

**Protocol Concerning
Mutual Assistance, Information Sharing and
Cooperation Arrangements**



**United States
Commodity Futures Trading Commission**



**Dubai
Financial Services Authority**

December 1, 2005

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I INTRODUCTION

- I.1 The Dubai Financial Services Authority ("DFSA") and the United States Commodity Futures Trading Commission ("CFTC") acknowledge the importance of international regulatory cooperation and share the goal of promoting market and financial integrity and investor protection. These arrangements are intended to enhance the Authorities' working relationship.
- I.2 The DFSA was established under Dubai Law No. 9 of 2004 and is the independent financial services and market regulator of the Dubai International Financial Centre ("DIFC"). The DFSA administers the DIFC Regulatory Law No. 1 of 2004, which provides, among other things, for the authorization, registration, recognition and supervision of financial service providers, financial services and products related to banking, securities, Islamic finance, collective investment schemes, asset management, trust services and insurance and re-insurance. The DFSA has the authority under the DIFC Markets Law No. 12 of 2004 to regulate the securities markets, including futures and derivatives.
- I.3 The CFTC was created by US Congress in 1974 as an independent agency with the mandate to regulate commodity futures and options markets in the United States. The agency's mandate has been renewed and expanded several times since then, most recently by the Commodity Futures Modernization Act of 2000. Today, the CFTC assures the economic utility of the futures markets by encouraging their competitiveness and efficiency, ensuring their integrity, protecting market participants against manipulation, abusive trading practices, and fraud, and ensuring the financial integrity of the clearing process. Through effective oversight, the CFTC enables the futures markets to serve the important function of providing a means for price discovery and offsetting price risk.

The mission of the CFTC is to protect market users and the public from fraud, manipulation, and abusive practices related to the sale of commodity and financial futures and options, and to foster open, competitive, and financially sound futures and option markets.

2. DEFINITIONS

"**Authorities**" means the CFTC and the DFSA;

"**CFTC**" means the United States Commodity Futures Trading Commission;

"**DFSA**" means the Dubai Financial Services Authority;

"**DIFC**" means the Dubai International Financial Centre;

"**Futures Contract**" means a futures or options transaction regulated or subject to regulation by the authorities whether transacted over-the-counter or on or subject to the rules of an exchange or market.

"**Jurisdiction**" means the country, state or territory in which the CFTC or the DFSA have legal authority, power and/or jurisdiction;

"Laws, Regulations, and/or Requirements" means the provisions of the laws of the United States and/or Dubai International Financial Centre, the regulations promulgated thereunder, and other regulatory requirements that fall within the jurisdiction of the Authorities concerning Futures Contracts.

"Licensed Entity" means any person carrying out activities requiring licensing, authorisation and/or registration by the Authorities and who is subject to the operative legislation within the respective jurisdiction;

"Person" means a natural person, body corporate, partnership, unincorporated association, or trust;

"Protocol" means this **"Protocol Concerning Mutual Assistance, Information Sharing and Cooperation Arrangements"**;

"Requested Authority" means the Authority receiving a request under paragraph 4; and

"Requesting Authority" means the Authority making a request under paragraph 4.

3. SCOPE AND INTENTION

- 3.1 This Protocol sets forth the Authorities' intent with regard to mutual assistance and the exchange of information for the purpose of enforcing and securing compliance with the respective Laws, Regulations and/or Requirements of the jurisdictions of the Authorities. The provisions of this Protocol are not intended to create legally binding obligations or supersede domestic laws.
- 3.2 This Protocol will promote the integrity, efficiency and financial soundness of licensed entities by improving effective regulation, enhancing the supervision of cross-border transactions, and creating an environment conducive to the prevention of fraudulent and other prohibited practices in the DIFC and the United States.
- 3.3 The Authorities will assist each other to the full extent permitted by the Laws, Regulations and/or Requirements of their respective jurisdictions. Such assistance will not be limited to information concerning institutions authorised, licensed, registered or recognised in the United States and/or the DIFC Assistance will include:
- a) enforcement of Laws, Regulations and/or Requirements pertaining to the respective functions of the Authorities;
 - b) regulation and supervision of Licensed Entities; and
 - c) any matters agreed upon between the Authorities from time to time as evidenced in writing.

4. REQUESTS FOR ASSISTANCE

4.1 To facilitate communication and ensure continuity, each Authority will designate contact officers to whom requests for assistance will normally be addressed. The initial contact officers are set out in Appendix A.

4.2 A request for assistance will include the following:

- a) a general description of the subject matter of the request and the purpose for which the assistance or information is sought;
- b) a general description of the assistance, documents or information sought;
- c) any information in the possession of the Requesting Authority that might assist in identifying the persons, bodies or entities which they believe possess the information sought, or the places where the Requested Authority may obtain such information;
- d) the legal provisions or a brief description thereof concerning the matter that is the subject matter of the request;
- e) whether any other Authority, governmental or non-governmental, is cooperating with the Requesting Authority or seeking information from the confidential files of the Requesting Authority and to whom onward disclosure of information is likely to be necessary; and
- f) the urgency of the request and the desired period of time for the reply.

4.3 In urgent circumstances, the Requested Authority will accept a request for assistance by electronic mail or facsimile. Such urgent communications must be confirmed in writing within five business days.

5. UNSOLICITED INFORMATION

To the extent permitted by Laws, Regulations, and/or Requirements of its respective jurisdiction, each Authority will use reasonable efforts to provide the other Authority with any information it discovers that gives rise to a suspicion of a breach or an anticipated breach of the Laws, Regulations, and/or Requirements applicable in the jurisdiction of the other Authority.

6. PERMISSIBLE USES OF INFORMATION

6.1 The Requesting Authority may use non-public information and non-public documents furnished in response to a request for assistance under this Protocol solely for:

- a) the purposes set forth in the request for assistance, including ensuring compliance with the Laws, Regulations and/or Requirements related to the request; and
- b) a purpose within the general framework of the use stated in the request for assistance, including conducting a civil or administrative enforcement proceeding.

assisting in a criminal prosecution, or conducting any investigation for any general charge applicable to the violation of the provision specified in the request where such general charge pertains to a violation of the Laws, Regulations and/or Requirements administered by the Requesting Authority. This use may include enforcement proceedings which are public.

- 6.2 If a Requesting Authority intends to use information furnished under this Protocol for any purpose other than those stated in Paragraph 6.1, it must obtain the consent of the Requested Authority.

7. CONFIDENTIALITY

- 7.1 Each Authority will keep confidential requests made under this Protocol, the contents of such requests, and any matters arising under this Protocol, including consultations between or among the Authorities, and unsolicited assistance. After consultation with the Requesting Authority, the Requested Authority may disclose the fact that the Requesting Authority has made the request if such disclosure is required to carry out the request.
- 7.2 The Requesting Authority will not disclose non-public documents and information received under this Protocol, except as contemplated by paragraph 6 or in response to a legally enforceable demand. In the context of a civil or administrative enforcement proceeding, disclosure may be made solely in such a proceeding to which the Requesting Authority or the government of the Requesting Authority is a party. In the event of a legally enforceable demand, the Requesting Authority will notify the Requested Authority prior to complying with the demand, and will assert such appropriate legal exemptions or privileges with respect to such information as may be available. The Requesting Authority will use its best efforts to protect the confidentiality of non-public documents and information received under this Protocol.

8. RIGHTS OF REQUESTED AUTHORITY

- 8.1 The Requested Authority may deny requests for assistance under the Protocol:
- a) where the request would require the Requested Authority to act in a way that would violate the laws of the jurisdiction of the Requested Authority;
 - b) where the request is not in accordance with this Protocol; or
 - c) on grounds of public interest or essential national interest.
- 8.2 Where the Requested Authority denies or opposes a request for assistance, or where assistance is not available under the law of the jurisdiction, the Requested Authority will provide the reasons why it is not granting the assistance.
- 8.3 The Authorities recognise that this Protocol does not limit or enhance their respective powers to investigate or gather information or take other measures.

9. CONSULTATION

- 9.1 The Authorities will consult each other on an on-going basis to enhance regulatory cooperation, improve the operation of the Protocol and resolve any matters that arise. The Authorities will inform one another of the adoption of domestic measures that may affect their respective ability to provide assistance under this Protocol.
- 9.2 The Authorities may take practical measures necessary to facilitate the implementation of the Protocol. As such, the Authorities may by agreement in writing amend, relax or waive any of the terms of the Protocol.

10. COSTS OF INVESTIGATION

If the cost of fulfilling a request is likely to be substantial, the Requested Authority may, as a condition of agreeing to give assistance under this MOU, require the Requesting Authority to make a contribution to costs.

11. EFFECTIVE DATE AND TERMINATION

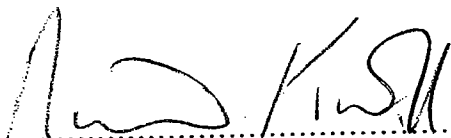
- 11.1 Cooperation in accordance with this Protocol will begin on the date of its signing by the Authorities.
- 11.2 Cooperation and assistance in accordance with this Protocol will continue until the expiration of 30 days after any Authority gives written notice to the other Authority of its intention to discontinue cooperation and assistance hereunder. If any authority gives a termination notice, cooperation and assistance in accordance with this Protocol will continue with respect to all requests for assistance that were made or information provided before the effective date of notification (as indicated in the notice but no earlier than the date the notice is sent) until the Requesting Authority terminates the matter for which assistance was requested. The provisions of this Protocol concerning confidentiality will continue thereafter with respect to information in the possession of the Requesting Authority.

SIGNED on this

day of

2005

FOR THE DUBAI FINANCIAL SERVICES AUTHORITY



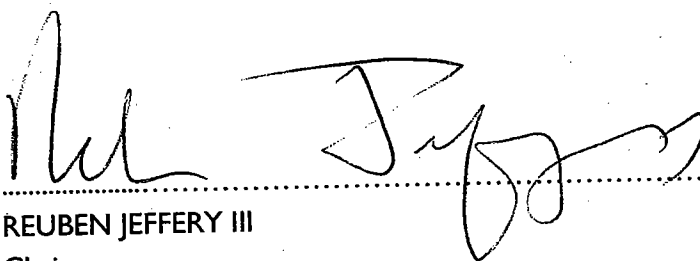
DAVID KNOTT
Chief Executive

SIGNED on this

day of

2005

FOR THE COMMODITY FUTURES TRADING COMMISSION



REUBEN JEFFERY III
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