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# **FIA-ISDA Cleared Derivatives Execution Agreement Webinar**

Tuesday, June 21, 2011

11:00 a.m. – 12:00 p.m. EST



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The webinar will be recorded. Please contact us after the webinar if you experienced technical difficulties, and we will send you the link to the recorded webinar.

# 3. Speakers

- **Maria Chiodi**  
Director and Counsel, Legal and Compliance  
Credit Suisse Securities
- **Alessandro Cocco**  
Managing Director & Associate General Counsel  
J.P. Morgan Securities
- **Lauren Teigland-Hunt**  
Managing Partner  
Teigland-Hunt
- **Jane Wagner**  
Director, Legal & Compliance  
BlackRock
- **Webinar Host : Will Acworth**  
Editor  
Futures Industry



## 4. Overview

- Template
- Developed by more than 60 organizations
- Voluntary
- Clearinghouse neutral
- Applicable asset classes
- Provisions may be superseded by new regulatory requirements
- Agreement will change as the market for cleared swaps evolves
- Memorandum to the Cleared Derivatives Execution Agreement

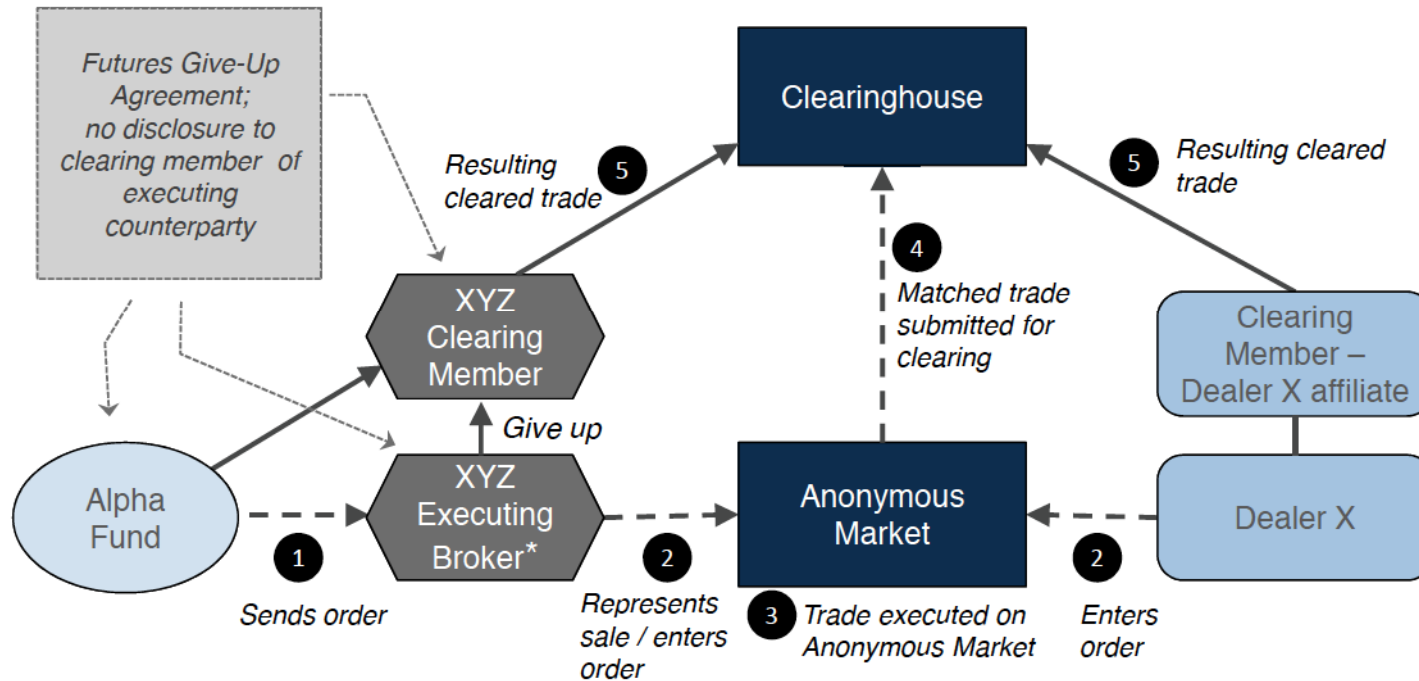


## 5. Purpose of Agreement

- Why was this execution agreement developed?
  - To address issues related to execution of OTC Derivatives that are intended to be cleared
- What are some of the potential issues?
  - Process - What will be the process for submitting and affirming trades?
  - Acceptance - What will happen when a trade is accepted for clearing?
  - Fallback - What will happen when a trade is not accepted for clearing?
- What is the structure of the agreement?
  - Bilateral agreement with optional annexes

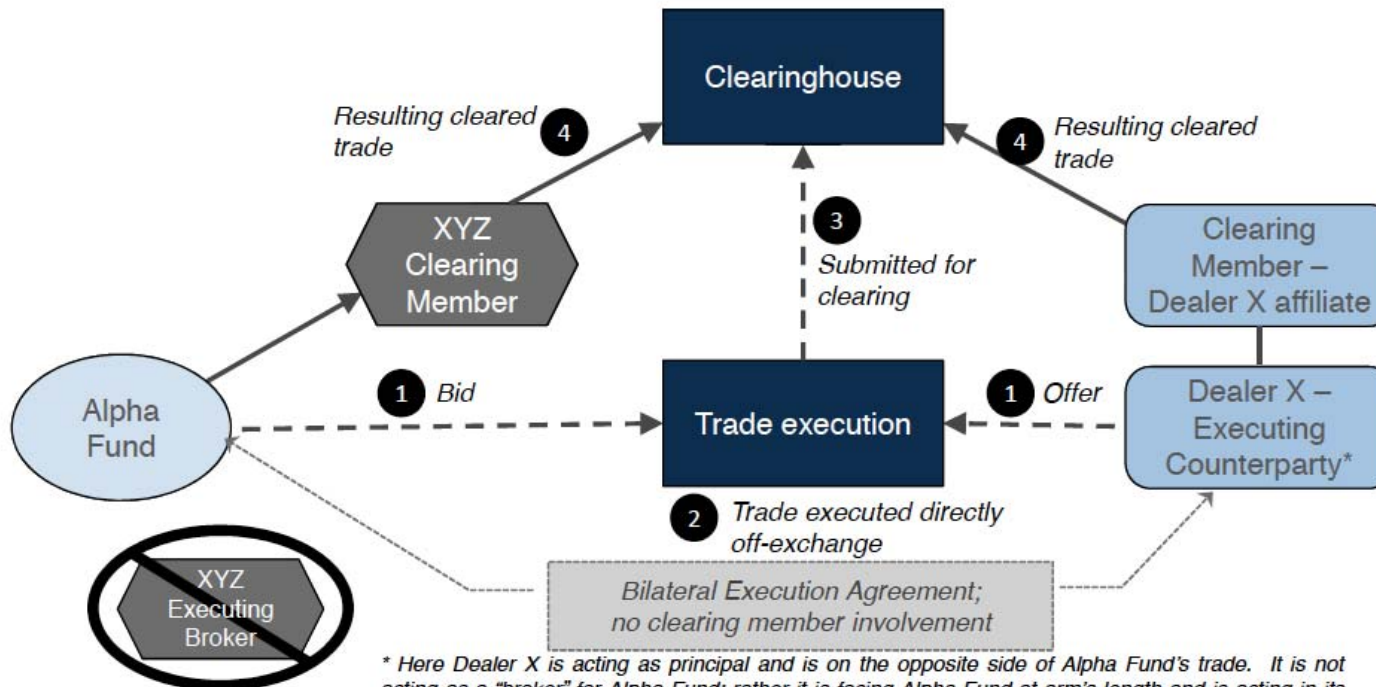
### Execution Arrangement Comparison

### Futures Execution: Executing Broker Representation on Anonymous Markets



\* Futures "Give-Up" Arrangement: representation of Alpha by Executing Broker to Anonymous Market. XYZ Executing Broker is acting on behalf of Alpha Fund as Alpha's agent. XYZ EB takes Alpha's order to the Exchange and can execute the trade with anyone in the market to secure best price. XYZ FCM does not know identity of trade counterparties.

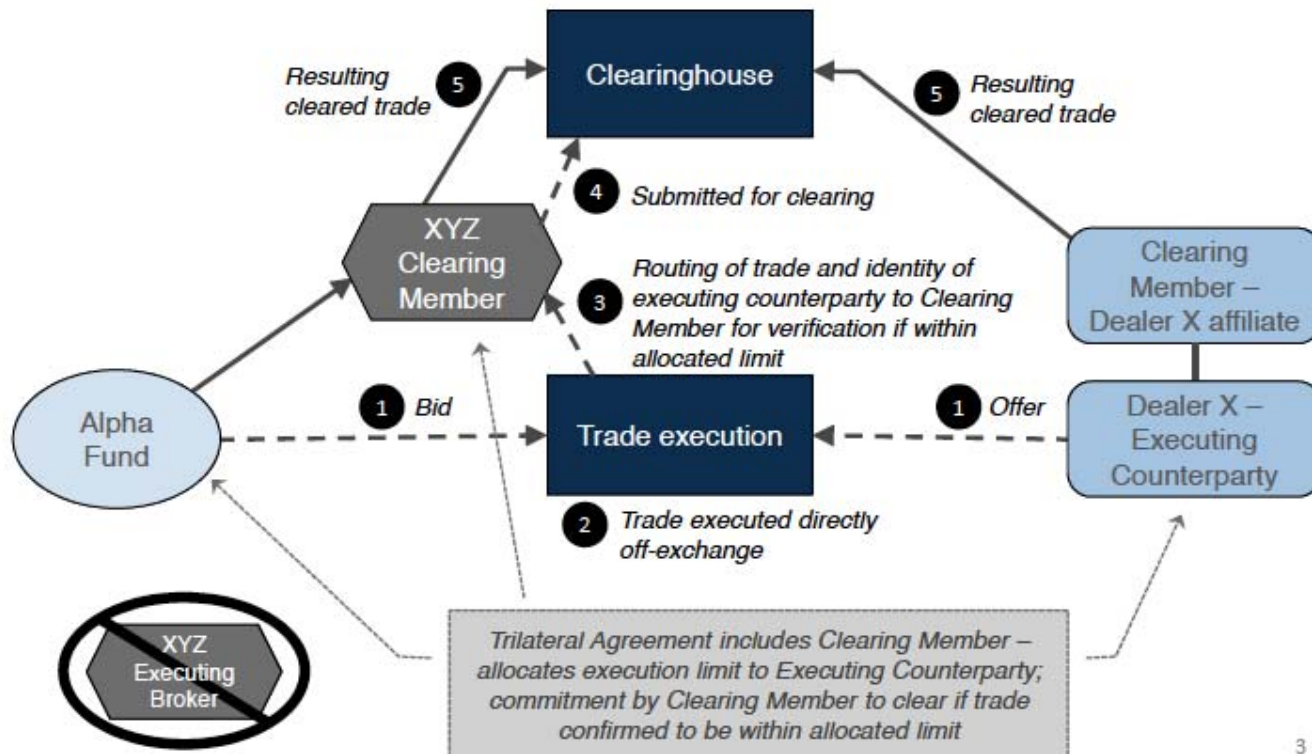
### Bilateral (Non-Exchange) Cleared Derivatives Execution: Anonymity between Clearing Member and Executing Counterparty



\* Here Dealer X is acting as principal and is on the opposite side of Alpha Fund's trade. It is not acting as a "broker" for Alpha Fund; rather it is facing Alpha Fund at arm's length and is acting in its own interest. If the trade does not clear (e.g. because either Alpha Fund or Dealer X has exceeded an overall limit imposed by the clearinghouse or imposed by the relevant clearing member), one party may be exposed to credit risk of the other if breakage is owed, so the parties may choose to perform their own credit checks if they have reason to believe that breakage could be material.



Trilateral Cleared Derivatives Execution:  
Clearing Member Sets Execution Limits for Each  
Executing Counterparty (No Anonymity)



# FIA 9. Transactions Not Cleared

- **Section 4. Transactions Not Accepted for Clearing:**

The parties represent to each other that each has a clearing agreement with a clearing member. This provision also sets forth the steps the parties will take if the trade does not clear (which could include, if permissible under Applicable Law, continuing the transaction as a bilateral transaction), and if the transaction is terminated how breakage payments, if any, will be calculated and paid (the Breakage Waterfall). Pursuant to this provision the Breakage Waterfall is specified to supersede any conflicting provision of Applicable Law unless the application of the Breakage Waterfall would violate Applicable Law. The parties may override this presumption with respect to any Swap Execution Facility by designating such Swap Execution Facility in “Schedule 1 – List of Swap Execution Facilities Excluded for Purposes of Section 4”, in which event the Breakage Waterfall will not apply to such Swap Execution Facility.

- **Section 23. Applicable Annexes.**

There are two optional annexes to this agreement. If elected, each annex would commit a party's clearing member to clear such party's transactions within applicable limits set by such clearing member and disclosed to the other party. If the clearing member failed to accept a transaction within the set limits, each annex sets forth the payment obligations of the parties to the transaction and the clearing member that failed to accept the transaction.



# 11. Questions

- Questions/ Comments? Please use the question box on your GoToWebinar Navigation Tab to submit any questions or comments.
- After the webinar, please address any additional questions to: [legal@futuresindustry.org](mailto:legal@futuresindustry.org)



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