



International Swaps and Derivatives Association, Inc.

ISDA AUGUST 2012 DF PROTOCOL QUESTIONNAIRE¹

**published on August 13, 2012,
by the International Swaps and Derivatives Association, Inc.**

**Annotated in red with references to Addendum I dated November 9, 2012
(For convenience, Addendum I is attached at the end of this Questionnaire)**

¹ This Questionnaire is intended to address requirements of the following final rules:

- (1) CFTC, Final Rule, *Business Conduct Standards for Swap Dealers and Major Swap Participants With Counterparties*, 77 Fed. Reg. 9734 (Feb. 17, 2012);
- (2) CFTC, Final Rule, *Large Trader Reporting for Physical Commodity Swaps*, 76 Fed. Reg. 43851 (July 22, 2011);
- (3) CFTC, Final Rule, *Position Limits for Futures and Swaps*, 76 Fed. Reg. 71626 (Nov. 18, 2011);
- (4) CFTC, Final Rule, *Real-Time Public Reporting of Swap Transaction Data*, 77 Fed. Reg. 1182 (Jan. 9, 2012);
- (5) CFTC, Final Rule, *Swap Data Recordkeeping and Reporting Requirements*, 77 Fed. Reg. 2136 (Jan. 13, 2012);
- (6) CFTC, Final Rule, *Swap Dealer and Major Swap Participant Recordkeeping, Reporting, and Duties Rules; Futures Commission Merchant and Introducing Broker Conflicts of Interest Rules; and Chief Compliance Officer Rules for Swap Dealers, Major Swap Participants, and Futures Commission Merchants*, 77 Fed. Reg. 20128 (Apr. 3, 2012); and
- (7) CFTC, Final Rule, *Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps*, 77 Fed. Reg. 35200 (June 12, 2012).

See Addendum I for an additional final rule addressed thereby.



International Swaps and Derivatives Association, Inc.

ISDA August 2012 DF Protocol Questionnaire

dated as of August 13, 2012

Annotated in red with references to Addendum I dated November 9, 2012

Instructions: A PCA Principal or PCA Agent that has adhered to the Protocol Agreement in the manner specified therein may complete and execute this Questionnaire and deliver it by a means specified in the Protocol Agreement in order to supplement existing Protocol Covered Agreements and/or enter into new Protocol Covered Agreements in the form of the DF Terms Agreement.

On November 9, 2012, ISDA published Addendum I to provide information needed by Swap Dealers to satisfy additional regulatory provisions under the Commodity Exchange Act and CFTC Regulations that are expected to require compliance beginning December 31, 2012. As further described therein, Addendum I is intended to be used to supplement and/or modify information and representations provided in respect of a PCA Principal in this Questionnaire. (If a party has already submitted a completed Questionnaire, it may complete and deliver Addendum I to update information and representations previously provided, as necessary.) All PCA Principals and PCA Agents should review and complete relevant portions of Addendum I.

This Questionnaire may be executed and delivered by a PCA Principal on its own behalf or by a PCA Agent on behalf of one or more PCA Principals. By delivering this Questionnaire to another PCA Principal or PCA Agent in a manner specified in the Protocol Agreement, the deliverer may agree to enter into and/or supplement Protocol Covered Agreements with such other PCA Principal or PCA Agent. Where an existing Protocol Covered Agreement was originally executed by a PCA Agent on behalf of one or more PCA Principals, only the relevant PCA Agent (and not a PCA Principal) may use this Questionnaire and the Protocol Agreement to supplement such Protocol Covered Agreement.

In the case of a PCA Principal executing and delivering this Questionnaire on its own behalf, (i) such party must identify itself as the PCA Principal in column 1 of the PCA Principal Answer Sheet, and (ii) this Questionnaire will only be effective to supplement existing Protocol Covered Agreements executed by such party on its own behalf and/or to enter into DF Terms Agreements on its own behalf. In the case of a PCA Agent executing and delivering this Questionnaire on behalf of one or more PCA Principals, (i) the PCA Agent must list the names of each such PCA Principal in column 1 of the PCA Principal Answer Sheet, and (ii) this Questionnaire will only be effective to enter into DF Terms Agreements on behalf of listed PCA Principals and/or supplement Protocol Covered Agreements executed by the PCA Agent on behalf of the listed

PCA Principals. For the avoidance of doubt, if this Questionnaire is being completed by a PCA Agent on behalf of multiple PCA Principals, this Questionnaire shall be treated as if it were a separate Questionnaire with respect to each separate PCA Principal listed in column 1 of the PCA Principal Answer Sheet.

In addition, if one or more Designated Evaluation Agents, Designated QIRs or Designated Fiduciaries is identified in this Questionnaire, each such Designated Evaluation Agent, Designated QIR or Designated Fiduciary, as the case may be, must countersign this Questionnaire where indicated.

The responses to Part II (except as otherwise indicated below) and Part III, Sections 2(b)(xxii) and 10(b) of this Questionnaire may be set forth directly on this Questionnaire, or if there is insufficient space, on a separate schedule. The responses to the other sections of Part II and Part III of this Questionnaire must be set forth on the PCA Principal Answer Sheet.

Part I: Definitions

References in this Questionnaire to the following terms shall have the following meanings:

“Commodity Exchange Act” means the Commodity Exchange Act, as amended.

“CFTC” means the U.S. Commodity Futures Trading Commission.

“DF Schedule” means a schedule to the DF Supplement.

“DF Supplement” means the ISDA August 2012 DF Supplement published on August 13, 2012 by the International Swaps and Derivatives Association, Inc.

“DF Supplement Rules” means the CFTC Regulations adopted in the following Federal Register citations, as amended and supplemented from time to time: (1) *Business Conduct Standards for Swap Dealers and Major Swap Participants With Counterparties*, 77 Fed. Reg. 9734 (Feb. 17, 2012); (2) *Large Trader Reporting for Physical Commodity Swaps*, 76 Fed. Reg. 43851 (July 22, 2011); (3) *Position Limits for Futures and Swaps*, 76 Fed. Reg. 71626 (Nov. 18, 2011); (4) *Real-Time Public Reporting of Swap Transaction Data*, 77 Fed. Reg. 1182 (Jan. 9, 2012); (5) *Swap Data Recordkeeping and Reporting Requirements*, 77 Fed. Reg. 2136 (Jan. 13, 2012); (6) *Swap Dealer and Major Swap Participant Recordkeeping, Reporting, and Duties Rules; Futures Commission Merchant and Introducing Broker Conflicts of Interest Rules; and Chief Compliance Officer Rules for Swap Dealers, Major Swap Participants, and Futures Commission Merchants*, 77 Fed. Reg. 20138 (Apr. 3, 2012); (7) *Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps*, 77 Fed. Reg. 35200 (June 12, 2012); and (8) any comparable non-U.S. regulations with which SD is permitted by the CFTC to comply in lieu of any of the foregoing CFTC Regulations.

“DF Terms Agreement” means the ISDA August 2012 DF Terms Agreement published by ISDA on August 13, 2012.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Special Entity” means an employee benefit plan subject to Title I of ERISA.

“LEI/CICI” means a “legal entity identifier” satisfying the requirements of CFTC Regulation 45.6 or such other entity identifier as shall be provided by the CFTC pending the availability of such legal entity identifiers.

“Major Security-Based Swap Participant” means a person registered with the SEC as a “major security-based swap participant” as defined in Section 3a(67) of the Securities Exchange Act and Rule 3a67-1 thereunder.

“Major Swap Participant” means a person registered (fully or provisionally) with the CFTC as a “major swap participant” as defined in Section 1a(33) of the Commodity Exchange Act and CFTC Regulation 1.3(hhh) thereunder.

“PCA Agent” means a party who has executed a Protocol Covered Agreement on behalf of one or more PCA Principals.

“PCA Principal” means a person who is or may become a principal to one or more Swaps under a Protocol Covered Agreement and who is identified as such in column 1 of the PCA Principal Answer Sheet.

“PCA Principal Answer Sheet” means a spreadsheet substantially in the form of Annex A to this Questionnaire.

“Protocol Agreement” means the ISDA August 2012 DF Protocol Agreement published on August 13, 2012 by the International Swaps and Derivatives Association, Inc.

“Protocol Covered Agreement” means a DF Terms Agreement or an existing written agreement between two parties that governs the terms and conditions of one or more transactions in Swaps that each such party has or may enter into as principal.

“Regulated Swap Entity” means a person that is a Swap Dealer, Security-Based Swap Dealer, Major Swap Participant or Major Security-Based Swap Participant.

“SEC” means the U.S. Securities and Exchange Commission.

“Securities Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Security-Based Swap Dealer” means a person registered with the SEC as a “security-based swap dealer” as defined in Section 3(a)(71) of the Securities Exchange Act and Rule 3a71-1 thereunder.

“Special Entity” means a “special entity” as defined in Section 4s(h)(2)(C) of the Commodity Exchange Act and CFTC Regulation 23.401(c) thereunder.

“**Swap**” means a “swap” as defined in the Section 1a(47) of the Commodity Exchange Act and CFTC Regulation 1.3(xxx). The term “Swap” also includes any foreign exchange swaps and foreign exchange forwards that may be exempted from regulation as “swaps” by the Secretary of the Treasury pursuant to authority granted by Section 1a(47)(E) of the Commodity Exchange Act.

“**Swap Dealer**” means a person registered (fully or provisionally) with the CFTC as a “swap dealer” as defined in Section 1a(49) of the Commodity Exchange Act and CFTC Regulation 1.3(ggg).

“**Swap Recommendation**” means a “recommendation” (as such term is used in CFTC Regulations 23.434 and 23.440) with respect to a Swap or a trading strategy involving a Swap that is governed by or proposed to be governed by a Matched PCA.

Capitalized terms used but not otherwise defined in this Questionnaire shall have the meanings assigned to such terms in the Protocol Agreement.

Part II: PCA Principal Information

Part II of this Questionnaire specifies information regarding a PCA Principal that may be provided by or on behalf of such PCA Principal. Provision of the information requested in Sections 2 through 5 of this Part II is not required if the specified information has already been provided to each counterparty receiving this Questionnaire. With respect to the information requested in any question in Sections 2 through 5 of this Part II, this Questionnaire provides that unless such information appears in the publicly available portion of an LEI/CICI database or is provided herein, the relevant PCA Principal represents to each counterparty receiving this Questionnaire that the specified information has already been provided to such counterparty in writing, and that it is true, correct and complete as of the date of delivery of this Questionnaire to such counterparty.

If you require additional space to answer any of the questions below (e.g., to provide information for multiple PCA Principals), you may attach a separate schedule to provide the PCA Principal information specified in this Part II.

1. LEI/CICI²

To answer this question, complete column 2 of the relevant row of the PCA Principal Answer Sheet by inserting the PCA Principal’s LEI/CICI; provided that, if LEI/CICIs are not generally available or if PCA Principal is not eligible to receive an LEI/CICI from available providers, PCA Principal may answer this question by completing column 2 of the relevant row of the PCA Principal Answer Sheet by inserting “None.”

What is PCA Principal’s LEI/CICI?

² CFTC Regulation 45.6.

2. **True Name and Address**³

The true name and address of PCA Principal is as follows:

Name: _____

Address: _____

Phone: _____

Fax: _____

E-mail: _____

3. **Principal Occupation or Business**⁴

The principal occupation or business of PCA Principal is as follows:

4. **Guarantor Information**⁵

- (a) *To answer this question, complete column 3 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:*

Is any person guarantying the performance of PCA Principal?

³ CFTC Regulation 23.402(c).

⁴ CFTC Regulation 23.402(c).

⁵ CFTC Regulation 23.402(c).

- (b) If any person is guarantying the performance of PCA Principal, the true name and address of each person providing such guaranty is as follows:

Name: _____

Address: _____

Phone: _____

Fax: _____

E-mail: _____

5. Third Party Control Person Information

- (a) *To answer this question, complete column 4 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:*

Is any person (other than an employee of PCA Principal) exercising any control with respect to the Swap positions under Protocol Covered Agreements in respect of which this Questionnaire is being executed and delivered (such person, a **“Third Party Control Person”**)?

- (b) If PCA Principal has one or more Third Party Control Person(s), the true name(s) and address(es) of such person(s) is/are as follows *(PCA Agents filling out this Questionnaire for PCA Principals should enter their own name and address if they will act as a Third Party Control Person for their PCA Principals with respect to trades under the Protocol Covered Agreements)*.⁶

Name: _____

Address: _____

Phone: _____

Fax: _____

E-mail: _____

⁶ CFTC Regulation 23.402(c).

6. **Designated Evaluation Agent Information**

The following information must be provided for PCA Principals that are not Regulated Swap Entities or Special Entities and that wish to incorporate DF Schedule 3 (Institutional Suitability Safe Harbor for Non-Special Entities) into Matched PCAs.

- (a) *To answer this question, complete column 5 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:*

For purposes of DF Schedule 3 (Institutional Suitability Safe Harbor for Non-Special Entities), does PCA Principal have one or more agents (other than an employee of PCA Principal) that it wishes to designate as “**Designated Evaluation Agents**” and that are responsible for (i) evaluating investment risks with regard to Swaps and trading strategies involving Swaps as well as any Swap Recommendations provided to PCA Principal and (ii) making trading decisions with respect to Swaps on behalf of PCA Principal? *(Please note that it is permissible for a PCA Principal to enter into DF Schedule 3 without designating an agent as its Designated Evaluation Agent provided that the PCA Principal can make the representations provided in Part II of DF Schedule 3.)*

- (b) Please provide the true name and address of each agent that PCA Principal wishes to designate as a “Designated Evaluation Agent” for purposes of DF Schedule 3 *(if the PCA Principal has only a single Designated Evaluation Agent that is the same as its single Third Party Control Person, you may write “Same as Third Party Control Person”):*⁷

Name: _____

Address: _____

Phone: _____

Fax: _____

E-mail: _____

⁷ CFTC Regulation 23.434(b)(1).

7. **Designated QIR Information**

The following information must be provided for PCA Principals that are Special Entities other than ERISA Special Entities, and that wish to incorporate DF Schedule 4 (Safe Harbors for Non-ERISA Special Entities) into Matched PCAs.

Please provide the true name and address of each of PCA Principal's representatives selected as a "**Designated QIR**" for purposes of the DF Supplement (if the PCA Principal has only a single Designated QIR that is the same as its single Third Party Control Person, you may write "Same as Third Party Control Person");⁸

Name: _____

Address: _____

Phone: _____

Fax: _____

E-mail: _____

8. **Designated Fiduciary Information**

The following information must be provided for PCA Principals that are ERISA Special Entities, and that wish to incorporate DF Schedule 5 (Safe Harbors for ERISA Special Entities (Option 1)) and/or DF Schedule 6 (Safe Harbors for ERISA Special Entities (Option 2)) into Matched PCAs.

Please provide the true name and address of each of PCA Principal's "fiduciaries," as that term is defined in Section 3 of ERISA, selected as a **"Designated Fiduciary"** for purposes of the DF Supplement (*if the PCA Principal has only a single Designated Fiduciary that is the same as its single Third Party Control Person, you may write "Same as Third Party Control Person"*):⁹

Name: _____

Address: _____

Phone: _____

Fax: _____

E-mail: _____

9. **Address for Complaints**

If PCA Principal is a Swap Dealer or Major Swap Participant, it may, but is not required to, set forth here the physical address, email or other widely available electronic address, and telephone number of the department to which any complaints may be directed:¹⁰

Address: _____

Phone: _____

Fax: _____

E-mail: _____

⁹ CFTC Regulation 23.450(d)(2).

¹⁰ CFTC Regulation 23.201(b)(3)(ii).

10. E-mail Address for Delivery of Required Notifications and Disclosures

The following information may be provided by, or on behalf of, PCA Principals that are not Swap Dealers.

PCA Principal may provide an e-mail address that may be used for the delivery of notifications and any informational disclosures given pursuant to the DF Supplement Rules:

E-mail: _____

11. Election to Receive Oral Disclosure of Pre-Trade Mid-Market Marks and Basic Material Economic Terms

To answer this question, complete column 6 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate. If PCA Principal answers this question “Yes,” then it may receive oral disclosures of any pre-trade mid-market marks and basic material economic terms pursuant to CFTC Regulation 23.431(a)(2) and (3)(i).

Does PCA Principal agree to receive oral disclosure (with written confirmation to follow post-trade) of any (i) pre-trade mid-market marks pursuant to CFTC Regulation 23.431(a)(3)(i) and (ii) basic material economic terms, including price, notional amount and termination date, pursuant to CFTC Regulation 23.431(a)(2)?

Part III: PCA Principal Status Representations and Elections

Part III of this Questionnaire consists of questions that must be answered by, or on behalf of, each PCA Principal except as otherwise indicated. Answers to the questions should be provided in the PCA Principal Answer Sheet except as otherwise indicated.

1. Commodity Pool

The purpose of this question is to permit a PCA Principal who is able to specify whether it is a “commodity pool” (as further defined below) to inform its counterparty of such status. The answer to this question will assist in identifying PCA Principals who may need to make additional representations regarding their status as an “eligible contract participant” when additional CFTC regulations regarding this status go into effect on December 31, 2012.

If PCA Principal does not wish to make any representation at this time as to whether it is a “commodity pool” it may insert “No Answer.” If a PCA Principal inserts “No Answer,” a Swap Dealer receiving this Questionnaire may be required to inquire further and obtain additional representations prior to December 31, 2012.

If you are intending to answer “Yes” or “No Answer,” please review Sections 3 and 4 of Addendum I prior to answering this Question.

To answer this question, complete column 7 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes,” “No,” or “No Answer,” as appropriate:

Is PCA Principal a “commodity pool,” as that term is defined in Section 1(a)(10) of the Commodity Exchange Act and applicable regulations thereunder (a “Commodity Pool”)?

2. Eligible Contract Participant¹¹

- (a) *To answer this question, complete column 8 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:*

Please review Section 4 of Addendum I with respect to transactions described in section 2(c)(2)(B)(vi) or 2(c)(2)(C)(vii) of the Commodity Exchange Act (“Specified FX Transactions”) prior to answering this Question.

Other than for purposes of any agreement, contract or transaction described in Sections 2(c)(2)(B)(vi) or 2(c)(2)(C)(vii) of the Commodity Exchange Act, is

¹¹ CFTC Regulation 23.430(a).

PCA Principal an “eligible contract participant,” as that term is defined in Section 1a(18) of the Commodity Exchange Act and applicable regulations thereunder (an “**Eligible Contract Participant**”)?

- (b) *To respond to this instruction, complete column 9 of the relevant row of the PCA Principal Answer Sheet by inserting at least one of the subsection numbers below in column 9:*

If PCA Principal has identified itself as an Eligible Contract Participant, please indicate at least one of the following subsections that is applicable to PCA Principal (respondents may, but are not required to, indicate more than one subsection if applicable):¹²

- (i) PCA Principal is a “swap dealer,” as defined in Section 1a(49) of the Commodity Exchange Act and CFTC Regulation 1.3(ggg).¹³
- (ii) PCA Principal is a “security-based swap dealer,” as defined in Section 3(a)(71) of the Securities Exchange Act and Rule 3a71-1 thereunder.¹⁴
- (iii) PCA Principal is a “major swap participant,” as defined in Section 1a(33) of the Commodity Exchange Act and CFTC Regulation 1.3(hhh).¹⁵
- (iv) PCA Principal is a “major security-based swap participant,” as defined in Section 3(a)(67) of the Securities Exchange Act and Rule 3a67-1 thereunder.¹⁶
- (v) PCA Principal is a “financial institution” as defined in Section 1a(21) of the Commodity Exchange Act (a “**Financial Institution**”).¹⁷
- (vi) PCA Principal is an insurance company that is regulated by a State, or that is regulated by a foreign government and is subject to comparable regulation as determined by the CFTC, including a regulated subsidiary or affiliate of such an insurance company (an “**Eligible Insurance Company**”).¹⁸

¹² CFTC Regulation 23.430(a). See 77 Fed. Reg. 9734, 9757 (Feb. 17, 2012).

¹³ CFTC Regulation 1.3(m)(2).

¹⁴ CFTC Regulation 1.3(m)(4).

¹⁵ CFTC Regulation 1.3(m)(1).

¹⁶ CFTC Regulation 1.3(m)(3).

¹⁷ Commodity Exchange Act § 1a(18)(A)(i).

¹⁸ Commodity Exchange Act § 1a(18)(A)(ii).

- (vii) PCA Principal is an investment company subject to regulation under the Investment Company Act of 1940, as amended, or a foreign person performing a similar role or function subject as such to foreign regulation (regardless of whether each investor in the investment company or the foreign person is itself an Eligible Contract Participant) (an “**Eligible Investment Company**”).¹⁹
- (viii) PCA Principal is a Commodity Pool that (1) has total assets exceeding \$5,000,000 and (2) was formed and is operated by a person subject to regulation under the Commodity Exchange Act or a foreign person performing a similar role or function subject as such to foreign regulation (an “**Eligible Commodity Pool**”).²⁰
- (ix) PCA Principal is a corporation, partnership, proprietorship, organization, trust, or other entity (1) that has total assets exceeding \$10,000,000 or (2) the obligations of which under each Protocol Covered Agreement to which it is a party are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement by a corporation, partnership, proprietorship, organization, trust, or other entity that has total assets exceeding \$10,000,000, a Financial Institution, an Eligible Insurance Company, an Eligible Investment Company, an Eligible Commodity Pool, an Eligible Government Entity, or an Other Eligible Person (as defined in paragraph (xxii) below) (a “**Large Entity**”).²¹

A PCA Principal that intends to qualify as an Eligible Contract Participant exclusively as a Large Entity and/or Hedging Entity ECP (defined below) should review Sections 3 and 4 of Addendum I prior to answering this Question.

- (x) PCA Principal is a corporation, partnership, proprietorship, organization, trust, or other entity that has a net worth exceeding \$1,000,000 and enters into Swaps in connection with the conduct of the entity’s business or to manage the risk associated with an asset or liability owned or incurred or reasonably likely to be owned or incurred by the entity in the conduct of the entity’s business (a “**Hedging Entity ECP**”).²²

¹⁹ Commodity Exchange Act § 1a(18)(A)(iii).

²⁰ Commodity Exchange Act § 1a(18)(A)(iv). The CFTC has interpreted the language “subject to regulation under the Commodity Exchange Act,” for purposes of CFTC Regulation 1.3(m)(6) (effective Dec. 31, 2012) and Commodity Exchange Act § 1a(18)(A)(iv) as requiring lawful operation of the Commodity Pool by a person excluded from the definition of “commodity pool operator,” a registered commodity pool operator or a person properly exempt from registration as a commodity pool operator. *See* 77 Fed. Reg. 30596, 30654-55 (May 23, 2012).

²¹ Commodity Exchange Act § 1a(18)(A)(v)(I)-(II).

²² Commodity Exchange Act § 1a(18)(A)(v)(III).

A PCA Principal that intends to qualify as an Eligible Contract Participant exclusively as a Hedging Entity ECP and/or Large Entity (defined above) should review Sections 3 and 4 Addendum I prior to answering this Question.

- (xi) PCA Principal is an employee benefit plan subject to ERISA, a governmental employee benefit plan, or a foreign person performing a similar role or function subject as such to foreign regulation (1) that has total assets exceeding \$5,000,000; or (2) the investment decisions of which are made by (A) an investment adviser or commodity trading advisor subject to regulation under the Investment Advisers Act of 1940, as amended, or the Commodity Exchange Act; (B) a foreign person performing a similar role or function subject as such to foreign regulation; (C) a Financial Institution; or (D) an Eligible Insurance Company, or a regulated subsidiary or affiliate of such Eligible Insurance Company.²³
- (xii) PCA Principal is (1) a governmental entity (including the United States, a State, or a foreign government), or political subdivision of a governmental entity, (2) a multinational or supranational government entity, or (3) an instrumentality, agency, or department of an entity described in clause (1) or (2), and if PCA Principal is an entity described in clause (1) or (3), PCA Principal owns and invests on a discretionary basis \$50,000,000 or more in investments, or otherwise satisfies the requirements of Section 1a(18)(A)(vii)(III)(aa) or (cc) of the Commodity Exchange Act (an “**Eligible Government Entity**”).²⁴
- (xiii) PCA Principal is a broker or dealer (other than a natural person or proprietorship) subject to regulation under the Securities Exchange Act, or a foreign person (other than a natural person or proprietorship) performing a similar role or function subject as such to foreign regulation.²⁵
- (xiv) PCA Principal is (1) a broker or dealer (and is a natural person or proprietorship) subject to regulation under the Securities Exchange Act or a foreign person (that is a natural person or proprietorship) performing a similar role or function subject as such to foreign regulation and (2) qualifies as a Large Entity or Eligible Individual.²⁶

²³ Commodity Exchange Act § 1a(18)(A)(vi).

²⁴ Commodity Exchange Act § 1a(18)(A)(vii).

²⁵ Commodity Exchange Act § 1a(18)(A)(viii).

²⁶ *Id.*

- (xv) PCA Principal is an associated person of a registered broker or dealer concerning the financial or securities activities of which the registered broker or dealer makes and keeps records under Section 15C(b) or 17(h) of the Securities Exchange Act.²⁷
- (xvi) PCA Principal is an investment bank holding company (as defined in Section 17(i) of the Securities Exchange Act).²⁸
- (xvii) PCA Principal is a futures commission merchant subject to regulation under the Commodity Exchange Act (other than a natural person or proprietorship) or a foreign person (other than a natural person or proprietorship) performing a similar role or function subject as such to foreign regulation.²⁹
- (xviii) PCA Principal (1) is a futures commission merchant subject to regulation under the Commodity Exchange Act (and is a natural person or proprietorship) or a foreign person (that is a natural person or proprietorship) performing a similar role or function subject as such to foreign regulation and (2) qualifies as a Large Entity or Eligible Individual.³⁰
- (xix) PCA Principal is a floor broker or floor trader subject to regulation under the Commodity Exchange Act in connection with any transaction that takes place on or through the facilities of a registered entity (other than an electronic trading facility with respect to a significant price discovery contract) or an exempt board of trade, or any affiliate thereof, on which such person regularly trades.³¹
- (xx) PCA Principal is an individual who has amounts invested on a discretionary basis, the aggregate of which is in excess of \$10,000,000 (an “**Eligible Individual**”).³²
- (xxi) PCA Principal is an individual who has amounts invested on a discretionary basis, the aggregate of which is in excess of \$5,000,000 and who enters into Swaps in order to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be

²⁷ Commodity Exchange Act § 1a(18)(A)(viii)(II).

²⁸ Commodity Exchange Act § 1a(18)(A)(viii)(III).

²⁹ Commodity Exchange Act § 1a(18)(A)(ix).

³⁰ *Id.*

³¹ Commodity Exchange Act § 1a(18)(A)(x).

³² Commodity Exchange Act § 1a(18)(A)(xi)(I).

owned or incurred, by the individual (a “**Hedging Individual ECP**”).³³

- (xxii) PCA Principal is a person that the CFTC has determined to be eligible in light of the financial or other qualifications of the person (an “**Other Eligible Person**”).³⁴ *If PCA Principal inserts subsection (xxii) in column 9 of the PCA Principal Answer Sheet, PCA Principal must provide an explanation in the space below and include additional pages as necessary:*

3. **Swap Dealers**³⁵

- (a) *To answer this question, complete column 10 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:*

Is PCA Principal a Swap Dealer?

- (b) If PCA Principal is a Swap Dealer:

- (i) *To answer this question, complete column 11 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:*

With respect to a Matched PCA in respect of which this Questionnaire has been executed and delivered, if PCA Principal’s counterparty to such Matched PCA is a party other than a Regulated Swap Entity or a Special Entity, does PCA Principal agree to supplement the terms of such Matched PCA by incorporating therein DF Schedule 3 (Institutional Suitability Safe Harbor for Non-Special Entities)?

- (ii) *To answer this question, complete column 12 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:*

³³ Commodity Exchange Act § 1a(18)(A)(xi)(II).

³⁴ Commodity Exchange Act § 1a(18)(C).

³⁵ CFTC Regulation 23.401(d).

With respect to a Matched PCA in respect of which this Questionnaire has been executed and delivered, if PCA Principal's counterparty to such Matched PCA is a Special Entity that is not an ERISA Special Entity, does PCA Principal agree to supplement the terms of such Matched PCA by incorporating therein DF Schedule 4 (Safe Harbors for Non-ERISA Special Entities)?

- (iii) *To answer this question, complete column 13 of the relevant row of the PCA Principal Answer Sheet by inserting a "Yes" or a "No," as appropriate:*

With respect to a Matched PCA in respect of which this Questionnaire has been executed and delivered, if PCA Principal's counterparty to such Matched PCA is an ERISA Special Entity, does PCA Principal agree to supplement the terms of such Matched PCA by incorporating therein DF Schedule 5 (Safe Harbors for ERISA Special Entities (Option 1))?

- (iv) *To answer this question, complete column 14 of the relevant row of the PCA Principal Answer Sheet by inserting a "Yes" or a "No," as appropriate:*

With respect to a Matched PCA in respect of which this Questionnaire has been executed and delivered, if PCA Principal's counterparty to such Matched PCA is an ERISA Special Entity, does PCA Principal agree to supplement the terms of such Matched PCA by incorporating therein DF Schedule 6 (Safe Harbors for ERISA Special Entities (Option 2))?

- (c) *To answer this question, complete column 15 of the relevant row of the PCA Principal Answer Sheet by inserting a "Yes" or a "No," as appropriate:*

Is PCA Principal a Security-Based Swap Dealer?

4. **Major Swap Participants**³⁶

This Part III, Section 4 must be completed by, or on behalf of, all PCA Principals other than (i) for Section 4(a), Swap Dealers and (ii) for Section 4(b), Security-Based Swap Dealers.

- (a) *To answer this question, complete column 16 of the relevant row of the PCA Principal Answer Sheet by inserting a "Yes" or a "No," as appropriate:*

Is PCA Principal a Major Swap Participant?

³⁶ CFTC Regulation 23.401(d).

- (b) *To answer this question, complete column 17 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:*

Is PCA Principal a Major Security-Based Swap Participant?

5. Financial Entity³⁷

This Part III, Section 5 must be completed by, or on behalf of, any PCA Principal that is not a Regulated Swap Entity. The purpose of this question is to permit a PCA Principal who is able to specify whether or not it is a “financial entity,” as such term is defined by statute, to inform its counterparty of such status.

If PCA Principal does not wish to make any representation at this time as to whether it is a “financial entity,” it may insert “No Answer.” If PCA Principal responds with “No Answer,” a Swap Dealer receiving this Questionnaire may be required to (i) inquire further prior to entering into Swaps with PCA Principal in order to satisfy trade reporting requirements and/or (ii) assume, for the purposes of relevant statutory and regulatory exclusions and safe harbors, that PCA Principal may be a “financial entity,” until PCA Principal provides sufficient evidence demonstrating that it is not a “financial entity.”

To answer this question, complete column 18 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes,” “No” or “No Answer,” as appropriate. Is PCA Principal a “financial entity,” as such term is defined in Section 2(h)(7)(C)(i) of the Commodity Exchange Act and the CFTC Regulations?

6. Special Entity

This Part III, Section 6 must be completed by, or on behalf of, all PCA Principals other than Swap Dealers and Security-Based Swap Dealers.

- (a) *To answer this question, complete column 19 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate. If PCA Principal fails to answer this question, it will be deemed to represent that it is not a Special Entity for the purposes of relevant statutory and regulatory requirements, until PCA Principal affirmatively represents to the contrary in writing.*

Is PCA Principal a Special Entity?

- (b) *To answer this question, complete column 20 of the relevant row of the PCA Principal Answer Sheet by inserting the applicable subsection number below:*

³⁷ Commodity Exchange Act § 2(h)(7)(C).

If PCA Principal has identified itself as a Special Entity, which one of the following subsections is applicable to PCA Principal?³⁸

- (i) PCA Principal is a Federal agency.³⁹
- (ii) PCA Principal is a State, State agency, city, county, municipality, other political subdivision of a State, or any instrumentality, department, or corporation of or established by a State or political subdivision of a State.⁴⁰
- (iii) PCA Principal is an ERISA Special Entity.⁴¹
- (iv) PCA Principal is a governmental plan, as defined in Section 3 of ERISA.⁴²
- (v) PCA Principal is an endowment. (For purposes of this question, an “endowment” includes an endowment that is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, 26 U.S.C. § 501(c)(3).)⁴³
- (vi) PCA Principal is an employee benefit plan defined in Section 3 of ERISA, not otherwise defined as a Special Entity (an “**Exempt Plan**”) that elects to be a Special Entity pursuant to CFTC Regulation 23.401(c)(6).⁴⁴

7. Non-ERISA Special Entity Elections

This Part III, Section 7 must be completed by, or on behalf of, all Special Entities other than ERISA Special Entities.

To answer this question, complete column 21 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate. If PCA Principal answers this question “Yes,” then each of its Designated QIRs must countersign this Questionnaire in the location indicated on the signature page to agree to make the representations and perform the agreements applicable to it in DF Schedule 4.

³⁸ CFTC Regulation 23.430(a); see 77 Fed. Reg. 9734, 9757 (Feb. 17, 2012).

³⁹ CFTC Regulation 23.401(c)(1).

⁴⁰ CFTC Regulation 23.401(c)(2).

⁴¹ CFTC Regulation 23.401(c)(3).

⁴² CFTC Regulation 23.401(c)(4).

⁴³ CFTC Regulation 23.401(c)(5).

⁴⁴ CFTC Regulation 23.401(c)(6).

Does PCA Principal agree to supplement the terms of each Matched PCA in respect of which this Questionnaire has been executed and delivered by incorporating therein DF Schedule 4 (Safe Harbors for Non-ERISA Special Entities)?⁴⁵

8. ERISA Special Entity Elections

This Part III, Section 8 must be completed by, or on behalf of, all ERISA Special Entities.

- (a) *To answer this question, complete column 22 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate. If PCA Principal answers this question “Yes,” then each of its Designated Fiduciaries must countersign this Questionnaire in the location indicated on the signature page to agree to make the representations and perform the agreements applicable to it in DF Schedule 5.*

Does PCA Principal agree to supplement the terms of each Matched PCA in respect of which this Questionnaire has been executed and delivered by incorporating therein DF Schedule 5 (Safe Harbors for ERISA Special Entities (Option 1))?⁴⁶

- (b) *To answer this question, complete column 23 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate. If PCA Principal answers this question “Yes,” then each of its Designated Fiduciaries must countersign this Questionnaire on the location indicated on the signature page to agree to make the representations and perform the agreements applicable to it in DF Schedule 6.*

Does PCA Principal agree to supplement the terms of each Matched PCA in respect of which this Questionnaire has been executed and delivered by incorporating therein DF Schedule 6 (Safe Harbors for ERISA Special Entities (Option 2))?⁴⁷

9. Institutional Suitability Elections

This Part III, Section 9 must be completed by, or on behalf of, all PCA Principals other than Regulated Swap Entities and Special Entities.

To answer this question, complete column 24 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate. If PCA Principal answers this question “Yes,” then each of its Designated Evaluation Agents (if any) must countersign this Questionnaire in the location indicated on

⁴⁵ CFTC Regulation 23.430(d).

⁴⁶ CFTC Regulation 23.430(d).

⁴⁷ CFTC Regulation 23.430(d).

the signature page to agree to make the representations and perform the agreements applicable to it in DF Schedule 3.

Does PCA Principal agree to supplement the terms of each Matched PCA in respect of which this Questionnaire has been executed and delivered by incorporating therein DF Schedule 3 (Institutional Suitability Safe Harbor for Non-Special Entities)?

10. DF Terms Agreement Elections and Information

- (a) *To answer this question, complete column 25 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate.*

Does PCA Principal agree to enter into a DF Terms Agreement with each counterparty to whom this Questionnaire has been delivered?

- (b) If PCA Principal has agreed to enter into a DF Terms Agreement with each counterparty to whom this Questionnaire has been delivered, the notice information of such PCA Principal for the purposes of each such DF Terms Agreement is as follows:

Name: _____

Address: _____

Phone: _____

Fax: _____

E-mail: _____

Electronic Messaging System Details: _____

Specific Instructions: _____

By executing this Questionnaire, the signatory represents as PCA Principal or PCA Agent for specified PCA Principals that (a) all information provided by it in this Questionnaire is true, accurate and complete in every material respect as of the date hereof, and may be relied upon by each counterparty to whom this Questionnaire is delivered, (b) any information that is requested and not provided in Part II, Sections 2 through 5 of this Questionnaire, and that does not appear in the publicly available portion of an LEI/CICI database, has previously been provided in writing by the relevant PCA Principals, and all such previously provided information is true, accurate and complete in every material respect as of the date hereof, and may be relied upon by each counterparty to whom this Questionnaire is delivered, (c) if Part III, Section 6(a) has not been filled out with respect to a specified PCA Principal, such PCA Principal is not a Special Entity, and (d) it has agreed to enter into the DF Schedules indicated in the Questionnaire. For purposes of the foregoing, information appearing in the publicly available portion of the LEI/CICI database with respect to a specified PCA Principal is deemed provided to the counterparty.

[INSERT FULL LEGAL NAME OF PCA PRINCIPAL OR PCA AGENT]⁴⁸

By: _____

Name:

Title:

Date:

By executing this Questionnaire on the relevant signature block below, the signatory agrees to make the representations and agreements applicable to it in the relevant DF Schedule of the DF Supplement.

[INSERT FULL LEGAL NAME OF DESIGNATED EVALUATION AGENT],⁴⁹ solely as PCA Principal's Designated Evaluation Agent and solely to make the representations and agreements applicable to it as Designated Evaluation Agent in DF Schedule 3.

⁴⁸ If you are a PCA Agent acting on behalf of one or more PCA Principals insert the following in the signature block: “, acting on behalf of the clients, investors, funds, accounts and/or other principals listed in the column 1 of the PCA Principal Answer Sheet.”

⁴⁹ Append additional signature blocks or add signature pages as necessary if PCA Principal has multiple Designated Evaluation Agents.

By: _____
Name:
Title:
Date:

[INSERT FULL LEGAL NAME OF DESIGNATED QIR],⁵⁰
solely as PCA Principal's Designated QIR and solely to make the representations and agreements applicable to
it as Designated QIR in DF Schedule 4.

By: _____
Name:
Title:
Date:

[INSERT FULL LEGAL NAME OF DESIGNATED FIDUCIARY/FIDUCIARIES],⁵¹ solely as
PCA Principal's Designated Fiduciary and solely to make the representations and agreements applicable to it in
DF Schedule 5 and/or 6, as applicable.

By: _____
Name:
Title:
Date:

⁵⁰ Append additional signature blocks or add signature pages as necessary if PCA Principal has multiple Designated QIRs.

⁵¹ Append additional signature blocks or add signature pages as necessary if PCA Principal has multiple Designated Fiduciaries.

[Addendum I to be attached to Questionnaire for convenience]