole discretion, the applicant to provide one or more of the following enhancements:

- (1) a pledge of cash collateral to CLS Bank;
- (2) the issuance of an irrevocable standby letter of credit that is denominated in the Base Currency and issued to CLS Bank (as the beneficiary), on behalf of the applicant, by a financial institution that is in the United States or United Kingdom and has a public long-term debt rating from any of the Rating Agencies that is S&P A (or equivalent) or higher;
- (3) a guarantee provided by a Guarantor; or
- (4) pre-funding, in which case the applicant will be required to satisfy its projected Pay-In requirements, in whole or in part, for any Settlement Date prior to the times specified in any Pay-In Schedule (or in Chapter 6.1) or prior to such Settlement Date, as determined by CLS Bank;

in each case in form and substance acceptable to CLS Bank.

(B) In the case of an applicant applying to be a Transition Settlement Member and after due consideration by CLS Bank of any risks to it and its Members, CLS Bank may, but is not required to, require or accept (1) a guarantee provided by a Guarantor or (2) such other financial or credit related enhancements as may be proposed by a Governmental Authority or the applicant and agreed to by CLS Bank in its sole discretion.

(iv) *Financial Statements.* The applicant must furnish to CLS Bank the following:

(A) a copy of its annual financial statements (and, if a guarantee has been provided by a Guarantor, the annual financial statements on a consolidated basis of the applicant and its Guarantor) for the three fiscal years ending immediately preceding the year in which the application is submitted to CLS Bank (or, if the applicant or its Guarantor has been in existence for less than three years, such financial statements as CLS Bank may require), each certified by its independent certified public accountants (or equivalent); and

(B) all publicly-issued financial statements of the applicant (and, if applicable, its Guarantor) covering the period between the most recent annual financial statements furnished to CLS Bank and the date the application described in Rule 2.1.2(b) is submitted to CLS Bank;

provided, however, that if an applicant applying to be a Transition Settlement Member is unable to provide any such financial statements, the applicant must furnish any other financial statements, documents, and other corporate disclosures that CLS Bank may reasonably request.

To the extent that such audited financial statements are not prepared in accordance with generally accepted accounting principles, the applicant shall provide CLS Bank with a discussion of the material variations of such accounting principles from generally accepted accounting principles. For purposes of this Rule 2.1.1(f)(iv), “generally accepted accounting principles” for an applicant other than one applying to be a Central Bank Settlement Member shall mean those in effect in the jurisdiction of the Head or Home Office of the applicant or its Guarantor, as applicable; and, for an applicant that is applying to be Central Bank Settlement Member, International Financial Reporting Standards (IFRS) or other internationally recognized accounting standards.

(v) *Certificate.* The applicant (other than an applicant applying to be a Transition Settlement Member) must furnish a certificate of the chief executive or chief financial officer (or other authorized person acceptable to CLS Bank) of the applicant that no material adverse changes have occurred in the financial condition of the applicant since the date of the most recent financial statements provided to CLS Bank, and that the applicant is not subject to any material contingent liabilities, except as set forth in such financial statements. In the case of an applicant applying to be a Transition Settlement Member, CLS Bank may require, in its sole discretion, the applicant to provide representations (including representations regarding the expected term of membership in CLS Bank as a Transition Settlement Member) from the chief executive or chief financial officer (or other authorized person acceptable to CLS Bank) regarding the financial condition of the applicant.

(vi) *Regulatory Filings.* The applicant must furnish copies of (A) such relevant and material regulatory filings as CLS Bank may reasonably require made with its primary regulator in the jurisdiction where its Head or Home Office is located for the three fiscal years ending immediately preceding the year in which the application is submitted to CLS Bank (or, if the applicant has been in existence for less than three years, such relevant and material regulatory filings as CLS Bank may require) and (B) such relevant and material regulatory filings covering the period between the most recent relevant and material regulatory filings furnished to CLS Bank and the date the application is submitted to CLS Bank; *provided, however*, that this Rule 2.1.1(f)(vi) shall not apply to an applicant applying to be a Central Bank Settlement Member or a Transition Settlement Member, except to the extent that an applicant applying to be a Transition Settlement Member must furnish such relevant and material regulatory filings of it and its Predecessor Settlement Member that CLS Bank may reasonably request.

(g) *Head or Home Office.* The Head or Home Office of an applicant:

(i) shall not, unless otherwise specifically permitted by CLS Bank, be located in a jurisdiction for which applicable US laws or regulations require the implementation of an enhanced due diligence program by CLS Bank; and

(ii) shall be located in a jurisdiction in which CLS Bank has received a satisfactory opinion of counsel in respect of, among other things, the finality in such jurisdiction of Settlement across the books and records of CLS Bank as well as netting relevant to CLS Bank, and there shall have been no change in law or regulation, and no change affecting the application of any law or regulation as relevant to the applicant, that would affect the conclusions set forth in such opinion in a manner not acceptable to CLS Bank; *provided*, that if the opinion required by CLS Bank pursuant to this paragraph contains exceptions or reservations, CLS Bank may require, in its sole discretion and in lieu of rejecting the application for membership in CLS Bank, that the applicant agrees to such limits, conditions, or restrictions upon the activities of the applicant as CLS Bank deems appropriate under the circumstances for the protection of CLS Bank or its Members.

(h) *Designated Settlement Member.* If an applicant contemplates acting as a Designated Settlement Member, it must demonstrate to CLS Bank that it is able to effectively authorize Instructions submitted by a User Member and send and receive all information and communications in connection with Instructions submitted by a User Member before such applicant may act as a Designated Settlement Member for any User Member.

(i) *Additional Criteria for Central Bank Settlement Member.* In the case of an applicant applying to be a Central Bank Settlement Member, it must demonstrate to the

satisfaction of CLS Bank that it has timely and adequate access to liquidity in all Eligible Currencies other than its own domestic currency.

(j) *Settlement Member Agreement and Legal Opinions.*

(i) The applicant shall deliver to CLS Bank (A) a Settlement Member Agreement and (B) an opinion of counsel substantially in the form attached to the Settlement Member Agreement (or in the case of an applicant applying to be a Transition Settlement Member, in the form as CLS Bank may require), satisfactory to CLS Bank in form and content and addressing such other matters as CLS Bank may specify.

(ii) The Settlement Member Agreement shall provide that the applicant will participate in testing and trialing procedures with applicants for membership and any Members, as the case may be, for any reason, including for changes to the functionality of the CLS System and inclusion of a new currency for Settlement in CLS Bank. In the case of an applicant applying to be a Transition Settlement Member, the Settlement Member Agreement also shall provide that the applicant agrees to succeed to all of its Predecessor Settlement Member's rights, liabilities, and obligations relating to the Settlement services provided by CLS Bank, including those arising (A) under the Predecessor Settlement Member's CLS Bank Documents and CLS In/Out Swap Agreement (if any), (B) from any Instructions submitted by the Predecessor Settlement Member to the CLS System prior to the date on which the applicant becomes a Transition Settlement Member, as if the Transition Settlement Member had itself submitted those Instructions, (C) in connection with Liquidity Facilities, and (D) by operation of law; *provided*, that CLS Bank may exclude, in its sole discretion, any of those rights, liabilities, and obligations after due consideration by CLS Bank of any risks to it and its Members; and *provided further*, that the applicant may exclude all rights, liabilities, and obligations of its Predecessor Settlement Member arising under the Predecessor Settlement Member's CLS In/Out Swap Agreement after the date on which the applicant becomes a Transition Settlement Member.

(iii) If the opinion required by CLS Bank pursuant to Rule 2.1.1(j)(i) contains exceptions or reservations, CLS Bank may require, in its sole discretion and in lieu of rejecting the application for membership in CLS Bank, that the applicant agree to such limits, conditions, or restrictions upon the activities of the applicant as CLS Bank deems appropriate under the circumstances for the protection of CLS Bank or its Members.

(k) *Additional Information.* Each applicant must furnish to CLS Bank such information (whether public or non-public) relating to its financial condition, operational capabilities and compliance with the criteria as may be reasonably requested by CLS Bank based upon its determination that such information is relevant and necessary for the protection of CLS Bank or its Members or to comply with applicable laws or regulations.

In addition, an applicant applying to be a Transition Settlement Member must furnish to CLS Bank such other information that CLS Bank may reasonably request.

2.1.2 *Application Process and Approval Procedure*

(a) *Application Process.* An applicant to become a Settlement Member shall execute and submit to CLS Bank an “Application for Settlement Membership” substantially in the form attached to the Settlement Member Agreement (or in the case of an applicant applying to be a Transition Settlement Member, in the form as CLS Bank may require). The application shall be accompanied by the supporting information and documentation required by CLS Bank, including an executed Settlement Member Agreement (as provided for in Rule 2.1.1(j)(i)(A), an opinion of counsel (as provided for in Rule 2.1.1(j)(i)(B), financial information (as provided for in Rule 2.1.1(f)), and in the case of an applicant applying to be a Transition Settlement Member, the additional information required under Rule 2.1.1(k). The information provided to CLS Bank pursuant to Rule 2.1.1 and Rule 2.1.3 shall be considered Settlement Member Confidential Information for the purposes of the confidentiality provisions included in the Settlement Member Agreement.

(b) *Approval Procedure.*

(i) Each complete application shall be reviewed by CLS Bank. As part of this review process, CLS Bank may consult with the applicant’s primary regulator in the jurisdiction where the applicant’s Head or Home Office is located if CLS Bank reasonably concludes that such consultation is in the best interests of CLS Bank or its Members. CLS Bank shall notify the applicant of any such consultation as soon as practicable, and shall attempt to provide such notice contemporaneously with such consultation.

(ii) If CLS Bank concludes that the applicant satisfies the criteria specified in Rule 2.1.1, CLS Bank shall (A) indicate its acceptance of the application by executing the Settlement Member Agreement with CLS Services and notifying the applicant by returning an executed copy to the applicant and so advising the Board of Directors, (B) inform the applicant of the initial Aggregate Short Position Limit established for the applicant (as a Settlement Member) and, in the case of a Transition Settlement Member that is an affiliate of another Settlement Member, any adjustment to the Aggregate Short Position Limit, Short Position Limit, or both of that Settlement Member, if applicable, (C) inform the applicant of its eligibility (as a Settlement Member) to participate in the CLS System as described in Rule 2.2.3 and the first date on which it is eligible to submit the Instructions described therein, and (D) in the case of a Transition Settlement Member, inform the applicant of its term of membership in CLS Bank, including the date on which the term will terminate. For the avoidance of doubt, except as otherwise provided in the CLS Bank Documents, a Transition Settlement Member shall have all the rights, liabilities, and obligations of a Settlement Member under the CLS Bank Documents.

(iii) If CLS Bank concludes that an applicant does not satisfy the criteria specified in Rule 2.1.1, the applicant shall be notified as soon as practicable, and this decision shall in all cases be final and conclusive, subject to the procedures set forth in Rule 10.3; *provided*, that in lieu of rejecting an application for membership in CLS Bank as a Transition Settlement Member, (A) CLS Bank may require, in its sole discretion, that the applicant applying to be a Transition Settlement Member agree to such limits, conditions, or restrictions upon the activities of the applicant as CLS Bank deems appropriate under the circumstances for the protection of CLS Bank or its Members and (B) to the extent that CLS Bank waives any of the requirements in Rule 2.1.1 that otherwise would have applied to the applicant, CLS Bank may impose, in its sole discretion, such limits, conditions, or restrictions in connection with any such waiver as CLS Bank deems appropriate under the circumstances for the protection of CLS Bank or its Members.

(iv) Notwithstanding the foregoing, CLS Bank may defer an application to become a Settlement Member upon a determination by CLS Bank that CLS Bank does not have adequate personnel, space, data processing capacity or other operational capability at such time to perform its services for the applicant without impairing the ability of CLS Bank to provide services for its existing Members, to assure the prompt, accurate and orderly processing and Settlement of Instructions or to otherwise carry out its functions, and this decision shall in all cases be final and conclusive, subject to the procedures set forth in Rule 10.3; *provided, however*, that any such application which is deferred solely pursuant to this paragraph shall be approved as promptly as the capabilities of CLS Bank permit. Applications submitted to CLS Bank shall be processed in the order in which they were received.

(v) From time to time, a Transition Settlement Member may request that CLS Bank extend the then current term of its membership in CLS Bank by up to one year. CLS Bank may approve or deny any such request in its sole discretion.

2.1.3 *Continuing Criteria and Reporting Requirements*

(a) For purposes of this Rule 2.1.3, the criteria for applicants described in Rule 2.1.1 shall also apply to Settlement Members; *provided, however*, that after due consideration by CLS Bank of any risks to it and its Members, CLS Bank may determine that Rule 2.1.1(b) shall not apply to any Settlement Member that is, or reasonably expects to be, engaged in a business combination with another Settlement Member, on such terms and conditions and for such period of time as determined by CLS Bank; and *provided further*, that if a Settlement Member fails to maintain capital equal to or in excess of the applicable capital and capital ratio requirements specified in Rule 2.1.1(f)(i), that failure will not violate Rule 2.1.1(f)(i) if the Settlement Member's primary regulator confirms in writing to CLS Bank its approval or non-objection to the Settlement Member's then-

current capital levels and the then-current capital levels are acceptable to CLS Bank in its sole discretion.

Each Settlement Member must continue to satisfy and maintain compliance with all criteria specified in Rule 2.1.1, except as otherwise provided in this paragraph (a), and any other continuing criteria upon which its admission was conditioned to remain a Settlement Member.

- (b) Each Settlement Member shall immediately notify CLS Bank:
- (i) if it no longer satisfies any portion of the criteria specified in paragraph (a) to this Rule 2.1.3 or any other continuing criteria upon which its membership in CLS Bank is conditioned;
 - (ii) if there is a change to any long-term rating or Stand-Alone Credit Rating that it (and, if applicable, its Guarantor) has from any of the Rating Agencies;
 - (iii) if its Guarantor (if applicable) no longer owns, directly or indirectly, more than fifty percent of the voting shares of the Settlement Member;
 - (iv) if it (or, if applicable, its Guarantor) changes the location of its respective Head or Home Office;
 - (v) upon the occurrence of any event indicating a material adverse change in its business, operations, management or financial condition (present or prospective), operational capabilities, applicable regulatory supervision and requirements or financial ability to satisfy its obligations under Rule 9, including any Insolvency Event or Regulatory Reorganization applying to the Settlement Member (or, if applicable, its Guarantor);
 - (vi) upon the occurrence of an Insolvency Event or Regulatory Reorganization in respect of an Affiliate that controls the Settlement Member;
 - (vii) if it (or, if applicable, its Guarantor) may be unable to meet or perform any obligation, as applicable, to CLS Bank when due; or
 - (viii) of any other events that CLS Bank may identify in Chapter 2 of the Member Handbook, notice of which it deems necessary or desirable (A) for the protection of CLS Bank or its Members or (B) to comply with applicable laws or regulations.

When a Settlement Member is required by this paragraph to notify CLS Bank, the Settlement Member shall specifically inform CLS Bank that such notification is being provided in accordance with Rule 2.1.3(b).

- (c) Each Settlement Member shall continue to provide CLS Bank with:
- (i) copies of (A) its annual financial statements (and, if applicable, its Holding Company's annual financial statements on a consolidated basis), certified as described in Rule 2.1.1(f)(iv), and either (B) its quarterly financial statements (and, if applicable, its Holding Company's quarterly financial statements on a consolidated basis) (or, if such quarterly financial statements are not prepared or made available to any other persons, copies of periodic financial statements that are prepared no less frequently than semi-annually or (C) if the Settlement Member (or, if applicable, its Holding Company) does not prepare interim financial statements, such other financial information as CLS Bank may require; *provided, however*, that CLS Bank may waive, in its sole discretion, the requirements of this Rule 2.1.3(c)(i) for a Transition Settlement Member.
 - (ii) if applicable, copies of (A) the annual financial statements of its Guarantor, certified as described in Rule 2.1.1(f)(iv), and either (B) quarterly financial statements of its Guarantor (or, if such quarterly financial statements are not made available to any other persons, copies of periodic financial statements that are prepared no less frequently than semi-annually) or (C) if the Guarantor does not prepare interim financial statements, such other financial information as CLS Bank may require;
 - (iii) information (whether public or non-public) relating to its (or, if applicable, its Guarantor's) financial condition and operational capabilities as may be requested by CLS Bank based upon its determination that such information is relevant and reasonably necessary for the protection of CLS Bank; *provided, however*, that CLS Bank shall provide not less than five days for the Settlement Member to comply with such request, during which time the Settlement Member shall have an opportunity to discuss the request with CLS Bank;
 - (iv) information, the continued delivery of which was a condition to it remaining a Settlement Member;
 - (v) any other information that CLS Bank may identify in Chapter 2 of the Member Handbook which it deems necessary or desirable (A) for the protection of CLS Bank or its Members or (B) to comply with applicable laws or regulations; and
 - (vi) in the case of a Transition Settlement Member (and without duplication of any of the foregoing), any financial documents and information that CLS Bank reasonably requests, including quarterly and annual balance sheets and income statements, material regulatory filings, and any other corporate and financial documents.

(d) Any Settlement Member that is, or reasonably expects to be, engaged in a Member Merger in which it would be the Predecessor Settlement Member or Post-Merger Settlement Member shall comply with the applicable requirements set forth in Chapter 2.1.4(d) of the Member Handbook, in each case prior to the consummation of the Member Merger.

After reviewing any materials or information that the Settlement Member(s) may be required to provide in accordance with such requirements, CLS Bank may take, in its sole discretion, one of the following actions:

(i) permit the relevant Post-Merger Settlement Member to maintain two Accounts until the end of the Operational Integration Period; *provided* that CLS Bank may, as a condition to permitting a Post-Merger Settlement Member to maintain two Accounts during the Operational Integration Period, require that the Settlement Member agree to such limits, conditions, or restrictions upon the activities of such Post-Merger Settlement Member as CLS Bank deems appropriate under the circumstances for the protection of CLS Bank, its Members or CLS Services; or

(ii) refrain from permitting the relevant Post-Merger Settlement Member to maintain two Accounts, in which case, at or prior to the time of effectiveness of the Member Merger, the Post-Merger Settlement Member must choose which of the two Accounts it elects to continue; *provided*, that if the Post-Merger Settlement Member fails to make such an election by such time, CLS Bank may elect which Account will continue.

(e) A Settlement Member may not submit an Initial Non-Member Instruction to the CLS System unless the Settlement Member has provided CLS Bank with at least 60 days' prior written notice of its intention to begin submitting Non-Member Instructions.

(f) Prior to a Settlement Member submitting any Covered Non-Member Instruction to the CLS System, the Settlement Member shall provide to CLS Bank the information set forth in Chapter 2.1.4(e) of the Member Handbook relating to such Covered Non-Member Instruction; *provided, however*, that this Rule 2.1.3(e) shall not apply to any Covered Non-Member Instruction with respect to which CLS Bank has previously provided its consent pursuant to Rule 2.3.1(c).

(g) Each Settlement Member shall provide to CLS Bank such information, documents, or certifications regarding the Settlement Member's participation in the CLS System (including information, documents, or certifications relating to any Transaction Counterparty, whether current or proposed by the Settlement Member) that CLS Bank reasonably requests from time to time, as CLS Bank may deem appropriate to identify, monitor and/or manage any risk(s) to CLS Bank, its Members, or CLS Services arising from the submission of Instructions to the CLS System by the Settlement Member.

(h) Subject to Rule 2.3.1(c), a Settlement Member shall promptly notify and update CLS Bank with respect to any expected change to the information previously provided to CLS Bank pursuant to Rule 2.1.3(e), Rule 2.1.3(g), or Chapter 2.1.4(e) of the Member Handbook.

(i) Notwithstanding any disclosure obligation set forth in Rule 2.1.3(g) or, with respect to any expected change to the information previously provided to CLS Bank pursuant to Rule 2.1.3(g), Rule 2.1.3(h), if a Settlement Member is prohibited by applicable law from disclosing the relevant information to CLS Bank, the Settlement Member shall:

- (i) upon the request of CLS Bank, deliver a legal opinion in form and substance satisfactory to CLS Bank as to the prohibition of such disclosure by applicable law; and
- (ii) immediately provide the information to CLS Bank if the information otherwise becomes public or disclosure of the information is no longer prohibited by applicable law.

2.1.4 Anti-Money Laundering Requirements

(a) A Settlement Member shall:

- (i) have procedures in place designed to detect illegal money laundering activities of its customers or other illegal activities; and
- (ii) with respect to Instructions for which it has responsibility as described in Rule 1.8.2, be in compliance with any laws and regulations applicable to it that implement the recommendations of FATF established to combat money laundering and the Basel Committee Statement of Principles on the Prevention of Criminal Use of the Banking System for the Purposes of Money-Laundering.

2.1.5 Voluntary Membership Termination

(a) Voluntary Termination.

- (i) Except as provided in paragraph (ii) below, a Settlement Member may voluntarily terminate its membership in CLS Bank upon not less than thirty days' advance notice by delivering a written notice to the Chief Executive Officer of CLS Bank. The notice shall specify the Business Day on which the Settlement Member desires its termination to be effective. CLS Bank may waive, in its sole discretion, this notice requirement and consent to an earlier termination.
- (ii) A Settlement Member may voluntarily terminate its membership in CLS Bank, without advance notice, if all the following are satisfied:

(A) CLS Bank has assessed a General Loss Allocation on the Settlement Member or there has been an Increased Cap Determination; and

(B) the Settlement Member delivers written notice of its voluntary termination to the Chief Executive Officer of CLS Bank no more than five Business Days after (1) CLS Bank has assessed the General Loss Allocation or (2) the Increased Cap Determination Date.

Such written notice shall specify the Business Day on which the Settlement Member desires its termination to be effective, which shall be (1) no earlier than the date the notice is submitted to the Chief Executive Officer of CLS Bank and (2) no later than five Business Days after CLS Bank has assessed the General Loss Allocation or the Increased Cap Determination Date, as applicable.

(iii) Unless otherwise agreed by CLS Bank, the termination of the Settlement Member shall become effective upon either the later of the thirtieth day following receipt of such notice or the date specified by the Settlement Member in its notice or, in the case of paragraph (ii) above, upon the date specified by the Settlement Member in its notice, unless (A) CLS Bank has taken action prior to such date to terminate such Settlement Member's membership in CLS Bank pursuant to Rule 10, in which case termination shall be effective at the time and in the manner specified in Rule 10 or (B) CLS Bank has determined on such date that such Settlement Member is a Responsible Party on such date or is a potential Combined Loss Allocatee on the next subsequent Business Day, in which case termination shall not be effective until the next subsequent Business Day.

(b) *Termination Procedures; Termination Amount.* Upon receipt of a Settlement Member's notice of voluntary termination, CLS Bank shall determine the expected Termination Time and proceed to terminate the Settlement Member's membership in CLS Bank in accordance with the termination procedures as CLS Bank may reasonably establish from time to time. Written notice from CLS Bank of the voluntary termination specifying the expected Termination Time will be (i) promptly sent to each Member and (ii) sent to each Central Bank no later than seven days after the final Termination Time. As of the final Termination Time, such Settlement Member shall be terminated from membership in CLS Bank, and CLS Bank shall determine such Settlement Member's Termination Amount and provide such Settlement Member with a final accounting of its assets with and known liabilities to CLS Bank within sixty days of the Termination Time. In the event that the Termination Amount is negative, such amount shall be due and payable by such Settlement Member to CLS Bank on demand; and in the event that such amount is positive, CLS Bank shall promptly pay such amount to the Settlement Member or as may otherwise be required by applicable law. Nothing in this paragraph limits the ability of CLS Bank to collect amounts that remain owing to CLS Bank if CLS Bank fails to deduct any such amounts or subsequently determines that additional amounts are owed by the terminated Settlement Member to CLS Bank under the CLS Bank Documents, including amounts described in Rule 9.2.3 or due in respect of any indemnity described in

Rule 1.8.4 relating to events or circumstances arising or occurring at or prior to its Termination Time.

(c) *Limitation on Instructions.* Following delivery of a Settlement Member's notice of voluntary termination, such Settlement Member shall submit no additional Instructions to CLS Bank for Settlement that specify a Settlement Date that is after its expected Termination Time. All previously submitted Instructions that specify a Settlement Date that is after its expected Termination Time shall be removed by such Settlement Member from the CLS System by rescinding such Instructions; *provided, however*, that if such Instructions are not rescinded by the Settlement Member, CLS Services, as agent for the Settlement Member, will remove such Instructions from the CLS System.

2.1.6 *Aggregate Short Position Limits and Short Position Limits*

In setting an Aggregate Short Position Limit for a Settlement Member, CLS Bank shall not consider any guarantee provided by a Guarantor. CLS Bank may adjust the Aggregate Short Position Limit with respect to any Settlement Member and any Settlement Session, and the Short Position Limit with respect to any Settlement Member, Settlement Session and Eligible Currency, based on the risks that such Settlement Member or Eligible Currency presents to CLS Bank and the other Members as may be determined by CLS Bank from time to time, as provided for in Chapter 2.1.2 of the Member Handbook.

2.1.7 *Designated Settlement Members*

(a) *Satisfaction of and Compliance with Requirements.* A Settlement Member that contemplates acting as a Designated Settlement Member shall satisfy and maintain compliance with all the requirements of Rule 2.1.1(h) before it may act as a Designated Settlement Member for any User Member.

(b) *Description of Designated Settlement Member's Relationship with User Members and CLS Bank.* A Designated Settlement Member that authorizes any Instruction submitted by a User Member shall be fully responsible as principal for all obligations arising with respect to such Instruction.

(c) *User Member Authorization Guidelines*

(i) A Designated Settlement Member may employ certain automated authorization functionality provided by CLS Bank to authorize the release of a User Member's Instruction as described in Rule 4.3.7(a)(ii). If this automated functionality is to be utilized, the following limits shall be included in the User Member Authorization Guidelines in respect of each User Member: a User Member Short Position Limit for each Eligible Currency and Settlement Session for Settlement, a User Member Aggregate Short Position Limit for each Settlement Session and a User Member Credit Limit. For each Settlement Session, a Designated Settlement Member may establish two different sets of

User Member Authorization Guidelines: one set applicable to Instructions that are classified as Settlement Eligible Instructions prior to the applicable Initial Pay-In Schedule Deadline on the Settlement Date specified in an Instruction, and the other set applicable to Following Initial Pay-In Schedule Instructions. Prior to the Initial Pay-In Schedule Deadline for the relevant Settlement Session and during the period allowed for the submission and processing of Following Initial Pay-In Schedule Instructions, each Instruction submitted by a User Member will be tested against the foregoing limits, as applicable, sequentially with the assumption that each Instruction previously tested and passing such limits will actually be Settled once Settlement has commenced. A Designated Settlement Member may alter these limits at any time, but such alteration will have no effect on any Instructions that have been previously authorized by such Designated Settlement Member.

(ii) If a Designated Settlement Member elects not to use the functionality provided by CLS Bank pursuant to paragraph (i) above or an Instruction fails to satisfy the limits established pursuant to paragraph (i) above, a Designated Settlement Member may establish its own process within the functionality of the CLS System for the authorization of an Instruction submitted by a User Member for whom it has agreed to act as a Designated Settlement Member. In these circumstances, a Designated Settlement Member may individually authorize and indicate its acceptance of each Instruction submitted by a User Member in accordance with Rule 4.3.7.

2.1.8 List of Approved Settlement Members

Each Settlement Member shall establish and maintain a list of Approved Settlement Members that indicates which Settlement Members may:

- (a) be the Other Submitting Member to an Instruction submitted by a User Member for which such Settlement Member acts as a Designated Settlement Member; and
- (b) be the Designated Settlement Member for a User Member that is the Other Submitting Member to any Instructions for which such Settlement Member is a Submitting Member or a Designated Settlement Member.

A Settlement Member may alter this list at any time, but such alteration will have no effect on any Instructions that have been previously authorized by such Settlement Member as a Designated Settlement Member.

2.2 USER MEMBERSHIP

2.2.1 User Membership Criteria

Only an applicant that satisfies each of the following criteria will be approved as either a Category A User Member or Category B User Member of CLS Bank:

- (a) *CLS Group Holdings Shareholder.* The applicant is a CLS Group Holdings Shareholder or an Affiliate of a CLS Group Holdings Shareholder.
- (b) *Category A and Category B User Members.* The applicant:
- (i) has demonstrated to the Board of Directors that its business and capabilities permit it to use CLS Bank's services without undue risk to CLS Bank, its Members or CLS Services; and
 - (ii) either:
 - (A) is an "indirect participant" and treated as a participant by the "designating authority", each within the meaning of the Settlement Finality Regulations (a Category A User Member); or
 - (B) is not a "participant" within the meaning of the Settlement Finality Regulations (a Category B User Member).
- (c) *No Special Factors; Adequate Resources and Capabilities*
- (i) CLS Bank shall have received no information that would reasonably be seen to adversely reflect on the present or prospective business, operations, management or financial condition, operational capabilities or applicable regulatory supervision or requirements of, or access to liquidity in respect of, the applicant, including the financial ability of the applicant to satisfy its obligations under Rule 9, to such an extent that the applicant should be denied membership in CLS Bank; and
 - (ii) the applicant shall not have business practices, internal risk management controls or any other factor or condition that would create undue risk for CLS Bank, its Members or CLS Services.
- (d) *Operating Capability.* The applicant shall execute a testing and trialing agreement substantially in the form set forth in Exhibit 2-A to the Member Handbook, participate in testing and trialing as requested by CLS Bank from time to time, and satisfy such minimum operating capabilities as may be established from time to time by CLS Bank, including:
- (i) an ability to submit Instructions, Amend Instructions, and Rescind Instructions to CLS Bank through the Submission Process, including
 - (A) satisfying trials involving submission and matching of Instructions with respect to each Submission Location (as more particularly set forth in operational trialing protocols for User Members) and
 - (B) demonstrating that a Submission Location (and subsequently any additional requested Submission Location) operates effectively before any additional Submission Location may be introduced;

- (ii) adequate contingency plans for maintaining its operational capabilities if a natural disaster, operational or technical failure, or other extraordinary event occurs;
- (iii) an ability to provide adequate staffing at its specified contact location during each Business Day and respond in a timely manner to all notices and communications; and
- (iv) appropriate procedures and contingencies for the effective operation and management of any existing or new Submission Location and management of applicable Static Data.

(e) *Financial Requirements*

- (i) *Financial Statements.* The applicant must furnish to CLS Bank the following:
 - (A) a copy of its annual financial statements for the three fiscal years ending immediately preceding the year in which the application is submitted to CLS Bank (or, if the applicant has been in existence for less than three years, such financial statements as CLS Bank may require), each certified by its independent certified public accountants (or equivalent); and
 - (B) all publicly-issued financial statements of the applicant covering the period between the most recent annual financial statements furnished to CLS Bank and the date the application described in Rule 2.2.2(a) is submitted to CLS Bank;

provided, however, that this paragraph (e) shall not apply to an applicant applying to be an Affiliated User Member.

To the extent that such audited financial statements are not prepared in accordance with generally accepted accounting principles (as in effect in the jurisdiction of the Head or Home Office of the applicant), the applicant shall provide CLS Bank with a discussion of the material variations of such accounting principles from generally accepted accounting principles.

- (ii) *Certificate.* The applicant must furnish a certificate of the chief executive or chief financial officer (or other authorized person acceptable to CLS Bank) of the applicant that no material adverse changes have occurred in the financial condition of the applicant since the date of the most recent financial statements provided to CLS Bank, and that the applicant is not subject to any material contingent liabilities, except as set forth in such financial statements.

(f) *Designated Settlement Member.* With respect to the Settlement Eligible Instructions submitted to the CLS System by the applicant for Settlement, the applicant shall designate a single Designated Settlement Member through which all FX Instructions and Derivative Instructions will be Settled unless another Designated Settlement Member is designated as such for a specific, individual FX Instruction.

(g) *Head or Home Office.* The Head or Home Office of an applicant shall not, unless otherwise specifically permitted by CLS Bank, be located in a jurisdiction for which applicable US laws or regulations require the implementation of an enhanced due diligence program by CLS Bank.

(h) *User Member Agreement and Legal Opinion.* The applicant shall deliver to CLS Bank (i) a User Member Agreement and (ii) an opinion of counsel substantially in the form attached to the User Member Agreement, satisfactory to CLS Bank in form and content and addressing such other matters as CLS Bank may specify. Such User Member Agreement shall provide that the applicant will participate in testing and trialing procedures with applicants for membership and any Members, as the case may be, for any reason, including for changes to the functionality of the CLS System and inclusion of a new currency for Settlement in CLS Bank. If the opinion required by CLS Bank pursuant to this paragraph contains exceptions or reservations, CLS Bank may, in its discretion and in lieu of rejecting the application for membership in CLS Bank, require that the applicant agree to such limits, conditions, or restrictions upon the activities of the applicant as CLS Bank deems appropriate under the circumstances for the protection of CLS Bank and its other Members.

(i) *Additional Information.* Each User Member must furnish to CLS Bank such information (whether public or non-public) relating to its operational capabilities and compliance with the criteria as may be reasonably requested by CLS Bank based upon its determination that such information is relevant and necessary (i) for the protection of CLS Bank or its Members or (ii) to comply with applicable laws or regulations.

2.2.2 *Application Process and Approval Procedure*

(a) *Application Process.* An applicant to become a User Member shall execute and submit an “Application for User Membership” substantially in the form attached to the User Member Agreement. The application shall be accompanied by the supporting information and documentation required by CLS Bank, including an executed User Member Agreement (as provided for in Rule 2.2.1(h)(i)) and an opinion of counsel (as provided for in Rule 2.2.1(h)(ii)). The information provided to CLS Bank pursuant to Rule 2.2.1 and Rule 2.2.3 shall be considered User Member Confidential Information for the purposes of the confidentiality provisions included in the User Member Agreement.

(b) *CLS Bank’s Approval Procedure.*

(i) Each complete application shall be reviewed by CLS Bank. As part of this review process, CLS Bank may consult with the applicant’s primary

regulator in the jurisdiction where the applicant's Head or Home Office is located if CLS Bank reasonably concludes that such consultation is in the best interests of CLS Bank or its Members. CLS Bank shall notify the applicant of any such consultation as soon as practicable, and shall attempt to provide such notice contemporaneously with such consultation.

(ii) If CLS Bank concludes that the applicant satisfies the criteria specified in Rule 2.2.1, CLS Bank shall (i) indicate its acceptance of the application by executing a copy of the User Member Agreement (which has already been executed by the applicant) with CLS Services and notifying the applicant by returning an executed copy to the applicant and so advising the Board of Directors and (ii) inform the applicant of its eligibility (as a User Member) to participate in the CLS System as described in Rule 2.3 and the first date on which it is eligible to submit the Instructions described therein.

(iii) If CLS Bank concludes that an applicant does not satisfy the criteria specified in Rule 2.2.1, the applicant shall be notified as soon as practicable, and this decision shall in all cases be final and conclusive, subject to the procedures set forth in Rule 10.3.

(iv) Notwithstanding the foregoing, CLS Bank may defer an application to become a User Member upon a determination by CLS Bank that CLS Bank does not have adequate personnel, space, data processing capacity or other operational capability at such time to perform its services for the applicant without impairing the ability of CLS Bank to provide services for its existing Members, to assure the prompt, accurate and orderly processing and Settlement of Instructions or to otherwise carry out its functions, and this decision shall in all cases be final and conclusive, subject to the procedures set forth in Rule 10.3; *provided, however*, that any such applications which are deferred solely pursuant to this paragraph shall be approved as promptly as the capabilities of CLS Bank permit. Applications submitted to CLS Bank shall be processed in the order in which they were received.

(c) *Date for Submission of Instructions.* At the time CLS Bank informs an applicant of the acceptance of its application, it shall also inform such applicant of the date CLS Bank determines as the date on which the applicant, as a User Member, may first submit Instructions to the CLS System for Settlement.

2.2.3 *Continuing Criteria and Reporting Requirements*

(a) For purposes of this Rule 2.2.3, the criteria for applicants described in Rule 2.2.1 shall also apply to User Members. Each User Member must continue to satisfy and maintain compliance with all criteria specified in Rule 2.2.1, and any other continuing criteria upon which its admission was conditioned to remain a User Member.

(b) Each User Member shall immediately notify CLS Bank:

- (i) if it no longer satisfies any portion of the criteria specified in paragraph (a) to this Rule 2.2.3 or any other continuing criteria upon which its membership in CLS Bank is conditioned;
- (ii) if it changes the location of its Head or Home Office;
- (iii) upon the occurrence of any event indicating a material adverse change in its business, operations, management or financial condition (present or prospective), operational capabilities, applicable regulatory supervision and requirements or, except with respect to an Affiliated User Member, financial ability to satisfy its obligations under Rule 9, including any Insolvency Event applying to such User Member;
- (iv) if it may be unable to meet or perform any obligation to CLS Bank when due; or
- (v) of any other events that CLS Bank may identify in Chapter 2 of the Member Handbook, notice of which it deems necessary or desirable for the protection of CLS Bank or its Members.

When a User Member is required by this paragraph to notify CLS Bank, the User Member shall specifically inform CLS Bank that such notification is being provided in accordance with Rule 2.2.3(b).

- (c) Each User Member shall continue to provide CLS Bank with:
 - (i) copies of (A) its annual financial statements (and, if applicable, its Holding Company's annual financial statements on a consolidated basis), certified as described in Rule 2.2.1(e)(i), and either (B) its quarterly financial statements (and, if applicable, its Holding Company's quarterly financial statements on a consolidated basis) (or, if such quarterly financial statements are not prepared or made available to any other persons, copies of periodic financial statements that are prepared no less frequently than semi-annually) or (C) if the User Member (or, if applicable, its Holding Company) does not prepare interim financial statements, such other financial information as CLS Bank may require;
 - (ii) information (whether public or non-public) relating to its financial condition and operational capabilities as may be requested by CLS Bank based upon its determination that such information is relevant and reasonably necessary for the protection of CLS Bank; *provided, however*, that CLS Bank shall provide not less than five days for the User Member to comply with such request, during which time the User Member shall have an opportunity to discuss the request with CLS Bank;
 - (iii) information, the continued delivery of which was a condition to it remaining a User Member; and

(iv) any other information that CLS Bank may identify in Chapter 2 of the Member Handbook which it deems necessary or desirable (A) for the protection of CLS Bank or its Members or (B) to comply with applicable laws or regulations;

provided, however, that paragraphs (i) and (ii) above shall not apply to an Affiliated User Member.

(d) A User Member may not submit an Initial Non-Member Instruction to the CLS System unless the User Member has provided CLS Bank with at least 60 days' prior written notice of its intention to begin submitting Non-Member Instructions.

(e) Prior to a User Member submitting any Covered Non-Member Instruction to the CLS System, the User Member shall provide to CLS Bank the information set forth in Chapter 2.2.3(f) of the Member Handbook relating to such Covered Non-Member Instruction; *provided, however,* that this Rule 2.2.3(d) shall not apply to any Covered Non-Member Instruction with respect to which CLS Bank has previously provided its consent pursuant to Rule 2.3.1(c).

(f) Each User Member shall provide to CLS Bank such information, documents, or certifications regarding the User Member's participation in the CLS System (including information, documents, or certifications relating to any Transaction Counterparty, whether current or proposed by the User Member) that CLS Bank reasonably requests from time to time, as CLS Bank may deem appropriate to identify, monitor and/or manage any risk(s) to CLS Bank, its Members, or CLS Services arising from the submission of Instructions to the CLS System by the User Member.

(g) Subject to Rule 2.3.1(c), a User Member shall promptly notify and update CLS Bank with respect to any expected change to the information previously provided to CLS Bank pursuant to Rule 2.2.3(d), Rule 2.2.3(f), or Chapter 2.2.3(e) of the Member Handbook.

(h) Notwithstanding any disclosure obligation set forth in Rule 2.2.3(f) or, with respect to any expected change to the information previously provided to CLS Bank pursuant to Rule 2.2.3(f), Rule 2.2.3(g), if a User Member is prohibited by applicable law from disclosing the relevant information to CLS Bank, the User Member shall:

(i) upon the request of CLS Bank, deliver a legal opinion in form and substance satisfactory to CLS Bank as to the prohibition of such disclosure by applicable law; and

(ii) immediately provide the information to CLS Bank if the information otherwise becomes public or disclosure of the information is no longer prohibited by applicable law.

2.2.4 *Anti-Money Laundering Requirements*

A User Member shall:

- (a) have procedures in place designed to detect illegal money laundering activities of its customers or other illegal activities; and
- (b) with respect to Instructions it submits to the CLS System, be in compliance with any laws and regulations applicable to it that implement the recommendations of FATF established to combat money laundering and the Basle Committee Statement of Principles on the Prevention of Criminal Use of the Banking System for the Purposes of Money-Laundering.

2.2.5 *Voluntary Membership Termination*

(a) *Voluntary Termination.*

(i) Except as provided in paragraph (ii) below, a User Member may voluntarily terminate its membership in CLS Bank upon not less than thirty days' advance notice by delivering a written notice to the Chief Executive Officer of CLS Bank. The notice shall specify the Business Day on which the User Member desires its termination to be effective. CLS Bank may waive, in its sole discretion, this notice requirement and consent to an earlier termination.

(ii) A User Member may voluntarily terminate its membership in CLS Bank, without advance notice, if all the following are satisfied:

(A) CLS Bank has assessed a General Loss Allocation on the User Member or there has been an Increased Cap Determination; and

(B) the User Member delivers written notice of its voluntary termination to the Chief Executive Officer of CLS Bank no more than five Business Days after (1) CLS Bank has assessed the General Loss Allocation or (2) the Increased Cap Determination Date.

Such written notice shall specify the Business Day on which the User Member desires its termination to be effective, which shall be (1) no earlier than the date the notice is submitted to the Chief Executive Officer of CLS Bank and (2) no later than five Business Days after CLS Bank has assessed the General Loss Allocation or the Increased Cap Determination Date, as applicable.

(iii) Unless otherwise agreed by CLS Bank, the termination of the User Member shall become effective upon either the later of the thirtieth day following receipt of such notice or the date specified by the User Member in its notice or, in the case of paragraph (ii) above, upon the date specified by the User Member in its notice, unless CLS Bank has taken action prior to such date to terminate such

User Member's membership in CLS Bank pursuant to Rule 10, in which case termination shall be effective at the time and in the manner specified in Rule 10.

(b) *Termination Procedures; Termination Amounts.* Upon receipt of a User Member's notice of voluntary termination, CLS Bank shall determine the expected Termination Time and proceed to terminate the User Member's membership in CLS Bank in accordance with the termination procedures as CLS Bank may reasonably establish from time to time. Written notice from CLS Bank of the voluntary termination specifying the expected Termination Time will be (i) promptly sent to each Member and (ii) sent to each Central Bank no later than seven days after the final Termination Time. As of the final Termination Time, such User Member shall be terminated from membership in CLS Bank, and CLS Bank shall determine such User Member's Termination Amount and provide such User Member with a final accounting of its assets with and known liabilities to CLS Bank within sixty days of the Termination Date. The Termination Amount shall be due and payable by such User Member to CLS Bank on demand, and in the event that such amount is positive, CLS Bank shall promptly pay such amount to the User Member or as may otherwise be required by applicable law. Nothing in this paragraph limits the ability of CLS Bank to collect amounts that remain owing to CLS Bank if CLS Bank fails to deduct any such amounts or subsequently determines that additional amounts are owed by the terminated User Member to CLS Bank under the CLS Bank Documents, including amounts described in Rule 9.2.3 or due in respect of any indemnity described in Rule 1.8.4 relating to events or circumstances arising or occurring at or prior to its Termination Time.

(c) *Limitation on Instructions.* Following delivery of a User Member's notice of voluntary termination, such User Member shall submit no additional Instructions to CLS Bank for Settlement that specify a Settlement Date that is after its expected Termination Time. All previously submitted Instructions that specify a Settlement Date that is after its expected Termination Time shall be removed by such User Member from the CLS System by rescinding such Instructions; *provided, however*, that if such Instructions are not rescinded by the User Member, CLS Services, as agent for the User Member, will remove such Instructions from the CLS System.

2.3 ELIGIBILITY TO PARTICIPATE IN THE CLS SYSTEM

2.3.1 *In General; Limits, Conditions or Restrictions; Consent Requirement*

(a) CLS Bank shall from time to time determine the eligibility of each Member to participate in the CLS System (including whether any limits, conditions, or restrictions shall apply to such eligibility), including:

(i) the Instructions which such Member is or is not eligible to submit to, or may have or not have Settled in, the CLS System (including the Eligible Currencies for Settlement and the Derivative Settlement Currencies that the Member may or may not include in such Instructions, and the Settlement

Session(s) for which such Instructions may be submitted to the CLS System for Settlement);

(ii) whether or not such Member may submit any Instruction (including a Covered Non-Member Instruction), as principal and on behalf of a non-Member, to the CLS System for Settlement pursuant to a direct or indirect private arrangement between such Member and non-Member; and

(iii) the Identification Codes with which such Member may identify itself in its Static Data.

(b) Without limitation, in determining a Member's eligibility to participate in the CLS System (or establishing any limits, conditions, or restrictions on such eligibility), CLS Bank may consider, among other things, the circumstances described in Rule 1.18 and any information provided to CLS Bank pursuant to Rule 2.1.3(e), Rule 2.1.3(g), Rule 2.2.3(d), Rule 2.2.3(f) or otherwise. In addition, CLS Bank may modify a Member's eligibility to participate in the CLS System (including whether to impose or modify any limits, conditions, or restrictions on such eligibility) to reflect any applicable Remedial Action or for any other reason. Any limits, conditions, or restrictions that CLS Bank may impose on a Member's eligibility to participate in the CLS System shall be for such period of time as may be determined by CLS Bank. CLS Bank shall notify the relevant Member(s) of the establishment of, or any modification to, such limits, conditions, or restrictions as soon as practicable.

(c) A Member shall not submit any Covered Non-Member Instruction to the CLS System unless it has received CLS Bank's prior written consent to such submission (which consent, if given, shall specify the particular legal entity eligible to submit any such Covered Non-Member Instruction to the CLS System, the relevant FMI or Global SIFI, the material contract specifications of the underlying Transaction (in the case of an FMI), and any other information that CLS Bank determines is relevant and necessary), and such Member shall thereafter submit any such Covered Non-Member Instruction to the CLS System only in accordance with such limits, conditions or restrictions, if any, as CLS Bank may impose from time to time. If such Member expects a change to, or becomes aware of any actual change to, the information previously provided to CLS Bank with respect to any such Covered Non-Member Instruction (whether pursuant to Rule 2.1.3(e), Rule 2.1.3(g), Rule 2.2.3(d), Rule 2.2.3(f) or otherwise), such Member shall not submit any such Covered Non-Member Instruction to the CLS System unless it has provided updated information to CLS Bank and received CLS Bank's prior written consent to such submission.

2.3.2 Central Bank Settlement Members

Unless otherwise agreed by CLS Bank, a Central Bank Settlement Member may only submit Instructions to the CLS System:

(a) relating to underlying Transactions entered into by the Central Bank;

(b) on behalf of or as agent for another Central Bank with respect to underlying Transactions entered into by such other Central Bank; or

(c) relating to its role, or the role of such other Central Bank, as fiscal agent for the government of the relevant Central Bank (*provided* that it or the other Central Bank, as the case may be, is not acting on behalf of or agent for any commercial bank, or institution similar to a commercial bank, that is owned or otherwise directly or indirectly controlled by the government of the relevant Central Bank).

The Central Bank Settlement Member agrees that, with respect to any Instructions submitted by it to the CLS System, it shall not act on behalf of or as agent for any other person or entity except as permitted by this Rule 2.3.2.

2.4 NOTICE OF CHANGES TO LIST OF MEMBERS

CLS Bank shall provide written notice of any amendments to the then current list of Members to (a) each Member prior to the effective date of any such amendment and (b) each Central Bank within seven days following such effective date.

2.5 SETTLEMENT MEMBER CONFIDENTIAL INFORMATION IN CONNECTION WITH A REGULATORY REORGANIZATION

If a Regulatory Reorganization occurs in respect of a Settlement Member (an “Affected Settlement Member”), CLS Bank may provide Settlement Member Confidential Information regarding the Affected Settlement Member’s participation in the Settlement services provided by CLS Bank and any related functions that the Affected Settlement Member performs, including the identity of each Settlement Member for which the Affected Settlement Member acts as a Nostro Agent and those Settlement Members’ actual and/or anticipated Pay-Ins and Pay-Outs for all Settlement Sessions, to the relevant Governmental Authority for the Affected Settlement Member if (a) the Governmental Authority requests the information, (b) the Governmental Authority agrees to maintain the confidentiality of any information so received, and (c) CLS Bank reasonably concludes that providing the information would be in the best interests of CLS Bank or its Members or otherwise would promote systemic stability.

3 CURRENCIES

3.1 ELIGIBLE CURRENCIES

3.1.1 Approval of Eligible Currencies

The Board of Directors shall designate currencies as Eligible Currencies.

3.1.2 Eligibility Criteria

The Board of Directors may designate, in its sole discretion, a currency as an Eligible Currency only if such currency satisfies each of the following criteria:

- (a) CLS Bank has received a written request by two or more CLS Group Holdings Shareholders to designate such currency as an Eligible Currency;
- (b) CLS Bank has received indications from at least three institutions (or such fewer number as the Board of Directors shall expressly approve) of willingness to act as Liquidity Providers for such currency on terms CLS Bank in its sole discretion considers commercially acceptable;
- (c) CLS Bank has determined to its satisfaction that the currency's relevant payment system(s) would meet CLS Bank's requirements for designation as an Approved Payment System, including opening hours that sufficiently overlap with the Settlement Period for all Eligible Currencies with respect to the Main Settlement Session;
- (d) CLS Bank has deemed reasonable the cost of inclusion of such currency;
- (e) CLS Bank has determined that adequate risk reduction would result from the designation to justify the investments necessary to include such currency;
- (f) CLS Bank has determined that any exchange restrictions or similar conditions on the transferability of such currency are acceptable to CLS Bank;
- (g) CLS Bank has determined that the convertibility, liquidity and historical volatility of such currency, the stability of the banking system and rule of law applicable in the jurisdiction of such currency, and other mitigating issues are acceptable to CLS Bank;
- (h) the relevant Central Bank has agreed to (i) allow CLS Bank to establish a special account with such Central Bank solely for the purpose of facilitating transfer of an Eligible Currency from and to Settlement Members as provided under the CLS Bank Documents, (ii) permit a means of operational access to the account acceptable to CLS Bank, and (iii) contractual arrangements that are satisfactory to CLS Bank;

- (i) CLS Bank has received a legal opinion in form and substance satisfactory to CLS Bank addressing finality of payments made to and from CLS Bank's account with the relevant Central Bank and such other legal considerations as CLS Bank may require; and
- (j) CLS Bank has determined that there is legislation or regulation (or equivalent) in the jurisdiction of the currency that provides for the finality of (i) the Settlement of Instructions and (ii) Pay-Ins and other Settlement related payments received by CLS Bank through the relevant payment system for such currency; *provided, however*, that the Board of Directors may waive this requirement if it determines that the local law of that jurisdiction provides for finality protection which is comparable to that of the jurisdictions in which CLS Bank has Eligible Currencies at the time of such determination.

3.1.3 Suspension of Eligible Currencies; Reinstatement

CLS Bank may suspend a currency as an Eligible Currency for Settlement services at any time, following consultation with the relevant Central Bank, and such suspension may be the result of, among other things, perceived risks relating to the availability of liquidity, the viability of the relevant Approved Payment System or legal or regulatory requirements; *provided*, that CLS Bank may cause such suspension to become effective prior to consultation with the relevant Central Bank if CLS Bank determines in its reasonable discretion that exigent circumstances exist which require such suspension to become effective for the protection of CLS Bank or its Members or to comply with legal or regulatory requirements. CLS Bank shall provide each Member and Central Bank with notice of any such suspension as soon as practicable, and shall attempt to provide notice prior to the effectiveness of such suspension. CLS Bank may reinstate a previously suspended currency as an Eligible Currency after due consideration of any risks to it and its Members arising from reinstatement and consultation with the relevant Central Bank. CLS Bank shall provide each Member and Central Bank with notice of any such reinstatement as soon as practicable, and shall attempt to provide such notice prior to the effective date of such reinstatement.

3.1.4 Removal of Eligible Currencies

The Board of Directors may determine at any time and in its sole discretion, following consultation with the relevant Central Bank, that any currency will no longer be an Eligible Currency for Settlement services. Upon such determination, CLS Bank shall notify each Member and Central Bank in writing not less than fourteen days prior to the effective date of the removal of such currency as an Eligible Currency.

3.2 DERIVATIVE SETTLEMENT CURRENCIES AND CURRENCIES ELIGIBLE FOR SETTLEMENT IN SETTLEMENT SESSIONS OTHER THAN THE MAIN SETTLEMENT SESSION

3.2.1 Approval of Derivative Settlement Currencies

CLS Bank may approve, in its sole discretion, any currency that is an Eligible Currency as a Derivative Settlement Currency.

Approval of a currency as a Derivative Settlement Currency or, with respect to any Settlement Session other than the Main Settlement Session, as eligible to be specified in Instructions, Amend Instructions, or Rescind Instructions pursuant to Rule 3.3, does not preclude approval or denial of such currency as a Derivative Settlement Currency or as eligible to be specified in Instructions, Amend Instructions, or Rescind Instructions with respect to another Settlement Session, as the case may be.

3.2.2 Suspension of Derivative Settlement Currencies and Currencies Eligible for Settlement in Settlement Sessions Other Than the Main Settlement Session; Reinstatement

CLS Bank may suspend a currency as a Derivative Settlement Currency or, with respect to any Settlement Session other than the Main Settlement Session, as eligible to be specified in Instructions, Amend Instructions, or Rescind Instructions, at any time, and such suspension may be the result of, among other things, perceived risks relating to legal or regulatory requirements. CLS Bank shall provide each Member and Central Bank with notice of any such suspension as soon as practicable, and shall attempt to provide notice prior to the effectiveness of such suspension. CLS Bank may reinstate a previously suspended currency after due consideration of any risks to it and its Members arising from reinstatement. CLS Bank shall provide each Member and Central Bank with notice of any such reinstatement as soon as practicable, and shall attempt to provide such notice prior to the effective date of such reinstatement.

3.2.3 Removal of Derivative Settlement Currencies and Currencies Eligible for Settlement in Settlement Sessions Other Than the Main Settlement Session

CLS Bank may determine, at any time and in its sole discretion, that a currency will no longer be a Derivative Settlement Currency or, with respect to any Settlement Session other than the Main Settlement Session, no longer be eligible to be specified in Instructions, Amend Instructions, or Rescind Instructions. Upon such determination, CLS Bank shall notify each Member and Central Bank in writing not less than fourteen days prior to the effective date of the removal of such currency as a Derivative Settlement Currency or as eligible to be specified in Instructions, Amend Instructions, or Rescind Instructions with respect to such Settlement Session.

3.3 CURRENCIES ELIGIBLE FOR SETTLEMENT IN SETTLEMENT SESSIONS OTHER THAN THE MAIN SETTLEMENT SESSION

With respect to any Settlement Session other than the Main Settlement Session, CLS Bank may determine, in its sole discretion, which Eligible Currencies may be specified in Instructions, Amend Instructions, or Rescind Instructions, as provided in Chapter 3.2 of the Member Handbook.

4 SUBMISSION AND PROCESSING OF INSTRUCTIONS, AMEND INSTRUCTIONS, AND RESCIND INSTRUCTIONS

Each Instruction must be submitted to the CLS System, specifically CLS Bank, through the Submission Process and will be processed in accordance with the provisions of this Rule 4. This is also true of each Amend Instruction and Rescind Instruction. All notifications of the outcome of the evaluations and the subsequent status of such Instructions, Amend Instructions, or Rescind Instructions shall be communicated to the Submitting Member (and any Designated Settlement Member authorizing such Instruction) through the CLS System.

4.1 CRITERIA FOR INSTRUCTIONS, AMEND INSTRUCTIONS, AND RESCIND INSTRUCTIONS

An Instruction, Amend Instruction, and Rescind Instruction:

- (a) may not contain any express condition to the processing by CLS Bank or CLS Services of such Instruction;
- (b) shall relate to payments arising solely out of a single Transaction;
- (c) may not identify any natural Person as a Transaction Counterparty; and
- (d) must be submitted in accordance with the Submission Process for the relevant Settlement Session.

4.2 REQUIRED INFORMATION FOR INSTRUCTIONS, AMEND INSTRUCTIONS, AND RESCIND INSTRUCTIONS

4.2.1 *Relating to All Underlying Transactions*

- (a) *Identity of Submitting Member.* Each Instruction, Amend Instruction, and Rescind Instruction shall include the Identification Code of the Submitting Member. For each CCS Instruction, and any Amend Instruction or Rescind Instruction relating thereto, the Identification Code of the Submitting Member must be one that the Submitting Member has previously identified to CLS Bank or CLS Services as being eligible for the submission of CCS Instructions to the CLS System.
- (b) *Identity of Other Submitting Member.* Each Instruction and Amend Instruction shall include the Identification Code of the Other Submitting Member.
- (c) *Identities of Transaction Counterparties.* Each Instruction and Amend Instruction shall include the Identification Codes of the two Transaction Counterparties to which the Instruction relates.
- (d) *Reference to Previously Submitted Instruction.* Each Amend Instruction and Rescind Instruction shall include a reference to the previously submitted Instruction that it is intended to amend or rescind, respectively.

4.2.2 *Relating to Underlying FX Transactions*

Each FX Instruction and Amend Instruction relating to an FX Instruction shall also include the following information:

- (a) *Trade Date.* The date on which the underlying FX Transaction was entered into by the Transaction Counterparties.
- (b) *Exchange Rate.* The currency exchange rate used in the FX Transaction that is agreed between the Transaction Counterparties.
- (c) *Amount and Identity of Buy Currency.* The amount and identity of the Eligible Currency to be received pursuant to the Instruction.
- (d) *Amount and Identity of Sell Currency.* The amount and identity of the Eligible Currency to be delivered pursuant to the Instruction.
- (e) *Settlement Date for the Buy and Sell Currencies.* The Settlement Date, which is the date on which the amounts of the Eligible Currencies (described in paragraphs (c) and (d) above) are scheduled to Settle.

4.2.3 *Underlying Derivative Transactions*

Each Derivative Instruction and Amend Instruction for a Derivative Instruction shall also include the following information:

- (a) *Amount and Identity of Derivative Settlement Currency to be Paid or Received.* The amount and identity of the Derivative Settlement Currency to be delivered or received pursuant to the Instruction (such amount, the “*Derivative Settlement Amount*”).
- (b) *Settlement Date for Derivative Settlement Amount.* The Settlement Date, which is the date on which the Derivative Settlement Amount is scheduled to Settle.

4.2.4 *Additional Information*

Each Member agrees that, to the extent it is required under applicable law to include in an Instruction information other than that which is otherwise required by Rule 4.2, it shall include this information in such Instruction.

4.3 INSTRUCTION PROCESSING

Each Instruction, Amend Instruction, and Rescind Instruction must be submitted to CLS Bank by a Member.

4.3.1 *Receipt of an Instruction*

The following evaluations will be performed on each Instruction (and, for purposes of this Rule 4.3.1, such term shall include an Amend Instruction and Rescind Instruction) upon receipt of such Instruction (without regard to the date or time it is received or the specified Settlement Date).

- (a) *Authentication.* CLS Bank shall only accept for further processing an Instruction that has satisfied the authentication procedures established by CLS Bank.
- (b) *Edit Check of Instructions.* CLS Bank shall confirm that the information specified in Rule 4.2.1 and Rule 4.2.2, as applicable, has been included in the Instruction.
- (c) *Potential Duplicate Instruction.* CLS Bank shall compare the Instruction against other Instructions to identify potential duplicate Instructions. This identification shall not apply to an Amend Instruction or Rescind Instruction.
- (d) *Validation and Other Evaluations.* CLS Bank shall validate or otherwise evaluate the Instruction for the following:
 - (i) *Valid Members.* Verify, as of the date and time the Instruction is received, the eligibility of the Identification Codes of each Member identified in the Instruction as a Submitting Member (of that Instruction and of the corresponding Instruction that relates to the same Transaction) to submit such Instructions and have such Instructions Settled in the relevant Settlement Session (as described in Rule 2.3). The verification of the Identification Code of the Submitting Member of the corresponding Instruction shall not apply to an Amend Instruction or Rescind Instruction.
 - (ii) *Valid Designated Settlement Member.* If the Instruction is submitted by a User Member, verify that, as of the date and time the Instruction is received, the Settlement Member identified by such User Member as its Designated Member (A) has specified in its Static Data that it will act as such User Member's Designated Settlement Member for such type of Instruction and (B) is eligible to submit such Instructions and have such Instructions Settled in the relevant Settlement Session (as described in Rule 2.3). These verifications shall not apply to an Amend Instruction or Rescind Instruction.
 - (iii) *Valid Currencies.* Verify that, as of the date the Instruction is received:
 - (A) in the case of an FX Instruction, (1) both currencies identified in the Instruction as the currencies purchased and sold are Eligible Currencies, (2) such currencies have not been suspended or removed as Eligible Currencies pursuant to Rule 3.1 and (3) with respect to a Settlement Session other than the Main Settlement Session, such currencies have been approved by CLS Bank as eligible pursuant to Rule

3.3 and have not been suspended or removed as such pursuant to Rule 3.2.2 or Rule 3.2.3; and

(B) in the case of a Derivative Instruction, (1) the currency identified in the Instruction as the currency for the Derivative Settlement Amount is a Derivative Settlement Currency, (2) such currency has not been suspended or removed as a Derivative Settlement Currency pursuant to Rule 3.2.2 or Rule 3.2.3, and (3) with respect to a Settlement Session other than the Main Settlement Session, such currency has been approved by CLS Bank as eligible pursuant to Rule 3.3 and has not been suspended or removed as such pursuant to Rule 3.2.2 or Rule 3.2.3.

This verification shall not apply to an Amend Instruction or Rescind Instruction.

(iv) *Valid Settlement Date.* Verify that, as of the date the Instruction is received, the Settlement Date specified in the Instruction is a Banking Day for the Eligible Currency or Eligible Currencies specified in the Instruction for Settlement. This verification shall not apply to an Amend Instruction or Rescind Instruction.

(v) *Instruction Submitted Within Time Constraints.* Verify that the Instruction was submitted within any applicable time limits set for the submission of the Instruction.

(vi) *Identifiable Referenced Instruction.* Verify that an Amend Instruction or Rescind Instruction references a previously submitted Instruction that may be amended or rescinded.

(vii) *Regulatory Filter.* Scan the Instruction through the Regulatory Filter. This scan shall not apply to an Amend Instruction or Rescind Instruction.

If an Instruction fails to satisfy any of the foregoing applicable evaluations specified in paragraphs (b), (c) or (d) to this Rule 4.3.1 (or initially satisfies such evaluations, but subsequently fails to satisfy the evaluations specified in paragraphs (d)(i), (ii), (iii) or (iv)), CLS Services will notify the Submitting Member of the reason(s) why such Instruction failed to pass any of the foregoing evaluations and will discontinue further processing of the Instruction unless the Submitting Member is entitled to submit, and submits, an Amend Instruction in accordance with Rule 4.4.1.

As a result of the evaluation specified in paragraph (d)(vii) of this Rule 4.3.1, CLS Bank may be required to take certain actions under the economic sanctions legislation, regulations, or executive orders of the United States. Those actions could include (A) the Instruction being rejected by the CLS System, (B) the Instruction continuing to be processed by the CLS System but with CLS Bank blocking and freezing Pay-Outs associated with the Instruction, or (C) any other action required by applicable law.

An Amend Instruction that satisfies Rule 4.3.1, as applicable, shall result in the amended Instruction being considered a new Instruction that shall be processed in accordance with Rule 4.3.1(d).

4.3.2 *Matching of Instructions*

Except as otherwise specified in Chapter 4 of the Member Handbook, CLS Bank shall match two Instructions that satisfy the applicable evaluations specified in Rule 4.3.1 as a pair on the basis of the following information in each Instruction:

- (a) the Identification Codes of the Submitting Members of the Instructions relating to the same Transaction;
- (b) the Settlement Date;
- (c) the Identification Codes of the Transaction Counterparties; and
- (d) in the case of an FX Instruction, the amounts and identities of the buy and sell Eligible Currencies (within the permitted tolerances specified in Chapter 4 of the Member Handbook).

Each pair of Instructions which match such criteria will be classified as Matched Instructions. Such Instructions will no longer be classified as Matched Instructions if they do not continue to satisfy the criteria set forth above.

4.3.3 *Settlement Eligibility*

- (a) *In General.* CLS Bank shall determine whether an Instruction may be classified as a Settlement Eligible Instruction as follows:
 - (i) Matched Instructions whose Submitting Members are Settlement Members shall be classified as Settlement Eligible Instructions;
 - (ii) Matched Instructions which include at least one Submitting Member that is a User Member shall be classified as Settlement Eligible Instructions only after the CLS System verifies that each Settlement Member identified in the Matched Instructions is an Approved Settlement Member; and
 - (iii) An Instruction which is not subject to the matching process described in Rule 4.3.2 shall be classified as a Settlement Eligible Instruction after it has satisfied the applicable evaluations specified in Rule 4.3.1 and, if applicable, clause 4.3.3(a)(ii) above.

Each Instruction which satisfies the above criteria will be classified as a Settlement Eligible Instruction. An Instruction will no longer be classified as a Settlement Eligible Instruction if it does not continue to satisfy the criteria set forth above.

(b) *Amount of Eligible Currency which is Eligible for Settlement.* With respect to each pair of Matched Instructions which has been classified as Settlement Eligible Instructions (or, in the case of Instructions which are not subject to the matching processing described in Rule 4.3.2, each Instruction which has been classified as a Settlement Eligible Instruction), the amounts and identities of the currencies specified therein which are eligible for Settlement processing under Rule 5 are as follows:

(i) *FX Instructions.*

(A) The amount and identity of the buy Eligible Currency specified in one of the Instructions to be received and delivered by the relevant Members (as described in Rule 4.2.2(c)); and

(B) The amount and identity of the sell Eligible Currency specified in such Instruction to be delivered and received by the relevant Members (as described in Rule 4.2.2(d)).

(ii) *Derivative Instructions.* The Eligible Currency which is the Derivative Settlement Currency specified in the Derivative Instruction to be delivered and received by the relevant Members (as described in Rule 4.2.3(b), in an amount equal to the Derivative Settlement Amount.

(iii) *Instructions for which Matching Process Does Not Apply.* In the case of an Instruction for which the matching process described in Rule 4.3.2 does not apply, notwithstanding anything to the contrary in the Rules, for purposes of Rule 4.4, Rule 5 and Rule 6:

(A) CLS Bank shall treat such Instruction as two corresponding Settlement Eligible Instructions, or a pair of Settlement Eligible Instructions, as the case may be, from the relevant Submitting Members directing CLS Bank to Settle the applicable Settlement Amount; and

(B) any reference in Rule 5 and Rule 6 to Settlement Eligible Instructions shall be interpreted in accordance with clause (A) above.

4.3.4 *Point of Entry*

An Instruction shall be considered to have been properly entered into the CLS System on a Business Day for purposes of the Settlement Finality Regulations upon being classified as a Settlement Eligible Instruction in accordance with Rule 4.3.3 on that Business Day.

4.3.5 *Continued Processing and Changes in Instruction Status*

An Instruction that has not been classified as a Matched Instruction or Settlement Eligible Instruction (or is no longer classified as such) as described in Rule 4.3 will remain in the CLS System for processing until the applicable Currency Close Deadline on the Settlement Date for

the Eligible Currency (or, in the case of an FX Instruction, at least one of the Eligible Currencies) specified in the Instruction for Settlement for the relevant Settlement Session, at which time such Instruction will be rejected by the CLS System.

4.3.6 *Subsequent Regulatory Filter*

Whenever the Regulatory Filter is modified, CLS Bank shall use the modified version of the Regulatory Filter to scan against all Instructions previously submitted by Members, excluding any Instructions that have Settled or been rejected by the CLS System.

4.3.7 *Authorization of User Member Instructions*

- (a) An Instruction submitted by a User Member that has been classified as a Settlement Eligible Instruction will not be placed on the relevant Settlement Processing Queue, and processed for Settlement by the CLS System, as described in Rule 5 unless such Instruction:
- (i) is individually authorized by its Designated Settlement Member; or
 - (ii) when such Designated Settlement Member has elected to employ the automatic authorization functionality provided by CLS Bank, satisfies the User Member Authorization Guidelines in effect for (i) Instructions that are classified as Settlement Eligible Instructions prior to the Initial Pay-In Schedule Deadline for the Settlement Date specified in such Instructions or (ii) Following Initial Pay-In Schedule Instructions, as applicable.

Each Settlement Eligible Instruction submitted by a User Member shall be checked for authorization prior to the Initial Pay-In Schedule Deadline on the day prior to the Settlement Date specified in such Instruction or on such Settlement Date, as applicable, within the time parameters specified by CLS Bank.

4.4 AMEND INSTRUCTIONS; RESCIND INSTRUCTIONS; IRREVOCABILITY OF INSTRUCTIONS

4.4.1 *Amend Instruction*

Except as otherwise specified in Chapter 4 of the Member Handbook, a Submitting Member may amend any of the terms specified in an Instruction it has previously submitted to the CLS System (unless such Instruction has been rejected by the CLS System) by submitting an Amend Instruction in accordance with the following:

- (a) *Settlement Members.* With respect to a Settlement Session, a Settlement Member may amend an Instruction at any time; *provided, however,* that:
- (i) a Settlement Eligible Instruction may not be amended after the applicable Initial Pay-In Schedule Deadline for the Settlement Date specified in such Instruction (unless the Other Submitting Member is a User Member, in which

case the Settlement Eligible Instruction may be amended any time prior to authorization of the Other Submitting Member's Instruction by its Designated Settlement Member); and

(ii) an Instruction that is classified as a Settlement Eligible Instruction after the applicable Initial Pay-In Schedule Deadline for the Settlement Date specified in such Instruction may not be amended after it has been classified as a Settlement Eligible Instruction (unless the Other Submitting Member is a User Member, in which case the Settlement Eligible Instruction may be amended any time prior to authorization of the Other Submitting Member's Instruction by a Designated Settlement Member).

(b) *User Members.* A User Member may amend an Instruction at any time prior to the Instruction's authorization by a Designated Settlement Member.

4.4.2 *Rescind Instruction*

A Member may rescind an Instruction (unless the Instruction has been rejected by the CLS System) by submitting a Rescind Instruction in accordance with the following:

(a) *Unilaterally*

(i) *User Members.* A User Member may unilaterally rescind an Instruction it has previously submitted to the CLS System at any time prior to the Instruction's authorization by a Designated Settlement Member.

(ii) *Settlement Members.* With respect to a Settlement Session, a Settlement Member may unilaterally rescind an Instruction it has previously submitted to the CLS System at any time; *provided, however,* that:

(A) a Settlement Eligible Instruction may not be unilaterally rescinded after the applicable Initial Pay-In Schedule Deadline for the Settlement Date specified in such Instruction (unless the Other Submitting Member is a User Member, in which case the Settlement Eligible Instruction may be unilaterally rescinded any time prior to authorization of the Other Submitting Member's Instruction by its Designated Settlement Member); and

(B) an Instruction that is classified as a Settlement Eligible Instruction after the applicable Initial Pay-In Schedule Deadline for the Settlement Date specified in such Instruction may not be unilaterally rescinded after it has been classified as a Settlement Eligible Instruction (unless the Other Submitting Member is a User Member, in which case the Settlement Eligible Instruction may be unilaterally rescinded any time prior to authorization of the Other Submitting Member's Instruction by its Designated Settlement Member).

(b) *Bilaterally.* With respect to a Settlement Session, Settlement Members may bilaterally rescind a pair of Settlement Eligible Instructions that they, individually, have previously submitted to the CLS System or have authorized in accordance with Rule 4.3.7 if a Rescind Instruction is submitted by their respective Control Functions with respect to each Instruction in the pair of Settlement Eligible Instructions, as appropriate, prior to the earliest applicable Bilateral Rescind Deadline for the Eligible Currencies specified in the pair of Settlement Eligible Instructions.

4.4.3 *Instructions Irrevocable*

Any Instruction shall be irrevocable immediately following the latest time on the relevant Business Day on which such Instruction may be rescinded in accordance with Rule 4.4.2, and CLS Bank shall prohibit the revocation of such Instruction after such time, if it has not been rescinded in accordance with such Rule at or prior to such time.

4.5 SETTLEMENT DEFERRAL (OUTSIDE A SETTLEMENT PERIOD)

(a) *Mandatory.* With respect to a Settlement Session, if prior to the relevant Settlement Period there is an announcement that an Approved Payment System will no longer be operational on a previously scheduled Banking Day, then for each Instruction in the CLS System that specifies the affected Eligible Currency for Settlement on the related Settlement Date (provided such Instruction has not been rejected by the CLS System), CLS Bank shall:

- (i) change the Settlement Date of the Instruction to the next day following such Settlement Date that is a Banking Day for both Eligible Currencies specified in the Instruction if such Instruction has specified a Settlement Date that is no longer a Banking Day for at least one of the Eligible Currencies specified in the Instruction because the relevant Approved Payment System has announced that it will no longer be operational on that previously scheduled Banking Day;
- (ii) if changing the Settlement Date as specified in clause (i) above results in a new Settlement Date that is in the next calendar month, change such new Settlement Date of the Instruction to the day immediately preceding the new Settlement Date that is a Banking Day for both Eligible Currencies specified in the Instruction; *provided, however,* that this clause (ii) shall not apply if such immediately preceding day has already passed; and
- (iii) continue to process the Instruction in accordance with Rule 4 and Rule 5, as applicable.

CLS Bank shall notify the Submitting Member of (and, if applicable, the Designated Settlement Member specified in) the Instruction of any such change in the Settlement Date.

(b) *Discretionary.* If there occurs a Settlement Disruption Event prior to the relevant Settlement Period, for each Instruction in the CLS System that specifies the affected Eligible Currency for Settlement on the related Settlement Date (provided such Instruction has not been

rejected by the CLS System), CLS Bank may (but shall not be obligated to) change the Settlement Date of the Instruction as described in paragraph (a) above.

(c) *Certain Governmental Action.* If, prior to the relevant Settlement Period, capital controls are imposed or any other governmental action is taken and CLS Bank determines, in its sole discretion, that the governmental action more likely than not will prevent or delay the making of payments in an Eligible Currency to any Settlement Member or Liquidity Provider during the Settlement Period (provided that in the case of a delay, CLS Bank determines, in its sole discretion, that the delay more likely than not will extend beyond the end of the Settlement Period), then for each Instruction in the CLS System that specifies the affected Eligible Currency for Settlement on the related Settlement Date (provided such Instruction has not been rejected by the CLS System), CLS Bank shall:

- (i) change the Settlement Date of the Instruction to the next day following such Settlement Date that is a Banking Day for both Eligible Currencies specified in the Instruction; and
- (ii) continue to process the Instruction in accordance with Rule 4 and Rule 5, as applicable.

CLS Bank shall notify the Submitting Member of (and, if applicable, the Designated Settlement Member specified in) the Instruction of any such change in the Settlement Date. For the avoidance of doubt, the Settlement Date of an Instruction may be changed more than once pursuant to this Rule 4.5(c).

4.6 CLS BANK – ACTING “ON BEHALF OF A MEMBER” IN CERTAIN CONTINGENCY SITUATIONS

4.6.1 *Contingency Request: Authorization from the Member for CLS Bank to Perform Certain Actions on behalf of the Member*

In the event that:

- (a) a Member is unable to submit one or more Instructions, Amend Instructions, or Rescind Instructions to CLS Bank as described in Chapter 1 of the Member Handbook (each, a “*Subject Instruction*”);
- (b) a Settlement Member is unable to authorize one or more Instructions submitted by any User Member for which such Member acts as a Designated Settlement Member in accordance with Rule 2.1.7 (the “*Subject UM Instructions*”) or change any limits included the User Member Authorization Guidelines applicable to that User Member (the “*Subject UM Limits*”); or
- (c) with respect to a Settlement Member that has entered into a CLS In/Out Swap Agreement with CLS Services, such Settlement Member is unable to establish or change one or more Counterparty Limits (as such term is defined in CLS In/Out Swap Agreement);

then, upon receipt of a request from the Member (a “*Contingency Request*”), CLS Bank is irrevocably authorized and may, but shall not be obligated to, on behalf of the Member (i) submit such Subject Instructions to the CLS System, (ii) authorize such Subject UM Instructions in the CLS System, (iii) change such Subject UM Limits in the CLS System and/or (iv) establish or change such Counterparty Limits, in each case as specified in the Contingency Request (collectively, the “*Subject Actions*”). For the avoidance of doubt, in the event that CLS Bank requests authorization from a Member to perform the Subject Actions (or any portion thereof) on behalf of the Member and such authorization is provided by the Member, such authorization shall be treated as a Contingency Request for purposes of this Rule 4.6.

4.6.2 Method of Communication for Contingency Request

Any Contingency Request shall be submitted to CLS Bank in accordance with Chapter 12 of the Member Handbook.

4.6.3 Representations and Acknowledgements from the Requesting Member

- (a) By submitting a Contingency Request to CLS Bank, the Member is deemed to have:
- (i) represented and warranted to CLS Services and CLS Bank that CLS Bank is requested and irrevocably authorized to act on the Member’s behalf with respect to the Subject Actions described in the Contingency Request because the Member is unable to perform such Subject Actions; and
 - (ii) acknowledged and agreed that:
 - (A) neither CLS Services nor CLS Bank shall have any obligation to any person, including the Member, to perform the Subject Actions (or any portion thereof) described in the Contingency Request on behalf of the Member;
 - (B) neither CLS Services nor CLS Bank shall have any liability to any person, including the Member, based upon any allegation that CLS Bank did not, for whatever reason, perform the Subject Actions (or any portion thereof) described in the Contingency Request on behalf of the Member;
 - (C) if CLS Services receives a Contingency Request from the Member or any other Member(s), CLS Bank may determine in its sole discretion which, if any, of the Subject Actions to perform on behalf of such Member and/or such other Members(s) (and the order in which the Subject Actions (or any portion thereof) may be performed on behalf of such Member and/or such other Member(s));

(D) any Contingency Request from the Member is a communication received by CLS Bank from that Member for purposes of Rule 1.8.4(a); and

(E) notwithstanding any other provision of the Rules, if in response to a Contingency Request, CLS Bank performs the Subject Actions (or any portion thereof) specified in the Contingency Request on behalf of the Member:

(1) neither CLS Services nor CLS Bank shall have any liability to the Member based upon any allegation that CLS Bank did not perform such Subject Actions on behalf of the Member in accordance with such Contingency Request, in which case any loss, liability, cost or expense incurred or sustained by the Member as a result of the alleged failure to perform such Subject Actions in accordance with such Contingency Request shall not constitute a Liability Loss, except (x) to the extent such loss, liability, cost or expense was caused by CLS Bank having acted with gross negligence, fraud, or wilful misconduct in its performance thereof; or (y) if it is determined by CLS Bank in its final report of the incident that the events or circumstances giving rise to the Contingency Request included operational or technical problems with the CLS System, as opposed to one or more operational or technical problems of the Member;

(2) neither CLS Services nor CLS Bank shall have any liability to any other person, including other Members, based upon any allegation that CLS Bank did not, for any reason, perform such Subject Actions on behalf of the Member in accordance with such Contingency Request; *provided, however*, that any loss, liability, cost or expense incurred or sustained by such other Members as a result of the alleged failure to perform such Subject Actions in accordance with such Contingency Request shall constitute a Liability Loss (x) to the extent caused by CLS Bank having acted with gross negligence, fraud or willful misconduct in its performance thereof; or (y) if it determined by CLS Bank in its final report of the incident that the events or circumstances giving rise to the Contingency Request included operational or technical problems with the CLS System, as opposed to one or more operational or technical problems of the Member; and

(3) with respect to any and all amounts for which neither CLS Services nor CLS Bank has any liability in connection with its performance of such Subject Actions as described above in paragraphs (A) and (B) of this Rule 4.6.3(a)(ii)(E), the Member

shall indemnify CLS Services and CLS Bank, and any of their respective agents, officers, employees and members of their respective boards of directors or committees for, and hold each harmless against, any such losses, liabilities, costs or expenses incurred or sustained by CLS Services and/or CLS Bank.

(b) For the avoidance of doubt, the provisions of this Rule 4.6 that relate to the respective liability of any Member (on whose behalf CLS Bank may perform any Subject Actions), CLS Services or CLS Bank shall in no way affect the liability, if any, of CLS Services or CLS Bank to any Member which might arise from the events or circumstances which contributed to the Contingency Request.

(c) If the Member formally objects to the results of CLS Bank's final report concerning the incident referred to in Rule 4.6.3(a)(ii)(E)(1)(y), the Member may appeal to the Board of Directors, whose determination of the matter shall be conclusive.

4.6.4 Subject Instructions and the Submission Process

Any Subject Instruction submitted by CLS Bank on behalf of the Member to the CLS System as described in this Rule 4.6 shall be deemed to be submitted to the CLS System through the Submission Process.

4.7 PROHIBITION ON THE SUBMISSION OF CERTAIN FX INSTRUCTIONS; EXCEPTIONS

(a) Subject to Rule 4.7(b), no Member shall submit to the CLS System any FX Instruction relating to an underlying FX Transaction:

- (i) that is the result of an agreement to novate or other agreement to combine the legal obligations associated with two or more FX Transactions into a single FX Transaction or net legal obligation; and/or
- (ii) in which a Transaction Counterparty is acting in its capacity as an FMI.

(b) The prohibition in Rule 4.7(a) shall not apply to the submission by a Member of any FX Instruction that satisfies the criteria specified in any of the following paragraphs:

- (i) the FX Instruction relates to an underlying FX Transaction that is expressly authorized in Chapter 4 of the Member Handbook;
- (ii) CLS Bank has consented to the submission of the FX Instruction by the Member pursuant to Rule 2.3.1(c) or otherwise; or
- (iii) the FX Instruction relates to an underlying FX Transaction in which a Transaction Counterparty is acting in its capacity as an FMI, but the FX Instruction is not a Covered Non-Member Instruction.

(c) For the avoidance of doubt, failure by a Member to comply with Rule 4.7(a) shall constitute a basis under which CLS Bank may take any action in accordance with Rule 10.

5 SETTLEMENT OF INSTRUCTIONS

5.1 SETTLEMENT PROCESSING QUEUE

5.1.1 *Establishment of the Settlement Processing Queue*

(a) On each Business Day, CLS Bank shall establish the Settlement Processing Queue for each Settlement Session prior to the relevant Commencement of the Settlement Session for that Business Day.

(b) For each Settlement Session, the Settlement Processing Queue shall include all Settlement Eligible Instructions for which the relevant Business Day is the Settlement Date, whether received at or before the time the Settlement Processing Queue was initially established, or thereafter if one or more Following Initial Pay-In Schedule Periods are commenced or CLS Bank manually places Instructions on the Settlement Processing Queue, subject to the following conditions:

(i) Settlement processing under Rule 5 shall be limited to the amounts described in Rule 4.3.3(b);

(ii) a pair of Settlement Eligible Instructions will not be included on the Settlement Processing Queue if (A) the eligibility of the Submitting Member or Other Submitting Member (or, if applicable, any relevant Designated Settlement Member) to participate in the relevant Settlement services has been restricted pursuant to Rule 10.1.2(b) or such Member has been terminated pursuant to Rule 10.2 or (B) an Eligible Currency specified in such Instruction is suspended or removed as an Eligible Currency pursuant to Rule 3.1; and

(iii) if any Instruction in the pair of Settlement Eligible Instructions was submitted by a User Member, it must be authorized in accordance with Rule 4.3.7 prior to the pair of Settlement Eligible Instructions being included on the Settlement Processing Queue.

5.1.2 *Split Settlement Eligible Instructions*

FX Instructions that are Settlement Eligible Instructions which would require CLS Bank to debit or credit the Account of any Settlement Member in an amount in an Eligible Currency greater than the Currency Splitting Threshold applicable to such Eligible Currency shall, prior to inclusion in the Settlement Processing Queue for the relevant Settlement Session, be split by CLS Bank into two or more Settlement Eligible Instructions requiring debits or credits in amounts less than or equal to such Currency Splitting Threshold. Notwithstanding the foregoing, in the event that the splitting process of a pair of FX Instructions would result in more than 100 Settlement Eligible Instructions, such FX Instructions shall be split into a maximum of 100 Settlement Eligible Instructions involving, to the extent practicable, equal amounts.

5.1.3 *Randomization of the Settlement Processing Queue*

(a) All Instructions classified as Settlement Eligible Instructions prior to the Initial Pay-In Schedule Deadline for the Settlement Date specified in such Instructions (including those that are the result of the splitting process pursuant to Rule 5.1.2 and excluding those that were submitted by a User Member that have not been authorized in accordance with Rule 4.3.7) will be placed on the Settlement Processing Queue for the relevant Settlement Session (generated in accordance with Rule 5.1.1) in random order.

(b) As specified in Chapter 5.5 of the Member Handbook, each Following Initial Pay-In Schedule Instruction (including those that are the result of the splitting process pursuant to Rule 5.1.2 and excluding those that were submitted by a User Member that have not been authorized in accordance with Rule 4.3.7) will be placed on the Settlement Processing Queue for the relevant Settlement Session (i) in sequential order immediately following the Settlement Eligible Instructions that have been placed on such Settlement Processing Queue pursuant to Rule 5.1.3(a) or (ii) in random order.

5.2 QUALIFICATION OF INSTRUCTIONS FOR SETTLEMENT

5.2.1 *Risk Evaluation*

For each Settlement Session, CLS Bank will evaluate each pair of Settlement Eligible Instructions, in the order in which it appears on the relevant Settlement Processing Queue, to determine whether the Accounts of the relevant Settlement Members who are Submitting Members (or, if applicable, any relevant Designated Settlement Member), satisfy each of the following requirements:

(a) *Positive Adjusted Account Balance.* After Settlement of such Settlement Eligible Instructions, each such Settlement Member's Account with respect to all Eligible Currencies would continue to have a Positive Adjusted Account Balance; *provided, however,* that the calculation of each such Settlement Member's Account Balance shall be determined without regard to any Currency Balances that may remain from any prior Settlement Session and shall exclude any Long Positions in Eligible Currencies that have been suspended or removed as Eligible Currencies pursuant to Rule 3.1 or for which the Approved Payment System Closing Time (or, if a relevant Approved Payment System actually ceases operations at a later time, such later time) has passed.

(b) *Short Position Limit.* After Settlement of such Settlement Eligible Instructions, neither of the applicable Settlement Members would have a Short Position in excess of the applicable Short Position Limit then in effect for such Settlement Member.

(c) *Aggregate Short Position Limit.* After Settlement of such Settlement Eligible Instructions, neither of the applicable Settlement Members would have an Aggregate Short Position in excess of the Aggregate Short Position Limit then in effect for such Settlement Member.

CLS Bank may apply the requirements specified in this Rule 5.2.1 to one or more pairs of Settlement Eligible Instructions regardless of the order in which they appear in the relevant Settlement Processing Queue in order to achieve an overall Settlement of such Settlement Eligible Instructions that might not otherwise have been achieved through sequential processing.

5.2.2 *Settlement*

Upon determining that the Accounts of the relevant Settlement Members satisfy each of the tests specified in Rule 5.2.1, CLS Bank will simultaneously debit and credit such Accounts for the Eligible Currency amount(s) specified in such pair of Settlement Eligible Instructions for Settlement, and Settlement will thereupon occur. If such tests are not satisfied, no debits or credits to such Accounts will be made; however, each pair of such Instructions will remain on the relevant Settlement Processing Queue and be individually reexamined (as pairs of Instructions) as and when that Settlement Processing Queue is cycled through again. When a pair of Settlement Eligible Instructions is Settled, such Instructions will be removed from the relevant Settlement Processing Queue. The tests specified in Rule 5.2.1 will continue to be applied to all Settlement Eligible Instructions on the relevant Settlement Processing Queue until all Settlement Eligible Instructions on that Settlement Processing Queue have been Settled, but in no event later than the Currency Close Deadline for the applicable Eligible Currency for the relevant Settlement Session.

5.3 FINALITY OF SETTLEMENT; DISCHARGE

(a) *Finality of Settlement.* Settlement of Settlement Eligible Instructions on a Business Day shall be final and irrevocable and shall be binding upon (i) the Submitting Members of such Instructions, (ii) the Settlement Members through whose Accounts such Instructions are Settled and (iii) CLS Bank.

(b) *Discharge of Obligations.* The obligations of Members and CLS Bank in respect of Settlement Eligible Instructions (including (i) the obligations to make payments of the amounts of Eligible Currencies specified therein, and (ii) where both Transaction Counterparties are Members, the obligations of such Members to make payments of such amounts under the Transaction to which the Settlement Eligible Instructions relate) shall be automatically and immediately discharged by the debiting and crediting by CLS Bank of the relevant amounts to such Accounts, as specified in Rule 5.2.2; *provided*, that with respect to a pair of Instructions that has been split in accordance with Rule 5.1.2 and all the Instructions resulting from such split have not Settled on that Settlement Date, the obligations of Transaction Counterparties that are both Members shall be discharged by final Settlement of the related Settlement Eligible Instruction only to the extent provided by agreement between such Members. Such discharge by the Settlement of Settlement Eligible Instructions, or lack thereof, shall not affect the obligations owing between any Settlement Member and CLS Bank in respect of the Settlement Member's Account Balance, from time to time, after giving effect to such discharge or the obligations of each Settlement Member to make payments to CLS Bank in accordance with Pay-In Schedules, Pay-In Calls and as otherwise provided in the Rules.

5.4 SETTLEMENT DEFERRAL AND PERMANENT SETTLEMENT DISRUPTION (DURING A SETTLEMENT PERIOD)

(a) *Settlement Disruption Event.* If, at any time during a Settlement Period, a Settlement Disruption Event occurs, CLS Bank shall:

(i) continue to attempt to Settle each Instruction on the relevant Settlement Processing Queue that specifies the affected Eligible Currency on that Settlement Date, even if it would result in a delay of the Commencement of the Settlement Session for a Settlement Session following such Settlement Period;

(ii) temporarily refrain from Settling any Instruction on the relevant Settlement Processing Queue that specifies the affected Eligible Currency on that Settlement Date;

(iii) (A) change the Settlement Date of each Submitting Member's Instructions on the relevant Settlement Processing Queue that specifies the relevant Eligible Currency to the next day that is a Banking Day for both Eligible Currencies specified in the Instruction, (B) notify the Submitting Member (and, if applicable, the Designated Settlement Member specified in the Instruction) of the change in the Settlement Date and (C) continue to process any Instructions described in this paragraph (iii) in accordance with Rule 4 and Rule 5, as applicable; and/or

(iv) declare a Permanent Settlement Disruption with respect to the affected Eligible Currency or Eligible Currencies (a "*Permanent Settlement Disruption*"), in which case CLS Bank shall refrain from Settling any Instruction on the relevant Settlement Processing Queue that specifies such Eligible Currency or Eligible Currencies on that Settlement Date and notify the Submitting Member (and, if applicable, the Designated Settlement Member) of such Instruction that such Instruction will not Settle.

(b) *Certain Governmental Action.* If, at any time during a Settlement Period, the imposition of capital controls or the taking of any other governmental action prevents or delays (or CLS Bank determines, in its sole discretion, that the governmental action more likely than not will prevent or delay) the making of payments in an Eligible Currency to any Settlement Member or Liquidity Provider (provided that in the case of a delay, CLS Bank determines, in its sole discretion, that the delay more likely than not will extend beyond the end of the Settlement Period), CLS Bank shall act in accordance with paragraph (a)(iii) or (a)(iv) of this Rule 5.4.

5.5 CONSEQUENCES OF SETTLEMENT FAILURE

(a) Except as otherwise provided in Rule 5.4(a)(iii), if a Settlement Eligible Instruction remains on a Settlement Processing Queue as of the applicable Currency Close Deadline on the Settlement Date for the Eligible Currency (or, in the case of an FX Instruction, at least one of the Eligible Currencies) specified in such Instruction for Settlement and for the relevant Settlement Session, such Instruction will be rejected by the CLS System. CLS Bank will provide notice to the Submitting Members of (and, if applicable, any Designated Settlement Member that authorized) any such Instructions that have failed to Settle.

(b) Each Submitting Member of a Settlement Eligible Instruction (and, if applicable, the Designated Settlement Member that authorized such Instruction) that fails to Settle agrees to allow CLS Bank to provide, and CLS Bank shall make a reasonable effort to provide upon request, the Other Submitting Member (and, if applicable, its Designated Settlement Member) with information explaining why the Settlement failure occurred and identifying which of the two relevant Settlement Members, if any, failed the risk calculation tests set forth in Rule 5.2.1 at the final Settlement processing cycle. If the request for such information is made by the Submitting Member at least one hour before the Pay-Out process described in Rule 7 has been completed for the relevant Settlement Session on that Settlement Date (as specified in Chapter 5 of the Member Handbook), CLS Bank shall provide such information to the Member no later than one hour after such Pay-Out process has been completed. If the request for such information is not made at least one hour before such Pay-Out process has been completed, CLS Bank shall provide such information by the Commencement of the Settlement Session for the relevant Settlement Session on the next subsequent Business Day.

6 PAY-IN PROCESSING

6.1 PAY-IN SCHEDULES

6.1.1 *In General*

Except as otherwise specifically provided in this Rule 6, each Settlement Member must satisfy all Pay-Ins specified in the most recently issued Pay-In Schedule delivered to it by CLS Bank on or before the times specified therein; *provided*, that CLS Bank shall deliver a Pay-In Schedule at least one hour before a Pay-In required by such Pay-In Schedule is expected by CLS Bank, except in circumstances where additional Pay-In Schedules are delivered pursuant to Rule 6.1.2(c). Pay-In Schedules shall be generated for each Settlement Session only in respect of Settlement Eligible Instructions with the same Settlement Date as the date of the current Business Day; *provided, however*, that an Instruction submitted by a User Member must be authorized in accordance with Rule 4.3.7 prior to being included in the relevant Designated Settlement Member's Pay-In Schedule.

6.1.2 *Delivery of Pay-In Schedules*

Each Pay-In Schedule for a Settlement Member for each Settlement Session shall be delivered to those exercising the Control Function on behalf of such Settlement Member by sending such Pay-In Schedule to its Control Function Interface. For each Settlement Session, prior to Settlement of Instructions on each Business Day, CLS Bank will deliver an initial Pay-In Schedule and a subsequent Pay-In Schedule in accordance with Rule 6.1.2(a) and Rule 6.1.2(b), respectively, to each Settlement Member that has submitted (or has authorized as a Designated Settlement Member) any Settlement Eligible Instruction to the CLS System for Settlement in that Settlement Session on such Business Day. Revised Pay-In Schedules may be delivered at any time. For each Settlement Session, on each Business Day:

- (a) CLS Bank will generate and deliver an initial Pay-In Schedule (determined without regard to any Currency Balances that may remain from any prior Settlement Session) at the Initial Pay-In Schedule Deadline to each applicable Settlement Member.
- (b) CLS Bank will deliver a revised Pay-In Schedule to each applicable Settlement Member, which may differ from the initial Pay-In Schedule if any of the following events has occurred after the Initial Pay-In Schedule Deadline:
 - (i) a Following Initial Pay-In Schedule Period has been commenced;
 - (ii) a Settlement Eligible Instruction that was reflected in the initial Pay-In Schedule (described in paragraph (a) above):
 - (A) has been bilaterally rescinded in accordance with Rule 4.4.2(b);
 - or

- (B) includes a Submitting Member or Other Submitting Member that is subject to suspension or termination or includes a currency that has been suspended or removed as an Eligible Currency;
 - (iii) with respect to the Main Settlement Session, any Long Positions or Short Positions have been carried over from a prior Business Day;
 - (iv) with respect to the Americas Same-Day Settlement Session, any Long Positions or Short Positions have been carried over from the Main Settlement Session, if CLS Bank elects, in its sole discretion, to include such Long Positions or Short Positions in its calculation of that Settlement Member's Pay-In requirements to CLS Bank;
 - (v) a General Loss Allocation is assessed in accordance with Rule 9.2; or
 - (vi) CLS Bank deducts any other amounts from the Settlement Member's Account that CLS Bank is authorized to deduct under the CLS Bank Documents.
- (c) CLS Bank may issue an additional revised Pay-In Schedule (either in addition to or as part of those provided for in paragraphs (a) and (b) above) to a Settlement Member if any of the following events has occurred and such event changes that Settlement Member's Pay-In requirements to CLS Bank:
- (i) a Member has been suspended or terminated, or any blocking or freeze order, injunction, garnishment or attachment applies to such Settlement Member's Account;
 - (ii) a Settlement Disruption Event has occurred;
 - (iii) more than one Following Initial Pay-In Schedule Period has been commenced for that Business Day or CLS Bank manually places Instructions on the relevant Settlement Processing Queue; or
 - (iv) a Combined Loss Allocation is assessed in accordance with Rule 9.1.

6.1.3 Information Included in Pay-In Schedule

Each Pay-In Schedule shall specify, based on the assumption that all Settlement Eligible Instructions will Settle during the relevant Settlement Period:

- (a) the total amount of each Eligible Currency that the Settlement Member must pay to CLS Bank; and
- (b) the times on or before which such amounts must be paid to CLS Bank on that Business Day.

6.2 PAY-IN CALL

6.2.1 *In General*

The actual amounts required to Settle Instructions on a Settlement Processing Queue that were submitted by a Settlement Member (or authorized by it as a Designated Settlement Member) may differ from those specified in any Pay-In Schedule, and CLS Bank may demand the payment of additional funds through a Pay-In Call. Except as otherwise specifically provided in this Rule 6, each Settlement Member must immediately satisfy all Pay-Ins of the Eligible Currencies specified in any Pay-In Call delivered to it by CLS Bank.

6.2.2 *Issuance of Pay-In Calls*

With respect to any Settlement Session, CLS Bank may, but shall have no obligation to, issue a Pay-In Call to a Settlement Member under any of the following circumstances:

- (a) *For Account Value.* If one or more Settlement Members fail, or CLS Bank reasonably concludes such Settlement Members are likely to fail, to satisfy a required Pay-In by the deadline established by the applicable Pay-In Schedule or a prior Pay-In Call (a “*Pay-In Call for Account Value*”).
- (b) *For Settlement.* If such Settlement Member’s Settlement Eligible Instructions on the relevant Settlement Processing Queue will fail to Settle because such Settlement Member’s Account would (i) exceed its Aggregate Short Position Limit, (ii) exceed its Short Position Limit in an Eligible Currency or (iii) not have a Positive Adjusted Account Balance (determined without regard to any Currency Balances that may remain from any prior Settlement Session) upon Settlement of any such Settlement Eligible Instructions (a “*Pay-In Call for Settlement*”).
- (c) *For Currency Close.* If at the Pre-Currency Close Deadline for an Eligible Currency, a Settlement Member’s Account either (i) has a Short Position in such Eligible Currency or (ii) would have a Negative Adjusted Account Balance (determined without regard to any Currency Balances that may remain from any prior Settlement Session) if a Long Position in such Settlement Member’s Account in respect of such Eligible Currency was paid to such Settlement Member (a “*Pay-In Call for Currency Close*”).
- (d) *For Positive Adjusted Account Balance.* If such Settlement Member, at any time, has an Adjusted Account Balance less than zero (a “*Pay-In Call for Positive Adjusted Account Balance*”).

6.2.3 *Limitation on Pay-In Calls*

The amount of any Pay-In Call shall not exceed the amount necessary to satisfy (a) the unpaid amount of any Pay-In previously required, (b) the amount necessary to Settle such Settlement Member’s Settlement Eligible Instructions on the relevant Settlement Processing Queue and (c) any other amount owed to CLS Bank by such Settlement Member; *provided, however*, that such

limitation shall not apply to Pay-In Calls issued pursuant to Rule 6.2.2(a) that may be in a fixed amount specified in Chapter 6 of the Member Handbook.

6.2.4 *Delivery of Pay-In Calls*

Each Pay-In Call for a Settlement Member shall be delivered to those exercising the Control Function on behalf of such Settlement Member by sending such Pay-In Call to its Control Function Interface.

6.2.5 *Information Included in Pay-In Call*

Each Pay-In Call shall specify the amount of each Eligible Currency that the Settlement Member receiving such Pay-In Call must immediately pay to CLS Bank.

6.3 FUNDING PROCEDURE

(a) Each Settlement Member must satisfy all Pay-Ins (i) specified in the most recently issued Pay-In Schedule, by no later than the time(s) specified in the applicable Pay-In Schedule, (ii) specified in the Pay-In Calls for Account Value, Pay-In Calls for Currency Close and Pay-In Calls for Positive Adjusted Account Balance, and (iii) in accordance with any pre-funding requirements imposed by CLS Bank pursuant to Chapter 2 of the Member Handbook, in each case delivered or notified to such Settlement Member. Notwithstanding anything in the Rules to the contrary, any Pay-Ins made by a Settlement Member in response to any pre-funding requirements imposed by CLS Bank shall, for purposes of the Rules, be considered as having been made in response to a Pay-In Schedule.

CLS Bank may, at its discretion, temporarily suspend a Settlement Member's obligations for a period to be determined by CLS Bank on a case-by-case basis because of a Settlement Disruption Event or any other event described in Rule 1.17; *provided* that such suspension shall apply equally to all similarly affected Settlement Members; and *provided further* that such temporary suspension shall in no way relieve the Settlement Member's obligations to CLS Bank in respect of any interest, fees, obligations, costs and expenses (and other liabilities associated with such amounts) CLS Bank incurs with respect to such suspension, including the use of a Liquidity Facility.

(b) Each Settlement Member acknowledges the importance of satisfying Pay-In Calls for Settlement to maximize the number of Instructions that will Settle. It is the expectation of CLS Bank and the Settlement Members that Pay-In Calls for Settlement will be fully responded to in a timely fashion under normal circumstances. For the avoidance of doubt, the expectation set forth in the immediately preceding sentence is not intended to impose a legal obligation on the Settlement Member, but to establish the standard that may be applied by CLS Bank for the purposes of Rule 6.4.1(b). In all circumstances, each Settlement Member undertakes to use good faith efforts to respond to Pay-In Calls for Settlement in a timely fashion.

(c) Each Pay-In pursuant to a Pay-In Schedule or Pay-In Call must be made to the account of CLS Bank with the applicable Central Bank. CLS Bank will (i) credit a Settlement Member's

Account for a payment made to CLS Bank after CLS Bank has received confirmation from the relevant Central Bank that payment by such Settlement Member has been credited to CLS Bank's account at the relevant Central Bank, completed its internal validation (or other review of such payment) and determined that no further delay is needed as a result of any applicable Remedial Action and (ii) notify such Settlement Member of the credit to its Account.

(d) If a Post-Merger Settlement Member has more than one Account, for purposes of processing and funding Pay-Ins and Pay-Outs in accordance with Rule 6 and Rule 7 (unless otherwise specified in a particular Rule or Chapter of the Member Handbook), the Accounts will be treated by CLS Bank as separate Accounts notionally held by two separate Settlement Members. The Post-Merger Settlement Member shall fund each Account independently of the other, and CLS Bank shall have no responsibility for allocating or transferring funds between the Accounts; *provided, however*, that CLS Bank shall apply (or set off) any funds in one Account that are in excess of the funds that the Post-Merger Settlement Member is required to have in such Account at such time to (or against) any negative Account Balance of, or other obligations of the Post-Merger Settlement Member under the CLS Bank Documents with respect to, the other Account.

For the avoidance of doubt, and notwithstanding the previous sentence, any such application (or set off) by CLS Bank shall not be deemed to relieve the Post-Merger Settlement Member of its obligation to fund each Account independently as described in this Rule 6.3(d).

(e) All Pay-Ins made on a Business Day shall be final and irrevocable when made in accordance with the Rules and the Member Handbook.

6.4 CONSEQUENCES OF FAILING TO FUND

6.4.1 *Liability to and Actions by CLS Bank*

(a) Failure of a Settlement Member to make a scheduled Pay-In on a timely basis in accordance with its Pay-In Schedule or respond to a Pay-In Call, other than a Pay-In Call for Settlement or except to the extent its obligations have been suspended by CLS Bank in accordance with Rule 6.3(a), may result in any of the following:

- (i) suspension of rights of membership and eligibility of such Settlement Member to participate in CLS System in accordance with Rule 10.1.2(b);
- (ii) interest, fees, obligations, costs and expenses being charged to such Settlement Member, including any amounts associated with the use of a Liquidity Facility by CLS Bank and/or the imposition of any reserve requirements or out-of-pocket costs incurred by CLS Bank;
- (iii) a Failure Adjustment to such Settlement Member's Account (and such Failure Adjustment shall be performed on Settlement Date if such Settlement Member's Account Balance is negative, determined without regard to any

Currency Balances that may remain from any prior Settlement Session) and, if applicable, allocation of losses resulting therefrom in accordance with Rule 9.1;

(iv) notification of such failure to such Settlement Member's Control Function and/or officers senior to such Control Function, by CLS Bank;

(v) reduction of such Settlement Member's Aggregate Short Position Limit for any Settlement Session until such Settlement Member has demonstrated to the satisfaction of CLS Bank that the circumstances contributing to such Settlement Member's failure(s) have been corrected or eliminated; and/or

(vi) such other actions as may be taken by CLS Bank in accordance with Rule 10.1 or Rule 10.2;

provided, however, that CLS Bank will not suspend the rights of a Settlement Member's membership under Rule 10.1, terminate a Settlement Member under Rule 10.2 or block a Settlement Member's ability to submit new Instructions to the CLS System under Rule 6.4.1(a)(i) solely on the basis of that Settlement Member's failure to satisfy a Pay-In Call for Currency Close unless such Settlement Member has failed to satisfy such Pay-In Call for Currency Close by the time set forth in Chapter 6 of the Member Handbook, though such actions may be taken for other reasons.

(b) Failure of a Settlement Member to respond to a Pay-In Call for Settlement may result in notification of such failure to such Settlement Member's Control Function, and/or officers senior to such Control Function, by CLS Bank and to liability to other Settlement Members under Rule 6.4.2. In the event of recurring failures, the size, frequency and other circumstances surrounding such failures may be considered by CLS Bank in determining whether, pursuant to Rule 2.1.3(a), the Settlement Member continues to satisfy and maintain compliance with all the criteria specified in Rule 2.1.1(d) (special factors) and Rule 2.1.1(e) (operating capability). For the avoidance of doubt, and notwithstanding anything to the contrary in Rule 6.4.1(a), in the event that CLS Bank determines that, as a result of the size, frequency and other circumstances surrounding such failures, a Settlement Member is not in compliance with the criteria set forth in Rule 2.1.3(a), CLS Bank *may* take any of the actions enumerated in Rule 6.4.1(a) or impose any of the Remedial Actions set forth in Rule 10, and such determination may be made solely on the basis of the Settlement Member's failure to respond to such Pay-In Calls for Settlement.

(c) If a Post-Merger Settlement Member maintaining more than one Account fails to make a scheduled Pay-In on a timely basis in accordance with a Pay-In Schedule or respond to a Pay-In Call as described in this Rule 6.4.1 with respect to either of its Accounts, CLS Bank may take, in its sole discretion, any of the actions described in Rule 6.4.1(a) with respect to either or both of such Post-Merger Settlement Member's Accounts.

6.4.2 *Liability to Other Settlement Members*

A Settlement Member failing to make a Pay-In in accordance with its Pay-In Schedule or Pay-In Call shall be liable for:

- (a) any documented funding costs incurred by any other Settlement Member that received and satisfied a Pay-In Call as a “direct result” of such Settlement Member’s failure; and
- (b) any documented costs incurred by any other Settlement Member that received a Pay-Out pursuant to Rule 7.2(b) (irrespective of any election described in Rule 7.2(b)) or Rule 7.2(c) as a “direct result” of such Settlement Member’s failure.

Such Settlement Member agrees to allow CLS Bank to provide, and CLS Bank shall make a reasonable effort to provide upon request, any such other Settlement Member with information explaining why that other Settlement Member received a Pay-In Call or a Pay-Out in accordance with Rule 7.2(b) or Rule 7.2(c). Any such liability is only to be enforced directly between Settlement Members. For the avoidance of doubt, a Settlement Member can only be said to have received a Pay-In Call as a “direct result” of another Settlement Member’s failure to satisfy a Pay-In where the two Settlement Members submit matching Settlement Eligible Instructions with a Settlement Date which is the same as the day on which such Pay-In failure occurs and one or more of those Settlement Eligible Instructions fail to Settle.

6.5 NO RIGHT OF SET-OFF BY SETTLEMENT MEMBERS

No Settlement Member shall be entitled to discharge any obligation to fund a Pay-In or any other obligation to CLS Bank or any of its Affiliates by means of a set-off against any Pay-Out or any other amounts due to such Settlement Member by CLS Bank or any of its Affiliates. For the avoidance of doubt, a Post-Merger Settlement Member shall not be entitled to apply (or set off) excess funds in one of its Accounts to (or against) any negative Account Balance or other obligations relating to its other Account.

6.6 NOSTRO AGENT REPORTING RELATING TO PAY-INS AND PAY-OUTS

CLS Bank and CLS Services may provide one or more reports relating to actual and/or anticipated Pay-Ins and Pay-Outs for any or all Settlement Sessions, as specified in Chapter 6.5 of the Member Handbook, to the Nostro Agent(s) specified in such Settlement Member’s Static Data or to such other financial institution(s) acting as a Nostro Agent for purposes of making Pay-Ins or Pay-Outs as agreed in writing between such Settlement Member and CLS Bank.

7 PAY-OUT PROCESSING

7.1 CALCULATION OF PAY-OUTS; PAY-OUT ALGORITHM

Except as provided in Rule 7.2, for each Settlement Session, CLS Bank shall apply the Pay-Out Algorithm on each Business Day to determine when it is required to make a Pay-Out to any Settlement Member with respect to Long Positions in such Settlement Member's Account. The Pay-Out Algorithm shall reflect the criteria set forth in paragraphs (a) through (e) below and, to the maximum extent practicable, the criteria set forth in paragraphs (f) and (g) below (without regard to preferences of any Settlement Member):

- (a) no Pay-Out will be made to a Settlement Member if it would cause such Settlement Member to have a negative Adjusted Account Balance, determined without regard to any Currency Balances that may remain from any prior Settlement Session;
- (b) Pay-Outs will only be made in Eligible Currencies where a Settlement Member is projected to have a Long Position after taking into consideration the effect of its unsettled Instructions on the relevant Settlement Processing Queue;
- (c) if a Settlement Member has unsettled Instructions, its Pay-Out will be in an amount that assures that sufficient value is retained in such Settlement Member's Account to allow such Instructions to Settle irrespective of a large intra-day foreign exchange market move;
- (d) Pay-Out of Eligible Currencies with later Currency Close Deadlines will be in an amount that assures that sufficient value is retained in the Accounts of Settlement Members to allow for the Pay-Out of Eligible Currencies with earlier Currency Close Deadlines;
- (e) a Settlement Member receiving Pay-Outs has made some Pay-In of an Eligible Currency to CLS Bank;
- (f) the Eligible Currencies in which CLS Bank holds the largest balances are generally to be paid as early as possible; *provided, however*, that Eligible Currencies with earlier Approved Payment System Closing Times are generally paid before others (taking account of the need to create liquidity in certain Eligible Currency markets by giving priority to Pay-Outs in such market's Eligible Currency); and
- (g) Pay-Outs in any Eligible Currency are first made to Settlement Members that have the largest Account Balances, determined without regard to any Currency Balances that may remain from any prior Settlement Session.

7.2 EXCEPTIONS TO PAY-OUT ALGORITHM

- (a) CLS Bank may adjust the Pay-Out Algorithm or make Pay-Outs other than in accordance with the Pay-Out Algorithm under any of the following circumstances:

- (i) in response to an emergency affecting the CLS System or as otherwise provided in the Rules;
- (ii) if Remedial Action is imposed pursuant to Rule 10.1 (but then only to the extent specified in any such Remedial Action);
- (iii) if any blocking or freeze order, injunction, garnishment, attachment or other legal impediment or preclusion to payment exists;
- (iv) if an intervening event resulting from a Settlement Disruption Event or any other event described in Rule 1.17 affects CLS Bank, CLS Services, Central Banks, Approved Payment Systems, the Settlement Member's Nostro Agents or the Settlement Member itself; or
- (v) for any other reason, if CLS Bank in its good faith judgment determines it would be impossible, impracticable, or inadvisable to proceed with making Pay-Outs in one or more Eligible Currencies in accordance with the Pay-Out Algorithm, including to a particular Settlement Member as a result of an actual or potential Insolvency Event or Regulatory Reorganization with respect to its Nostro Agent(s).

CLS Bank, when practicable, will notify the applicable Settlement Member when it becomes aware of any such impediment or preclusion to a Pay-Out. CLS Bank shall make such Pay-Out as soon as practicable after CLS Bank concludes, in its sole discretion, that such impediment or preclusion to the Pay-Out no longer exists, and any loss incurred by reason of receiving such Pay-Out shall not constitute a Liability Loss and shall be considered a full discharge of CLS Bank's payment obligations as if such Pay-Out was made in accordance with the Pay-Out Algorithm.

(b) In the event that CLS Bank cannot on a Business Day make a Pay-Out to a Settlement Member in the applicable Eligible Currency because adequate funds in the applicable Eligible Currency are not available in CLS Bank's relevant Central Bank account and CLS Bank is unable to obtain such funds from Liquidity Facilities in accordance with Rule 8.2, CLS Bank shall make such Pay-Out to the Settlement Member as follows:

- (i) if the Settlement Member has specified in its Static Data that, in such circumstances, it elects to receive a Pay-Out on a Settlement Date in an Eligible Currency other than the one that CLS Bank was expected to deliver on the Settlement Date:
 - (A) CLS Bank shall, to the extent possible, make the Pay-Out on the Settlement Date in an Eligible Currency or Eligible Currencies (with a then-equivalent value) other than that which CLS Bank was expected to deliver on the Settlement Date;
 - (B) the Settlement Member agrees to return such Pay-Out (in the same Eligible Currency or Eligible Currencies) on the next subsequent Business Day to CLS Bank (as reflected in the subsequent Pay-In Schedule issued by CLS Bank pursuant to Rule 6.1.2(b));

(C) CLS Bank shall, to the extent possible, make the Pay-Out on that next subsequent Business Day to such Settlement Member in the amount and Eligible Currency that CLS Bank was expected to deliver on the Settlement Date and, to the extent CLS Bank is unable to make such Pay-Out in that Eligible Currency, CLS Bank shall make such Pay-Out in an Eligible Currency or Eligible Currencies (with a then-equivalent value) other than that which CLS Bank was expected to deliver on the Settlement Date; and

(D) the Pay-Outs described in paragraph (C) above shall be deemed to discharge fully CLS Bank's obligation to make a Pay-Out in the Eligible Currency CLS Bank was expected to deliver on the Settlement Date; or

(ii) if the Settlement Member has specified in its Static Data that, in such circumstances, it elects not to receive a Pay-Out on a Settlement Date in an Eligible Currency other than the one which CLS Bank was expected to deliver on the Settlement Date:

(E) CLS Bank shall, to the extent possible, make the Pay-Out on the next subsequent Business Day to such Settlement Member in the amount and Eligible Currency that CLS Bank was expected to deliver on the Settlement Date and, to the extent CLS Bank is unable to make such Pay-Out in that Eligible Currency, CLS Bank shall make such Pay-Out in an Eligible Currency or Eligible Currencies (with a then-equivalent value) other than that which CLS Bank was expected to deliver on the Settlement Date; and

(F) the Pay-Outs described in paragraph (A) above shall be deemed to discharge fully CLS Bank's obligation to make a Pay-Out in the Eligible Currency CLS Bank was expected to deliver on the Settlement Date.

(c) In the event that CLS Bank performs a Failure Adjustment on a Settlement Member's Account pursuant to Rule 6.4.1(a), Rule 8.3 or Rule 10.1.2(d) on the Settlement Date, CLS Bank may, to the extent necessary, make Pay-Outs to any Settlement Member in an Eligible Currency or Eligible Currencies other than the one which CLS Bank was expected to deliver on the Settlement Date, and such Pay-Out shall be deemed to discharge fully CLS Bank's obligation to make a Pay-Out in the Eligible Currency CLS Bank was expected to deliver on the Settlement Date.

(d) A Pay-Out made pursuant to paragraph (b) or (c) above shall be considered a full discharge of CLS Bank's payment obligations as if such Pay-Out was made in the Eligible Currency CLS Bank was expected to deliver on the Settlement Date; *provided, however*, that:

(i) any loss incurred by reason of receiving a Pay-Out made pursuant to paragraph (b) or (c) above shall not constitute a Liability Loss except to the extent attributable to the failure of CLS Bank or CLS Services to act or not act in accordance with the CLS Bank Documents as described in the definition of Liability Loss; and

- (ii) such discharge shall not affect the liability of any Settlement Member for documented costs incurred by another Settlement Member that received a Pay-Out pursuant to paragraph (b) or (c) above to the extent such Pay-Out was not attributable to the failure of CLS Bank or CLS Services to act or not act in accordance with the CLS Bank Documents as described in the definition of Liability Loss.

7.3 DELIVERY OF PAY-OUTS

CLS Bank shall deliver all Pay-Outs to a Settlement Member at an account specified in such Settlement Member's Static Data for Pay-Outs in the relevant Eligible Currency. Immediately prior to the making of any Pay-Out in accordance with this Rule 7, CLS Bank will debit the applicable Currency Balance in the applicable Settlement Member's Account in the amount of such Pay-Out. All Pay-Outs made on a Business Day shall be final and irrevocable when made in accordance with the Rules and the Member Handbook.

8 LIQUIDITY FACILITIES

8.1 IN GENERAL

CLS Bank will from time to time enter into and maintain liquidity facilities with financial institutions to provide CLS Bank with access to liquidity in each Eligible Currency on each Business Day in amounts determined by the Board of Directors from time to time (“*Liquidity Facilities*”).

8.2 DRAWING UNDER THE LIQUIDITY FACILITIES

When CLS Bank reasonably concludes it is necessary or desirable, CLS Bank may draw on one or more Liquidity Facilities in order to make a Pay-Out which it otherwise could not make because of a Short Position in an Eligible Currency in the Account of one or more Settlement Members.

8.3 RESPONSIBILITIES OF FAILING SETTLEMENT MEMBERS TO CLS BANK

If CLS Bank draws on a Liquidity Facility, the Settlement Members whose actions or failures to act caused such draw to occur shall, in addition to their responsibility to cover their respective Short Positions with CLS Bank, be:

- (a) responsible for repayment to CLS Bank of the amount of such draw or applicable portion thereof (without double-counting of any such amounts) and any interest, fees, obligations, costs and expenses associated therewith, including any amounts that CLS Bank is liable to the Liquidity Provider for under the Liquidity Facility for delayed repayment to such Liquidity Provider; and
- (b) subject to Remedial Action and/or termination of membership in CLS Bank in accordance with Rule 10.

CLS Bank shall be entitled to deduct any such amounts from the Settlement Member’s Account at any time and from time to time and to perform a Failure Adjustment to such Settlement Member’s Account on the Failure Date or the next subsequent Business Day. For the avoidance of doubt, with respect to a Post-Merger Settlement Member maintaining two Accounts during the Operational Integration Period, CLS Bank shall be entitled to deduct any such amounts from either Account (or such deductions may be allocated between both Accounts) at the discretion of CLS Bank. Such Failure Adjustment may result in the allocation of losses to Settlement Members in accordance with Rule 9.1.

8.4 REIMBURSEMENT OBLIGATIONS FOR DRAWINGS UNDER LIQUIDITY FACILITIES

CLS Bank shall repay to a Liquidity Provider amounts drawn under a Liquidity Facility (and any other amounts that CLS Bank is liable to pay to the Liquidity Provider under the Liquidity Facility for delayed repayment) to such Liquidity Provider by using funds in its Central Bank accounts arising from Pay-Ins made to CLS Bank in respect of the Eligible Currencies owed under the Liquidity Facilities. At any time, if CLS Bank has outstanding obligations to any Liquidity Provider in respect of drawings under a Liquidity Facility, CLS Bank may make Pay-Outs to Settlement Members in the Eligible Currencies that are owed to the Liquidity Providers only if and to the extent that after making any such Pay-Outs CLS

Bank would have balances in its Central Bank accounts in respect of those Eligible Currencies at least equal to the amounts of those Eligible Currencies that are owed under the Liquidity Facilities (but excluding any interest, fees, obligations, costs and expenses associated with such drawings).

8.5 PRIORITIES ON INSOLVENCY

(a) Each Settlement Member agrees that its rights to payment from CLS Bank under the CLS Bank Documents shall be subject to the rights of any Liquidity Provider for all amounts due to such Liquidity Provider under a Liquidity Facility to the extent provided in paragraphs (b) through (e).

(b) *Priorities.* If an Insolvency Event has occurred with respect to CLS Bank, then:

(i) the claims of the Settlement Members will be subordinate in right of payment to the claims of the Liquidity Providers under the Liquidity Facilities;

(ii) each Liquidity Provider may, and is irrevocably authorized on behalf of the Settlement Members to, (A) claim, enforce and prove for all present and future liabilities of CLS Bank to the Settlement Members, (B) file claims and proofs, give receipts and take all such proceedings and do all such things as the Liquidity Provider sees fit to recover all present and future liabilities of CLS Bank to the Settlement Members and (C) receive all distributions in respect of all liabilities of CLS Bank to the Settlement Members for application towards the claims of the Liquidity Provider under the relevant Liquidity Facility;

(iii) if and to the extent that a Liquidity Provider is not entitled to do any of the things mentioned in paragraph (ii) above, the Settlement Members will do so in good time as directed by the Liquidity Provider;

(iv) the Settlement Members will hold all payments and distributions in cash or in kind received or receivable by the Settlement Members in respect of all liabilities of CLS Bank to the Settlement Members from CLS Bank or its estate or from any other source in trust for the relevant Liquidity Provider, *pari passu* and *pro rata*, and will pay and transfer them (or if the trust is invalid or unenforceable, an amount equal to such payment or distribution) to such Liquidity Provider for application towards the claims of the Liquidity Provider under the relevant Liquidity Facility until the claims of the Liquidity Provider under the Liquidity Facility are irrevocably paid in full; and

(v) the trustee in bankruptcy, liquidator, assignee or other person distributing the assets of CLS Bank or their proceeds is directed to pay all payments and distributions on the liabilities of CLS Bank to the Settlement Members direct to the relevant Liquidity Providers until the claims of the Liquidity Providers under the Liquidity Facilities are irrevocably paid in full;

and each Settlement Member will give all such notices and do all such things as a Liquidity Provider may direct to give effect to this provision.

(c) *Subrogation by Settlement Members.* If any of the claims of a Liquidity Provider is wholly or partially paid out of any proceeds received in respect of or on account of the liabilities of CLS Bank to the Settlement Members, the Settlement Members will to that extent be subrogated to the claims of such Liquidity Provider so paid (and all securities and guarantees for those claims) but not before all the claims of the Liquidity Providers in respect of the Liquidity Facilities are paid in full.

(d) *Protection of Priorities.*

(i) The provisions in this Rule 8.5 constitute a continuing subordination and are for the benefit of the Liquidity Providers under the Liquidity Facilities regardless of any intermediate payment or discharge of the claims of the Liquidity Providers under the Liquidity Facilities in whole or in part.

(ii) The subordination in this Rule 8.5 and the obligations of the Settlement Members under this Rule 8.5 will not be affected by any act, omission, matter or thing which, but for this provision, would reduce, release or prejudice the subordination or any of those obligations in whole or in part, including (A) any time or waiver granted to, or composition with, CLS Bank or other person; (B) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, CLS Bank or other person in respect of the claims of the Liquidity Providers or otherwise or any non-presentment or non-observance of any formality or other requirement in respect of any instrument or any failure to realize the full value of any security; or (C) any unenforceability, illegality or invalidity of any obligation of CLS Bank or security in respect of the claims of the Liquidity Providers or any other document or security.

(e) *Preservation of Claims of Settlement Members.* Notwithstanding any term of this Rule 8.5 postponing, subordinating or preventing the payment of any of the claims of the Settlement Members, the claims of the Settlement Members shall, solely as between CLS Bank and the Settlement Members, remain owing or due and payable in accordance with the terms of the CLS Bank Documents.

9 LOSS ALLOCATIONS

9.1 LOSS ALLOCATION WITH RESPECT TO FAILURE ADJUSTMENT

9.1.1 *Determination of Positive or Negative Account Balance*

(a) If CLS Bank exercises its right pursuant to Rule 6.4.1(a), Rule 8.3, or Rule 10.1.2(d) to perform a Failure Adjustment to the Account of a Settlement Member, it shall determine whether, as a result of such Failure Adjustment, such Settlement Member's Account Balance is positive or negative, without regard to any Currency Balances that may remain from any prior Settlement Session.

(b) Unless otherwise specified in this Rule 9, a Post-Merger Settlement Member maintaining two Accounts shall nevertheless be considered to be a single Settlement Member during the Operational Integration Period for the purposes of Rule 9, and the term "Account" shall refer to both of such Post-Merger Settlement Member's Accounts as a single Account held by one Settlement Member, whose Account Balance shall be determined in accordance with the proviso in the definition of "Account Balance" in Rule 1.1.

9.1.2 *Positive Account Balance*

If the Account Balance calculated as set forth in Rule 9.1.1 is positive and:

(a) such Settlement Member's membership in CLS Bank has been suspended or terminated pursuant to Rule 10.1 or Rule 10.2, respectively, then CLS Bank shall, as soon as practicable, notify the Settlement Member of such positive balance and CLS Bank shall take such other actions as are required in accordance with the Rules; or

(b) such Settlement Member's membership in CLS Bank has not been suspended or terminated pursuant to Rule 10.1 or Rule 10.2, respectively, then CLS Bank shall make a Pay-Out of such positive balance to the Settlement Member;

provided, however, that CLS Bank may hold any positive balance until all amounts which may become due from such Settlement Member have been determined and paid by such Settlement Member or deducted from such Settlement Member's Account.

9.1.3 *Negative Account Balance*

If the Account Balance calculated as set forth in Rule 9.1.1 is negative, the Settlement Member (the "*Responsible Party*") shall be obligated to pay to CLS Bank the amount of such negative balance. If the Account Balance remains negative, the resulting negative balance (excluding any separately billed interest, fees, obligations, costs and expenses and other liabilities associated with such amounts separately charged to such Settlement Member by CLS Bank through other mechanisms) will be allocated to and paid by Settlement Members through a Combined Loss Allocation in accordance with Rule 9.1.4 (except to the extent that the amount to be allocated has been the subject of a previous allocation assessed on the Settlement Members, including the

Responsible Party, under Rule 9.1.4). Such Combined Loss Allocation shall not relieve the Responsible Party's obligation to reimburse CLS Bank in the amount of such negative balance (and any separately billed interest, fees, obligations cost and expenses and other liabilities associated with such amounts).

9.1.4 Combined Loss Allocation

(a) *Assessment and Calculation of Combined Loss Allocation.* As described in Rule 9.1.3, CLS Bank may assess a Combined Loss Allocation, which shall be the sum of a Primary Loss Allocation Component and Secondary Loss Allocation Component, on each Settlement Member that, on the Failure Date, Settled an Instruction with a Responsible Party (each, a "*Combined Loss Allocatee*"). Such Combined Loss Allocation assessed on a Combined Loss Allocatee shall not exceed the lesser of (i) such Combined Loss Allocatee's Bilateral Net Receives on the Failure Date with the Responsible Party or (ii) the resulting negative balance of the Responsible Party described in Rule 9.1.3. After a Combined Loss Allocation has been assessed, the Board of Directors shall call a special meeting to discuss why the assessment occurred.

In all cases, the number of Settlement Members used in the calculations described in this Rule 9.1.4 shall be increased or decreased, as appropriate, in accordance with paragraph (f) below. For the avoidance of doubt, a Settlement Member shall be subject to the Combined Loss Allocation under this Rule 9.1.4 even if the Settlement Member's rights of membership (1) have been suspended and not terminated, or (2) are being terminated but the Termination Time has not passed, in each case unless paragraph (f) below applies.

(b) *Primary Loss Allocation Component.* With respect to each Combined Loss Allocatee, the Primary Loss Allocation Component shall be an amount equal to:

- (i) such Combined Loss Allocatee's Bilateral Net Receives with respect to the Responsible Party, *divided by*
- (ii) the sum of all Combined Loss Allocatees' Bilateral Net Receives with respect to the Responsible Party, and *multiplied by*
- (iii) the amount of the resulting negative balance of the Responsible Party described in Rule 9.1.3.

(c) *Secondary Loss Allocation Component.* With respect to each Combined Loss Allocatee, the Secondary Loss Allocation Component shall be an amount equal to:

- (i) such Combined Loss Allocatee's Bilateral Net Receives with respect to the Responsible Party, *divided by*
- (ii) the sum of all Combined Loss Allocatees' Bilateral Net Receives minus the largest single Bilateral Net Receives with respect to the Responsible Party among all the Combined Loss Allocatees, and *multiplied by*

(iii) the largest calculated Primary Loss Allocation component among all the Combined Loss Allocatees.

(d) *Satisfaction of Combined Loss Allocation.* Amounts due in respect of a Combined Loss Allocation assessed pursuant to this Rule 9.1.4 shall be paid by the applicable Settlement Member immediately upon the assessment being made pursuant to this Rule 9.1.4, and CLS Bank is authorized to deduct from such Settlement Member's Account the amount due with respect thereto. CLS Bank may take such other actions as it deems necessary in accordance with Rule 10 in the event that such payment from the applicable Settlement Member is not immediately paid upon such demand.

(e) *Repayment to Combined Loss Allocatees.* If the amount of a Combined Loss Allocation assessed and paid by the Settlement Members in accordance with this Rule 9.1.4 exceeds the amount necessary to satisfy the resulting negative balance described in Rule 9.1.3, CLS Bank shall make a Pay-Out of such excess to each Settlement Member on the next subsequent Business Day following the date of the Combined Loss Allocation on the same *pro rata* basis upon which such Settlement Member's payment was made to CLS Bank pursuant to this Rule 9.1.4.

(f) *Insolvent, Suspended or Terminated Settlement Members as Combined Loss Allocatees.*

(i) In the case of a Settlement Member for which an Insolvency Event or Regulatory Reorganization has occurred at or prior to the time of the assessment, calculation or collection of a Combined Loss Allocation, CLS Bank may, but is not required to, exclude such Settlement Member from the Combined Loss Allocation assessments and calculations described in Rule 9.1.4; *provided, however,* that if CLS Bank excludes such Settlement Member from the Combined Loss Allocation assessments and calculations pursuant to this paragraph, CLS Bank shall retain a claim against such Settlement Member and any successor entity for any amounts that would have been assessed against such Settlement Member but for such exclusion, together with any interest, fees, obligations, costs and expenses that may be assessed by CLS Bank in its sole discretion.

(ii) In the case of a Settlement Member whose rights of membership have been suspended and not terminated at or prior to the assessment, calculation or collection of a Combined Loss Allocation, CLS Bank may, but is not required to, exclude such Settlement Member from the Combined Loss Allocation assessments and calculations described in Rule 9.1.4; *provided, however,* that if CLS Bank excludes such Settlement Member from the Combined Loss Allocation assessments and calculations pursuant to this paragraph, CLS Bank shall retain a claim against such Settlement Member and any successor entity for any amounts that would have been assessed against such Settlement Member but for such exclusion, together with any interest, fees, obligations, costs and expenses that may be assessed by CLS Bank in its sole discretion.

(iii) If and to the extent a Combined Loss Allocation relates to events or circumstances arising or occurring at or prior to the Termination Time of a Settlement Member and the Combined Loss Allocation relating to such events or circumstances is assessed by CLS Bank after that Termination Time, the terminated Settlement Member shall be included in the Combined Loss Allocation assessments and calculations described in Rule 9.1.4 and be liable to CLS Bank for its proportion of the Combined Loss (as a “*Combined Loss Allocatee*”) unless paragraph (i) or (ii) above applies.

(g) *Post-Merger Settlement Members as Combined Loss Allocatees.* For all purposes of Rule 9.1.4, if a Post-Merger Settlement Member maintaining two Accounts is a Combined Loss Allocatee, the two Accounts will be treated as separate Accounts notionally held by two Settlement Members.

9.2 GENERAL LOSS ALLOCATION

9.2.1 *Types of General Loss Allocations; Assessments and Calculations*

(a) *Resulting from Combined Loss Allocation.* CLS Bank shall assess a General Loss Allocation on each Settlement Member (excluding the Responsible Party and any Settlement Member that failed to satisfy its Combined Loss Allocation) (each, a “*General Loss Allocatee*”) if the resulting negative balance of the Responsible Party described in Rule 9.1.3 exceeds the amounts received by CLS Bank through a Combined Loss Allocation made in accordance with Rule 9.1.4 (such excess, a “*General Loss*”).

(b) *Resulting from Certain Operating Losses.* CLS Bank shall assess a General Loss Allocation on each Member, other than an Affiliated User Member, (each, a “*General Loss Allocatee*”) for amounts due in respect of the indemnity described in Rule 1.8.4(e) and for amounts described in Rule 8.3 that are due to a Liquidity Provider, but only to the extent such amounts may not otherwise be allocated to Settlement Members pursuant to Rule 9.1 (such amounts, a “*General Loss*”).

(c) *Resulting from Central Bank and Approved Payment System Losses or Certain Governmental Action.*

(i) *Resulting from Central Bank and Approved Payment System Losses.* CLS Bank shall assess a General Loss Allocation on each Settlement Member (each, a “*General Loss Allocatee*”) if CLS Bank is charged with an extraordinary loss, costs or expense in connection with any agreement, rule, regulation or other provision relating to CLS Bank’s participation in an Approved Payment System or CLS Bank’s account agreement with any Central Bank (a “*General Loss*”), and the Board of Directors determines that an allocation of this General Loss shall be made pursuant to this Rule.

(ii) *Resulting from Certain Governmental Action.* CLS Bank shall assess a General Loss Allocation on each Settlement Member (each, a “*General Loss*”).

Allocatee”) for amounts due to a Settlement Member in respect of Settlement and for amounts described in Rule 8.3 that are due to a Liquidity Provider, in either case as the result of the imposition of capital controls or the taking of any other governmental action that prevents or delays the making of payments in the relevant Eligible Currency to the Settlement Member or the Liquidity Provider, respectively, regardless of whether the governmental action generally applies to payments in the relevant Eligible Currency or specifically applies to CLS Bank, CLS Services, or both, but only to the extent that such amounts may not otherwise be allocated to Settlement Members pursuant to Rule 9.1 (such amounts, a “*General Loss*”). The General Loss Allocation assessed on a General Loss Allocatee under this paragraph (c)(ii) shall not exceed the lesser of (A) the amount of the Pay-In or Pay-Out, as the case may be, in the relevant Eligible Currency, as specified in such General Loss Allocatee’s most recently issued Pay-In Schedule that relates to the date on which the action resulting in the General Loss was taken (expressed in its Base Currency Equivalent), or (B) the General Loss.

(d) *Calculation of General Loss Allocation.* Subject to Rule 9.2.2 and Rule 9.2.3, the General Loss Allocation assessed on each such General Loss Allocatee shall be an amount equal to:

(i) with respect to a General Loss described in paragraph (a) above, the General Loss *divided* by the number of Settlement Members (excluding the Responsible Party and any Settlement Member that failed to satisfy its Combined Loss Allocation) as of the relevant Failure Date;

(ii) with respect to a General Loss described in paragraph (b) above, the General Loss *divided* by the number of Members (excluding any Affiliated User Members) as of the date CLS Bank makes such assessment;

(iii) with respect to a General Loss described in paragraph (c)(i) above:

(A) the aggregate amount of all Instructions to deliver or receive the relevant Eligible Currency by such General Loss Allocatee that have Settled through its Account during the thirty days immediately preceding the date on which such amounts were charged to CLS Bank, such amount calculated as the sum of the Eligible Currencies to be delivered or received (each expressed in its Base Currency Equivalent) as of the date such Instruction was Settled; *divided by*

(B) the aggregate amount of all Instructions to deliver or receive the relevant Eligible Currency by all General Loss Allocatees that have Settled as described in, and calculated in the same manner as described in, paragraph (A) above; and *multiplied by*

(C) the General Loss; and

- (iv) with respect to a General Loss described in paragraph (c)(ii) above:
- (A) the amount of the Pay-In or Pay-Out, as the case may be, in the relevant Eligible Currency, as specified in such General Loss Allocatee's most recently issued Pay-In Schedule that relates to the date on which the action resulting in the General Loss was taken (expressed in its Base Currency Equivalent); *divided by*
- (B) the aggregate amount of all Pay-Ins and Pay-Outs in the relevant Eligible Currency, as specified in all General Loss Allocatees' most recently issued Pay-In Schedules that relate to the date on which the action resulting in the General Loss was taken (expressed in its Base Currency Equivalent); and *multiplied by*
- (C) the General Loss.

In all cases, the number of Members used in the calculations described in this paragraph shall be increased or decreased, as appropriate, in accordance with Rule 9.2.3(a). For the avoidance of doubt, a Member shall be subject to the General Loss Allocations under this Rule 9.2.1 even if the Member's rights of membership (1) have been suspended and not terminated or (2) are being terminated but the Member's Termination Time has not passed; in each case unless Rule 9.2.3(a) applies.

(e) *Post-Merger Settlement Members as General Loss Allocatees.* For the avoidance of doubt, a Post-Merger Settlement Member maintaining two Accounts shall be considered a single Settlement Member for the purpose of this Rule 9.2, and the term "Account" shall refer to both of such Post-Merger Settlement Member's Accounts as a single Account held by one Settlement Member, whose Account Balance shall be determined in accordance with the proviso in the definition of "Account Balance" in Rule 1.1. Any General Loss Allocation assessed against such Post-Merger Settlement Member shall be deducted from either Account (or allocated between both Accounts) at the discretion of CLS Bank.

9.2.2 *General Loss Allocation Cap; Failure to Satisfy General Loss Allocation*

(a) Except as otherwise provided in this Rule 9.2.2, in no event shall the total amount of all Covered General Loss Allocations assessed on a Member exceed thirty million U.S. dollars (the "*General Loss Allocation Cap*"). After a Covered General Loss Allocation has been assessed on a Member, the amount available for subsequent Covered General Loss Allocations under its General Loss Allocation Cap shall be reduced by the amount of the assessment. When CLS Bank repays any portion of the assessment to the Member pursuant to Rule 9.3(b), the amount available for Covered General Loss Allocations under the General Loss Allocation Cap applicable to that Member shall be increased by the amount of any such repayment. After a Covered General Loss Allocation has been assessed pursuant to Rule 9.2.1(a) or Rule 9.2.1(b), the Board of Directors shall call a special meeting to discuss why the assessment occurred.

(b) The Board of Directors may determine, at any time and in its sole discretion, whether each General Loss Allocatee for which a Covered General Loss Allocation has been assessed shall be required to agree to increasing the amount of its General Loss Allocation Cap to the original amount specified in this paragraph, or such lesser amount that the Board of Directors may determine, as a condition to the processing of the General Loss Allocatee's Instructions for Settlement by CLS Bank and membership in CLS Bank ("*Increased Cap Determination*"). For the avoidance of doubt, no increase in the General Loss Allocation Cap described in the immediately preceding sentence shall apply to a Member without such Member's consent.

(c) If at least one General Loss Allocatee has been assessed Covered General Loss Allocations equal to its General Loss Allocation Cap and the full amount of the General Loss described in Rule 9.2.1 has not yet been allocated by CLS Bank pursuant to Rule 9.2.1(d), CLS Bank shall immediately recalculate the amount of Covered General Loss Allocations to be assessed on each other Member (including any previously terminated Member described in Rule 9.2.3(a), and excluding any Member that has already been assessed a Covered General Loss Allocation equal to its General Loss Allocation Cap). CLS Bank will assess these unallocated amounts on such other Members in the following manner:

- (i) in respect of a General Loss described in Rule 9.2.1(a), equally on each other Settlement Member (excluding the Responsible Party and any Settlement Member that failed to satisfy its Combined Loss Allocation);
- (ii) in respect of a General Loss described in Rule 9.2.1(b), equally on each other Member (excluding any Affiliated User Member); and
- (iii) in respect of a General Loss described in Rule 9.2.1(c)(i), equally on each other Settlement Member;

(each such Member, a "*General Loss Allocatee*"). CLS Bank shall continue to immediately recalculate the amount of the Covered General Loss Allocation to be assessed on each General Loss Allocatee as described above until CLS Bank has been able to allocate the full amount of the General Loss described in Rule 9.2.1 among the General Loss Allocatees or all General Loss Allocatees have been assessed Covered General Loss Allocations equal to their respective General Loss Allocation Caps.

9.2.3 *Insolvent, Suspended or Terminated Members as General Loss Allocatees*

(a) *Assessment.*

- (i) In the case of a Member for which an Insolvency Event or Regulatory Reorganization has occurred at or prior to the time of the assessment, calculation or collection of a General Loss Allocation, CLS Bank may, but is not required to, exclude such Member from the General Loss Allocation assessments and calculations described in Rule 9.2; *provided, however*, that if CLS Bank excludes

such Member from the General Loss Allocation assessments and calculations pursuant to this paragraph, CLS Bank shall retain a claim against such Member and any successor entity for any amounts that would have been assessed against such Member but for such exclusion, together with any interest, fees, obligations, costs and expenses that may be assessed by CLS Bank in its sole discretion.

(ii) In the case of a Member whose rights of membership have been suspended and not terminated at or prior to the assessment, calculation or collection of a General Loss Allocation, CLS Bank may, but is not required to, exclude such Member from the General Loss Allocation assessments and calculations described in Rule 9.2; *provided, however*, that if CLS Bank excludes such Settlement Member from the General Loss Allocation assessments and calculations pursuant to this paragraph, CLS Bank shall retain a claim against such Settlement Member and any successor entity for any amounts that would have been assessed against such Settlement Member but for such exclusion, together with any interest, fees, obligations, costs and expenses that may be assessed by CLS Bank in its sole discretion.

(iii) If and to the extent a General Loss Allocation relates to events or circumstances arising or occurring at or prior to the Termination Time of a Member and the General Loss Allocation relating to such events or circumstances is assessed by CLS Bank after that Termination Time, the terminated Member shall be included in the General Loss Allocation assessments and calculations described in Rule 9.2 and be liable to CLS Bank for its proportion of the General Loss (as a “*General Loss Allocatee*”) unless paragraph (i) or (ii) above applies.

(b) *Application of General Loss Allocation Cap.* In no event shall the total amount of all Covered General Loss Allocations assessed on a terminated Member after its Termination Time by CLS Bank exceed the amount available for Covered General Loss Allocations under the General Loss Allocation Cap applicable to such Member at its Termination Time.

9.2.4 *Satisfaction of General Loss Allocations*

Amounts due in respect of a General Loss Allocation calculated in accordance with this Rule shall be paid by the applicable Member (including any previously terminated Members described in Rule 9.2.3(a)) upon demand by CLS Bank. CLS Bank may take such other actions as it deems necessary in accordance with Rule 10 in the event that such payment from the applicable Member is not paid upon such demand. In the case of a Settlement Member, CLS Bank is authorized to deduct from such Settlement Member’s Account the amount due with respect thereto.

9.3 RESPONSIBILITY OF CLS BANK TO SEEK REIMBURSEMENT; REPAYMENT TO GENERAL LOSS ALLOCATEES AND COMBINED LOSS ALLOCATEES

(a) CLS Bank and CLS Services shall each use its reasonable best efforts to take action to collect amounts due to CLS Bank and CLS Services, respectively, under the CLS Bank Documents (including amounts due in respect of an indemnity under Rule 1.8.4) from the Member whose actions or failures to act shall have resulted in the assessment of a Combined Loss Allocation or a General Loss Allocation on any other Member or CLS Bank's inability to repay to such other Member any portion of its respective payments to CLS Bank made in accordance with Rule 9. In addition, the Member agrees to allow CLS Bank to provide, and CLS Bank shall make a reasonable effort to provide upon request, such other Member with information explaining why the Combined Loss Allocation or General Loss Allocation was assessed on the Member or why such repayment was not made.

(b) If (i) CLS Bank is reimbursed for amounts due to CLS Bank under the CLS Bank Documents from the Member described in paragraph (a) above or a Member that was excluded from the Combined Loss Allocation assessments and calculations under Rule 9.1.4(f) or the General Loss Allocation assessments and calculations under Rule 9.2.3(a), or CLS Bank or CLS Services is reimbursed for any portion of a General Loss that has been allocated pursuant to Rule 9.2 by receipt of compensation in respect of such General Loss provided through any insurance or from any other source or otherwise recovers such amounts, and (ii) such amounts, together with the amounts assessed on and paid by the Members in accordance with Rule 9, after subtracting amounts for interest, fees, obligations, costs and expenses or other liabilities payable to CLS Bank, exceed the amounts owed to CLS Bank by such Member under the CLS Bank Documents and any costs or expenses incurred by CLS Bank in obtaining the reimbursed amounts, CLS Bank shall make a payment of such excess amount to each Member on the same *pro rata* basis upon which that Member's payment was made to (and not on the basis on which the Member was assessed by) CLS Bank pursuant to Rule 9. If the reimbursement is in respect of the amounts due to CLS Bank from the Responsible Party that caused a Combined Loss Allocation to be assessed pursuant to Rule 9.1 or the Combined Loss Allocatee whose failure to satisfy its Combined Loss Allocation assessment caused a General Loss Allocation to be assessed pursuant to Rule 9.2.1(a), CLS Bank shall make a payment of any excess amount to the General Loss Allocatees described in Rule 9.2.1(a) and, to the extent such reimbursement exceeds the amounts assessed and paid by such General Loss Allocatees, the Combined Loss Allocatees described in Rule 9.1.4.

10 REMEDIAL ACTION; TERMINATION; APPEALS

10.1 REMEDIAL ACTION

10.1.1 Reasons for Remedial Action

CLS Bank may take Remedial Action:

- (a) for a violation of any of the provisions in the CLS Bank Documents if CLS Bank reasonably concludes that such action is in the best interests of CLS Bank or its Members, or
- (b) if there has been (i) a material adverse change in the present or prospective business, operations, management or financial condition, operational capabilities, or applicable regulatory supervision or requirements of, or access to liquidity in respect of, a Member or (ii) a change in law or regulation or change affecting the application of any law or regulation as relevant to a Member, and CLS Bank determines in its reasonable discretion that such Remedial Action is necessary for the protection of CLS Bank or its Members.

In determining whether Remedial Action shall be taken, CLS Bank may consult with the Member's primary regulator in the jurisdiction where the Member's Head or Home Office is located if CLS Bank reasonably concludes that such consultation is in the best interests of CLS Bank or its Members. CLS Bank shall notify the Member of any such consultation as soon as practicable, and shall attempt to provide such notice contemporaneously with such consultation. CLS Bank shall notify the Member against whom Remedial Action is taken as soon as practicable.

10.1.2 Types of Remedial Action

Remedial Action may include, without limitation:

- (a) assessment of administrative and other fees associated with establishing and monitoring of special actions or procedures with respect to such Member;
- (b) with respect to any Settlement Session, suspension of rights of membership and eligibility to participate in the CLS System, including a Member's ability to (i) submit new Instructions, (ii) have Instructions Settle, (iii) make Pay-Ins (or have Pay-Ins credited to its Account Balance), (iv) receive Pay-Outs, and/or (v) use certain Identification Codes to identify itself in its Static Data;
- (c) with respect to any Settlement Session, reductions to or elimination of such Settlement Member's Short Position Limit for one or more Eligible Currencies, and/or such Settlement Member's Aggregate Short Position Limit; and/or

- (d) Failure Adjustment, and, if applicable, allocation of losses resulting therefrom in accordance with Rule 9.1.

With respect to a Post-Merger Settlement Member maintaining two Accounts whose rights of membership or eligibility to participate in the CLS System with respect to only one of the Accounts has been suspended pursuant to Rule 10.1.2(b)(ii), for the duration of such suspension CLS Bank shall apply (or set off) any funds in the Account not subject to such suspension that are in excess of the funds that the Post-Merger Settlement Member is required to have in such Account at such time to (or against) any negative Account Balance of, or other obligations of the Post-Merger Settlement Member under the CLS Bank Documents with respect to, the other Account.

With respect to a Post-Merger Settlement Member maintaining two Accounts whose rights of membership or eligibility to participate in the CLS System with respect both such Accounts have been suspended pursuant to Rule 10.1.2(b)(ii), for the duration of such suspension CLS Bank shall apply (or set off) any funds in any Account that are in excess of the funds that the Post-Merger Settlement Member is required to have in such Account at such time to (or against) any negative Account Balance of, or other obligations of the Post-Merger Settlement Member under the CLS Bank Documents with respect to, the other Account.

10.1.3 Effective Immediately

The imposition of any action pursuant to Rule 10.1 shall take effect immediately.

10.2 TERMINATION

10.2.1 Reasons for Termination

- (a) CLS Bank may terminate a Member's membership in CLS Bank for any of the following reasons:
- (i) the Member is in default or violation of (A) any material provision or obligation set forth in the Member Handbook or its applicable Member Agreement, (B) any Rule or (C) any direction of CLS Bank given pursuant to any Rule, and such default or violation continues following notice thereof to the Member and a reasonable opportunity to cure such default or violation; *provided, however,* that such opportunity to cure shall in no way limit CLS Bank's right to take Remedial Action in accordance with Rule 10.1 or CLS Bank's right to terminate the Member under this Rule 10.2.1(a)(i) if the Member is repeatedly in default or violation of (A), (B) or (C) regardless of whether each default or violation has been cured by the Member;
 - (ii) any agreement with CLS Bank relating to the Member's obligations ceases to be in full force and effect or is repudiated, disaffirmed or disclaimed in whole or in part by the Member or any duly appointed representative of such Member;

(iii) there has been a material adverse change in the business, operations, financial condition or access to liquidity in respect of the Member and CLS Bank determines in its reasonable discretion that terminating such Member's membership in CLS Bank is necessary for the protection of CLS Bank or its Members;

(iv) an Insolvency Event has occurred with respect to the Member; and/or

(v) there has been an Increased Cap Determination and the Member does not agree to such increase in the manner and within the time period determined by the Board of Directors.

(b) CLS Bank may terminate the membership of all Members in CLS Bank at any time if the Board of Directors determines, in its reasonable discretion and in accordance with applicable law, that the voluntary liquidation of CLS Bank is in the best interests of CLS Bank and its Members.

(c) A Transition Settlement Member's membership in CLS Bank will terminate upon the expiration of its then current term of membership.

10.2.2 Termination Procedures; Termination Amount

(a) Upon its determination to terminate a Member (or upon the termination of a Transition Settlement Member under Rule 10.2.1(c)), CLS Bank shall notify the Member in writing of its termination, determine the expected Termination Time, and proceed to immediately terminate the Member's membership in CLS Bank in accordance with the applicable termination procedures as CLS Bank may reasonably establish from time to time. Unless otherwise agreed by CLS Bank, the termination of a Settlement Member shall become effective on the date specified in such notice (provided that the termination of a Transition Settlement Member under Rule 10.2.1(c) shall become effective on the last day of the Transition Settlement Member's then current term), unless (i) CLS Bank has taken action prior to such date to terminate such Settlement Member's membership in CLS Bank pursuant to Rule 10, in which case termination shall be effective at the time and in the manner specified in Rule 10.1.3, or (ii) CLS Bank has determined on such date that such Settlement Member is a Responsible Party on such date or is a potential Combined Loss Allocatee on the next subsequent Business Day, in which case termination shall not be effective until the next subsequent Business Day.

(b) Written notice from CLS Bank of the termination specifying the expected Termination Time will be (i) promptly sent to each Member and (ii) sent to each Central Bank no later than seven days after the Termination Time. As of the Termination Time, such Member shall be terminated from membership, and CLS Bank shall determine such Member's Termination Amount and provide such Member with a final accounting of its assets with and known liabilities to CLS Bank within one hundred and twenty days of the Termination Time. In the event that a Member's Termination Amount is negative, such amount shall be due and payable by such Member to CLS Bank on demand; and in the

event that such amount is positive, CLS Bank shall pay such amount to the Member or as may otherwise be required by applicable law. For purposes of determining the Termination Amount of a Post-Merger Settlement Member maintaining two Accounts during the Operational Integration Period, such Post-Merger Settlement Member shall be considered to be a single Settlement Member maintaining a single Account, whose Account Balance shall be determined in accordance with the proviso in the definition of “Account Balance” in Rule 1.1.

(c) Nothing in this Rule 10.2.2 limits the ability of CLS Bank to collect such amounts or subsequently determine that additional amounts are owed by a terminated Settlement Member or terminated User Member to CLS Bank under the CLS Bank Documents, including amounts described in Rule 9.2.3 or due in respect of any indemnity described in Rule 1.8.4 relating to events or circumstances arising or occurring at or prior to its Termination Time.

10.2.3 Limitation on Instructions

Upon notification of its termination, the Member shall submit no additional Instructions to CLS Bank for Settlement that specify a Settlement Date that is after its Termination Time. All previously submitted Instructions that specify a Settlement Date that after its Termination Time shall be removed by such Member from the CLS System by rescinding such Instructions; *provided, however*, that if such Instructions are not rescinded by the Member, CLS Services, as agent for the Member, will remove such Instructions from the CLS System.

10.3 APPEALS

(a) If action is (i) taken to deny membership in CLS Bank to an applicant pursuant to Rule 2.1.2(b) or Rule 2.2.2(b) or (ii) imposed pursuant to Rule 10.1 or Rule 10.2 against a Member, CLS Bank shall furnish such applicant or Member, as the case may be, with a written statement of the reasons for such denial or action; *provided, however*, that (y) Remedial Action imposed pursuant to Rule 10.1 may be communicated in accordance with Rule 1.8.3 and (z) CLS Bank shall not be obligated to provide any such statement in connection with the denial of an applicant applying to be a Transition Settlement Member or the termination of a Transition Settlement Member under Rule 10.2.1(c). Such applicant or Member will have thirty days after the receipt of CLS Bank’s statement or communication to file a written response with the secretary of CLS Bank. Any action taken by CLS Bank shall be effective when taken in accordance with the Rules and shall remain effective during the pendency of any appeal and the final determination thereof pursuant to the Rules. An applicant applying to be a Transition Settlement Member or a Transition Settlement Member terminated under Rule 10.2.1(c) will have no right of appeal of any denial, termination, or other action with respect to its application or termination; *provided, however*, that any such denial or termination shall be without prejudice to the right of the applicant to submit an application to be a Settlement Member in accordance with the CLS Bank Documents.

(b) All matters of fact that are not denied in the applicant's or Member's response will be deemed to have been admitted by such applicant or Member, and any defense not raised in the response will be deemed to have been waived by such applicant or Member.

(c) If a response is permitted under Rule 10.3(a) and is timely filed, CLS Bank will (unless the applicant or Member, as the case may be, and CLS Bank otherwise agree in writing) schedule a hearing, the location of which will be set forth in the notice provided to such applicant or Member within ten Business Days after filing the notice of appeal before a panel composed of three Members, one of whom will be chosen by the applicant or the Member, as the case may be, appealing the action (and shall be at the office of an unaffiliated Member having its Head or Home Office in a jurisdiction other than the jurisdiction of such Member), one of whom will be chosen by CLS Bank, and the third of whom will be chosen by the other two panel members. Compensation for such panel will be set by CLS Bank, and such compensation shall be paid by the party against which the panel rules.

The panel will have full power to either ratify CLS Bank's action or to overrule, reverse or negate such action; *provided, however*, that where an applicant has been denied membership pursuant to Rule 2.1.2(b) or Rule 2.2.2(b), the panel may only (i) ratify such action or (ii) negate such action upon the panel's determination that such action was unreasonable or arbitrary, in which case CLS Bank would be required to reconsider the applicant for membership in accordance with Rule 2. CLS Bank and the applicant or Member shall be bound by such decision of the panel. At the hearing, the applicant or Member and CLS Bank shall be afforded the opportunity to be heard and may be represented by counsel. As soon as practicable after the conclusion of the hearing, the panel shall furnish the applicant or Member and the secretary of CLS Bank with a written statement of its decision. If the decision of the panel is to ratify the action taken or, in the case of a Member, to take another action pursuant to Rule 10.1 or Rule 10.2, the written statement shall set forth (i) the relevant act or practice in which the applicant or Member has been found to have engaged, or which the applicant or Member has been found to have omitted, (ii) the specific provisions of the Rules (or an agreement between the applicant or Member and CLS Bank) that any such act, practice or omission has been deemed to violate, and (iii) the action imposed and the reasons for imposing such action.

(d) The decision of the panel in any appeal proceeding undertaken pursuant to this Rule 10 shall be final and effective immediately.

(e) The remedies and procedures set forth in this Rule 10.3 are intended to supplement, and are not intended to preempt or supersede, any other rights available to an applicant or Member under applicable law in accordance with Rule 1.6.