be made available promptly upon re-
quest to representatives of the Com-
m ission and to representatives of appli-
cable prudential regulators.

§ 23.602 Diligent supervision.

(a) Supervision. Each swap dealer and
major swap participant shall establish
and maintain a system to supervise,
and shall diligently supervise, all ac-
tivities relating to its business per-
formed by its partners, members, offi-
cers, employees, and agents (or persons
occupying a similar status or per-
forming a similar function). Such sys-
tem shall be reasonably designed to
achieve compliance with the require-
ments of the Commodity Exchange Act
and Commission regulations.

(b) Supervisory System. Such super-
visory system shall provide, at a min-
imum, for the following:

(1) The designation, where applicable,
of at least one person with authority to
carry out the supervisory responsibil-
ities of the swap dealer or major swap
participant for all activities relating to
its business as a swap dealer or major
swap participant.

(2) The use of reasonable efforts to
determine that all supervisors are
qualified and meet such standards of
training, experience, competence, and
such other qualification standards as
the Commission finds necessary or ap-
propriate.

§ 23.603 Business continuity and dis-
aster recovery.

(a) Business continuity and disaster re-
cover y plan required. Each swap dealer
and major swap participant shall estab-
lish and maintain a written business
continuity and disaster recovery plan
that outlines the procedures to be fol-
lowed in the event of an emergency or
other disruption of its normal business
activities. The business continuity and
disaster recovery plan shall be designed
to enable the swap dealer or major
swap participant to continue or to re-
sume any operations by the next busi-
ness day with minimal disturbance to
its counterparties and the market, and
to recover all documentation and data
required to be maintained by applica-
table law and regulation.

(b) Essential components. The business
continuity and disaster recovery plan
of a swap dealer or major swap partici-

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(b) Essential components. The business
continuity and disaster recovery plan
of a swap dealer or major swap partici-
and storing the information off-site in either hard-copy or electronic format.

(7) Identification of potential business interruptions encountered by third parties that are necessary to the continued operations of the swap dealer or major swap participant and a plan to minimize the impact of such disruptions.

(c) Distribution to employees. Each swap dealer and major swap participant shall distribute a copy of its business continuity and disaster recovery plan to relevant employees and promptly provide any significant revision thereto. Each swap dealer and major swap participant shall maintain copies of the business continuity and disaster recovery plan at one or more accessible off-site locations. Each swap dealer and major swap participant shall train relevant employees on applicable components of the business continuity and disaster recovery plan.

(d) Commission notification. Each swap dealer and major swap participant shall promptly notify the Commission of any emergency or other disruption that may affect the ability of the swap dealer or major swap participant to fulfill its regulatory obligations or would have a significant adverse effect on the swap dealer or major swap participant, its counterparties, or the market.

(e) Emergency contacts. Each swap dealer and major swap participant shall provide to the Commission the name and contact information of two employees who the Commission can contact in the event of an emergency or other disruption. The individuals identified shall be authorized to make key decisions on behalf of the swap dealer or major swap participant and have knowledge of the firm's business continuity and disaster recovery plan. The swap dealer or major swap participant shall provide the Commission with any updates to this information promptly.

(f) Review and modification. A member of the senior management of each swap dealer and major swap participant shall review the business continuity and disaster recovery plan annually or upon any material change to the business. Any deficiencies found or corrective action taken shall be documented.

(g) Testing and audit. Each business continuity and disaster recovery plan shall be tested annually by qualified, independent internal personnel or a qualified third party service. The date the testing was performed shall be documented, together with the nature and scope of the testing, any deficiencies found, any corrective action taken, and the date that corrective action was taken. Each business continuity and disaster recovery plan shall be audited at least once every three years by a qualified third party service. The date the audit was performed shall be documented, together with the nature and scope of the audit, any deficiencies found, any corrective action taken, and the date that corrective action was taken.

(h) Business continuity and disaster recovery plans required by other regulatory authorities. A swap dealer or major swap participant shall comply with the requirements of this regulation in addition to any business continuity and disaster recovery requirements that are imposed upon the swap dealer or major swap participant by its prudential regulator or any other regulatory or self-regulatory authority.

(i) Recordkeeping. The business continuity and disaster recovery plan of the swap dealer and major swap participant and all other records required to be maintained pursuant to this section shall be maintained in accordance with Commission Regulation §1.31 and shall be made available promptly upon request to representatives of the Commission and to representatives of applicable prudential regulators.

§23.604 [Reserved]

§23.605 Conflicts of interest policies and procedures.

(a) Definitions. For purposes of this section, the following terms shall be defined as provided.

(1) Affiliate. This term means, with respect to any person, a person controlling, controlled by, or under common control with, such person.

(2) Business trading unit. This term means any department, division, group, or personnel of a swap dealer or major swap participant or any of its affiliates, whether or not identified as such.