



THE Æ CLEARINGHOUSE
TERMS, CONDITIONS, & PROCEDURES

JANUARY 12, 2005

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Preamble: The AE Clearinghouse Terms, Conditions, and Procedures, covering clearinghouse participations and activities, is the second of four legally-binding documents contained in the Quartet. The first is the AE Rules; the third is the Rules of Products and Electronic Services, hereinafter referred to as the RoPES; the fourth is the OmniGlossary.

The Actuarials Exchange and The AE Clearinghouse reserve the right to make any necessary changes to any document in the Quartet. Notices of these changes shall be published and distributed to Member Firms for review in a numbered and dated official AE Circular.

The dates of the latest amendments shall be listed at the end of the amended paragraph and shall refer to a numbered and dated official AE Circular. Last Amended AE Circular 005, Dec 22, 2004

If any guidance sections or illustrations conflict in any way with the written contents of these AE Clearinghouse Terms, Conditions, and Procedures, the AE Rules, the RoPES, or the OmniGlossary, the written text shall have ultimate authority.

ARTICLE I

GOVERNANCE OF CLEARINGHOUSE

Last Amended AE Circular 005, Dec 22, 2004

SECTION 1: REGULATORY STATUS OF THE DERIVATIVES CLEARING ORGANIZATION

- (i) **The AE Clearinghouse, LLC**, a wholly-owned subsidiary of The Actuarials Exchange, LLC, shall receive and maintain its designation as a **Derivatives Clearing Organization (DCO)** with the **Commodities Futures Trading Commission (CFTC)**, and shall promptly provide the CFTC with notice of any and all changes in its rules, and shall adhere to the following 14 core principles, in accordance with the **Commodity Futures Modernization Act of 2000**, by: Last Amended AE Circular 005, Dec 22, 2004
1. Continuing to demonstrate compliance with the 14 core principles applicable to DCOs by means of regular CFTC consultation, communication, and documentation;
 2. Continuing to have adequate financial, operational, and managerial resources to clear trades for **Member Firms**;
 3. Continuing to enforce appropriate admission and continuing eligibility standards for **market participants** and their transactions;
 4. Continuing to manage the risks and discharging the responsibilities of a DCO with appropriate tools and procedures;
 5. Continuing to complete settlements on a timely basis under varying circumstances and to maintain an adequate record of the flow of funds associated with each transaction that the applicant clears;
 6. Continuing to execute standards and procedures designed to protect and ensure the safety of Member Firm and **Trading Account** funds;
 7. Continuing to enforce the **Terms, Conditions, and Procedures** whose design allows for efficient, fair, and safe management of events if Member Firms or market participants become insolvent or otherwise default on their obligations to the DCO;
 8. Continuing to maintain adequate arrangements and resources for the effective monitoring and enforcement of compliance with the Terms, Conditions, and Procedures, the resolution of disputes among trading participants, and, to maintain the authority and ability to discipline, limit, suspend, or terminate the trading activities of a Member Firm who violates the Terms, Conditions, and Procedures;
 9. Continuing to maintain a program of oversight and risk analysis to ensure that the automated systems of The AE Clearinghouse continue to function properly, with adequate capacity and security, and continue to maintain emergency procedures and a plan for disaster recovery, and periodically test backup facilities sufficient to ensure daily processing, clearing, and settlement of transactions;

10. Continuing to report to the CFTC all information necessary for the CFTC to conduct the oversight function of the applicant with respect to the activities of the DCO;
 11. Continuing to maintain all records of all activities related to the business of the applicant as a DCO in a form and manner acceptable to the CFTC for a period of at least five (5) years;
 12. Continuing to make all information concerning the Terms, Conditions, and Procedures governing the clearing and settlement systems (including default recourse procedures) available to Member Firms;
 13. Continuing to enter and abide by the terms of all appropriate and applicable domestic and international information-sharing agreements, and to use relevant information obtained from the agreements in carrying out the DCO's risk management program;
 14. Continuing to avoid adopting any rule or taking any action that results in any unreasonable restraint of trade, or imposing any material anticompetitive burden on trading in any Contracts.
- (ii) The AE Clearinghouse shall provide The Actuarials Exchange with complete, accurate, and transparent reporting of all of its dealings with Member Firms and **Regulators**.
- (iii) The AE Clearinghouse shall provide clearing services to The Actuarials Exchange, in accordance with the Commodity Futures Modernization Act of 2000, and, as provided herein, shall:
1. Provide a **process of qualification** according to these Terms, Conditions, and Procedures by which a prospective Member Firm is accepted or rejected for clearing, and provide a copy of such acceptance or rejection to The Actuarials Exchange;
 2. Establish a standard Member Firm agreement with each Member Firm that sets out obligations to the AE Clearinghouse, including a schedule of fees, a set of enforceable Terms, Conditions, and Procedures, including any recourses available to The AE Clearinghouse upon failure of Member Firm obligation;
 3. Enforce actions against Member Firms failing to abide by the standard Member Firm agreement, according to these official Terms, Conditions, and Procedures, and communicate the nature and type of such enforced actions to The Actuarials Exchange, and to applicable **Regulators**;
 4. Create and administer **Custodial Bank Accounts** for each Member Firm;
 5. Recognize the transfers of moneys from Member Firm payment banks into The AE Clearinghouse payment bank, or from The AE Clearinghouse payment bank into Member Firm payment banks;
 6. Monitor collaterals, margins, and risk exposures of **ledger accounts** representing Trading Accounts and Member Firms, and electronically communicate such information to The Actuarials Exchange, and to those Member Firms;
 7. Ensure that each Trading Account and Member Firm meets their respective **minimum capital requirement**, as specified in the **AE Rules**;
 8. Set **minimum account balances, collaterals, margins, fees, and fines** for Trading Accounts and Member Firms;
 9. Electronically net **open positions** within each Trading Account, and aggregate, without further netting, those Trading Account open positions to each Member Firm;
 10. Electronically receive confirmations of executed trades from The Actuarials Exchange on a periodic basis;
 11. Electronically notify or bill Member Firms for transfers of cash, covering various collaterals, margins, fees, or fines, then credit and debit Member Firms and Trading Accounts, then generate scheduled or unscheduled **marks** of the settlement bases of the open and closed positions of each Trading Account and Member Firm, and for the entire Actuarials Exchange;
 12. Electronically allow The Actuarials Exchange to monitor the above activities from a remote location;
 13. Maintain the legal and regulatory good-standing of The AE Clearinghouse with **Regulators**;
 14. Conduct the above clearing activities for at least one hour before **Start Trading Day**, and one hour after **Finish Trading Day**;
 15. Conduct clearing activities during or after extraordinary events, including very large market moves in related capital markets, pending government announcements, an industry release of economic figures, Acts of Government, Acts of Terror, Acts of God, the unscheduled closing of capital markets, including The Actuarials Exchange, unusual market conditions, and the incapacitation of Fedwire, but only if clearing activities are consistent with the law.

SECTION 2: MANAGEMENT

(i) **Chief Executive Officer**

The business and affairs of The AE Clearinghouse shall be managed by the Chief Executive Officer of The AE Clearinghouse. The Chief Executive Officer may adopt, repeal, or modify the Terms, Conditions, and Procedures for The AE Clearinghouse at any time, according to the procedures established in Article VI.

(ii) **President**

The Chief Executive Officer shall appoint a President, who shall be responsible for the day-to-day business affairs and operations of The AE Clearinghouse, and shall ensure delivery of The AE Clearinghouse services to Member Firms. The President shall act as the chief liaison to the business development professionals at Member Firms, as well as with all other agents of, or vendors to, The AE Clearinghouse, and other such duties.

(iii) **Chief Risk Officer**

The Chief Executive Officer shall appoint a Chief Risk Officer, who shall provide sound risk measures and risk management capabilities to the Chief Executive Officer and Chief Compliance Officer, and assist the Chief of Operations in implementing such capabilities.

(iv) **Chief Compliance Officer**

The Chief Compliance Officer shall be the person so designated in Article 1, Section 3(iii) of the AE Rules. The Chief Compliance Officer shall be an **Authorized Compliance Officer**, and shall appoint other persons to fulfill the role of Authorized Compliance Officer as necessary. The role of Authorized Compliance Officer can be occupied by only one person at a time. Last Amended AE Circular 005, Dec 22, 2004

(v) **Chief of Operations**

The Chief of Operations shall be the person so designated in Article 1, Section 3(iv) of the AE Rules.
Last Amended AE Circular 005, Dec 22, 2004

SECTION 3: CONFIDENTIALITY AND INTEGRITY

Confidentiality and Integrity shall have the meaning set forth in Article I, Section 4 of the AE Rules.

ARTICLE II

CLEARING PARTICIPANTS

SECTION 1: MEMBER FIRMS

A Member Firm at The AE Clearinghouse shall mean the same as a Member Firm at The Actuarials Exchange, as found in Article II, Section 3 of the AE Rules.

SECTION 2: APPLICATION, ADMISSION, AND APPROVAL

Member Firm Application, Admission, and Approval shall have the meaning set forth in Article III of the AE Rules.

SECTION 3: ENFORCEABILITY

The AE Clearinghouse shall have the authority to enforce any of the AE Rules, these AE Clearinghouse Terms, Conditions, and Procedures, the RoPES, or to interpret the OmniGlossary.

ARTICLE III

OBLIGATIONS OF MEMBER FIRMS

SECTION 1: RESPONSIBILITIES OF AE CLEARINGHOUSE MEMBER FIRMS

- (i) A Member Firm shall be required to fulfill all of the responsibilities and obligations set forth in the Quartet of legally-binding documents, as set forth herein.
- (ii) Member Firm payment bank access to any AE Clearinghouse Custodial Bank Account may not be transferred, assigned, sold, or leased to any other party, nor shall a Member Firm clear trades through another Member Firm, except as directed by the Authorized Compliance Officer.
- (iii) A Member Firm shall be financially and legally responsible to The AE Clearinghouse for any and all activities, behaviors, and obligations undertaken by a Member Firm agent or employee, or by an **Authorized Trader** or **Authorized Support Person**, on behalf of Trading Accounts, including those relating to open or closed position of any **Contract** at The Actuarials Exchange.

ARTICLE IV

CLEARING ENVIRONMENT

SECTION 1: CONTRACTS CLEARED AT THE AE CLEARINGHOUSE

The Chief Executive Officer of The AE Clearinghouse shall determine which Contracts of The Actuarials Exchange will be available for clearing at The AE Clearinghouse. Contracts shall be uniquely specified and defined in the applicable chapters of the RoPES.

SECTION 2: DAYS AND HOURS OF EXCHANGE AND CLEARING SERVICES

The Actuarials Exchange and The AE Clearinghouse shall be open on those days and for those hours listed in Chapter 1 of the RoPES.

SECTION 3: ACTIVITIES OF A MEMBER FIRM

- (i) Member Firms of The Actuarials Exchange shall have the exclusive right to clear trades of The Actuarials Exchange through The AE Clearinghouse, upon continued Good-Standing and compliance with this **Quartet of legally-binding documents**, including the continuous satisfaction of funding requirements.
- (ii) A Member Firm shall be financially and legally responsible for any and all activities, behaviors, and obligations at The AE Clearinghouse undertaken by: 1) a Member Firm agent or employee; 2) an Authorized Trader controlling a proprietary or customer account; or 3) an Authorized Support Person servicing a proprietary or customer account.

SECTION 4: CONFIDENTIALITY OF INFORMATION AT THE AE CLEARINGHOUSE

The AE Clearinghouse shall not reveal the Contract positions of a Trading Account, or a Member Firm, to any outside party, except strictly on an as-needed basis to applicable regulatory authorities, or strictly on an as-needed basis to servicing agents of The Actuarials Exchange or The AE Clearinghouse, or as expressly provided in the Quartet of legally-binding documents.

SECTION 5: THE MEMBER FIRM PAYMENT BANK

- (i) Each Member Firm shall keep and maintain at least one payment bank for the purposes of sending moneys to The AE Clearinghouse, on behalf of every Trading Account at that Member Firm. A Member Firm may keep and maintain more than one such payment bank, but only for the purposes of sending moneys to The AE Clearinghouse in times of emergency or other Fedwire constraints.
- (ii) Each Member Firm shall keep and maintain one and only one payment bank for the purposes of receiving moneys withdrawn from The AE Clearinghouse on behalf of any Trading Account at that Member Firm, except during an emergency, when a faxed or written request of the **Designated Representative** of the Member Firm has been personally received and validated by the Authorized Compliance Officer of The AE Clearinghouse after due investigation as to the merits of the request.

SECTION 6: PRESUMPTION OF VALIDITY

- (i) The AE Clearinghouse, in all its functions and capacities, shall presume as valid all information received from The Actuarials Exchange with respect to any reported On-Exchange executions of trades and positions in Contracts held by Trading Accounts and Member Firms, and about the market prices and reference prices of those Contracts.
- (ii) The AE Clearinghouse, in all its functions and capacities, shall presume as valid all information received from Trading Accounts and Member Firms, with respect to any reported Off-Exchange executions of trades and positions and about the mutually-agreed reference prices of those Contracts.

SECTION 7: INTERMARK PRICE LIMITS Last Amended AE Circular 005, Dec 22, 2004

- (i) For each cleared Contract, The AE Clearinghouse shall establish an **intermark price limit**, whose value per lot shall not exceed 95% of the total of the initial margin requirement and the Default Protection Facility requirement, so as to guarantee Full Recovery of realized and unrealized profits to Member Firms in Good-Standing, upon trigger of Recourse.
- (ii) The intermark price limit for each cleared Contract shall be established in the RoPES.
- (iii) If any Contract trades at a price limit above or below the settlement price of the most recent **mark**, and remains at “limit bid” or “limit offer” for at least one minute, the AE Clearinghouse shall obtain a mark of each and every Contract price so affected by such a price limit move, and shall not establish another mark beyond that price limit, until all Member Firms have satisfied their funding requirements.

SECTION 8: POSITION LIMITS

Under these Terms, Conditions, and Procedures, The AE Clearinghouse shall only clear trades for The Actuarials Exchange for Contracts defined by the CFMA or CFTC as eligible excluded commodities. Any position limits for these eligible excluded commodities shall be expressly provided in the Rules of Products and Electronic Services covering specific Contracts, or established in a numbered and dated official AE Circular covering Concentration Risk.

SECTION 9: NOVATION Last Amended AE Circular 005, Dec 22, 2004

- (i) The AE Clearinghouse shall provide **Novation** of all transactions to all Member Firms of the AE Risk Pool, where the obligations between Member Firms and The AE Clearinghouse with respect to each separate **Contract marketplace** shall be separate from, and not affect, those of any other Contract market.
- (ii) Under Novation, The AE Clearinghouse shall substitute itself as, and assume the position of, seller to every buyer, and buyer to every seller, of Contracts traded in each market at The Actuarials Exchange. Upon each such substitution, each Member Firm shall be deemed to have bought the Contracts from, or to have sold the Contracts to, The AE Clearinghouse. Such substitution shall be effective in law for all purposes.
- (iii) Under Novation in the **AE Risk Pool**, each Contract marketplace shall constitute a separate, self-containing risk pool of segregated open interest, for the same delivery specification of a unique product specification of a financial instrument.
 - (a) For any set of Contract marketplaces experiencing a shortfall due to the Failed Obligation of a Member Firm, The AE Clearinghouse shall immediately guarantee to pay *as much of the realized and unrealized profits as possible* to Member Firms in Good-Standing, but only to the extent that funds are available from the following: 1) the total risk capital of the Failed Obligation Member Firm, 2) the Default Protection Facility of the Failed Obligation Member Firm, 3) any assets of The AE Clearinghouse held at the General Clearing Fund

Bank Account.

(b) For any set of Contract marketplaces *not* experiencing such a shortfall, The AE Clearinghouse shall immediately guarantee *all* the realized and unrealized profits to Member Firms in Good-Standing, and immediately guarantee that such realized or unrealized profits will *not* be affected by any shortfall in other Contract marketplaces.

SECTION 10: AE CLEARINGHOUSE LIMITATION OF LIABILITY

- (i) The liability of The AE Clearinghouse shall be limited to Contract marketplace obligations to Member Firms resulting from Novation.
- (ii) The sum of The AE Clearinghouse Contract marketplace obligations to Member Firms in Good-Standing, upon an observed Failed Obligation triggered event, shall not exceed the sum of: 1) the total risk capital of the Failed Obligation Member Firm, 2) the Default Protection Facility of the Failed Obligation Member Firm, and 3) any assets of The AE Clearinghouse held at the General Clearing Fund Bank Account.
- (iii) The AE Clearinghouse shall not be liable for any obligations of a Member Firm to a Trading Account, or, for any obligations of a Member Firm to customers, or, for any obligations of a Trading Account to customers.

SECTION 11: AE CLEARINGHOUSE BANK ACCOUNTS

The AE Clearinghouse shall keep and maintain six types of physical bank accounts:

1. The **Clearinghouse Concentration Bank Account**

- (a) The Clearinghouse Concentration Bank Account shall be a single bank account at The AE Clearinghouse payment bank, whose journal entries and **ledger accounts** reflect in a timely manner the moneys received from each Member Firm, called **collaterals**.
- (b) Member Firm collaterals shall be further subdivided into the **Total Account Balances** of each Trading Account.
- (c) For each such Trading Account, the **Available Balance** of unencumbered collaterals that may be used to fund new open positions, or to fund withdrawals, shall equal the Total Account Balance of a Trading Account minus: 1) the minimum account balance, 2) realized losses, 3) initial margins for open positions, 4) maintenance margins for unrealized losses, and 5) fees and fines accrued but not yet taken. Unrealized profits shall not be included in the Available Balance of a Trading Account. Realized profits shall always be included in the Available Balance of a Trading Account.
- (d) Member Firm collaterals must be further supplemented by a **Default Protection Facility**, as established by an **Arranger** authorized by The AE Clearinghouse, as provided in Chapter 3 of the RoPES. Last Amended AE Circular 005, Dec 22, 2004

2. The **Withdrawal Holding Bank Account**

- (a) The Withdrawal Holding Bank Account shall be a single bank account at The AE Clearinghouse payment bank, whose journal entries and ledger accounts reflect in a timely manner the moneys withdrawn by each Member Firm on behalf of a Trading Account from the Clearinghouse Concentration Bank Account, to be paid to the Member Firm payment bank account.
- (b) The Withdrawal Holding Bank Account shall hold withdrawn funds for two (2) days before any release to a Member Firm payment bank account.
- (c) The Withdrawal Holding Bank Account may have its withdrawals rescinded and transferred back to the Clearinghouse Concentration Bank Account as described in the **automatic recourse procedure** in Article V.
- (d) If a Member Firm has any outstanding obligations to The AE Clearinghouse at the time of a **withdrawal request**, The AE Clearinghouse shall have the right to cancel the withdrawal request and claim **first lien** on all funds held by that Member Firm, to ensure payment of such obligations.

3. The **AE Fees and Fines Bank Account**

- (a) The AE Fees and Fines Bank Account shall be a single bank account at The AE Clearinghouse payment bank that collects in a timely manner all fees and fines collected from Member Firms by The Actuarials Exchange.
 - (b) The AE Fees and Fines Bank Account shall not receive any AE Clearinghouse fees or fines as collected from Member Firms.
- 4. A dedicated **Distressed Member Firm Bank Account**, when necessary.
 - (a) Each Distressed Member Firm Bank Account shall be a single bank account at The AE Clearinghouse payment bank, dedicated to hold the existing, positively-valued funds of exactly one Distressed Member Firm or Failed Obligation Member Firm, whose funds have been recently segregated from the Clearinghouse Concentration Bank Account for the protection of the AE Risk Pool.
 - (b) Distressed Member Firm Bank Account journal entries and ledger accounts shall reflect in a timely manner the moneys received from the Distressed Member Firm or the Failed Obligation Member Firm, further subdivided into the Total Account Balances of each Trading Account, in the same manner as those in the Clearinghouse Concentration Bank Account.
 - (c) Distressed Member Firm or Failed Obligation Member Firm collaterals may be further supplemented by funds from a dedicated **Keepsafe Bank Account**, which shall be a holding account for funds drawn from an **Default Protection Facility** in the name of the Failed Obligation Member Firm.
 - (d) After a **Failed Obligation triggered event**, The AE Clearinghouse shall apply any existing, positively-valued funds in a Distressed Member Firm Bank Account as Recovery to certain counterparties experiencing shortfalls in realized or unrealized profits due to the Failed Obligation of that Member Firm, or, as Subsidy to close out the open positions after a Failed Obligation of that Member Firm, as described in the automatic recourse procedure in Article V.
- 5. A dedicated **Keepsafe Bank Account**.
 - (a) Each Keepsafe Bank Account shall be a single bank account at The AE Clearinghouse payment bank, dedicated to hold, either:
 - (1) on an ongoing basis, any assigned, isolated collaterals or letters of credit serving as a part of the Default Protection Facility, or,
 - (2) on a temporary basis, any funds drawn from a letter of credit, serving as part of a Default Protection Facility, in the name of a Failed Obligation or Distressed Member Firm.
 - (b) Any funds held in the Keepsafe Bank Account must be transferred to the Distressed Member Firm Bank Account, to be commingled with other funds held in the name of the Failed Obligation Member Firm, before they can be applied as recovery funds.
- 6. The **General Clearing Fund Bank Account**
 - (a) The **General Clearing Fund Bank Account** shall be a single bank account at The AE Clearinghouse payment bank, holding the following, on behalf of the **AE Risk Pool**, after administration costs for the next year of AE Clearinghouse business on a rolling monthly calendar basis has already been removed:
 - (1) any interest on Member Firm collaterals that may have already been collected by The AE Clearinghouse,
 - (2) any fees for clearing services that may have already been charged and collected by The AE Clearinghouse,
 - (3) any fines for non-compliance with The AE Clearinghouse Terms, Conditions, and Procedures that may have already been charged and collected by The AE Clearinghouse,
 - (4) any insurance policy against default that may already be held by The AE Clearinghouse,
 - (5) any option, credit default swap, or other derivative contract whose conditional value is guaranteed to be non-negative, and whose payoff function is contingent upon a large market move, an externally-observed credit event, or some other referenced event, and whose value may have already been collected by The AE Clearinghouse,
 - (6) any mutualized contribution of Member Firm funds whose value may have already been collected by The AE Clearinghouse.
 - (b) After a Failed Obligation triggered event, The AE Clearinghouse shall apply any available funds in the General Clearing Fund Bank Account, as Recovery to certain counterparties experiencing shortfalls in realized or unrealized profits due to the Failed Obligation of a Member Firm, or, as Subsidy to close

- out the open positions of a Failed Obligation Member Firm, as described in the automatic recourse procedure in Article V.
- (c) The General Clearing Fund Bank Account shall not receive any fees or fines collected from Member Firms by The Actuarials Exchange.

SECTION 12: FEDWIRE EVENTS AND WITHDRAWALS

(i) **Fedwire Events**

The Clearinghouse Concentration Bank Account shall accept instructions from a Member Firm for only one of the three following types of Fedwire events at any one time:

1. A **margin payment** is made by the Member Firm, via a single Fedwire instruction, whose amount is exact-to-the-penny to satisfy the **funding requirements** of a **margin call**, and whose exact allocation among all individual Trading Accounts of the Member Firm is provided in the margin call, without any special allocation instructions determined by the Member Firm itself.
 2. A **voluntary deposit** is made by the Member Firm, via a single Fedwire instruction, to be credited to *only one* specified Trading Account under the domain of the Member Firm, and whose amount is unrelated to satisfying any funding requirements.
 3. A **withdrawal request** is made by the Member Firm on behalf of only one Trading Account under its domain, following a process whereby:
 - (a) The AE Clearinghouse shall transfer the moneys to the Withdrawal Holding Bank Account, where they shall be held for two (2) full business days.
 - (b) If over that two-day period:
 - (1) the **Available Balance** for the withdrawn Trading Account remains above zero, and, if the Member Firm has continuously satisfied all funding requirements, and, if the Arranger of the Default Protection Facility does not seize the withdrawals, then the requested withdrawals shall be paid out in full to the Member Firm.
 - (2) the Available Balance for the Trading Account drops below zero, or, if the Member Firm has not continuously satisfied its funding requirements, or, if the Arranger of the Default Protection Facility has seized any portion of the withdrawals, the requested withdrawals shall *not* be paid out in any amount to the Member Firm. Instead, the Member Firm must restart the withdrawal process.
- (ii) Neither a Member Firm nor The AE Clearinghouse shall combine any of these three different Fedwire events, into the same Fedwire event, but shall execute each such type of Fedwire events separately, with different instructions, unique identification numbers, and unique **time-stamps**.
- (iii) Under no circumstances may The AE Clearinghouse use a voluntary deposit made by the Member Firm, to allocate moneys for more than one Trading Account.
- (iv) Under no circumstances may The AE Clearinghouse use a withdrawal request made by the Member Firm, as a draw from more than one Trading Account.

SECTION 13: MARKS

The AE Clearinghouse shall obtain **marks** of Contract prices, via observation of market prices, indication prices, model prices, or reference prices, and of **open positions** for every Trading Account as of a particular time and date.

- (i) Scheduled marks shall take place twice every business day.
- (ii) Unscheduled marks shall occur when any of the following events are observed by the Authorized Compliance Officer:
 1. A very large market move reduces the initial margins already posted for open positions in a Contract by 50%, and then by another 25% to an overall 75%, and then by another 25% to an overall 100%;
 2. A market disruption occurs or is anticipated to occur, such as:
 - (a) a very large market move in a related capital market,
 - (b) a pending government announcement,
 - (c) an industry release of economic figures,
 - (d) an Act of Government,
 - (e) an Act of Terror,
 - (f) an Act of God, sometimes called *Force Majeure*,
 - (g) an unscheduled closing of any capital market, including The Actuarials Exchange,
 - (h) the incapacitation of Fedwire services,
 - (i) the incapacitation of The AE Clearinghouse payment bank,
 - (j) the incapacitation of The AE Clearinghouse clearing services.
 3. A Failed Obligation trigger is activated by The AE Clearinghouse.
 4. The enactment of new exchange-wide **initial margin requirements** by The AE Clearinghouse, as published in a numbered and dated official **AE Circular**.
 5. A market move such that at least one Contract marketplace has traded for at least one minute at its price limit above or below the settlement price of the most recent mark. Last Amended AE Circular 005, Dec 22, 2004

SECTION 14: AE CLEARINGHOUSE LEDGER ACCOUNTING AS OF THE MARK

- (i) The AE Clearinghouse shall perform ledger accounting of Member Firm and Trading Account collaterals, margins, fees, and fines, as of every scheduled or unscheduled mark.
- (ii) At the time of every scheduled or unscheduled mark, The AE Clearinghouse shall receive from The Actuarials Exchange **Electronic Tracker** the following information for every Trading Account:
 1. any current status and net change in Contract trade positions, market prices, indication prices, model prices, or reference prices since the previous mark; Last Amended AE Circular 005, Dec 22, 2004
 2. the current average price of an open position in a Contract;
 3. the current **unrealized profits** or **losses** for an existing open position in a Contract;
 4. the currently required **initial** and **maintenance margins** for an open position in a Contract;
 5. any current **realized profits** or **losses** for newly closed positions in a Contract;
 6. the currently required **pre-reserves** for initial margins, fees, or fines for a pending order that may create a new position in a Contract.
- (iii) For the purposes of calculating funding requirements, The AE Clearinghouse *shall* perform netting of any open positions of Contracts *within* Trading Accounts, but *shall not* permit any netting *among* Trading Accounts under the domain of a Member Firm, except as provided in the **automatic recourse procedure** in Article V, or as may be provided in RoPES.
- (iv) The AE Clearinghouse shall not follow any Member Firm or Trading Account instructions to allocate Contracts, positions, or funds among two or more Trading Accounts in the same Member Firm domain. With the sole exception of exact-to-the-penny margin payments, whose amounts and calculations are solely determined by The AE Clearinghouse, The AE Clearinghouse shall not perform any allocations of **voluntary deposits** benefiting Trading Accounts under the same Member Firm domain.

SECTION 15: MARK REPORTS Last Amended AE Circular 005, Dec 22, 2004

- (i) The AE Clearinghouse shall issue **Mark Reports** to Member Firms containing:
 - 1. Ledger accounting information;
 - 2. Any Fedwire events, such as received margin payments, voluntary deposits, or withdrawal requests, that have taken place between the previous mark and the most current mark.
- (ii) Based on the information contained in the Mark Report, The AE Clearinghouse shall calculate the **net change in funding requirements** for each Trading Account and determine whether the **Available Balance** of each Trading Account is sufficient to satisfy the net change in funding requirements.
- (iii) The AE Clearinghouse *shall not* compress the funding requirements of Member Firms whose respective Trading Accounts would, if combined, offset positions in identical Contracts, or offset positions in different, but correlated Contracts, except as provided in the automatic recourse procedure in Article V, or as may be provided in RoPES.

SECTION 16: COLLATERALS, MARGINS, FEES, AND FINES

- (i) Every Member Firm shall furnish necessary collaterals, margins, fees, and fines to The AE Clearinghouse, to satisfy the funding requirements of all Trading Accounts under its domain.
- (ii) Every Member Firm shall agree in the Member Firm Agreement to pay to, or deposit with, The AE Clearinghouse in a timely manner, all collaterals, margins, fees, and fines, as established in the Quartet of legally-binding documents, and as published in a numbered and dated official AE Circular.
- (iii) Collaterals for Trading Accounts that are acceptable to The AE Clearinghouse shall be USD cash and US Treasuries, and other such types of collateral that are provided in a numbered and dated official AE Circular. The total value of collaterals in a Trading Account shall be called the **Total Account Balance** of the Trading Account. The total value of collaterals available to fund margins, fees, and fines shall be called the **Available Balance** of the Trading Account.
Last Amended AE Circular 005, Dec 22, 2004
- (iv) Margins for Trading Account positions shall be first drawn by The AE Clearinghouse from the Available Balance of Trading Accounts. When the Available Balance of a Trading Account is below zero, the Authorized Compliance Officer shall observe an **Insufficient Funds triggered event**, and shall issue a special margin notice with a margin call to the Member Firm controlling that Trading Account.
- (v) Trading Account fees and fines shall be drawn by The AE Clearinghouse from the Trading Account responsible for incurring such fees.
- (vi) Member Firm fees and fines shall be drawn from a Trading Account specified by the Designated Representative of the Member Firm.

SECTION 17: MARGIN NOTICES AND MARGIN CALLS

- (i) **Margin Notices and Margin Calls After Marks**
The AE Clearinghouse shall issue a **margin notice** to each and every Member Firm after every scheduled or unscheduled mark, following a process whereby The AE Clearinghouse:
 - 1. First, calculates changes in **initial margins** for each Trading Account under the domain of the Member Firm, from the time of the previous mark until the time of the current mark.
 - 2. Second, calculates changes in **maintenance margins** for each Trading Account under the domain of the Member Firm, from the time of the previous mark until the time of the current mark.
 - 3. Third, calculates changes in accrued fees, and fines for each Trading Account under the domain of the Member Firm, from the time of the previous mark until the time of the current mark.

4. Fourth, calculates an overall net change in funding requirements from the time of the previous mark until the time of the current mark. This net change in funding requirements may be affected by any combination of the following:
 - (a) an increase or decrease in initial margins,
 - (b) an increase or decrease in maintenance margins,
 - (c) a net change in fees or fines,
 - (d) **margin payments, voluntary deposits, or withdrawal requests,**
 - (e) a change in the **minimum account balance** requirement.
5. Fifth, determines whether the Available Balance in each Trading Account under the domain of a Member Firm can satisfy the net change in funding requirements:
 - (a) If yes, The AE Clearinghouse shall issue a time-stamped margin notice with a **Good-Standing Notice** to the Member Firm, affirming that no Trading Accounts under the domain of the Member Firm are in deficit.
 - (b) If no, The AE Clearinghouse shall issue a time-stamped margin notice with a **margin call** to the Member Firm, requesting the prompt satisfaction of funding requirements.

(ii) **Special Margin Notices and Special Margin Calls After “Triggers”**

1. Following the activation of certain “triggers,” The AE Clearinghouse shall issue the following Member Firm-specific, special margin notices with either margin calls or Good-Standing Notices, as applicable:
 - (a) a **Distressed Member Firm margin notice**, with either a Good-Standing Notice or a Distressed Member Firm margin call, in response to a Distressed Member Firm trigger, as described in Article IV, Section 20.
 - (b) a **Concentration Risk margin notice**, with either a Good-Standing Notice or a Concentration Risk margin call, in response to a Concentration Risk trigger, as found in Chapter 4 of the RoPES.
 - (c) an **Insufficient Funds margin notice** with an Insufficient Funds margin call, in response to an Insufficient Funds trigger, as described in Article IV, Section 19.
 - (d) a **Late Payment margin notice** with a Late Payment margin call, in response to a Late Payment trigger, as described in Article V, Section 1.
 - (e) a **Failed Obligation margin notice**, with a Failed Obligation margin call, in response to a Failed Obligation trigger, as described in Article V, Section 2.
 - (f) a **Default margin notice**, with a Default margin notice, in response to a Default trigger, as described in Article V, Section 3.
2. Pursuant to the terms of the Sections referenced above, these special margin notices will contain either margin calls or Good-Standing Notices.

(iii) **Satisfying Funding Requirements**

1. A Member Firm can satisfy the funding requirements of any margin call by any of the following means:
 - (a) Submitting an exact-to-the-penny margin payment to the Clearinghouse Concentration Bank Account.
 - (b) Reversing a withdrawal request, whose amounts would equal or exceed the funding requirements.
 - (c) Canceling open orders, thereby freeing pre-reserves, whose amounts would equal or exceed the funding requirements.
 - (d) Closing open positions, thereby realizing profits and freeing up initial margins, whose amounts would equal or exceed the funding requirements.
2. If a Member Firm does not satisfy its funding requirements within one hour of receiving a margin call, the automatic recourse procedure in Article V shall be initiated.

SECTION 18: ELECTRONIC TRACKER AT THE ACTUARIALS EXCHANGE

The AE Clearinghouse shall require The Actuarials Exchange to keep an Electronic Tracker that, in real-time, over the course of a Trading Day:

- (i) Calculates the following for each Trading Account:
1. current **Total Account Balance**;
 2. current **Available Balance**;
 3. current **collaterals, margins, fees, and fines** that have accrued in the Available Balance, but which are not to be paid, from a ledger accounting perspective, until the next scheduled or unscheduled mark;
 4. current **pre-reserves** required to fund **initial margins** for pending orders that may be filled;
 5. current **unrealized profits or losses**, for open positions in a given Contract;
 6. current **realized profits or losses**, for recently closed positions in a given Contract.
- (ii) Detects any new order from a Trading Account, then determines any initial margins and fees required to fill that new order, and, if so, to subtract those initial margins and fees, in the form of pre-reserves, from the current Available Balance.
1. If the Available Balance would remain positive after such pre-reserves would be subtracted, the order shall be deemed “accepted” into The Actuarials Exchange, as a pending order subject to further match consideration, with pre-reserves then subtracted.
 2. If the Available Balance *would not* remain positive after such pre-reserves would be subtracted, the order shall be deemed “not accepted” into The Actuarials Exchange, and also not subject to further match consideration.
- (iii) Detects every new fill from a pending order placed at The Actuarials Exchange by a Trading Account, thereby replacing pre-reserves with the initial margins and fees required to fill that new order, leaving the Available Balance of that Trading Account unchanged.

***Guidance.** For example, Trading Account 1 at Acme has a Total Account Balance of \$1 million, a minimum account balance of \$100,000, and thus an Available Balance of \$900,000. Trading Account 1 places a limit price order to buy 2000 lots of a Contract, expiring in two days. The initial margin requirement is \$498 per lot, with fees of \$2 per lot.*

2000 lots times \$500 equals \$1 million dollars, which when subtracted from \$900,000 in Available Balance leaves a negative \$100,000. The Electronic Tracker of The Actuarials Exchange thus refuses to accept the order.

Trading Account 1 at Acme then places a limit price order to buy 1500 lots of that same Contract. 1500 lots times \$500 equals \$750,000, which when subtracted from \$900,000 in Available Balance leaves \$150,000. The Electronic Tracker of The Actuarials Exchange thus accepts the order.

The limit price order is never filled, but the Electronic Tracker pre-reserves the \$750,000 in initial margins and fees, until the limit price order is cancelled.

- (iv) Performs *no* **heavyside calculation** for the pending **strips** of **Market Makers**.

***Guidance.** For example, Market Maker Trading Account 222 at BeeCo has placed two identically-sized limit price orders of 100 lots each, one the best ask, and one the best bid, plus a another limit order to buy 30 lots at a much lower price. The AE Clearinghouse and The Actuarials Exchange pre-reserve initial margins and fees only for the heavyside of the non-strip 30 lots.*

- (v) Performs a heavyside calculation, for the purposes of pre-reserving initial margins and fees on the Electronic Tracker, for non-Market Maker Trading Accounts placing orders of any size at or below the **best bid**, and at the same time, of any size at or above the **best ask**, of a given Contract.

Guidance. For example, non-Market Maker Trading Account 5 at Acme has placed three limit price orders of 7, 18, and 29 lots each, for a total of 54 lots, to sell above the best ask, and two limit price orders of 1 and 35 lots, for a total of 36 lots, to buy below the best bid. After performing a heavyside calculation, The Actuarials Exchange pre-reserves initial margins only for the heavyside 54 lots.

SECTION 19: INSUFFICIENT FUNDS

(i) If the Available Balance of any Trading Account drops below zero in the interim period between two scheduled “marks,” as monitored in real-time by the Electronic Tracker, The AE Clearinghouse or the Authorized Compliance Officer shall have the right, but not the obligation, to perform the following:

- activate an **Insufficient Funds trigger**
- observe an **Insufficient Funds triggered event** and issue an **Insufficient Funds margin call**.

An official of The AE Clearinghouse shall have the authority to perform the following:

Activate Trigger

1. If the Available Balance of any Trading Account drops below zero, as monitored in real-time by the Electronic Tracker, the Authorized Compliance Officer shall have the right, exercisable in the sole discretion of the Authorized Compliance Officer, to activate an **Insufficient Funds trigger**.

Observe Triggered Event

2. One minute after an Insufficient Funds trigger has been activated, the Authorized Compliance Officer shall observe an **Insufficient Funds triggered event**.
3. The Authorized Compliance Officer shall issue to the **Insufficient Funds Member Firm** a time-stamped **Insufficient Funds margin notice** with an **Insufficient Funds margin call**, which states that the Member Firm shall have one hour to satisfy its funding requirements. This special margin call shall require immediate attention from the Member Firm to avoid initiating the automatic recourse procedure in Article V.
4. If, after satisfying the Insufficient Funds margin call, a Trading Account under the domain of the Insufficient Funds Member Firm falls into deficit again, the Authorized Compliance Officer shall have the right to activate another Insufficient Funds trigger.

SECTION 20: DISTRESSED MEMBER FIRM

(i) If a Member Firm has 1) been subjected to a voluntary or involuntary bankruptcy filing, 2) communicated its expectation to be subject to such a filing, 3) defaulted on obligations at another exchange or clearinghouse, 4) lost its investment-grade credit rating, 5) become insolvent, 6) lost its status as a qualified eligible contract participant, 7) lost its operational capabilities to continue conducting business, 8) exhibited other signs of imminent failure, 9) failed to fulfill material obligations to third parties, 10) engaged in activities that are deemed unlawful by the Chief Compliance Officer, or 11) activated a Late Payment trigger three (3) times in a twelve month period, then: officers of The AE Clearinghouse shall affirm these events with respect to materiality and then act in a commercially reasonable manner to perform the following:

- activate a **Distressed Member Firm trigger**;
- gain the affirmation of the officers of The Actuarials Exchange before continuing;
- observe a **Distressed Member Firm triggered event**;
- issue a **Distressed Member Firm margin notice**;

- restrict trading activity;
- segregate the funds of the Distressed Member Firm and begin five day close-out period;
- send the Distressed Member Firm to the **automatic recourse procedure** in Article V, if necessary.

An official of The AE Clearinghouse shall have the authority to perform the following:

Activate Trigger

1. If a Member Firm has 1) declared bankruptcy, 2) communicated its expectation to declare bankruptcy, 3) defaulted on obligations at another exchange or clearinghouse, 4) lost its investment-grade credit rating, 5) become insolvent, 6) lost its status as a qualified eligible contract participant, 7) lost its operational capabilities to continue conducting business, 8) failed to fulfill obligations to third parties, 9) engaged in activities that are deemed unlawful by the Chief Compliance Officer, 10) exhibited other signs of imminent failure, or 11) activated a Late Payment trigger three (3) times in a twelve month period, immediately activate a **Distressed Member Firm trigger**.

Gain Affirmation

2. Gain the affirmation of the CEO of The Actuarials Exchange, the CEO of The AE Clearinghouse, or the available successor officer thereof, before proceeding with the remaining steps of the Recourse.

Observe Event and Issue Margin Notice

3. One minute after a Distressed Member Firm trigger has been activated, the Authorized Compliance Officer shall observe a **Distressed Member Firm triggered event**.
4. Following the activation of a Distressed Member Firm trigger, the Authorized Compliance Officer shall determine if any Trading Account under the domain of the Distressed Member Firm is in deficit:
 - (a) If yes, the Authorized Compliance Officer shall issue to the Distressed Member Firm a time-stamped **Distressed Member Firm margin notice** with a **Distressed Member Firm margin call**.
 - (b) If no, the Authorized Compliance Officer shall issue to the Distressed Member Firm a time-stamped Distressed Member Firm margin notice with a Good-Standing Notice.

Restrict Trading Activities

5. Refuse to accept any new orders from any Trading Account of the Distressed Member Firm that could result in new open positions, only allowing the Distressed Member Firm to voluntarily liquidate existing open positions.
6. Cancel all **pending orders** of the Trading Accounts of the Distressed Member Firm, to return pre-reserves that may exist to its Trading Accounts.

Segregate Funds and Begin Close-Out Period

7. Create a dedicated **Distressed Member Firm Bank Account** in the name of the Distressed Member Firm, and transfer Trading Accounts and funds of that Distressed Member Firm to the dedicated Distressed Member Firm Bank Account. The Authorized Traders and Authorized Administrators of the Distressed Member Firm will still have control over their Trading Accounts after the funds have been transferred.
8. Notify the Designated Representative of the Distressed Member Firm, in a time-stamped e-mail or faxed message, that the Distressed Member Firm has five (5) full business days to close all open positions or transfer them to a Trading Account under a different Member Firm.

Send to Recourse, If Necessary

9. Determine if, at the end of the five (5) business days, the Distressed Member Firm still has open positions under its own domain:
 - (a) If yes, proceed to Article V, SECTION 2: FAILED OBLIGATION OF A MEMBER FIRM.
 - (b) If no, the Distressed Member Firm has been completely processed and has no further obligations to The AE Clearinghouse. Immediately notify the other Member Firms in Good-Standing, the CFTC, and other financial regulatory agencies, of the Distressed Member Firm triggered event and the name of the Distressed Member Firm.

SECTION 21: ADMINISTRATIVE WIND-DOWN OF CLEARING OPERATIONS

Upon the first day of active clearing, or subsequently, at the beginning of every calendar month, The AE Clearinghouse shall examine the exact amount of assets held at the General Clearing Fund bank account, and subtract the expected administrative costs of operating the clearinghouse function over the next six months, to obtain a projected operating surplus or deficit.

If a surplus is obtained, then The AE Clearinghouse shall immediately report to the CFTC and to Member Firms the fact and amount of the administrative surplus, and shall continue to clear financial instruments as provided in the Quartet.

If a deficit is obtained, then The AE Clearinghouse shall immediately report to the CFTC and to Member Firms the fact and amount of the administrative deficit, and shall activate a wind-down of clearinghouse obligations, and:

- activate a **Clearinghouse Wind-Down**;
- gain the affirmation of the officers of The Actuarials Exchange before continuing;
- observe a **Clearinghouse Wind-Down** and issue a **Clearinghouse Wind-Down Notice**;
- restrict subsequent clearing activity to closing out existing positions;
- after three months, require the Member Firms to **force-settle** any remaining existing positions
- after all existing positions have been closed out, return all Trading Account assets and the Default Protection Facility to the Member Firms

If The AE Clearinghouse obtains an administrative deficit, an official of The AE Clearinghouse shall perform the following:

Activate Clearinghouse Wind-Down

1. Activate a **Clearinghouse Wind-Down**.

Gain Affirmation

2. Gain the affirmation of the CEO of The Actuarials Exchange, the CEO of The AE Clearinghouse, or the available successor officer thereof, before proceeding with the remaining steps of the Recourse.

Observe Event and Issue Wind-Down Notice

3. Before the end of the second business day of the calendar month, after a Clearinghouse Wind-Down has been activated, the Authorized Compliance Officer shall observe a **Clearinghouse Wind-Down event, and communicate that event to the CFTC and to the Member Firms**.

Restrict Trading Activities

4. Refuse to accept any new orders from any Trading Account of any Member Firm that could result in new open positions, only allowing the Trading Account to voluntarily liquidate existing open positions.

5. Cancel all **pending orders** of the Trading Accounts of any Member Firm that could result in new open positions, to return pre-reserves that may exist to the respective Trading Accounts.

Segregate Funds and Begin Close-Out Period

6. Notify the Designated Representative of each Member Firm, in a time-stamped e-mail or faxed message, that each Member Firm has until the end of the third calendar month to close all open positions at the clearinghouse.

Send to Recourse, If Necessary

7. Determine if, at the end of the third calendar month, any Trading Account of any Member Firm still has open positions:
 - (a) If yes, proceed to Step 8.
 - (b) If no, The AE Clearinghouse has successfully removed all open positions from The AE Risk Pool, and proceed to Step 9.
8. Before the end of the first day of the fourth calendar month, Force-Settle the open positions of all of the Trading Accounts of all of the Member Firms according to the following process:
 - (a) identify the Trading Accounts with “leftover open positions,”
 - (b) discover all “leftover open positions” of these Trading Accounts,
 - (c) find all of the Contracts for which at least one Trading Account has a “leftover open position,”
 - (d) sort all such Contracts according to the Ordered List of Contracts in the RoPES,
 - (e) label the highest-ranked sorted Contract as the “selected Contract,” and perform the following steps for that “selected Contract”:
 - (1) obtain the number of remaining **open interest lots** of The AE Clearinghouse,
 - (2) discover the long/short position and number of **open position lots** of every Trading Account,
 - (3) using the price settlement basis of the most recent mark, Force-Settle the open lots to complete the Force-Settlement for that “selected Contract,”
 - (4) verify that the lots thus Force-Settled have been subtracted from the previously obtained open interest lots of The AE Clearinghouse, to obtain a new number of **open interest** of The AE Clearinghouse for that “selected Contract,” equal to zero,
 - (5) the “selected Contract” has now been Force-Settled, and The AE Clearinghouse is no longer exposing any Member Firm to the open interest in that “selected Contract.”
 - (6) label the next highest Contract on the sorted list of Contracts as the “selected Contract.” Proceed to (f).
 - (f) repeat (e) until all of the sorted Contracts have been Force-Settled, then continue to (g).
 - (g) establish the positions closed in (e) as Force-Settled positions. The AE Clearinghouse has successfully removed all open positions from The AE Risk Pool, so proceed to Step 9.
9. Before the end of the second business day of the fourth calendar month, report to the CFTC and to the Member Firms that The AE Clearinghouse no longer has Contracts with open interest.
10. Before the end of the fifth business day of the fourth calendar month, return all Trading Account assets and Default Protection Facility assets, back to the Member Firms.

ARTICLE V

AUTOMATIC RECOURSE PROCEDURE

The AE Clearinghouse shall perform an automatic recourse procedure, to be referred to as the Recourse, any time a Member Firm is late in satisfying funding requirements.

SECTION 1: LATE PAYMENT OF A MEMBER FIRM

- (i) If a Member Firm has not fully satisfied its funding requirements one hour after a margin call has been issued, The AE Clearinghouse or the Authorized Compliance Officer shall perform the following:
- activate a **Late Payment trigger**;
 - gain the affirmation of certain officers of The Actuarials Exchange and The AE Clearinghouse before continuing with the Recourse;
 - observe a **Late Payment event** and issue a **Late Payment margin notice**;
 - draw down and set aside emergency funds from a **Default Protection Facility**;
 - confirm non-payment, and issue a “Late Payment margin notice validation”;
 - restrict the trading activity of the Late Payment Member Firm;
 - cancel withdrawal requests;
 - determine the Available Balances of all Trading Accounts;
 - perform final deficit check.

An official of The AE Clearinghouse shall have the authority to perform the following:

Activate Trigger

1. If a Member Firm has not fully satisfied its funding requirements one hour after a margin call has been issued, activate a **Late Payment trigger**.

Gain Affirmation

2. Gain the affirmation of the CEO of The Actuarials Exchange, the CEO of The AE Clearinghouse, or the available successor officer thereof, before proceeding with the remaining steps of the Recourse.

Observe Triggered Event and Issue Late Payment Margin Notice

3. One minute after a Late Payment trigger is activated, the Authorized Compliance Officer shall observe a **Late Payment triggered event**.
4. Recalculate the funding requirements of the Member Firm to account for any position or price changes in the previous hour.
5. The Authorized Compliance Officer shall issue to the Late Payment Member Firm a time-stamped Late Payment margin notice with a **Late Payment margin call**, via a phone call followed by a time-stamped e-mail or faxed message, which shall demand the updated funding requirements and a **Late Payment fine**, whose amount is specified in a numbered and dated AE Circular.

Draw Default Protection Facility Funds

6. Draw from a **Default Protection Facility** all emergency funds in the name of the Late Payment Member Firm and transfer them to a dedicated **Keepsafe Bank Account** for possible later use.

Confirm Non-Payment

7. Contact the bank office at The AE Clearinghouse payment bank managing **Fedwire** receptions, to verify that a margin payment has not been received.
8. Contact the Late Payment Member Firm's **Designated Representative** to report that a margin payment has not been received.
9. If the Designated Representative is successfully contacted, and attests that the funding requirements shall be shortly satisfied by a pending Fedwire payment from the Member Firm payment bank, the Designated Representative must facilitate a direct contact between the bank officer at The AE Clearinghouse payment bank and the bank officer at the Late Payment Member Firm payment bank, so as to ensure execution of payment.
10. If the Designated Representative cannot be successfully contacted, or does not attest that the funding requirements shall be shortly satisfied by a pending Fedwire payment from the Late Payment Member Firm payment bank, the Authorized Compliance Officer shall verify the Late Payment triggered event with a "Late Payment margin notice validation." The sole purpose of this validation is to confirm the original Late Payment margin notice. The **time-stamp** of the original notice shall serve as the time basis for the remaining steps of the Recourse.

Restrict Trading Activities

11. Refuse to accept any new orders from any Trading Account of the Late Payment Member Firm that could result in new open positions, only allowing the Trading Accounts of the Late Payment Member Firm to voluntarily liquidate existing open positions.
12. Cancel all pending orders of the Trading Accounts of the Late Payment Member Firm, to return pre-reserves that may exist to those Trading Accounts.

Cancel Withdrawal Requests

13. Take control of any pending withdrawal requests of the Late Payment Member Firm, and "re-apply" their funds to their original Trading Accounts.

Determine Trading Account Available Balances

14. After such "re-application," determine whether any Trading Account is currently in deficit:
 - (a) If yes, proceed to 15.
 - (b) If no, the Recourse is complete. Unless the Late Payment Member Firm has activated three (3) Late Payment triggers in the past twelve months, it shall be deemed to be in Good-Standing and shall remain eligible for future trading. Otherwise, the Late Payment Member Firm shall be deemed a **Distressed Member Firm** and shall be subject to the provisions of Article IV, Section 20. In either event, the funds held in the Keepsafe Bank Account shall be returned to the Default Protection Facility.

Perform Final Deficit Check

15. One hour after the Late Payment margin notice has been issued, incorporate any funds that may have been received from the Late Payment Member Firm payment bank during the preceding hour. Then, determine for a second time whether any Trading Account is currently in deficit:
 - (a) If yes, proceed to SECTION 2: FAILED OBLIGATION OF A MEMBER FIRM.
 - (b) If no, the Recourse is complete. Unless the Late Payment Member Firm has activated three (3) Late Payment triggers in the past twelve months, it shall be deemed to be in **Good-Standing** and shall remain eligible for future trading. Otherwise, the Late Payment Member Firm shall be deemed a **Distressed Member Firm** and shall be subject to the provisions of Article IV, Section 20. In either event, the funds held in the Keepsafe Bank Account shall be returned to the Default Protection Facility.

SECTION 2: FAILED OBLIGATION OF A MEMBER FIRM

- (i) If either: 1) a Late Payment Member Firm's funding requirements have not been met one hour after the Late Payment margin call has been issued, or, 2) if a Distressed Member Firm does not close its open positions within five (5) business days of Distressed Member Firm trigger, the AE Clearinghouse shall perform the following steps, as needed:

- activate a **Failed Obligation trigger**;
- gain the affirmation of the officers of The Actuarials Exchange and The AE Clearinghouse before continuing with the Recourse;
- make a special **Failed Obligation mark**;
- prevent further trading by the Failed Obligation Member Firm;
- observe a **Failed Obligation triggered event** and issue a **Failed Obligation margin call**;
- create an Omnibus Trading Account, Force-Net open positions, and Force-Commingle funds;
- apply recovery to the realized profits of closed positions experiencing shortfalls;
- **Force-Liquidate** any of the Failed Obligation Member Firm's open positions with escalating subsidies, if such subsidies are available;
- discover if the Failed Obligation Member Firm has any "leftover open positions";
- **Force-Settle** the Failed Obligation Member Firm's "leftover open positions";
- determine the balance of Omnibus Trading Account;
- and complete such steps no later than the end of the following business day.

Last Amended AE Circular 005, Dec 22, 2004

An official of The AE Clearinghouse shall have the authority to perform the following:

Activate Trigger

1. If a Late Payment Member Firm's funding requirements have not been met one hour after the Late Payment margin call has been issued, or if a Distressed Member Firm has not closed or transferred its open positions within five (5) business days of a Distressed Member Firm trigger, activate a **Failed Obligation trigger**.

Gain Affirmation

2. Gain the affirmation of the CEO of The Actuarials Exchange, the CEO of The AE Clearinghouse, or the available successor officer thereof, before proceeding with the remaining steps of the Recourse.

Make Failed Obligation Mark

3. Make a special mark, to be referred to as the **Failed Obligation mark**, and issue exchange-wide margin notices to all Member Firms in Good-Standing.

Prevent Further Failed Obligation Member Firm Trading Activity

4. Block every Authorized Trader or Authorized Support Person for any Trading Account of a Failed Obligation Member Firm, from conducting further trading on The Actuarials Exchange.

Observe Triggered Event and Issue Failed Obligation Margin Notice

5. One minute after a Failed Obligation trigger is activated, the Authorized Compliance Officer shall observe a **Failed Obligation triggered event**.
6. Calculate the funding requirements of the Failed Obligation Member Firm to The AE Clearinghouse as of the Failed Obligation mark.
7. The Authorized Compliance Officer shall issue to the Failed Obligation Member Firm a time-stamped **Failed Obligation margin notice** with a **Failed Obligation margin call**, via a phone call followed by a time-stamped e-mail or faxed message, which shall demand the unmet funding requirements and a **Failed Obligation fine**, whose amount is specified in a numbered and dated official AE Circular.

Create Omnibus Trading Account and Force-Net Open Positions and Funds

8. Create an **Omnibus Trading Account** for the Failed Obligation Member Firm. The AE Clearinghouse shall have sole authority over the Omnibus Trading Account.
9. Transfer all open positions and funds held in the Trading Accounts of the Failed Obligation Member Firm to the Omnibus Trading Account.
10. **Force-Net** all such funds, and Force-Net all long and short open positions held in the same Contract, at the settlement price of the Failed Obligation mark.

Determine the Total Account Balance of Omnibus Trading Account

11. Determine if the Total Account Balance of the Omnibus Trading Account of the Failed Obligation Member Firm, is negative, zero, or positive:
 - (a) If negative, retroactively determine the sum of the Total Account Balances of all of the Trading Accounts of the Failed Obligation Member Firm, as of the last mark upon which all funding requirements were satisfied, and define this sum as the starting point of **Total Risk Capital** for subsequent steps in the recourse, and proceed to 12.
 - (b) If zero or positive, proceed directly to 17.

Calculate Realized Losses of Failed Obligation Member Firm

Last Amended AE Circular 005, Dec 22, 2004

12. Calculate, from the last mark upon which all funding requirements were satisfied, until the Failed Obligation mark, the net change in realized profits and losses of the Failed Obligation Member Firm, across all **Contract marketspaces**:
 - (a) If positive, declare this amount to be a **realized profit** for the Failed Obligation Member Firm. Add this amount to the Total Risk Capital of the Failed Obligation Member Firm. No further steps of recovery are required to satisfy the realized profits of Member Firms in Good-Standing. Proceed directly to 17.
 - (b) If zero, declare this amount to be neither a realized profit or realized loss for the Failed Obligation Member Firm. No further steps of recovery are required to satisfy the realized profits of Member Firms in Good-Standing. Proceed directly to 17.
 - (c) If negative, declare this amount to be a **realized loss** for the Failed Obligation Member Firm, requiring Recovery for the realized profits of the Trading Accounts of Member Firms in Good-Standing. Proceed to 13.

13. Determine the Recovery available to the realized profits of the Trading Accounts of Member Firms in Good-Standing, by subtracting the realized loss of the Failed Obligation Member Firm from the sum of the following: 1) the Total Risk Capital of the Failed Obligation Member Firm, plus 2) the Default Protection Facility of the Failed Obligation Member Firm, plus 3) the **General Clearing Fund**.
 - (a) If the resulting difference is positive or zero, then prepare to apply Full Recovery to the realized profits of the Trading Accounts of Member Firms in Good-Standing, and proceed to 14.
 - (b) If the resulting difference is negative, then prepare to apply Partial Recovery to such realized profits, and proceed to 14.

Apply Recovery From Three Levels of Capital Protection

14. Subtract the realized loss of the Failed Obligation Member Firm, from the Total Risk Capital of the Failed Obligation Member Firm.
 - (a) If this figure is zero or positive, pay 100% of the realized profits owed to the Trading Accounts of Member Firms in Good-Standing as Full Recovery. No further steps of recovery are required to satisfy the realized profits of Member Firms in Good-Standing. Apply any remainder of Total Risk Capital toward the further recovery and subsidy of any unrealized profits owed to the Trading Accounts of Member Firms in Good-Standing. Proceed directly to 17.
 - (b) If this figure is negative, divide the Total Risk Capital by the realized profits owed to the Trading Accounts of Member Firms in Good-Standing, to determine a pennies-to-the-dollar partial recovery rate, and pay this rate of the realized profits to each of the Trading Accounts of the Member Firms in Good-Standing. Identify the negative figure as a **realized profit shortfall** to the Trading Accounts of the Member Firms in Good-Standing. Proceed to 15.
15. Subtract the **realized profit shortfall**, from the Default Protection Facility of the Failed Obligation Member Firm.
 - (a) If this figure is zero or positive, pay 100% of the realized profits owed to the Trading Accounts of Member Firms in Good-Standing as Full Recovery. No further steps of recovery are required to satisfy the realized profits of Member Firms in Good-Standing. Apply any remainder of Default Protection Facility toward the further recovery and subsidy of any unrealized profits owed to the Trading Accounts of Member Firms in Good-Standing. Proceed to 17.
 - (b) If this figure is negative, divide the Default Protection Facility by the realized profits owed to the Trading Accounts of Member Firms in Good-Standing, to determine a pennies-to-the-dollar partial recovery rate, and pay this rate of the realized profits to each of the Trading Accounts of the Member Firms in Good-Standing. Identify the negative figure as a remaining **realized profit shortfall** to the Trading Accounts of the Member Firms in Good-Standing. Proceed to 16.
16. Subtract the remaining realized profit shortfall, from The General Clearing Fund.
 - (a) If this figure is zero or positive, pay 100% of the realized profits owed to the Trading Accounts of Member Firms in Good-Standing as Full Recovery. No further steps of recovery are required to satisfy the realized profits of Member Firms in Good-Standing. Apply any remainder of the General Clearing Fund toward the further recovery and subsidy of any unrealized profits owed to the Trading Accounts of Member Firms in Good-Standing. Proceed to 17.
 - (b) If this figure is negative, divide The General Clearing Fund by the realized profits owed to the Trading Accounts of Member Firms in Good-Standing, to determine a pennies-to-the-dollar partial recovery rate, and pay this rate of the realized profits to each of the Trading Accounts of the Member Firms in Good-Standing. No further steps of recovery are available to satisfy the realized profits of Member Firms in Good-Standing. Identify the negative figure as a remaining **realized profit shortfall** to the Trading Accounts of the Member Firms in Good-Standing. Proceed to 17.

Discover Any Open Positions

17. Discover if the Omnibus Trading Account of the Failed Obligation Member Firm has any open positions.
 - (a) If yes, proceed to 18.
 - (b) If no, proceed directly to 25.

Calculate Unrealized Losses of Failed Obligation Member Firm

18. Calculate, from the last mark upon which all funding requirements were satisfied, until the Failed Obligation mark, the net change in unrealized profits and losses of the Failed Obligation Member Firm, across all Contract marketplaces:
 - (a) If positive, declare this amount to be an **unrealized profit** for the Failed Obligation Member Firm. Add this amount to the Total Risk Capital of the Failed Obligation Member Firm. No further steps of recovery are required to satisfy the unrealized profits of Member Firms in Good-Standing, but the open positions of the Failed Obligation Member Firm must be closed out. Proceed directly to 20.
 - (b) If zero, declare this amount to be neither an unrealized profit or unrealized loss for the Failed Obligation Member Firm. No further steps of recovery are required to satisfy the unrealized profits of Member Firms in Good-Standing, but the open positions of the Failed Obligation Member Firm must be closed out. Proceed directly to 20.
 - (c) If negative, declare this amount to be an **unrealized loss** for the Failed Obligation Member Firm, requiring Recovery of unrealized profits of the Trading Accounts of Member Firms in Good-Standing, to be realized only by those Trading Accounts experiencing changes in open position by virtue of the recourse. Proceed to 19.

Determine Recovery and Subsidy

19. Determine the **Recovery** and **Subsidy** available to the unrealized profits of the Trading Accounts of Member Firms in Good-Standing, to be realized only by those Trading Accounts experiencing changes in open position by virtue of the recourse, by dividing the sum of the following: 1) any of the remaining Total Risk Capital of the Failed Obligation Member Firm, plus 2) any of the remaining Default Protection Facility of the Failed Obligation Member Firm, plus 3) any remaining moneys of the General Clearing Fund, by the absolute value of the unrealized losses of the Failed Obligation Member Firm.
 - (a) If the resulting quotient is greater than 1, then prepare to apply Full Recovery with Escalating Subsidy to those Trading Accounts of Member Firms in Good-Standing, experiencing changes in open positions during Force-Liquidation and Force-Settlement, and proceed to 20, then 21.
 - (b) If the resulting quotient is less than 1, but greater than 0, then prepare to apply Partial Recovery to those Trading Accounts of Member Firms in Good-Standing, experiencing changes in open position during Force-Settlement, and proceed to 20, then proceed directly to 24.
 - (c) If the resulting quotient is 0, then prepare to apply Zero Recovery to those Trading Accounts of Member Firms in Good-Standing, experiencing changes in open position during Force-Settlement, and proceed to 20, then proceed directly to 24.

Broadcast Failed Obligation, Remaining Steps of Recourse

20. Communicate to the Member Firms in Good-Standing, and the CFTC, simultaneously, by broadcast, by transmitted letter, and by data transmission, of the following:
 - (a) the existence of the Failed Obligation to The AE Clearinghouse;
 - (b) the Recovery available, if any, to the realized profits of Trading Accounts of Member Firms in Good-Standing, for positions that were closed before the Failed Obligation mark;
 - (c) the Recovery and Subsidy available, if any, to the unrealized profits of the Trading Accounts of Member Firms in Good-Standing, to be realized only by those Trading Accounts experiencing changes in open position by virtue of the recourse, after the Failed Obligation mark;
 - (d) all of the remaining steps of the recourse;
 - (e) the long/short direction, and the lot size, of each remaining position in unexpired Contract marketplaces, of the Failed Obligation Member Firm;
 - (f) if a Subsidized Force-Liquidation is scheduled, an announcement of its time, with an invitation of The AE Clearinghouse to Member Firms in Good-Standing to selectively submit Limit Orders, whose competitive prices would reside in each unexpired Contract market, until cancelled or until being hit by eligible **Fill-and-Kill** orders whose prices are to be subsidized on an escalating basis: first by the remaining Total Risk Capital of the Failed Obligation Member Firm, then by the remaining Default Protection Facility of the Failed Obligation Member Firm, then by any remaining moneys of the General Clearing Fund.

- (g) if a Subsidized Force-Liquidation is scheduled, a warning of The AE Clearinghouse to the Member Firms in Good-Standing that any open positions of the Failed Obligation Member Firm remaining after Subsidized Force-Liquidation must be Force-Settled against some of the Member Firms in Good-Standing, without Subsidy.

Calculate the Collective Initial Margin For All Open Positions, and Any Subsidy Factors

21. Determine the subsidy factors from Three Levels of Capital Protection, according to the following process:
 - (a) sort all Contracts in which the Failed Obligation Member Firm has an open position, according to the **Ordered List of Contracts** in the RoPES,
 - (b) label the highest-ranked sorted Contract as the “selected Contract,” and perform the following steps for that “selected Contract”:
 - (1) obtain the initial margin normally required for a single lot of the Contract,
 - (2) obtain the minimum tick size of the Contract,
 - (3) divide this initial margin by this minimum tick size, to obtain the ticks comprising initial margin per lot,
 - (4) obtain the lot size and long/short direction of the open position,
 - (5) multiply this lot size by the initial margins normally required, to obtain an initial margin for this open position;
 - (c) repeat (b) until all of the sorted Contracts have been processed, then continue to (d);
 - (d) add the baselines for all open positions of the Failed Obligation Member Firm, to obtain a collective initial margin for all open positions;
 - (e) divide the remaining Total Risk Capital of the Failed Obligation Member Firm by the collective initial margin to determine the **Total Risk Capital subsidy factor**,
 - (f) divide the remaining Default Protection Facility of the Failed Obligation Member Firm by the collective initial margin, to determine the **Default Protection Facility subsidy factor**,
 - (g) divide the remaining moneys of the General Clearing Fund by the collective initial margin, to determine the **General Clearing Fund subsidy factor**.

Force-Liquidate with Escalating Price Tick Subsidies From Three Levels of Capital Protection

22. At the appointed time, **Force-Liquidate** all open positions of the Omnibus Trading Account according to the following process:
 - (a) identify the Failed Obligation Member Firm,
 - (b) identify all open positions of the Omnibus Trading Account,
 - (c) identify all Contracts for which the Omnibus Trading Account has an open position,
 - (d) sort all such Contracts according to the Ordered List of Contracts in the RoPES,
 - (e) label the highest-ranked sorted Contract as the “selected Contract,” and perform the following steps for that “selected Contract”:
 - (1) for the Failed Obligation Member Firm’s current open position, obtain the lot size and long/short direction of the position,
 - (2) submit a series of four Fill-and-Kill orders to close out any remaining open positions, whose order lot size is identical to, and whose verb to sell/buy reverses the direction of, that remaining open position, but whose order price is set to the price settlement basis of the Failed Obligation mark, minus/plus each of the following amounts of price tick subsidy, in escalating succession:
 - (i) First, a price tick subsidy of zero (0). If the leftover open position:
 - (a) is completely closed out, proceed directly to (e)(3).
 - (b) is not filled or is only partially filled, determine the lot size of that leftover open position, then proceed to (ii).
 - (ii) Second, with a price tick subsidy obtained by: multiplying the initial margin for the current open position by the **Total Risk Capital subsidy factor**, whose product is then divided by the minimum tick size of the Contract, and whose quotient is further truncated. If the leftover open position:
 - (a) is completely closed out, proceed directly to (e)(3).
 - (b) is not filled or is only partially filled, determine the lot size of that leftover open position, then proceed to (iii).

- (iii) Third, with a price tick subsidy obtained by: multiplying the initial margin for that current open position by the Total Risk Capital subsidy factor plus the **Default Protection Facility subsidy factor**, whose product is then divided by the minimum tick size of the Contract, and whose quotient is further truncated. If the leftover open position:
 - (a) is completely closed out, proceed directly to (e)(3).
 - (b) is not filled or is only partially filled, determine the lot size of that leftover open position, then proceed to (iv).
- (iv) Fourth, with a price tick subsidy obtained by: multiplying the initial margin for that current open position by the Total Risk Capital subsidy factor plus the Default Protection Facility subsidy factor plus **The General Clearing Fund subsidy factor**, whose product is then divided by the minimum tick size of the Contract, and whose quotient is further truncated. Proceed to (e)(3).
- (3) the “selected Contract” has now been fully processed,
- (4) label the next highest Contract on the sorted list of Contracts as the “selected Contract.”
- (f) repeat (e) until all of the sorted Contracts have been processed, then continue to (g).
- (g) identify any positions that *were not* fully-closed in (e) as “leftover open positions” and proceed to 23.
- (h) identify any positions that *were* fully-closed in (e) as **Force-Liquidated positions**, and proceed to 23.

Last Amended AE Circular 005, Dec 22, 2004

Discover Any Open Positions

- 23. Discover if the Omnibus Trading Account of the Failed Obligation Member Firm has any open positions:
 - (a) If yes, proceed to 24.
 - (b) If no, proceed directly to 25.

Force-Settle

- 24. Force-Settle the open positions of the Omnibus Trading Account of the Failed Obligation Member Firm according to the following process:
 - (a) identify the Failed Obligation Member Firm,
 - (b) discover all “leftover open positions” of the Omnibus Trading Account,
 - (c) find all of the Contracts for which the Omnibus Trading Account has a “leftover open position,”
 - (d) sort all such Contracts according to the Ordered List of Contracts in the RoPES,
 - (e) label the highest-ranked sorted Contract as the “selected Contract,” and perform the following steps for that “selected Contract”:
 - (1) obtain the lot size and long/short direction of the “leftover open position,”
 - (2) obtain the number of remaining **open interest lots** of The AE Clearinghouse,
 - (3) discover the long/short position and number of **open position lots** of every Trading Account of all Member Firms in Good-Standing,
 - (4) identify all Trading Accounts of all Member Firms in Good-Standing, whose open position lots are on the opposite side of the net long/short position of the Omnibus Trading Account, as **mutually-exposed contras**,
 - (5) rank, from largest to smallest, the mutually-exposed contras by the number of **open lots**. Among any mutually-exposed contras sharing the same rank, further sub-rank these contras from the earliest to the latest time-stamp of their first open position, to assign, overall, a unique “rank numeral” to each of the mutually-exposed contras,
 - (6) divide the net open lots of the Omnibus Trading Account by the cumulated number of open lots of the mutually-exposed contras, to obtain a **mutual exposure ratio**;
 - (7) multiply the mutual exposure ratio by the open lots of each of the mutually-exposed contras and truncate each product, to obtain a positive number of “truncated lots” to be soon **Force-Settled** against the “counterparties to the Force-Settlement,”
 - (8) add up the “truncated lots” from all “counterparties to the Force-Settlement,” to obtain a “partial sum,”
 - (9) subtract the “partial sum” from the lot size of the “leftover open position” of the Omnibus Trading Account, to obtain a “remainder,”
 - (10) determine whether the “remainder” is zero or positive:

- (i) If zero, the “partial sum” constitutes all **Force-Settled lots**. Proceed directly to (17),
- (ii) If positive, continue to (11),
- (11) find the mutually-exposed contra whose unique “rank numeral” is equal to this obtained “remainder,”
- (12) distribute one open lot from the obtained “remainder” to each of the mutually-exposed contras whose ranking ranges from one (1) to the unique “rank numeral” so found, to obtain a positive number of “remaindered lots” to be soon Force-Settled against the “counterparties to the Force-Settlement,”
- (13) sum the “truncated lots” and “remaindered lots” to find the “total lots” to be soon Force-Settled against the “counterparties to the Force-Settlement,”
- (14) using the price settlement basis of the Failed Obligation mark, Force-Settle the open lots of the Omnibus Trading Account by matching them against the equal number of “total lots” of the “counterparties to the Force-Settlement,” to complete the Force-Settlement for that “selected Contract,”
- (15) verify that the lots thus Force-Settled have been subtracted from the previously obtained open interest lots of The AE Clearinghouse, to obtain the new number of **open interest** of The AE Clearinghouse for that “selected Contract,”
- (16) the “selected Contract” has now been Force-Settled, and The AE Clearinghouse is no longer exposed to the Failed Obligation Member Firm for that “selected Contract.”
- (17) label the next highest Contract on the sorted list of Contracts as the “selected Contract.” Proceed to (f).
- (f) repeat (e) until all of the sorted Contracts have been Force-Settled, then continue to (g).
- (g) establish the positions closed in (e) as Force-Settled positions, and proceed to 25.

Determine the Default Status of Omnibus Trading Account

25. For a Failed Obligation Member Firm without any open positions, calculate the Final Total Account Balance of the Omnibus Trading Account, including any funds that may have been received from the Failed Obligation Member Firm payment bank since the Failed Obligation trigger. Determine if the Final Total Account Balance is negative, zero, or positive:
 - (a) If negative, proceed to SECTION 3: DEFAULTED MEMBER FIRM. If the Failed Obligation Member Firm does not already have a dedicated **Distressed Member Firm Bank Account** in its name, create one and transfer the funds held in the Omnibus Trading Account to that Distressed Member Firm Bank Account.
 - (b) If zero or positive, determine further whether any moneys of the General Clearing Fund have been applied as Recovery or Subsidy to Member Firms in Good-Standing by virtue of the automatic recourse procedure.
 1. If none of the General Clearing Fund has been so applied, then the Recourse is complete, and the Failed Obligation Member Firm remains ineligible for future trading as a Member Firm. The Failed Obligation Member Firm has not defaulted. Immediately notify the other Member Firms in Good-Standing, the **CFTC**, and other financial regulatory agencies, of the **Failed Obligation triggered event** and the final status of the Failed Obligation Member Firm.
 2. If any of the General Clearing Fund has been so applied, then The AE Clearinghouse shall seize the net value of the application, from the Distressed Member Firm Bank Account. Proceed to SECTION 3: DEFAULTED MEMBER FIRM.

SECTION 3: DEFAULTED MEMBER FIRM

- (i) If the General Clearing Fund has been reduced as a result of a Failed Obligation, or, if Member Firms in Good-Standing are still experiencing a shortfall in realized or unrealized profits as a result of a Failed Obligation, an officer of The AE Clearinghouse shall:
- activate a **Default of Member Firm trigger**.
 - gain the affirmation of the officers of The Actuarials Exchange and The AE Clearinghouse before continuing with the Recourse.
 - observe a **Defaulted Member Firm triggered event** and issue a **Defaulted Member Firm margin notice**.
 - calculate **final shortfalls** for each Contract marketspace, and identify **those Trading Accounts that have not gained full recovery of realized or unrealized profits as shortfallen counterparties**.

An official of The AE Clearinghouse shall have the authority to perform the following:

Activate Trigger

1. If the equity of The AE Clearinghouse has been reduced, activate a **Default trigger**.

Gain Affirmation

2. Gain the affirmation of the CEO of The Actuarials Exchange, the CEO of The AE Clearinghouse, or the available successor officer thereof, before proceeding with the remaining steps of the Recourse.

Observe Triggered Event and Notify

3. One minute after a Default trigger is activated, the Authorized Compliance Officer shall observe a **Default triggered event**.
4. The Authorized Compliance Officer shall issue to the Defaulted Member Firm a time-stamped **Default notice**, via a phone call followed by a time-stamped e-mail or faxed message, which shall notify the Defaulted Member Firm that it has officially defaulted on The Actuarials Exchange and at The AE Clearinghouse.
5. The Authorized Compliance Officer shall communicate the Default event to the Member Firms in Good-Standing, to the CFTC, to other regulated clearinghouses with whom The AE Clearinghouse has any cross-margining or other affiliated agreements, and to the known Regulators of the Defaulted Member Firm.
6. The Authorized Compliance Officer shall calculate the amount of Default to be the larger of:
 - (a) the amount by which the General Clearing Fund has been reduced, or,
 - (b) the amount of shortfall owed to the realized and unrealized profits of Member Firms in Good-Standing, by The AE Clearinghouse, as a result of the Default, plus any amount by which the General Clearing Fund has been reduced.

ARTICLE VI

AMENDMENTS

SECTION 1: AUTHORITY

The Chief Executive Officer of The AE Clearinghouse may modify these Terms, Conditions, and Procedures for The AE Clearinghouse at any time, according to the following procedures:

1. The Chief Executive Officer shall publish and distribute a proposed change, and proposed effective date for such a change, to the Terms, Conditions, and Procedures, of The AE Clearinghouse, in a numbered and dated AE Circular, which shall be distributed to the Designated Representative of each Member Firm for a minimum of 10 business days of review and comment. Amended AE Circular 005, Dec 22, 2004
61. The Chief Executive Officer shall receive any comments from the Member Firms, and shall consider revisions and alternatives to the proposed change, and, if necessary, shall deliberate in conference with the Member Firms regarding such revisions and alternatives.
62. When determined to be final, the Chief Executive Officer shall publish and distribute the change, and effective date for such a change, in another numbered and dated official AE Circular.
63. The Chief Executive Officer shall ensure that any Member Firm that determines itself unable, unwilling, or unready to comply with the change by the effective date, can communicate in writing, to The Actuarials Exchange and The AE Clearinghouse, its intention to terminate the Member Firm status and de-activate the Trading Accounts in an orderly function, as of a particular termination date before the effective date, whose communications shall be at least five (5) business days prior to that termination date.
64. Any Member Firm that is unable, unwilling, or unready to comply with the change by the effective date, shall be observed by an official of The AE Clearinghouse as having lost its operational capabilities to continue conducting business, thereby activating a Distressed Member Firm trigger.
65. The dates of any amendments in the Terms, Conditions, and Procedures, made after the first day of trading shall be listed at the end of the amended paragraph and shall refer to the numbered and dated official AE Circular promulgating the change.