AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Buyer pay index	The published price as paid by the buyer (if applicable). For swaptions, applies to the underlying swap
Buyer pay averaging method	The averaging method used to calculate the index of the buyer pay index. For swaptions, applies to the underlying swap
Seller pay index	The published price as paid by the seller (if applicable). For swaptions, applies to the underlying swap
Seller pay averaging method	The averaging method used to calculate the index of the seller pay index. For swaptions, applies to the underlying swap
Grade	If applicable, the grade of the commodity to be delivered, e.g., the grade of oil or refined product
Option type	Descriptor for the type of option transaction. E.g., put, call, straddle
Option style	E.g., American, European, European Daily, European Monthly, Asian
Option premium	The total amount paid by the option buyer
Hours from through	For electric power, the hours of the day for which the swap is effective
Hours from through time zone	For electric power, the time zone prevailing for the hours during which electricity is transmitted
Days of week	For electric power, the profile applicable for the delivery of power
Load type	For electric power, the load profile for the delivery of power
Clearing indicator	Yes/No indication of whether the swap will be cleared by a derivatives clearing organization
Clearing venue	Identifier (if available) or name of the derivatives clearing organization
If the swap will not be cleared, an indication of whether the clearing requirement exception in CEA section (2)(h)(7) was elected	Yes/No
The identity of the counterparty electing the clearing requirement exception in CEA section (2)(h)(7)	Field values: LEI if available, or substitute identifier as above if LEI is not yet available
Indication of collateralization	Is the swap collateralized, and if so to what extent? Field values: Uncollateralized, partially collateralized, one-way collateralized, fully collateralized
Any other term(s) of the swap matched or affirmed by the counterparties in verifying the swap	Use as many fields as required to report each such term

* Applies to counterparty 1 if a swap execution facility or designated contract market reports and does not know which counterparty is the reporting counterparty

** Applies to counterparty 2 if a swap execution facility or designated contract market reports and does not know which counterparty is the non-reporting counterparty

PART 48—REGISTRATION OF FOREIGN BOARDS OF TRADE

Sec.
48.1 Scope.
48.2 Definitions.
48.3 Registration required.
48.4 Registration eligibility and scope.
48.5 Registration procedures.

48.6 Foreign boards of trade providing direct access pursuant to existing no-action relief.
48.7 Requirements for registration.
48.8 Conditions of registration.
48.9 Revocation of registration.
48.10 Additional contracts.
APPENDIX TO PART 48—FORM FBOT

AUTHORITY: 7 U.S.C. 5, 6 and 12a, unless otherwise noted.

SOURCE: 76 FR 80698, Dec. 23, 2011, unless otherwise noted.

§ 48.1 Scope.

The provisions of this part apply to any foreign board of trade that is registered, required to be registered, or applying to become registered with the Commission in order to provide its identified members or other participants located in the United States with direct access to its electronic trading and order matching system.

§ 48.2 Definitions.

For purposes of this part:

(a) *Foreign board of trade.* Foreign board of trade means any board of trade, exchange or market located outside the United States, its territories or possessions, whether incorporated or unincorporated.

(b) *Foreign board of trade eligible to be registered.* A foreign board of trade eligible to be registered means a foreign board of trade that satisfies the requirements for registration specified in § 48.7 and:

(1) Possesses the attributes of an established, organized exchange,

(2) Adheres to appropriate rules prohibiting abusive trading practices,

(3) Enforces appropriate rules to maintain market and financial integrity,

(4) Has been authorized by a regulatory process that examines customer and market protections, and

(5) Is subject to continued oversight by a regulator that has power to intervene in the market and the authority to share information with the Commission.

(c) *Direct access.* Direct access means an explicit grant of authority by a foreign board of trade to an identified member or other participant located in the United States to enter trades directly into the trade matching system of the foreign board of trade.

(d) *Linked contract.* Linked contract means a futures, option or swap contract that is made available for trading by direct access by a registered foreign board of trade that settles against any price (including the daily or final settlement price) of one or more contracts listed for trading on a registered entity as defined in section 1a(40) of the Act.

(e) *Communications.* Communications means any written or electronic documentation or correspondence issued by or on behalf of the Commission, the United States Department of Justice, or the National Futures Association.

(f) *Material change.* Material change means a material change in the information provided to the Commission in support of an application for registration under this part. Subsequent to registration, material change also includes a material change in the operations of the foreign board of trade or its clearing organization and, without limitation, a change in any of the following: The membership or participant criteria of the foreign board of trade or its clearing organization; the location of the management, personnel or operations of the foreign board of trade or its clearing organization; the structure, nature, or operation of the trading or clearing systems; the regulatory or self-regulatory regime applicable to the foreign board of trade, its clearing organization, or their respective members and other participants; the authorization, licensure, registration or recognition of the foreign board of trade or clearing organization; and the ability of the clearing organization to observe the Recommendations for Central Counterparties.

(g) *Clearing organization.* Clearing organization means the foreign board of trade, affiliate of the foreign board of trade or any third party clearing house, clearing association, clearing corporation or similar entity, facility or organization that, with respect to any agreement, contract or transaction executed on or through the foreign board of trade, would be:

(1) Defined as a derivatives clearing organization under section 1a(15) of the Act; or

(2) Defined as a central counterparty by the Recommendations for Central Counterparties.

(h) *Existing no-action relief.* Existing no-action relief means a no-action letter issued by a division of the Commission to the foreign board of trade in which the division informs the foreign board of trade that it will not recommend that the Commission institute enforcement action against the foreign board of trade if the foreign board of trade does not seek designation as either a designated contract market pursuant to section 5 of the Act or a derivatives transaction execution facility pursuant to section 5a of the Act in connection with the granting of direct access.

(i) *Swap.* Swap means a swap as defined in section 1a(47) of the Act and any Commission regulation further defining the term adopted thereunder.

(j) *Recommendations for Central Counterparties.* Recommendations for Central Counterparties means:

(1) The current Recommendations for Central Counterparties issued jointly by the Committee on Payment and Settlement Systems and the Technical Committee of the International Organization of Securities Commissions as updated, revised or otherwise amended; or

(2) Successor standards, principles and guidance for central counterparties or financial market infrastructures adopted jointly by the Technical Committee of the International Organization of Securities Commissions and the Committee on Payment and Settlement Systems.

(k) *Affiliate.* An affiliate of a registered foreign board of trade member or other participant means any person, as that term is defined in section 1a(38) of the Act, that:

(1) Owns 50% or more of the member or other participant;

(2) Is owned 50% or more by the member or other participant; or

(3) Is owned 50% or more by a third person that also owns 50% or more of the member or other participant.

(l) *Member or other participant.* Member or other participant means a member or other participant of a foreign board of trade that is registered under this part and any affiliate thereof that has been granted direct access by the foreign board of trade.

§48.3 Registration required.

(a) Except as specified in this part, it shall be unlawful for a foreign board of trade to permit direct access to its electronic trading and order matching system unless and until the Commission has issued a valid and current Order of Registration to the foreign board of trade pursuant to the provisions of this part.

(b) It shall be unlawful for a foreign board of trade or the clearing organization to make false or misleading statements in or in connection with any application for registration under this part.

§48.4 Registration eligibility and scope.

(a) Only foreign boards of trade eligible to be registered, as defined in §48.2(b) of this part, are eligible for registration with the Commission pursuant to this part.

(b) A foreign board of trade may apply for registration under this part in order to permit the members and other participants of the foreign board of trade that are located in the United States to enter trades directly into the trading and order matching system of the foreign board of trade, to the extent that such members or other participants are:

(1) Entering orders for the member's or other participant's proprietary accounts;

(2) Registered with the Commission as futures commission merchants and are submitting customer orders to the trading system for execution; or

(3) Registered with the Commission as a commodity pool operator or commodity trading advisor, or are exempt from such registration pursuant to §4.13 or §4.14 of this chapter, and are submitting orders for execution on behalf of a United States pool that the member or other participant operates or an account of a United States customer for which the member or other participant has discretionary authority, respectively, provided that a futures commission merchant or a firm exempt from such registration pursuant to §30.10 of this chapter acts as

clearing firm and guarantees, without limitation, all such trades of the commodity pool operator or commodity trading advisor effected through submission of orders to the trading system.

§ 48.5 Registration procedures.

(a) A foreign board of trade seeking registration with the Commission pursuant to this part must electronically file an application for registration with the Secretary of the Commission at its Washington DC headquarters at *FBOTapplications@cftc.gov*.

(b) A complete application for registration must include:

(1) A completed Form FBOT and Form Supplement S–1, as set forth in the Appendix to this part, or any successor forms, and all information and documentation described in such forms; and

(2) Any additional information and documentation necessary, in the discretion of the Commission, to supplement the application including, but not limited to, documentation and information provided during the course of an on-site visit, as applicable, to the foreign board of trade, the clearing organization and the regulatory authority or authorities, to effectively demonstrate that the foreign board of trade and its clearing organization satisfy the registration requirements set forth in § 48.7.

(c) An applicant for registration must identify with particularity any information in the application that will be subject to a request for confidential treatment and must provide support for any request for confidential treatment pursuant to the procedures set forth in § 145.9 of this chapter.

(d) If, upon review, the Commission finds the application for registration to be complete, the Commission may approve or deny the application. In reviewing the application, the Commission will consider, among other things:

(1) Whether the foreign board of trade is eligible to be registered as defined in § 48.2(b) and;

(2) Whether the foreign board of trade and its clearing organization are subject to comprehensive supervision and regulation by the appropriate governmental authorities in their home country or countries that is comparable to the comprehensive supervision and regulation to which designated contract markets and derivatives clearing organizations are respectively subject under the Act, Commission regulations, and other applicable United States laws and regulations, if any, and;

(3) Any previous Commission findings that the foreign board of trade and its clearing organization are subject to comprehensive supervision and regulation by the appropriate government authorities in their home country or countries that is comparable to the comprehensive supervision and regulation to which designated contract markets and derivatives clearing organizations are subject under the Act, Commission regulations, and other applicable United States laws and regulations, if any; and

(4) Whether the foreign board of trade and its clearing organization have adequately demonstrated that they meet the requirements for registration specified in § 48.7.

(5) The Commission's determination that the foreign board of trade and its clearing organization are subject to comprehensive supervision and regulation by the appropriate government authorities in their home country or countries that is comparable to the comprehensive supervision and regulation to which designated contract markets and derivatives clearing organizations are subject will be based upon a principles-based review conducted in a manner consistent with this part 48 pursuant to which the Commission will look to determine if the government authorities support and enforce regulatory objectives in the oversight of the foreign board of trade and the clearing organization that are substantially equivalent to the regulatory objectives supported and enforced by the Commission in its oversight of designated contract markets and derivatives clearing organizations.

(e) If the Commission approves the application, the Commission will issue

an Order of Registration. If the Commission does not approve the application, the Commission will, after appropriate notice and an opportunity to respond, issue a Notice of Action specifying that the application was not approved and setting forth the reasons therefor. The Commission, in its discretion, may impose conditions in the Order of Registration and may, after appropriate notice and an opportunity to respond, amend, suspend, or otherwise restrict the terms of an issued Order of Registration or issue an Order revoking registration.

(f) A foreign board of trade whose application is not approved may reapply for registration 360 days after the issuance of the Notice of Action if the foreign board of trade has addressed any deficiencies in its original application or facts and circumstances relevant to the Commission's review of the application have changed.

§48.6 Foreign boards of trade providing direct access pursuant to existing no-action relief.

(a) A foreign board of trade operating pursuant to existing no-action relief as of the effective date of this part 48 must register with the Commission pursuant to this part in order to continue to provide direct access to its electronic trading and order matching system from the United States.

(b)(1) The application of a foreign board of trade operating pursuant to existing no-action relief must include a complete Form FBOT and Supplement S–1, as set forth in the Appendix to this part. If the foreign board of trade, as part of its application for registration, wishes to rely on information and documentation previously submitted electronically in connection with its request for no-action relief in order to demonstrate that it satisfies the registration requirements set forth in §48.7, (limited application) the foreign board of trade must:

(i) Specifically identify the information or documentation previously submitted;

(ii) Identify the specific registration requirements set forth in §48.7 that are satisfied by such information or documentation; and

(iii) Certify that the information remains accurate and current.

(2) If the foreign board of trade wishes to rely on information and documentation previously submitted in hard copy in connection with its application for no-action relief, the foreign board of trade must also resubmit the identified information or documentation. A foreign board of trade that has submitted a complete application for no-action relief that is pending as of February 21, 2012 may also apply for registration pursuant to these limited application procedures.

(c) A foreign board of trade operating pursuant to existing no-action relief must submit a limited application for registration, determined in good faith by the applicant to be complete, within 180 days of February 21, 2012. If, at any time after August 20, 2012 but before a limited application is approved or disapproved, the Commission determines that the application is materially incomplete, the Commission may, after providing the foreign board of trade with notice and an opportunity to respond to the determination of incompleteness, withdraw the existing no-action relief if the Commission determines that the application cannot be made complete in a timely manner. The foreign board of trade may continue to operate pursuant to the existing no-action relief, subject to the terms and conditions contained therein, August 20, 2012, while the Commission is reviewing its application, and until the Commission approves or disapproves the application or otherwise withdraws the existing no-action relief. The no-action relief is automatically withdrawn upon issuance of an Order of Registration or upon disapproval.

§48.7 Requirements for registration.

An applicant for registration must demonstrate that it and, where applicable, its clearing organization meet the following requirements. The registration requirements applicable to clearing organizations may alternatively be met by demonstrating that the clearing organization is registered

and in good standing with the Commission as a derivatives clearing organization. The Commission, in its discretion, may request additional information and documentation in connection with an application for registration and an applicant for registration must provide promptly any such additional information or documentation. The Commission, in its discretion, also may impose additional registration requirements that the Commission deems necessary after appropriate notice and opportunity to respond.

(a) Foreign Board of Trade and Clearing Membership:

(1) The members and other participants of the foreign board of trade and its clearing organization are fit and proper and meet appropriate financial and professional standards;

(2) The foreign board of trade and its clearing organization have and enforce provisions to minimize and resolve conflicts of interest; and

(3) The foreign board of trade and its clearing organization have and enforce rules prohibiting the disclosure, both during and subsequent to service on a board or committee, of material nonpublic information obtained as a result of a member's or other participant's performance of duties as a member of their respective governing boards and significant committees.

(b) The Automated Trading System:

(1) The trading system complies with Principles for the Oversight of Screen-Based Trading Systems for Derivative Products developed by the Technical Committee of the International Organization of Securities Commissions,

(2) The trade matching algorithm matches trades fairly and timely,

(3) The audit trail captures all relevant data, including changes to orders, and audit trail data is securely maintained and available for an adequate time period,

(4) Adequate and appropriate trade data is made available to users and the public,

(5) The trading system has demonstrated reliability,

(6) Access to the trading system is secure and protected,

(7) There are adequate provisions for emergency operations and disaster recovery,

(8) Trading data is backed up to prevent loss of data, and

(9) Only those futures, option or swap contracts that have been identified to the Commission in the foreign board of trade's application for registration or permitted to be made available for trading by direct access pursuant to the procedures set forth in § 48.10 of this part are made available for trading by direct access.

(c) Terms and Conditions of Contracts to Be Made Available in the United States.

(1) Contracts must meet the following standards:

(i) Contracts must be futures, option or swap contracts that would be eligible to be traded on a designated contract market;

(ii) Contracts must be cleared;

(iii) Contracts must not be prohibited from being traded by United States persons; and

(iv) Contracts must not be readily susceptible to manipulation.

(2) Foreign futures and option contracts on non-narrow-based security indexes must have been certified by the Commission pursuant to the procedures set forth in § 30.13 of this chapter.

(3) Contracts that have the following characteristics must be specifically identified as having such characteristics:

(i) Contracts that are linked to a contract listed for trading on a registered entity as defined in section 1a(40) of the Act, and

(ii) Contracts that have any other relationship with a contract listed for trading on a registered entity (for example, if both the foreign board of trade's and the registered entity's contract settle to the price of the same third party-constructed index).

(d) Settlement and Clearing:

(1) The clearing organization observes the Recommendations for Central Counterparties or is registered with the Commission as a derivatives clearing organization, and

(2) The clearing organization is in good regulatory standing in its home country jurisdiction.

(e) The Regulatory Regimes Governing the Foreign Board of Trade and the Clearing Organization:

(1) The regulatory authorities provide comprehensive supervision and regulation of the foreign board of trade, the clearing organization, and the type of contracts to be made available through direct access that is comparable to the comprehensive supervision and regulation provided by the Commission to designated contract markets, derivatives clearing organizations and such contracts. That is, the regulatory authorities support and enforce regulatory objectives in the oversight of the foreign board of trade, clearing organization and the type of contracts that the foreign board of trade wishes to make available through direct access that are substantially equivalent to the regulatory objectives supported and enforced by the Commission in its oversight of designated contract markets, derivatives clearing organizations, and such products.

(2) The regulatory authorities engage in ongoing regulatory supervision and oversight of the foreign board of trade and its trading system, the clearing organization and its clearing system, and the members, intermediaries and other participants of the foreign board of trade and clearing organization, with respect to, among other things, market integrity, customer protection, clearing and settlement and the enforcement of the rules of the foreign board of trade and the clearing organization.

(3) The regulatory authorities have the power to share information directly with the Commission, upon request, including information necessary to evaluate the continued eligibility of the foreign board of trade for registration and to audit for compliance with the terms and conditions of the registration.

(4) The regulatory authorities have the power to intervene in the market.

(f) The Rules of the Foreign Board of Trade and the Clearing Organization and Enforcement Thereof:

(1) The foreign board of trade and its clearing organization have implemented and enforce rules to ensure compliance with the requirements of registration contained in this part;

(2) The foreign board of trade and its clearing organization have the capacity to detect, investigate, and sanction persons who violate their respective rules;

(3) The foreign board of trade and the clearing organization (or their respective regulatory authorities) have implemented and enforce disciplinary procedures that empower them to recommend and prosecute disciplinary actions for suspected rule violations, impose adequate sanctions for such violations, and provide adequate protections to charged parties pursuant to fair and clear standards;

(4) The foreign board of trade and its clearing organization are authorized by rule or by contractual agreement to obtain, from members and other participants, any information and cooperation necessary to conduct investigations, to effectively enforce their respective rules, and to ensure compliance with the conditions of registration;

(5) The foreign board of trade and its clearing organization have sufficient compliance staff and resources, including by delegation and/or outsourcing to a third party, to fulfill their respective regulatory responsibilities, including appropriate trade practice surveillance, real time market monitoring, market surveillance, financial surveillance, protection of customer funds, enforcement of clearing and settlement provisions and other compliance and regulatory responsibilities;

(6) The foreign board of trade has implemented and enforces rules with respect to access to the trading system and the means by which the connection thereto is accomplished;

(7) The foreign board of trade's audit trail captures and retains sufficient order and trade-related data to allow its compliance staff to detect trading and market abuses and to reconstruct all transactions within a reasonable period of time;

(8) The foreign board of trade has implemented and enforces rules prohibiting fraud and abusive trading practices including, but not limited to, wash sales and trading ahead;

(9) The foreign board of trade has the capacity to detect and deter, and has

implemented and enforces rules relating to, market manipulation, attempted manipulation, price distortion, and other disruptions of the market; and

(10) The foreign board of trade has and enforces rules and procedures that ensure a competitive, open and efficient market and mechanism for executing transactions.

(g) Information Sharing:

(1) The regulatory authorities governing the activities of the foreign board of trade and the clearing organization are signatories to the International Organization of Securities Commissions Multilateral Memorandum of Understanding, or otherwise ensure that substitute information sharing arrangements that are satisfactory to the Commission are in place;

(2) The regulatory authorities governing the activities of the foreign board of trade and the clearing organization are signatories to the Declaration on Cooperation and Supervision of International Futures Exchanges and Clearing Organizations or otherwise commit, in writing, to share the types of information contemplated by the International Information Sharing Memorandum of Understanding and Agreement with the Commission;

(3) The foreign board of trade has executed the International Information Sharing Memorandum of Understanding and Agreement; and

(4) Pursuant to the conditions described in § 48.8(a)(6), the foreign board of trade and clearing organization agree to provide directly to the Commission, upon request, any information necessary, in the discretion of the Commission, to evaluate the continued eligibility and appropriateness of the foreign board of trade and the clearing organization, or their respective members or other participants for registration, to audit for and enforce compliance with the requirements and conditions of the registration, or to enable the Commission to carry out its duties under the Act and Commission regulations.

§ 48.8 Conditions of registration.

Upon registration under this part, and on an ongoing basis thereafter, the foreign board of trade and the clearing organization shall comply with the applicable conditions of registration set forth in this section and any additional conditions that the Commission deems necessary and may impose, in its discretion, and after appropriate notice and opportunity to respond. Such conditions could include, but are not limited to, additional conditions applicable to the listing of swap contracts. Continued registration is expressly conditioned upon satisfaction of these conditions.

(a) Specified Conditions for Maintaining Registration

(1) Registration Requirements: The foreign board of trade and its clearing organization shall continue to satisfy all of the requirements for registration set forth in § 48.7.

(2) Regulatory Regime:

(i) The foreign board of trade will continue to satisfy the criteria for a regulated market or licensed exchange pursuant to the regulatory regime described in its application and will continue to be subject to oversight by the regulatory authorities described in its application.

(ii) The clearing organization will continue to satisfy the criteria for a regulated clearing organization pursuant to the regulatory regime described in the application for registration and will continue to be in good standing with the relevant regulatory authority.

(iii) The laws, systems, rules, and compliance mechanisms of the regulatory regime applicable to the foreign board of trade will continue to require the foreign board of trade to maintain fair and orderly markets; prohibit fraud, abuse, and market manipulation and other disruptions of the market; and provide that such requirements are subject to the oversight of appropriate regulatory authorities.

(3) Satisfaction of International Standards:

(i) The foreign board of trade will continue to comply with the Principles for the Oversight of Screen-Based Trading Systems for Derivative Products developed by the Technical Committee of the International Organization of Securities Commissions, as updated, revised, or otherwise amended, to the extent such principles do not contravene United States law.

(ii) The clearing organization will continue to:

(A) Be registered with the Commission as a derivatives clearing organization and be in compliance with the laws and regulations related thereto; or

(B) Observe the Recommendations for Central Counterparties.

(4) Restrictions on Direct Access:

(i) Only the foreign board of trade's identified members or other participants will have direct access to the foreign board of trade's trading system from the United States and the foreign board of trade will not provide, and will take reasonable steps to prevent, third parties from providing direct access to persons other than the identified members or other participants.

(ii) All orders that are transmitted to the foreign board of trade's trading system by a foreign board of trade's identified member or other participant that is operating pursuant to the foreign board of trade's registration will be solely for the member's or trading participant's own account unless such member or other participant is registered with the Commission as a futures commission merchant or such member or other participant is registered with the Commission as a commodity pool operator or commodity trading advisor, or is exempt from such registration pursuant to §4.13 or §4.14 of this chapter, provided that a futures commission merchant or a firm exempt from such registration pursuant to §30.10 of this chapter acts as clearing firm and guarantees, without limitation, all such trades of the commodity pool operator or commodity trading advisor effected through submission of orders on the trading system.

(5) Submission to Commission Jurisdiction:

(i) Prior to operating pursuant to registration under this part and on a continuing basis thereafter, a registered foreign board of trade will require that each current and prospective member or other participant that is granted direct access to the foreign board of trade's trading system and that is not registered with the Commission as a futures commission merchant, a commodity trading advisor or a commodity pool operator, file with the foreign board of trade a written representation, executed by a person with the authority to bind the member or other participant, stating that as long as the member or other participant is authorized to enter orders directly into the trade matching system of the foreign board of trade, the member or other participant agrees to and submits to the jurisdiction of the Commission with respect to activities conducted pursuant to the registration.

(ii) The foreign board of trade and its clearing organization will file with the Commission a valid and binding appointment of an agent for service of process in the United States pursuant to which the agent is authorized to accept delivery and service of communications, as defined in §48.2(e) issued by or on behalf of the Commission, the United States Department of Justice, or the National Futures Association.

(iii) The foreign board of trade, clearing organization, and each current and prospective member or other participant that is granted direct access to the foreign board of trade's trading system and that is not registered with the Commission as a futures commission merchant, a commodity trading advisor, or a commodity pool operator will maintain with the foreign board of trade written representations, executed by persons with the authority to bind the entity making them, stating that as long as the foreign board of trade is registered under this regulation, the foreign board of trade, the clearing organization or member of either or other participant granted direct access pursuant to this regulation will provide, upon the request of the Commission, the United States Department of Justice and, if appropriate, the National Futures Association, prompt access to the entity's, member's, or other participant's original books and records or, at the election of the requesting agency, a copy of specified information containing such books and records, as well as access to the premises where the trading system is available in the United States.

(iv) The foreign board of trade will maintain all representations required pursuant to §48.8(a)(5) as part of its books and records and make them

available to the Commission upon request.

(6) Information Sharing:

(i) Information-sharing arrangements satisfactory to the Commission, including but not limited to those set forth in § 48.7(g), are in effect between the Commission and the regulatory authorities that govern the activities of both the foreign board of trade and the clearing organization.

(ii) The Commission is, in fact, able to obtain sufficient information regarding the foreign board of trade, the clearing organization, their respective members and participants and the activities related to the foreign board of trade's registration.

(iii) The foreign board of trade and its clearing organization, as applicable, will provide directly to the Commission any information necessary to evaluate the continued eligibility and appropriateness of the foreign board of trade for registration, the capability and determination to enforce compliance with the requirements and conditions of the registration, or to enable the Commission to carry out its duties under the Act and Commission regulations and to provide adequate protection to the public or United States registered entities.

(iv) In the event that the foreign board of trade and the clearing organization are separate entities, the foreign board of trade will require the clearing organization to enter into a written agreement in which the clearing organization is contractually obligated to promptly provide any and all information and documentation that may be required of the clearing organization under this regulation and such agreement shall be made available to the Commission, upon request.

(7) Monitoring for Compliance: The foreign board of trade and the clearing organization will employ reasonable procedures for monitoring and enforcing compliance with the specified conditions of its registration.

(8) On-Site Visits: The foreign board of trade and the clearing organization will permit and will cooperate with Commission staff with respect to on-site visits for the purpose of overseeing ongoing compliance of the foreign board of trade and the clearing organization with registration requirements and conditions of registration.

(9) Conditions Applicable to Swap Trading:

(i) The foreign board of trade will ensure that all transaction data relating to each swap transaction, including price and volume, are reported as soon as technologically practicable after execution of the swap transaction to a swap data repository that is either registered with the Commission or has an information sharing arrangement with the Commission.

(ii) The foreign board of trade will agree to coordinate with the Commission with respect to arrangements established to address cross market oversight issues involving swap trading, including surveillance, emergency actions and the monitoring of trading.

(b) Other Continuing Obligations.

(1) Registered foreign boards of trade and their clearing organizations will continue to comply with the following obligations on an ongoing basis:

(i) The foreign board of trade will maintain the following updated information and submit such information to the Commission on at least a quarterly basis, not later than 30 days following the end of the quarter, and at any time promptly upon the request of a Commission representative, computed based upon separating buy sides and sell sides, in a format as determined by the Commission:

(A) For each contract available to be traded through the foreign board of trade's trading system;

(*1*) The total trade volume originating from electronic trading devices providing direct access;

(*2*) The total trade volume for such contracts traded through the trading system worldwide;

(*3*) The total trade volume for such contracts traded on the foreign board of trade generally; and

(B) A listing of the names, National Futures Association identification numbers (if applicable), and main business addresses in the United States of all members and other participants that have direct access.

(ii) The foreign board of trade will promptly provide to the Commission written notice of the following:

(A) Any material change to the information provided in the foreign board of trade's registration application.

(B) Any material change in the rules of the foreign board of trade or clearing organization or the laws, rules, or regulations in the home country jurisdictions of the foreign board of trade or clearing organization relevant to futures, option or swap contracts made available by direct access.

(C) Any matter known to the foreign board of trade, the clearing organization or its representatives that, in the judgment of the foreign board of trade or clearing organization, may affect the financial or operational viability of the foreign board of trade or its clearing organization with respect to contracts traded by direct access, including, but not limited to, any significant system failure or interruption.

(D) Any default, insolvency, or bankruptcy of any foreign board of trade member or other participant that is or should be known to the foreign board of trade or its representatives or the clearing organization or its representatives that may have a material, adverse impact upon the condition of the foreign board of trade as it relates to trading by direct access, its clearing organization or upon any United States customer or firm or any default, insolvency or bankruptcy of any member of the foreign board of trade's clearing organization.

(E) Any violation of any specified conditions of the foreign board of trade's registration or failure to satisfy the requirements for registration under this part that is known or should be known by the foreign board of trade, the clearing organization or any of their respective members or participants.

(F) Any disciplinary action by the foreign board of trade or its clearing organization, or any regulatory authority that governs their respective activities, taken against any of their respective members or participants with respect to any contract available to be traded by direct access that involves any market manipulation, abuse, fraud, deceit, or conversion or that results in suspension or expulsion.

(iii) The foreign board of trade and the clearing organization, or their respective regulatory authorities, as applicable, will provide the following to the Commission annually as of June 30 and not later than July 31.

(A) A certification from the foreign board of trade's regulatory authority confirming that the foreign board of trade retains its authorization, licensure or registration, as applicable, as a regulated market and/or exchange under the authorization, licensing, recognition or other registration methodology used by the foreign board of trade's regulatory authority and that the foreign board of trade is in continued good standing.

(B) If the clearing organization is not a derivatives clearing organization registered with the Commission, a certification from the clearing organization's regulatory authority confirming that the clearing organization retains its authorization, licensure or registration, as applicable, as a clearing organization under the authorization, licensing or other registration methodology used by the clearing organization's regulatory authority and is in continued good standing.

(C) If the clearing organization is not a derivatives clearing organization registered with the Commission, a recertification of the clearing organization's observance of the Recommendations for Central Counterparties.

(D) A certification that affiliates, as defined in §48.2(k), continue to be required to comply with the rules of the foreign board of trade and clearing organization and that the members or other participants to which they are affiliated remain responsible to the foreign board of trade for ensuring their affiliates' compliance.

(E) A description of any material changes regarding the foreign board of trade or clearing organization that have not been previously disclosed, in writing, to the Commission, or a certification that no such material changes have occurred.

(F) A description of any significant disciplinary or enforcement actions that have been instituted by or against the foreign board of trade or the clearing organization or the senior officers of either during the prior year.

(G) A written description of any material changes to the regulatory regime

to which the foreign board of trade or the clearing organization are subject that have not been previously disclosed, in writing, to the Commission, or a certification that no material changes have occurred.

(2) The above-referenced annual reports must be signed by an officer of the foreign board of trade or the clearing organization who maintains the authority to bind the foreign board of trade or clearing organization, as applicable, and must be based on the officer's personal knowledge.

(c) Additional Specified Conditions for Foreign Boards of Trade with Linked Contacts. If a registered foreign board of trade grants members or other participants direct access and makes available for trading a linked contract, the following additional conditions apply:

(1) Statutory Conditions.

(i) The foreign board of trade will make public daily trading information regarding the linked contract that is comparable to the daily trading information published by the registered entity for the contract to which the foreign board of trade's contract is linked, and

(ii) The foreign board of trade (or its regulatory authority) will:

(A) Adopt position limits (including related hedge exemption provisions) applicable to all market participants for the linked contract that are comparable to the position limits (including related hedge exemption provisions) adopted by the registered entity for the contract to which it is linked;

(B) Have the authority to require or direct any market participant to limit, reduce, or liquidate any position the foreign board of trade (or its regulatory authority) determines to be necessary to prevent or reduce the threat of price manipulation, excessive speculation as described in section 4a of the Act, price distortion, or disruption of delivery on the cash settlement process;

(C) Agree to promptly notify the Commission, with regard to the linked contract, of any change regarding—

(*1*) The information that the foreign board of trade will make publicly available,

(*2*) The position limits that foreign board of trade or its regulatory authority will adopt and enforce,

(*3*) The position reductions required to prevent manipulation, excessive speculation as described in section 4a of the Act, price distortion, or disruption of delivery or the cash settlement process, and

(*4*) Any other area of interest expressed by the Commission to the foreign board of trade or its regulatory authority;

(D) Provide information to the Commission regarding large trader positions in the linked contract that is comparable to the large trader position information collected by the Commission for the contract to which it is linked; and

(E) Provide the Commission such information as is necessary to publish reports on aggregate trader positions for the linked contract that are comparable to such reports on aggregate trader positions for the contract to which it is linked.

(2) Other Conditions on Linked Contracts.

(i) The foreign board of trade will inform the Commission in a quarterly report of any member that had positions in a linked contract above the applicable foreign board of trade position limit, whether a hedge exemption was granted, and if not, whether a disciplinary action was taken.

(ii) The foreign board of trade will provide the Commission, either directly or through its agent, with trade execution and audit trail data for the Commission's Trade Surveillance System on a trade-date plus one basis and in a form, content and manner acceptable to the Commission for all linked contracts.

(iii) The foreign board of trade will provide to the Commission, at least one day prior to the effective date thereof, except in the event of an emergency market situation, copies of, or hyperlinks to, all rules, rule amendments, circulars and other notices published by the foreign board of trade with respect to all linked contracts.

(iv) The foreign board of trade will provide to the Commission copies of all reports of disciplinary action involving

the foreign board of trade's linked contracts upon closure of the action. Such reports should include the reason the action was undertaken, the results of the investigation that led to the disciplinary action, and any sanctions imposed.

(v) In the event that the Commission, pursuant to its emergency powers authority, directs that the registered entity which lists the contract to which the foreign board of trade's contract is linked to take emergency action with respect to a linked contract (for example, to cease trading in the contract), the foreign board of trade, subject to information-sharing arrangements between the Commission and its regulatory authority, will promptly take similar action with respect to the its linked contract.

§48.9 Revocation of registration.

(a) Failure to Satisfy Registration Requirements or Conditions:

(1) If the Commission determines that a registered foreign board of trade or the clearing organization has failed to satisfy any registration requirements or conditions for registration, the Commission shall notify the foreign board of trade of such determination, including the particular requirements or conditions that are not being satisfied, and shall afford the foreign board of trade or clearing organization an opportunity to make appropriate changes to bring it into compliance.

(2) If, not later than 30 days after receiving a notification under paragraph (a)(1) of this section, the foreign board of trade or clearing organization fails to make changes that, in the opinion of the Commission, are necessary to comply with the registration requirements or conditions of registration, the Commission may revoke the foreign board of trade's registration, after appropriate notice and an opportunity to respond, by issuing an Order Revoking Registration which sets forth the reasons therefor.

(3) A foreign board of trade whose registration has been revoked for failure to satisfy a registration requirement or condition of registration may apply for re-registration 360 days after the issuance of the Order Revoking Registration if the deficiency causing the revocation has been cured or relevant facts and circumstances have changed.

(b) Other Events that Could Result in Revocation. Notwithstanding §48.9(a), revocation under these circumstances will be handled by the Commission as relevant facts or circumstances warrant.

(1) The Commission may revoke a foreign board of trade's registration, after appropriate notice and an opportunity to respond, if the Commission determines that a representation made in the foreign board of trade's application for registration is found to be untrue or materially misleading or if the foreign board of trade failed to include information in the application that would have been material to the Commission's determination as to whether to issue an Order of Registration.

(2) The Commission may revoke a foreign board of trade's registration, after appropriate notice and an opportunity to respond, if there is a material change in the regulatory regime applicable to the foreign board of trade or clearing organization such that the regulatory regime no longer satisfies any registration requirement or condition for registration applicable to the regulatory regime.

(3) The Commission may revoke a foreign board of trade's registration in the event of an emergency or in a circumstance where the Commission determines that revocation would be necessary or appropriate in the public interest. Following revocation, the Commission will provide notice and an opportunity to respond.

(4) The Commission may revoke a foreign board of trade's registration in the event the foreign board of trade or the clearing organization is no longer authorized, licensed or registered, as applicable, as a regulated market and/or exchange or clearing organization or ceases to operate as a foreign board of trade or clearing organization, subject to notice and an opportunity to respond.

(c) Upon request by the Commission, a registered foreign board of trade must file with the Commission a written demonstration, containing such supporting data, information, and documents, in such form and manner and

within such timeframe as the Commission may specify, that the foreign board of trade or clearing organization is in compliance with the registration requirements and/or conditions for registration.

§ 48.10 Additional contracts.

(a) *Generally*. A registered foreign board of trade that wishes to make an additional futures, option or swap contract available for trading by identified members or other participants located in the United States with direct access to its electronic trading and order matching system must submit a written request prior to offering the contracts from within the United States. Such a written request must include the terms and conditions of the additional futures, option or swap contracts and a certification that the additional contracts meet the requirements of § 48.8(c), if applicable, and that the foreign board of trade and the clearing organization continue to satisfy the requirements and conditions of registration. The foreign board of trade can make available for trading by direct access the additional contracts ten business days after the date of receipt by the Commission of the written request, unless the Commission notifies the foreign board of trade that additional time is needed to complete its review of policy or other issues pertinent to the additional contracts. A registered foreign board of trade may list for trading by direct access an additional futures or option contract on a non-narrow-based security index pursuant to the Commission certification procedures set forth in § 30.13(d) and appendix D to part 30 of this chapter.

(b) *Option contracts on previously approved futures contracts*. (1) If the option is on a futures contract that is not a linked contract, the option contract may be made available for trading by direct access by filing with the Commission no later than the business day preceding the initial listing of the contract:

(i) A copy of the terms and conditions of the additional contract and

(ii) A certification that the foreign board of trade and the clearing organization continue to satisfy the conditions of its registration.

(2) If the option is on a futures contract that is a linked contract, the option contract may be made available for trading by direct access by filing with the Commission no later than the business day preceding the initial listing of the contract:

(i) A copy of the terms and conditions of the additional contract; and

(ii) A certification that the foreign board of trade and the clearing organization continue to satisfy the conditions of its registration, including the conditions specifically applicable to linked contracts set forth in § 48.8(c).

(3) If the option is on a non-narrow-based security index futures contract which may be offered or sold in the United States pursuant to a Commission certification issued pursuant to § 30.13 of this chapter, the option contract may be listed for trading by direct access without further action by either the registered foreign board of trade or the Commission.

APPENDIX TO PART 48—FORM FBOT

COMMODITY FUTURES TRADING COMMISSION

FORM FBOT

FOREIGN BOARD OF TRADE APPLICATION FOR REGISTRATION (IN ORDER TO PERMIT DIRECT ACCESS TO MEMBERS AND OTHER PARTICIPANTS)

APPLICATION INSTRUCTIONS

DEFINITIONS

1. Unless the context requires otherwise, all terms used in this application have the same meaning as in the Commodity Exchange Act, as amended (CEA or Act),[1] and in the regulations of the Commodity Futures Trading Commission (Commission or CFTC).[2]

2. For the purposes of this Form FBOT, the term ''applicant'' refers to the foreign board of trade applying for registration pursuant to CEA section 4(b) and part 48 of the Commission's regulations. The term ''clearing organization'' refers to the clearing organization that will be clearing trades executed on the trading system of such foreign board of trade.

GENERAL INSTRUCTIONS

1. A Form FBOT (including exhibits) shall be completed by any foreign board of trade

[1] 7 U.S.C. 1 et seq.

[2] 17 CFR chapter I.

applying for registration with the Commission pursuant to CEA section 4(b) and part 48 of the Commission's regulations.

2. Form FBOT (including exhibits and any supplement thereto) (collectively, the ''application'' or ''application for registration'') must be filed electronically with the Secretary of the Commission at *FBOTapplications@cftc.gov*. Applicants may prepare their own Form FBOT, but must follow the format prescribed herein.

3. The name of any individual listed in Form FBOT shall be provided in full (Last Name, First Name and Middle Name or Initial).

4. Form FBOT must be signed by the Chief Executive Officer (or the functional equivalent) of the foreign board of trade who must possess the authority to bind the foreign board of trade.

5. If this Form FBOT is being filed as a new application for registration, all applicable items on the Form FBOT must be answered in full. Non-applicable items should be indicated by marking ''none'' or ''N/A.''

6. Submission of a complete Form FBOT (including all information, documentation and exhibits requested therein, and any required supplement) is mandatory and must be received by the Commission before it will begin to process a foreign board of trade's application for registration. The information provided with a Form FBOT (including exhibits and any supplement thereto) will be used to determine whether the Commission should approve or deny registration to an applicant. Pursuant to its regulations, the Commission may determine that information and/or documentation in addition to that requested in the Form FBOT is required from the applicant in order to process the application for registration or to determine whether registration is appropriate.

7. Pursuant to Commission regulations, an applicant or its clearing organization must identify with particularity any information in the application (including, but not limited to, any information contained in this Form FBOT) that will be the subject of a request for confidential treatment and must provide support for any request for confidential treatment pursuant to the procedures set forth in Commission regulation 145.9.[3] Except in cases where confidential treatment is granted by the Commission pursuant to the Freedom of Information Act and Commission regulations, information supplied in the Form FBOT (including exhibits and any supplement thereto) will be included routinely in the public files of the Commission and will be available for inspection and comment by any interested person.

8. A Form FBOT that is not prepared and executed in compliance with applicable requirements and instructions may be returned as not acceptable for filing.[4] Acceptance of a Form FBOT by the Commission, however, shall not constitute a finding that the Form FBOT has been filed as required or that the information submitted is verified to be true, current, or complete. The Commission may revoke a foreign board of trade's registration, after appropriate notice and an opportunity to respond, if the Commission determines that a representation made in this Form FBOT is found to be untrue or materially misleading or if the foreign board of trade failed to include information in this Form FBOT that would have been material to the Commission's determination as to whether to issue an Order of Registration.

9. In addition to this Form FBOT, the clearing organization associated with the foreign board of trade must complete and submit Supplement S–1 to this Form FBOT in accordance with the instructions thereto. To the extent a single document or description is responsive to more than one request for the same information in either the Form FBOT or the Supplement S–1, the document or description need only be provided once and may be cross-referenced elsewhere.

10. All documents submitted as part of this Form FBOT (or exhibits thereto) must be written in English or accompanied by a certified English translation.

UPDATING INFORMATION ON THE FORM FBOT

Pursuant to the Commission's regulations, if any information or documentation contained in this Form FBOT (including exhibits or any supplement or amendment thereto) is or becomes inaccurate for any reason

[3] 17 CFR 145.9.

[4] Applicants and their clearing organizations are encouraged to correspond with the Commission's Division of Market Oversight regarding any content, procedural, or formatting questions encountered in connection with the preparation of a Form FBOT, or any exhibits or supplements thereto, prior to formally submitting those documents to the Commission. When appropriate, potential applicants and clearing organizations, as applicable, may provide a complete draft Form FBOT (including exhibits and any required supplement) to the Division of Market Oversight for early review to minimize the risk of having a submission returned or otherwise denied as not acceptable for filing. Review of draft submissions by any division of the Commission and any comments provided by a division of the Commission are for consultation purposes only and do not bind the Commission. To obtain instructions for submitting drafts, please contact the Division of Market Oversight.

prior to the issuance of an Order of Registration, an amendment correcting such information must be filed promptly with the Commission. A registered foreign board of trade also may submit an amendment to this Form FBOT to correct information that has become inaccurate subsequent to the receipt of an Order of Registration.

COMMODITY FUTURES TRADING COMMISSION

FORM FBOT

FOREIGN BOARD OF TRADE APPLICATION FOR REGISTRATION (IN ORDER TO PERMIT DIRECT ACCESS TO MEMBERS AND OTHER PARTICIPANTS)

_____

Name of applicant as specified in organizational documents

_____

Address of principal executive office

☐ If this Form FBOT is a new application for registration, complete in full and check here.

☐ If this Form FBOT is an amendment to a pending application or to a final application that resulted in the issuance of an Order of Registration, list and/or describe all items that are amended or otherwise updated and check here.

When appropriate, please attach additional page(s) containing a list and explanatory statement of amendment(s) or update(s).

GENERAL INFORMATION

1. Name under which the business of the foreign board of trade will be conducted, if different than name specified above:

_____

2. List of principal office(s) where foreign board of trade activities are/will be conducted (please use multiple entries, when applicable):

Office (name and/or location): _____

Address: _____

_____

_____

Phone Number: _____

Fax Number: _____

Website Address: _____

3. Contact Information.

3a. Primary Contact for Form FBOT (i.e., the person authorized to receive Commission correspondence in connection with this Form FBOT and to whom questions regarding the submission should be directed):

Name: _____

Title: _____

Email Address: _____

Mailing Address: _____

_____

_____

Phone Number: _____

Fax Number: _____

3b. If different than above, primary contact at the foreign board of trade that is authorized to receive all forms of Commission correspondence:

Name: _____

Title: _____

Email Address: _____

Mailing Address: _____

_____

_____

Phone Number: _____

Fax Number: _____

BUSINESS ORGANIZATION

Describe organizational history, including date and, if applicable, location of filing of original organizational documentation, and describe all substantial amendments or changes thereto. For example:

[Foreign Board of Trade] is a [corporation, partnership, limited liability company, or other applicable organizational designation], having filed its [articles of incorporation, certificate of formation, articles of organization, other applicable organizational formation document] with the [applicable regulatory body] in [city, state/province, country] on [applicable date].

SIGNATURES

By signing and submitting this Form FBOT, the applicant agrees to and consents that the notice of any proceeding before the Commission in connection with the foreign board of trade's application for registration or registration with the Commission may be given by sending such notice by certified mail or similar secured correspondence to the persons specified in sections 3a and 3b above.

_____ [Name of the Foreign Board of Trade] has duly caused this Form FBOT to be signed on its behalf by the undersigned, hereunto duly authorized, this _____ [Number] day of _____ [Month], _____ [Year]. _____ [Name of the Foreign Board of Trade] and the undersigned represent that all information and representations contained herein are true, current, and complete. It is understood that all information, documentation, and exhibits are considered integral parts of this Form FBOT. The submission of any amendment to Form FBOT represents that all items and exhibits not so amended remain true, current, and complete as previously filed.

_____

Signature of Chief Executive Officer (or functional equivalent), on behalf of the Foreign Board of Trade

_____

Title

_____

Name of Foreign Board of Trade

INSTRUCTIONS FOR EXHIBITS TO FORM FBOT

1. The following exhibits must be filed with the Commission by any foreign board of trade (1) seeking registration for purposes of granting direct access to its members and other participants or (2) amending a previously submitted application, pursuant to

CEA section 4(b) and part 48 of the Commission's regulations. The information and documentation requested relates to the activities of the foreign board of trade, unless otherwise stated.

2. The exhibits should be filed in accordance with the General Instructions to this Form FBOT and labeled as specified herein. If any exhibit is not applicable, please specify the exhibit letter and number and indicate by marking ''none'' or ''N/A.'' If any exhibit may be satisfied by documentation or information submitted in a different exhibit, the documentation or information need not be submitted more than once—please use internal cross-references where appropriate.

GENERAL REQUIREMENTS

A foreign board of trade applying for registration must submit sufficient information and documentation to successfully demonstrate to Commission staff that the foreign board of trade and its clearing organization satisfy all of the requirements of Commission regulation 48.7. With respect to its review of the foreign board of trade, the Commission anticipates that such information and documentation would necessarily include, but not be limited to, the following:

EXHIBIT A—GENERAL INFORMATION AND DOCUMENTATION

Attach, as EXHIBIT A–1, a description of the following for the foreign board of trade: Location, history, size, ownership and corporate structure, governance and committee structure, current or anticipated presence of offices or staff in the United States, and anticipated volume of business emanating from members and other participants that will be provided direct access to the foreign board of trade's trading system.

Attach, as EXHIBIT A–2, the following:

Articles of association, constitution, or other similar organizational documents.

Attach, as EXHIBIT A–3, the following:

(1) Membership and trading participant agreements.

(2) Clearing agreements.

Attach, as EXHIBIT A–4, the following:

Terms and conditions of contracts to be available through direct access (as specified in Exhibit E).

Attach, as EXHIBIT A–5, the following:

The national statutes, laws and regulations governing the activities of the foreign board of trade and its respective participants.

Attach, as EXHIBIT A–6, the following:

The current rules, regulations, guidelines and bylaws of the foreign board of trade.

Attach, as EXHIBIT A–7, the following:

Evidence of the authorization, licensure or registration of the foreign board of trade pursuant to the regulatory regime in its home country jurisdiction and a representation by its regulator(s) that it is in good regulatory standing in the capacity in which it is authorized, licensed or registered.

Attach, as EXHIBIT A–8, the following document:

A summary of any disciplinary or enforcement actions or proceedings that have been brought against the foreign board of trade, or any of the senior officers thereof, in the past five years and the resolution of those actions or proceedings.

Attach, as EXHIBIT A–9, the following document:

An undertaking by the chief executive officer(s) (or functional equivalent[s]) of the foreign board of trade to notify Commission staff promptly if any of the representations made in connection with or related to the foreign board of trade's application for registration cease to be true or correct, or become incomplete or misleading.

EXHIBIT B—MEMBERSHIP CRITERIA

Attach, as EXHIBIT B, the following, separately labeling each description:

(1) A description of the categories of membership and participation in the foreign board of trade and the access and trading privileges provided by the foreign board of trade. The description should include any restrictions applicable to members and other participants to which the foreign board of trade intends to grant direct access to its trading system.

(2) A description of all requirements for each category of membership and participation on the trading system and the manner in which members and other participants are required to demonstrate their compliance with these requirements. The description should include, but not be limited to, the following:

(i) Professional Qualification. A description of the specific professional requirements, qualifications, and/or competencies required of members or other participants and/or their staff and a description of the process by which the foreign board of trade confirms compliance with such requirements.

(ii) Authorization, Licensure and Registration. A description of any regulatory and self-regulatory authorization, licensure or registration requirements that the foreign board of trade imposes upon, or enforces against, its members and other participants including, but not limited to any authorization, licensure or registration requirements imposed by the regulatory regime/authority in the home country jurisdiction(s) of the foreign board of trade. Please also include a description of the process by which the foreign board of trade confirms compliance with such requirements.

(iii) Financial Integrity. A description of the following:

(A) The financial resource requirements, standards, guides or thresholds required of members and other participants.

(B) The manner in which the foreign board of trade evaluates the financial resources/holdings of its members or participants.

(C) The process by which applicants demonstrate compliance with financial requirements for membership or participation including, as applicable:

(*i*) Working capital and collateral requirements, and

(*ii*) Risk management mechanisms for members allowing customers to place orders.

(iv) Fit and Proper Standards. A description of how the foreign board of trade ensures that potential members/other participants meet fit and proper standards.

EXHIBIT C—BOARD AND/OR COMMITTEE MEMBERSHIP

Attach, as EXHIBIT C, the following:

(1) A description of the requirements applicable to membership on the governing board and significant committees of the foreign board of trade.

(2) A description of the process by which the foreign board of trade ensures that potential governing board and committee members/other participants meet these standards.

(3) A description of the provisions to minimize and resolve conflicts of interest with respect to membership on the governing board and significant committees of the foreign board of trade.

(4) A description of the rules with respect to the disclosure of material non-public information obtained as a result of a member's or other participant's performance on the governing board or significant committee.

EXHIBIT D—THE AUTOMATED TRADING SYSTEM

Attach, as EXHIBIT D–1, a description of (or where appropriate, documentation addressing) the following, separately labeling each description:

(1) The order matching/trade execution system, including a complete description of all permitted ways in which members or other participants (or their customers) may connect to the trade matching/execution system and the related requirements (for example, authorization agreements).

(2) The architecture of the systems, including hardware and distribution network, as well as any pre- and post-trade risk-management controls that are made available to system users.

(3) The security features of the systems.

(4) The length of time such systems have been operating.

(5) Any significant system failures or interruptions.

(6) The nature of any technical review of the order matching/trade execution system performed by the foreign board of trade, the home country regulator, or a third party.

(7) Trading hours.

(8) Types and duration of orders accepted.

(9) Information that must be included on orders.

(10) Trade confirmation and error trade procedures.

(11) Anonymity of participants.

(12) Trading system connectivity with clearing system.

(13) Response time.

(14) Ability to determine depth of market.

(15) Market continuity provisions.

(16) Reporting and recordkeeping requirements.

Attach, as EXHIBIT D–2, a description of the manner in which the foreign board of trade assures the following with respect to the trading system, separately labeling each description:

(1) Algorithm. The trade matching algorithm matches trades fairly and timely.

(2) IOSCO Principles. The trading system complies with the Principles for the Oversight of Screen-Based Trading Systems for Derivative Products developed by the Technical Committee of the International Organization of Securities Commissions (IOSCO Principles). Provide a copy of any independent certification received or self-certification performed and identify any system deficiencies with respect to the IOSCO Principles.

(3) Audit Trail.

(i) The audit trail timely captures all relevant data, including changes to orders.

(ii) Audit trail data is securely maintained and available for an adequate time period.

(4) Public Data. Adequate and appropriate trade data is available to users and the public.

(5) Reliability. The trading system has demonstrated reliability.

(6) Secure Access. Access to the trading system is secure and protected.

(7) Emergency Provisions. There are adequate provisions for emergency operations and disaster recovery.

(8) Data Loss Prevention. Trading data is backed up to prevent loss of data.

(9) Contracts Available. Mechanisms are available to ensure that only those futures, option or swap contracts that have been identified to the Commission as part of the application or permitted to be made available for trading by direct access pursuant to the procedures set forth in §48.10 are made available for trading by direct access.

(10) Predominance of the Centralized Market. Mechanisms are available that ensure a competitive, open, and efficient market and mechanism for executing transactions.

EXHIBIT E—THE TERMS AND CONDITIONS OF CONTRACTS PROPOSED TO BE MADE AVAILABLE IN THE UNITED STATES

Attach, as EXHIBIT E–1, a description of the terms and conditions of futures, option or swap contracts intended to be made available for direct access. With respect to each contract, indicate whether the contract is regulated or otherwise treated as a futures, option or swap contract in the regulatory regime(s) of the foreign board of trade's home country.

As EXHIBIT E–2, demonstrate that the contracts are not prohibited from being traded by United States persons, *i.e.,* the contracts are not prohibited security futures or single stock contracts or narrow-based index contracts. For non-narrow based stock index futures contracts, demonstrate that the contracts have received Commission certification pursuant to the procedures set forth in §30.13 and Appendix D to part 30 of this chapter.

As EXHIBIT E–3, demonstrate that the contracts are required to be cleared.

As EXHIBIT E–4, identify any contracts that are linked to a contract listed for trading on a United States-registered entity, as defined in section 1a(40) of the Act. A linked contract is a contract that settles against any price (including the daily or final settlement price) of one or more contracts listed for trading on such registered entity.

As EXHIBIT E–5, identify any contracts that have any other relationship with a contract listed for trading on a registered entity, *i.e.,* both the foreign board of trade's and the registered entity's contract settle to the price of the same third party-constructed index.

As EXHIBIT E–6, demonstrate that the contracts are not readily susceptible to manipulation. In addition, for each contract to be listed, describe each investigation, action, proceeding or case involving manipulation and involving such contract in the three years preceding the application date, whether initiated by the foreign board of trade, a regulatory or self-regulatory authority or agency or other government or prosecutorial agency. For each such action, proceeding or case, describe the alleged manipulative activity and the current status or resolution thereof.

EXHIBIT F—THE REGULATORY REGIME GOVERNING THE FOREIGN BOARD OF TRADE IN ITS HOME COUNTRY[5] OR COUNTRIES

With respect to each relevant regulatory regime or authority governing the foreign board of trade, attach, as EXHIBIT F, the following (including, where appropriate, an indication as to whether the applicable regulatory regime is dependent on the home country's classification of the product being traded on the foreign board of trade as a future, option, swap, or otherwise, and a description of any difference between the applicable regulatory regime for each product classification type):

(1) A description of the regulatory regime/authority's structure, resources, staff, and scope of authority; the regulatory regime/authority's authorizing statutes, including the source of its authority to supervise the foreign board of trade; the rules and policy statements issued by the regulator with respect to the authorization and continuing oversight of markets, electronic trading systems, and clearing organizations; and the financial protections afforded customer funds.

(2) A description of and, where applicable, copies of the laws, rules, regulations and policies applicable to:[6]

(i) The authorization, licensure or registration of the foreign board of trade.

(ii) The regulatory regime/authority's program for the ongoing supervision and oversight of the foreign board of trade and the enforcement of its trading rules.

(iii) The financial resource requirements applicable to the authorization, licensure or registration of the foreign board of trade and the continued operations thereof.

(iv) The extent to which the IOSCO Principles are used or applied by the regulatory regime/authority in its supervision and oversight of the foreign board of trade or are incorporated into its rules and regulations and the extent to which the regulatory regime/authority reviews the applicable trading systems for compliance therewith.

[5] Where multiple foreign boards of trade subject to the same regulatory regime/authority and are similarly regulated are applying for registration *at the same time,* a single Exhibit E–1 may be submitted as part of the application for all such foreign boards of trade either by one of the applicant foreign boards of trade or by the regulatory regime/authority with responsibility to oversee each of the multiple foreign boards of trade applying for registration. Where an FBOT applying for registration is located in the same jurisdiction and subject to the same regulatory regime as a registered FBOT, the FBOT applying for registration may include by reference, as part of its application, information about the regulatory regime that is posted on the Commission's Web site. The FBOT applying for registration must certify that the information thus included in the application is directly applicable to it and remains current and valid.

[6] To the extent that any such laws, rules, regulations or policies were provided as part of Exhibit A–5, they need not be duplicated. They may be cross-referenced.

(v) The extent to which the regulatory regime/authority reviews and/or approves the trading rules of the foreign board of trade prior to their implementation.

(vi) The extent to which the regulatory regime/authority reviews and/or approves futures, option or swap contracts prior to their being listed for trading.

(vii) The regulatory regime/authority's approach to the detection and deterrence of abusive trading practices, market manipulation, and other unfair trading practices or disruptions of the market.

(3) A description of the laws, rules, regulations and policies that govern the authorization and ongoing supervision and oversight of market intermediaries who may deal with members and other participants located in the United States participants, including:

(i) Recordkeeping requirements.

(ii) The protection of customer funds.

(iii) Procedures for dealing with the failure of a market intermediary in order to minimize damage and loss to investors and to contain systemic risk.

(4) A description of the regulatory regime/authority's inspection, investigation and surveillance powers; and the program pursuant to which the regulatory regime/authority uses those powers to inspect, investigate, and enforce rules applicable to the foreign board of trade.

(5) For both the foreign board of trade and the clearing organization (unless addressed in Supplement S–1), a report confirming that the foreign board of trade and clearing organization are in regulatory good standing, which report should be prepared subsequent to consulting with the regulatory regime/authority governing the activities of the foreign board of trade and any associated clearing organization. The report should include:

(i) Confirmation of regulatory status (including proper authorization, licensure and registration) of the foreign board of trade and clearing organization.

(ii) Any recent oversight reports generated by the regulatory regime/authority that are, in the judgment of the regulatory regime/authority, relevant to the foreign board of trade's status as a registered foreign board of trade.

(iii) Disclosure of any significant regulatory concerns, inquiries or investigations by the regulatory regime/authority, including any concerns, inquiries or investigations with regard to the foreign board of trade's arrangements to monitor trading by members or other participants located in the United States or the adequacy of the risk management controls of the trading or of the clearing system.

(iv) A description of any investigations (formal or informal) or disciplinary actions initiated by the regulatory regime/authority or any other self-regulatory, regulatory or governmental entity against the foreign board of trade, the clearing organization or any of their respective senior officers during the past year.

(6) For both the foreign board of trade and the clearing organization (unless addressed in Supplement S–1), a confirmation that the regulatory regime/authority governing the activities of the foreign board of trade and the clearing organization agree to cooperate with a Commission staff visit subsequent to submission of the application on an ''as needed basis,'' the objectives of which will be to, among other things, familiarize Commission staff with supervisory staff of the regulatory regime/authority; discuss the laws, rules and regulations that formed the basis of the application and any changes thereto; discuss the cooperation and coordination between the authorities, including, without limitation, information sharing arrangements; and discuss issues of concern as they may develop from time to time (for example, linked contracts or unusual trading that may be of concern to Commission surveillance staff).

EXHIBIT G—THE RULES OF THE FOREIGN BOARD OF TRADE AND ENFORCEMENT THEREOF

Attach, as EXHIBIT G–1, the following:

A description of the foreign board of trade's regulatory or compliance department, including its size, experience level, competencies, duties and responsibilities.

Attach, as EXHIBIT G–2, the following:

A description of the foreign board of trade's trade practice rules, including but not limited to rules that address the following—

(1) Capacity of the foreign board of trade to detect, investigate, and sanction persons who violate foreign board of trade rules.

(2) Prohibition of fraud and abuse, as well as abusive trading practices including, but not limited to, wash sales and trading ahead, and other market abuses.

(3) A trade surveillance system appropriate to the foreign board of trade and capable of detecting and investigating potential trade practice violations.

(4) An audit trail that captures and retains sufficient order and trade-related data to allow the compliance staff to detect trading and market abuses and to reconstruct all transactions within a reasonable period of time.

(5) Appropriate resources to conduct real-time supervision of trading.

(6) Sufficient compliance staff and resources, including those outsourced or delegated to third parties, to fulfill regulatory responsibilities.

(7) Rules that authorize compliance staff to obtain, from market participants, information and cooperation necessary to conduct effective rule enforcement and investigations.

(8) Staff investigations and investigation reports demonstrating that the compliance staff investigates suspected rule violations and prepares reports of their finding and recommendations.

(9) Rules determining access requirements with respect to the persons that may trade on the foreign board of trade, and the means by which they connect to it.

(10) The requirement that market participants submit to the foreign board of trade's jurisdiction as a condition of access to the market.

Attach, as EXHIBIT G–3, the following:

A description of the foreign board of trade's disciplinary rules, including but not limited to rules that address the following—

(1) Disciplinary authority and procedures that empower staff to recommend and prosecute disciplinary actions for suspected rule violations and that provide the authority to fine, suspend, or expel any market participant pursuant to fair and clear standards.

(2) The issuance of warning letters and/or summary fines for specified rule violations.

(3) The review of investigation reports by a disciplinary panel or other authority for issuance of charges or instructions to investigate further, or findings that an insufficient basis exists to issue charges.

(4) Disciplinary committees of the foreign board of trade that take disciplinary action via formal disciplinary processes.

(5) Whether and how the foreign board of trade articulates its rationale for disciplinary decisions.

(6) The sanctions for particular violations and a discussion of the adequacy of sanctions with respect to the violations committed and their effectiveness as a deterrent to future violations.

Attach, as EXHIBIT G–4, the following:

A description of the market surveillance program (and any related rules), addressing the following—

The dedicated market surveillance department or the delegation or outsourcing of that function, including a general description of the staff; the data collected on traders' market activity; data collected to determine whether prices are responding to supply and demand; data on the size and ownership of deliverable supplies; a description of the manner in which the foreign board of trade detects and deters market manipulation; for cash-settled contracts, methods of monitoring the settlement price or value; and any foreign board of trade position limit, position management, large trader or other position reporting system.

EXHIBIT H—INFORMATION SHARING AGREEMENTS AMONG THE COMMISSION, THE FOREIGN BOARD OF TRADE, THE CLEARING ORGANIZATION, AND RELEVANT REGULATORY AUTHORITIES

Attach, as EXHIBIT H, the following:

(1) A description of the arrangements among the Commission, the foreign board of trade, the clearing organization, and the relevant foreign regulatory authorities that govern the sharing of information regarding the transactions that will be executed pursuant to the foreign board of trade's registration with the Commission and the clearing and settlement of those transactions. This description should address or identify whether and how the foreign board of trade, clearing organization, and the regulatory authorities governing the activities of the foreign board of trade and clearing organization agree to provide directly to the Commission information and documentation requested by Commission staff that Commission staff determines is needed:

(i) To evaluate the continued eligibility of the foreign board of trade for registration.

(ii) To enforce compliance with the specified conditions of the registration.

(iii) To enable the CFTC to carry out its duties under the Act and Commission regulations and to provide adequate protection to the public or registered entities.

(iv) To respond to potential market abuse associated with trading by direct access on the registered foreign board of trade.

(v) To enable Commission staff to effectively accomplish its surveillance responsibilities with respect to a registered entity where Commission staff, in its discretion, determines that a contract traded on a registered foreign board of trade may affect such ability.

(2) A statement as to whether and how the foreign board of trade has executed the International Information Sharing Memorandum of Understanding and Agreement.

(3) A statement as to whether the regulatory authorities governing the activities of the foreign board of trade and clearing organization are signatories to the International Organization of Securities Commissions Multilateral Memorandum of Understanding. If not, describe any substitute information-sharing arrangements that are in place.

(4) A statement as to whether the regulatory authorities governing the activities of the foreign board of trade and clearing organization are signatories to the Declaration on Cooperation and Supervision of International Futures Exchanges and Clearing Organizations. If not, a statement as to whether and how they have committed to share the types of information contemplated by the International Information Sharing

Memorandum of Understanding and Agreement with the Commission, whether pursuant to an existing memorandum of understanding or some other arrangement.

EXHIBIT I—ADDITIONAL INFORMATION AND DOCUMENTATION

Attach, as EXHIBIT I, any additional information or documentation necessary to demonstrate that the requirements for registration applicable to the foreign board of trade set forth in Commission regulation 48.7 are satisfied.

CONTINUATION OF APPENDIX TO PART 48—SUPPLEMENT S–1 TO FORM FBOT

COMMODITY FUTURES TRADING COMMISSION

SUPPLEMENT S–1 TO FORM FBOT

CLEARING ORGANIZATION SUPPLEMENT TO FOREIGN BOARD OF TRADE APPLICATION FOR REGISTRATION

SUPPLEMENT INSTRUCTIONS

DEFINITIONS

1. Unless the context requires otherwise, all terms used in this supplement have the same meaning as in the Commodity Exchange Act, as amended (CEA or Act),[7] and in the regulations of the Commodity Futures Trading Commission (Commission or CFTC).[8]

2. For the purposes of this Supplement S–1, the term ''applicant'' refers to the foreign board of trade applying for registration pursuant to CEA section 4(b) and part 48 of the Commission's regulations. The term ''clearing organization'' refers to the clearing organization that will be clearing trades executed on the trading system of such foreign board of trade.

GENERAL INSTRUCTIONS

1. A Supplement S–1 (including exhibits) shall be completed by each clearing organization that will be clearing trades executed on the trading system of a foreign board of trade applying for registration with the Commission pursuant to CEA section 4(b) and part 48 of the Commission's regulations. Each clearing organization shall submit a separate Supplement S–1.

2. In the event that the clearing functions of the foreign board of trade applying for registration will be performed by the foreign board of trade itself, the foreign board of trade shall complete this Supplement S–1, but need not duplicate information provided on its Form FBOT. Specific reference to or incorporation of information or documentation (including exhibits) on the associated Form FBOT, where appropriate, is acceptable. To the extent a singular document or description is responsive to more than one request for information in this Supplement S–1, the document or description need only be provided once and may be cross-referenced elsewhere.

3. Supplement S–1, including exhibits, should accompany the foreign board of trade's Form FBOT and must be filed electronically with the Secretary of the Commission at *FBOTapplications@cftc.gov*. Clearing organizations may prepare their own Supplement S–1, but must follow the format prescribed herein.

4. The name of any individual listed in Supplement S–1 shall be provided in full (Last Name, First Name and Middle Name or Initial).

5. Supplement S–1 must be signed by the Chief Executive Officer (or the functional equivalent) of the clearing organization who must possess the authority to bind the clearing organization.

6. If this Supplement S–1 is being filed in connection with a new application for registration, all applicable items must be answered in full. If any item is not applicable, indicate by marking ''none'' or ''N/A.''

7. Submission of a complete Form FBOT and Supplement S–1 (including all information, documentation and exhibits requested therein) is mandatory and must be received by the Commission before it will begin to process a foreign board of trade's application for registration. The information provided with a Form FBOT and Supplement S–1 will be used to determine whether the Commission should approve or deny registration to an applicant. Pursuant to its regulations, the Commission may determine that information and/or documentation in addition to that requested in the Form FBOT and Supplement S–1 is required from the applicant and/or its clearing organization(s) in order to process the application for registration or to determine whether registration is appropriate.

8. Pursuant to Commission regulations, an applicant or its clearing organization must identify with particularity any information in the application (including, but not limited to, any information contained in this Supplement S–1), that will be the subject of a request for confidential treatment and must provide support for any request for confidential treatment pursuant to the procedures set forth in Commission regulation 145.9.[9] Except in cases where confidential treatment is granted by the Commission, pursuant to the Freedom of Information Act and Commission regulations, information supplied in the Supplement S–1 will be included

[7] 7 U.S.C. 1 et seq.

[8] 17 CFR chapter I.

[9] 17 CFR 145.9.

routinely in the public files of the Commission and will be available for inspection by any interested person.

9. A Supplement S–1 that is not prepared and executed in compliance with applicable requirements and instructions may be returned as not acceptable for filing.[10] Acceptance of either a Form FBOT or Supplement S–1 by the Commission, however, shall not constitute a finding that the either have been filed as required or that the information submitted is verified to be true, current, or complete. The Commission may revoke a foreign board of trade's registration, after appropriate notice and an opportunity to respond, if the Commission determines that a representation made in this Supplement S–1 is found to be untrue or materially misleading or if the foreign board of trade and/or clearing organization failed to include information in this Supplement S–1 that would have been material to the Commission's determination as to whether to issue an Order of Registration.

10. All documents submitted as part of this Supplement S–1 (or exhibits thereto) must be written in English or accompanied by a certified English translation.

UPDATING INFORMATION

Pursuant to the Commission's regulations, if any information or documentation contained in this Supplement S–1 (including exhibits) is or becomes inaccurate for any reason prior to the issuance of an Order of Registration, an amendment correcting such information must be filed promptly with the Commission. A clearing organization also may submit an amendment to this Supplement S–1 to correct information that has become inaccurate subsequent to the issuance of an Order of Registration.

[10] Applicants and their clearing organizations are encouraged to correspond with the Commission's Division of Market Oversight regarding any content, procedural, or formatting questions encountered in connection with the preparation of a Form FBOT, Supplement S–1, or exhibits thereto prior to formally submitting those documents to the Commission. When appropriate, potential applicants and clearing organizations, as applicable, may provide a complete draft Form FBOT and Supplement S–1 to the Division of Market Oversight for early review to minimize the risk of having a submission returned or otherwise denied as not acceptable for filing. Review of draft submissions by any division of the Commission and any comments provided by a division of the Commission are for consultation purposes only and do not bind the Commission. To obtain instructions for submitting drafts, please contact the Division of Market Oversight.

COMMODITY FUTURES TRADING COMMISSION

SUPPLEMENT S-1 to FORM FBOT

CLEARING ORGANIZATION SUPPLEMENT TO

FOREIGN BOARD OF TRADE APPLICATION FOR REGISTRATION

_____

Name of clearing organization as specified in organizational documents

_____

Address of principal executive office

_____

Name of the foreign board of trade on associated Form FBOT

☐ If this Supplement S-1 is accompanying a new application for registration, please complete in full and check here.

☐ If this Supplement S-1 is an amendment to a pending application for registration, or to a final application that resulted in the issuance of an Order of Registration, please list all items that are amended or otherwise updated and check here.

When appropriate, please attach additional page(s) containing a list and explanatory statement of amendment(s) or update(s).

REGISTERED DERIVATIVES CLEARING ORGANIZATIONS

If the clearing organization is registered with the Commission in good standing as a derivatives clearing organization (DCO), please indicate by checking here:

☐ CFTC-registered DCO.

If the clearing organization is registered with the Commission in good standing as a DCO, the clearing organization need not complete the remainder of the Supplement S-1.

GENERAL INFORMATION

1. Name under which the business of the clearing organization will be conducted, if different than name specified above:

_____

2. List of principal office(s) where clearing organization activities are/will be conducted (please use multiple entries, when applicable):

Office (name and/or location): _____

Address: _____

_____

_____

Phone Number: _____

Fax Number: _____

Website Address: _____

3. Contact Information.

3a. Primary Contact for Supplement S-1 (i.e., the person authorized to receive Commission correspondence in connection with this Supplement S-1 and to whom questions regarding the submission should be directed):

Name: _____

Title: _____

Email Address: _____

Mailing Address: _____

_____

_____

Phone Number: _____

Fax Number: _____

3b. If different than above, primary contact at the clearing organization that is authorized to receive all forms of Commission correspondence:

Name: _____

Title: _____

Email Address: _____

Mailing Address: _____

_____

_____

Phone Number: _____

Fax Number: _____

BUSINESS ORGANIZATION

Describe organization history, including date and, if applicable, location of filing of original organizational documentation, and describe all substantial amendments or changes thereto. For example:

[Clearing organization] is a [corporation, partnership, limited liability company, or other applicable organizational designation], having filed its [articles of incorporation, certificate of formation, articles of organization, other applicable organizational formation document] with the [applicable regulatory body] in [city, state/province, country] on [applicable date].

SIGNATURES

By signing and submitting this Supplement S-1, the clearing organization agrees to and consents that the notice of any proceeding before the Commission in connection with the associated foreign board of trade's application for registration or registration with the Commission may be given by sending such notice by certified mail or similar secured correspondence to the persons specified in sections 3a and 3b above.

_____ [Name of the Clearing Organization] has duly caused this Supplement S-1 to be signed on its behalf by the undersigned, hereunto duly authorized, this _____ [Number] day of _____ [Month], _____ [Year].

_____ [Name of the Clearing Organization] and the undersigned represent that all information and representations contained in this Supplement S-1 (and exhibits) are true, current, and complete. It is understood that all information, documentation, and exhibits are considered integral parts of this Supplement S-1. The submission of any amendment to a Supplement S-1 represents that all items and exhibits not so amended remain true, current, and complete as previously filed.

_____

Signature of Chief Executive Officer (or functional equivalent), on behalf of the Clearing Organization

_____

Title

_____

Name of Clearing Organization

INSTRUCTIONS FOR EXHIBITS TO SUPPLEMENT S–1

1. The following exhibits must be filed with the Commission by the clearing organization(s) that will be clearing trades executed on the trading system of a foreign board of trade applying for registration with the Commission pursuant to CEA section 4(b) and part 48 of Commission's regulations. The information and documentation requested relates to the activities of the clearing organization.

2. The exhibits should be filed in accordance with the General Instructions to this Supplement S–1 and labeled as specified herein. If any exhibit is not applicable, please specify the exhibit letter and number and indicate by marking ''none'' or ''N/A.'' If any exhibit may be satisfied by documentation or information submitted in a different exhibit, the documentation or information need not be submitted more than once—please use internal cross-references where appropriate.

GENERAL REQUIREMENTS

A foreign board of trade applying for registration must submit sufficient information and documentation to successfully demonstrate to Commission staff that the foreign board of trade and its clearing organization satisfy all of the requirements of Commission regulation 48.7. With respect to its review of the foreign board of trade's clearing organization, the Commission anticipates that such information and documentation would necessarily include, but not be limited to, the following:

EXHIBIT A—GENERAL INFORMATION AND DOCUMENTATION

Attach, as EXHIBIT A–1, a description of the following for the clearing organization:

Location, history, size, ownership and corporate structure, governance and committee structure, and current or anticipated presence of staff in the United States.

Attach, as EXHIBIT A–2, the following:

Articles of association, constitution, or other similar organizational documents.

Attach, as EXHIBIT A–3, the following:

(1) Membership and participation agreements.

(2) Clearing agreements.

Attach, as EXHIBIT A–4, the following:

The national statutes, laws and regulations governing the activities of the clearing organization and its members.

Attach, as EXHIBIT A–5, the following:

The current rules, regulations, guidelines and bylaws of the clearing organization.

Attach, as EXHIBIT A–6, the following:

Evidence of the authorization, licensure or registration of the clearing organization pursuant to the regulatory regime in its home country jurisdiction(s) and a representation by its regulator(s) that it is in good regulatory standing in the capacity in which it is authorized, licensed or registered.

Attach, as EXHIBIT A–7, the following document:

A summary of any disciplinary or enforcement actions or proceedings that have been brought against the clearing organization, or any of the senior officers thereof, in the past five years and the resolution of those actions or proceedings.

Attach, as EXHIBIT A–8, the following document:

An undertaking by the chief executive officer(s) (or functional equivalent[s]) of the clearing organization to notify Commission staff promptly if any of the representations made in connection with this supplement cease to be true or correct, or become incomplete or misleading.

EXHIBIT B—MEMBERSHIP CRITERIA

Attach, as EXHIBIT B, the following, separately labeling each description:

(1) A description of the categories of membership and participation in the clearing organization and the access and clearing privileges provided to each by the clearing organization.

(2) A description of all requirements for each category of membership and participation and the manner in which members and other participants are required to demonstrate their compliance with these requirements. The description should include, but not be limited to, the following:

(i) Professional Qualification. A description of the specific professional requirements, qualifications, and/or competencies required of members or other participants and/or their staff and a description of the process by which the clearing organization confirms compliance with such requirements.

(ii) Authorization, Licensure and Registration. A description of any regulatory or self-regulatory authorization, licensure or registration requirements that the clearing organization imposes upon, or enforces against, its members and other participants including, but not limited to any authorization, licensure or registration requirements imposed by the regulatory regime/authority in the home country jurisdiction(s) of the clearing organization, and a description of the process by which the clearing organization confirms compliance with such requirements.

(iii) Financial Integrity. A description of the following:

(A) The financial resource requirements, standards, guides or thresholds required of members and other participants.

(B) The manner in which the clearing organization evaluates the financial resources/holdings of its members or other participants.

(C) The process by which applicants for clearing membership or participation demonstrate compliance with financial requirements including:

(*1*) Working capital and collateral requirements, and

(*2*) Risk management mechanisms.

(iv) Fit and Proper Standards. A description of any other ways in which the clearing

organization ensures that potential members/other participants meet fit and proper standards.

EXHIBIT C—BOARD AND/OR COMMITTEE MEMBERSHIP

Attach, as EXHIBIT C, the following:

(1) A description of the requirements applicable to membership on the governing board and significant committees of the clearing organization.

(2) A description of how the clearing organization ensures that potential governing board and committee members meet these standards.

(3) A description of the clearing organization's provisions to minimize and resolve conflicts of interest with respect to membership on the governing board and significant committees of the clearing organization.

(4) A description of the clearing organization's rules with respect to the disclosure of material non-public information obtained as a result of a member's performance on the governing board or on a significant committee.

EXHIBIT D—SETTLEMENT AND CLEARING

Attach, as EXHIBIT D–1, the following:

A description of the clearing and settlement systems, including, but not limited to, the manner in which such systems interface with the foreign board of trade's trading system and its members and other participants.

Attach, as EXHIBIT D–2, the following:

A certification, signed by the chief executive offer (or functional equivalent) of the clearing organization, that the clearing system observes (1) the current Recommendations for Central Counterparties that have been issued jointly by the Committee on Payment and Settlement Systems and the Technical Committee of the International Organization of Securities Commissions, as updated, revised or otherwise amended, or (2) successor standards, principles and guidance for central counterparties or financial market infrastructures adopted jointly by the Committee on Payment and Settlement Systems or the International Organization of Securities Commissions (RCCPs).

Attach, as EXHIBIT D–3, the following:

A detailed description of the manner in which the clearing organization observes each of the RCCPs or successor standards and documentation supporting the representations made, including any relevant rules or written policies or procedures of the clearing organization. Each RCCP should be addressed separately within the exhibit.

EXHIBIT E—THE REGULATORY REGIME GOVERNING THE CLEARING ORGANIZATION IN ITS HOME COUNTRY OR COUNTRIES

With respect to each relevant regulatory regime or authority governing the clearing organization, attach, as EXHIBIT E, the following:

(1) A description of the regulatory regime/authority's structure, resources, staff and scope of authority.

(2) The regulatory regime/authority's authorizing statutes, including the source of its authority to supervise the clearing organization.

(3) A description of and, where applicable, copies of the laws, rules, regulations and policies applicable to:[11]

(i) The authorization, licensure or registration of the clearing organization.

(ii) The financial resource requirements applicable to the authorization, licensure or registration of the clearing organization and the continued operations thereof.

(iii) The regulatory regime/authority's program for the ongoing supervision and oversight of the clearing organization and the enforcement of its clearing rules.

(iv) The extent to which the current RCCPs are used or applied by the regulatory regime/authority in its supervision and oversight of the clearing organization or are incorporated into its rules and regulations and the extent to which the regulatory regime/authority reviews the clearing systems for compliance therewith.

(v) The extent to which the regulatory regime/authority reviews and/or approves the rules of the clearing organization prior to their implementation.

(vi) The regulatory regime/authority's inspection, investigation and surveillance powers; and the program pursuant to which the regulatory regime/authority uses those powers to inspect, investigate, sanction, and enforce rules applicable to the clearing organization.

(vii) The financial protection afforded customer funds.

EXHIBIT F—THE RULES OF THE CLEARING ORGANIZATION AND ENFORCEMENT THEREOF

Attach, as EXHIBIT F–1, the following:

A description of the clearing organization's regulatory or compliance department, including its size, experience level, competencies, duties and responsibilities of staff.

Attach, as EXHIBIT F–2, the following:

[11] To the extent that any such laws, rules, regulations or policies were provided as part of Exhibit A–4, they need not be duplicated. They may be cross-referenced.

A description of the clearing organization's rules and how they are enforced, with reference to any rules provided as part of Exhibit A–5 that require the clearing organization to comply with one or more of the RCCPs.

Attach, as EXHIBIT F–3, the following, to the extent not included in Exhibit F–2:

A description of the clearing organization's disciplinary rules, including but not limited to rules that address the following—

(1) Disciplinary authority and procedures that empower staff to recommend and prosecute disciplinary actions for suspected rule violations and that provide the authority to fine, suspend, or expel any clearing participant pursuant to fair and clear standards.

(2) The issuance of warning letters and/or summary fines for specified rule violations.

(3) The review of investigation reports by a disciplinary panel or other authority for issuance of charges or instructions to investigate further, or findings that an insufficient basis exists to issue charges.

(4) Disciplinary committees of the clearing organization that take disciplinary action via formal disciplinary processes.

(5) Whether and how the clearing organization articulates its rationale for disciplinary decisions.

(6) The sanctions for particular violations and a discussion of the adequacy of sanctions with respect to the violations committed and their effectiveness as deterrents to future violations.

Attach, as EXHIBIT F–4, the following, to the extent not provided in Exhibit F–2:

A demonstration that the clearing organization is authorized by rule or contractual agreement to obtain, from members and other participants, any information and cooperation necessary to conduct investigations, to effectively enforce its rules, and to ensure compliance with the conditions of registration.

EXHIBIT G—INFORMATION SHARING AGREEMENTS AMONG THE COMMISSION, THE FOREIGN BOARD OF TRADE, THE CLEARING ORGANIZATION, AND RELEVANT REGULATORY AUTHORITIES

Attach, as EXHIBIT G, the following:

(1) A description of the arrangements among the Commission, the foreign board of trade, the clearing organization, and the relevant foreign regulatory authorities that govern the sharing of information regarding the transactions that will be executed pursuant to the foreign board of trade's registration with the Commission and the clearing and settlement of those transactions. This description should address or identify whether and how the foreign board of trade, clearing organization, and the regulatory authorities governing the activities of the foreign board of trade and clearing organization agree to provide directly to the Commission information and documentation requested by Commission staff that Commission staff determines is needed:

(i) To evaluate the continued eligibility of the foreign board of trade for registration.

(ii) To enforce compliance with the specified conditions of the registration.

(iii) To enable the CFTC to carry out its duties under the Act and Commission regulations and to provide adequate protection to the public or registered entities.

(iv) To respond to potential market abuse associated with trading by direct access on the registered foreign board of trade.

(v) To enable Commission staff to effectively accomplish its surveillance responsibilities with respect to a registered entity where Commission staff, in its discretion, determines that a contract traded on a registered foreign board of trade may affect such ability.

(2) A statement as to whether the regulatory authorities governing the activities of the foreign board of trade and clearing organization are signatories to the International Organization of Securities Commissions Multilateral Memorandum of Understanding. If not, describe any substitute information-sharing arrangements that are in place.

(3) A statement as to whether the regulatory authorities governing the activities of the foreign board of trade and clearing organization are signatories to the Declaration on Cooperation and Supervision of International Futures Exchanges and Clearing Organizations. If not, a statement as to whether and how they have committed to share the types of information contemplated by the International Information Sharing Memorandum of Understanding and Agreement with the Commission, whether pursuant to an existing memorandum of understanding or some other arrangement.

EXHIBIT H—ADDITIONAL INFORMATION AND DOCUMENTATION

Attach, as EXHIBIT H, any additional information or documentation necessary to demonstrate that the requirements for registration applicable to the clearing organization or clearing system set forth in Commission regulation 48.7 are satisfied.

PART 49—SWAP DATA REPOSITORIES

Sec.

49.1 Scope.
49.2 Definitions.
49.3 Procedures for registration.
49.4 Withdrawal from registration.
49.5 Equity interest transfers.
49.6 Registration of successor entities.
49.7 Swap data repositories located in foreign jurisdictions.