

“**Hedging Individual ECP**” means an individual who has amounts invested on a discretionary basis, the aggregate of which is in excess of \$5 million, and enters into swaps to manage the risk associated with an asset or liability that is or is reasonably likely to be owned or incurred by such individual.

“**Hedging or Mitigating Commercial Risk**” has the meaning set out in CFTC Regulation 50.50(c) and includes the following swaps:

- (i) a swap that either:
  - (A) is economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise, where the risks arise from: (1) the potential change in the value of assets that a person owns, produces, manufactures, processes, or merchandises or reasonably anticipates owning, producing, manufacturing, processing, or merchandising in the ordinary course of business of the enterprise; (2) the potential change in the value of liabilities that a person has incurred or reasonably anticipates incurring in the ordinary course of business of the enterprise; (3) the potential change in the value of services that a person provides, purchases, or reasonably anticipates providing or purchasing in the ordinary course of business of the enterprise; (4) the potential change in the value of assets, services, inputs, products, or commodities that a person owns, produces, manufactures, processes, merchandises, leases, or sells, or reasonably anticipates owning, producing, manufacturing, processing, merchandising, leasing, or selling in the ordinary course of business of the enterprise; (5) any potential change in value related to any of the foregoing arising from interest, currency, or foreign exchange rate movements associated with such assets, liabilities, services, inputs, products, or commodities; or (6) any fluctuation in interest, currency, or foreign exchange rate exposures arising from a person’s current or anticipated assets or liabilities; or
  - (B) qualifies as bona fide hedging for purposes of an exemption from position limits under the CEA; or
  - (C) qualifies for hedging treatment under: (1) Financial Accounting Standards Board Accounting Standards Codification Topic 815, Derivatives and Hedging (formerly known as Statement No. 133); or (2) Governmental Accounting Standards Board Statement 53, Accounting and Financial Reporting for Derivative Instruments; and
- (ii) such swap is:
  - (A) not used for a purpose that is in the nature of speculation, investing, or trading; and
  - (B) not used to hedge or mitigate the risk of another swap or security-based swap position, unless that other position itself is used to hedge or mitigate commercial risk as described above or as set out in Exchange Act Rule 3a67-4.

“**Insurance Company**” means an insurance company regulated by a State or by a foreign government subject to comparable regulation as determined by the CFTC (or a regulated subsidiary or affiliate of such an insurance company).

“**Insured Depository Institution**” is defined in Section 3(c) of the Federal Deposit Insurance Act and includes any bank or savings association the deposits of which are insured by the Federal Deposit Insurance Corporation pursuant to that Act, as well as any uninsured branch or agency of a foreign bank