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## WAIVER AND MODIFICATION NOTICE

<b>To</b>	The Bank of New York
<b>Address</b>	Level 6, Gate Precinct Building 5 Gate District, DIFC PO Box 506723, Dubai United Arab Emirates
<b>DFSA Firm Reference No.</b>	F000706
<b>Notice No.</b>	W026/2008

### THE DFSA HEREBY GIVES NOTICE THAT:

1. The Rules specified in Table A herein do not apply to the above mentioned Person.

### AND

2. The Rules specified in the left hand column of Table B herein do not apply to the above mentioned Person in the form appearing in the Rulebook but instead apply as modified in the right hand column of the table.

### RULES WAIVED

As a consequence of waiving the Rules below, Table 2 in PIB chapter 1 is to be construed accordingly.

TABLE A	
PIB module	Rule
PIB Chapter 1 (General Requirements)	All the Rules in section 1.4 (Trading Book)
PIB Chapter 2 (Capital)	All the Rules in Chapter 2
PIB Chapter 4 (Credit Risk)	All the Rules in sections 4.3 to 4.10 inclusive
PIB Chapter 5 (Market Risk)	All the Rules in section 5.6
PIB Chapter 7 (Group Risk)	All the Rules in sections 7.3 and 7.4

## RULES MODIFIED

The Rules specified in the left hand column are modified to the extent shown in the right hand column of the table below. In this table, underlining indicates new text and striking through indicates deleted text, otherwise the Rule remains unaltered. Where a significant number of the paragraphs of the Rule remain un-altered the entire Rule may not be reproduced in the table. In such circumstances the un-altered parts of the Rule will be referred to by the relevant identifying paragraph number or letter, as the case may be.

<b>TABLE B</b>	
<b>Rule</b>	<b>Modified Text</b>
PIB Rule 1.2.1	<p>An Authorised Firm must:</p> <p style="padding-left: 40px;">(a) <del>have and maintain at all times financial resources of the kinds and amounts specified in, and calculated in accordance with, the Rules in this module; and</del></p> <p style="padding-left: 40px;">(b) ensure that it maintains financial resources <u>in addition to the requirement in (a)</u> which are adequate in relation to the nature, size and complexity of its business to ensure that there is no significant risk that liabilities cannot be met as they fall due.</p>

## CONDITIONS

This notice waiving and modifying prudential Rules remains in effect for the duration or the period set out below on condition that the above named Person to whom this notice applies:

- (a) remains classified as a Category 3 Authorised Firm;
- (b) complies with its home state Financial Services Regulator's prudential requirements and submits to the DFSA, a copy of every capital adequacy summary report submitted to the home state Financial Services Regulator within ten business days of the due date for submission to that regulator; and
- (c) in the event of any anticipated or actual breach of any prudential requirements which requires notification to the home state Financial Services Regulator, provides to the DFSA such notification forthwith with any relevant documents.

If any one or more of the conditions stated above is breached, this notice ceases to have effect forthwith and the Rules specified in Table A and Table B herein apply to the above mentioned Person as set out in the applicable module of the Rulebook in force at the relevant time.

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## **EFFECTIVE PERIOD**

This notice comes into effect on the date of issue of this notice and remains in force until further notice.

## **INTERPRETATION**

The provisions in this notice are to be construed in accordance with GEN section 6.2 as if these provisions are provisions of the Rulebook.

Defined terms are identified in this notice by the capitalisation of the initial letter of a word or of each word in a phrase and are defined in the Glossary (GLO). Unless the context otherwise requires, where capitalisation of the initial letter is not used, an expression has its natural meaning.

## **THIS NOTICE WAS ISSUED UNDER ARTICLE 25 OF THE REGULATORY LAW 2004 BY:**

Name : David Knott

Position : Chief Executive

**DATE OF ISSUE: 10<sup>th</sup> April 2008**