IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS AUSTIN DIVISION

UNITED STATES COMMODITY	§
FUTURES TRADING COMMISSION,	§
Plaintiff,	§
	§
V.	§
	§
IB CAPITAL FX, LLC (A/K/A IB	§
CAPITAL FX (NZ) LLP) D/B/A IB	§
CAPITAL, MICHEL GEURKINK, and	§
EMADE ECHADI,	§
Defendants.	§

CAUSE NO. A-12-CV-0862-LY

JOINT MOTION REGARDING TURNOVER ORDER

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Receiver Guy Hohmann and Nonparty ING Bank, N.V. ("ING Bank") jointly file this motion regarding the Court's November 8, 2019 Turnover Order.

In accord with the prior proceedings in this matter, and the Court's call with counsel for the Receiver and ING Bank of December 6, 2019, the Receiver and ING Bank hereby agree to the following:

- The Receiver withdraws without prejudice to refiling the Receiver's Motion for Turnover Order and Supplemental Relief dated November 5, 2019.
- The Parties jointly request that the Court vacate the Court's November 8, 2019 Order Granting Receiver's Motion for Turnover Order and Supplemental Relief ("Turnover Order") (DE 138).
- Upon the Court vacating the Turnover Order, ING agrees to withdraw its Emergency Motion to Stay or Vacate Turnover Order dated November 15, 2019

Error! Unknown document property name.

(DE 143), and to withdraw or dismiss its notice of appeal dated December 6, 2019 (DE 154).

- 4. This agreement is made so that the Receiver and ING Bank can continue their efforts to work cooperatively in an attempt to reach an acceptable resolution with respect to the funds on deposit with ING Bank and subject to a freezing order of the Dutch Public Prosecutor's Office.
- 5. This agreement is expressly made without any waiver of any procedural or substantive rights of the Receiver and ING Bank, which they expressly reserve. Any further motion by the Receiver for turnover and/or other relief against nonparty ING Bank shall be on notice to ING Bank.
- 6. The Receiver and ING Bank will jointly submit a report to the Court regarding this matter on or before the close of business on January 6, 2020.

As always, the Receiver and ING Bank remain available to discuss these or any other pending matters at the Court's convenience.

Dated: December 9, 2019

Respectfully submitted,

CLEVELAND | TERRAZAS PLLC

Carlos R. Soltero State Bar No. 00791702 Austin Krist State Bar No. 24106170 csoltero@clevelandterrazas.com akrist@clevelandterrazas.com

By: <u>/s/ Carlos R. Soltero</u> Carlos R. Soltero Error! Unknown document property name.

Of counsel:

Todd S. Fishman* Justin L. Ormand* ALLEN & OVERY LLP 1221 Avenue of the Americas New York, New York 10020 (212) 610-6300 * pro hac vice

By: /s/ Guy Hohmann

Guy Hohmann State Bar No. 09813100 guyh@hohmannlaw.com 114 West 7th Street Suite 1100 Austin, Texas 78701 Office: (512) 495-1438 Facsimile: (512) 499-0094

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on all counsel of record by way of:

\square	

Certified Mail Facsimile Federal Express Hand Delivery E-Mail E-Service

on this December 9, 2019.

By: /s/ Carlos R. Soltero Carlos R. Soltero