

SwapEx Policy on Impartial Access for Independent Software Vendors

SwapEx will maintain on an ongoing basis an established policy of providing impartial access to independent software vendors (ISVs) seeking access to the SEF. Under Rule 101 (Definitions) of the SwapEx rulebook, that term is defined as follows:

“Independent Software Vendor” or “ISV” means a Person that makes available to Participants and Authorized Traders a system or platform offering smart order routing, front-end trading applications, an aggregator platform or a combination of the foregoing but that does not provide the ability to effect the execution of Contracts other than through the Trading System.

In particular, SwapEx will use reasonable discretion to determine its access criteria, which shall be impartial and transparent, be applied in a fair and non-discriminatory manner, but shall not be anti-competitive.

Thus, as provided by SwapEx Rule 306, a Person seeking to act as an ISV must satisfy the Company’s technological integrity requirements. Such requirements may include but would not be limited to technological requirements set forth in any SwapEx license agreements applicable to ISVs seeking to use SwapEx’s application program interface (API). In addition, a Person seeking to act as an ISV shall not adversely affect the Company’s ability to comply with the CEA and CFTC Regulations

From time to time, SwapEx may establish different access criteria for each of its markets, provided that such access criteria must be impartial and must not be used as a competitive tool against certain ISVs. Consequently, similarly situated groups of ISVs must be treated similarly.

Applicability of Impartial Access Policy to Fee Structure

In compliance with CFTC Rule 37.202, SwapEx will maintain comparable fee structures for independent software vendors receiving comparable access to, or services from SwapEx. Thus, for example, in the event that an ISV seeks to establish connectivity to the Trading System through some means other than use of SwapEx’s API, SwapEx shall charge fees for such other form of connectivity consistent with the fees charged to other Persons who are not seeking to act as ISVs and who have similarly established connectivity through such other means. Consistent with clarifying comments that the CFTC has provided in connection with a DCM’s determination of its fee structure, SwapEx may consider other factors in addition to the cost of providing an ISV with access and may take into account legitimate business justifications for offering different fees to different categories of entities seeking access. Thus, SwapEx may also consider services that it receives from ISVs (in addition to costs) when determining their fee structure.