

## APEX FDIC-INSURED SWEEP PROGRAM

### TERMS AND CONDITIONS

You can use your Apex Clearing Corporation ("Apex") brokerage account ("Apex Account") to purchase and sell securities or invest in money market mutual funds. At any given time, you may have free credit balances (also referred to as excess cash) in your brokerage account. Under the Apex FDIC-Insured Sweep Program (the "Program"), you may elect to have excess cash in your Apex Account "swept" into and out of one or more interest-bearing deposit accounts opened by Apex at participating banks (each a "Program Bank"), at no cost to you. By participating in the Program, excess cash may be swept into deposit accounts that, subject to the satisfaction of certain conditions, are insured by the Federal Deposit Insurance Corporation ("FDIC"), and, if swept, may earn interest paid into your Apex Account. A list of current Program Banks is available on Apex's website, at <https://apexfintechsolutions.com/legal/disclosures/banksweep-bank-list>. By electing to have your excess cash swept through the Program, you hereby accept and agree to these terms and conditions and appoint Apex as your agent in creating deposit accounts and providing services in accordance with the Program. These terms and conditions are in addition to those contained in your account agreements and any other agreements you may have with Apex or your broker.

When opening an Apex account, you will have the option to direct your broker to have you and your Apex Account participate in the Program. If you do not affirmatively elect to participate, your excess cash will remain dormant in your Apex Account. Excess cash in your Apex Account is not a bank deposit and is not insured or guaranteed by the FDIC. Existing participants in the Program may terminate their participation by giving notice to their broker. If you have an Apex Account but are not participating in the Program, you may direct your broker to transfer it into the

Program at any time. Participation in the Program does not guarantee any or all of your excess cash balance will be swept to a Program Bank, and all sweeps shall be in Apex's sole discretion. Apex reserves the right to refuse to allow any Apex Account to enter the Program and to remove any Apex Account from participation in the Program at any time in Apex's discretion.

#### I. DEPOSITS

Once you elect to participate in the Program, you agree that Apex may begin to sweep the excess cash balance in your account into sweep deposit accounts it has established at one or more Program Banks on behalf of you and other Apex customers. These deposit accounts are omnibus accounts titled in such a way to disclose the funds swept into them are those of customers and not of Apex, in accordance with the FDIC's rules relating to deposit insurance coverage. Your ownership in these accounts will be evidenced by an entry on Apex's records for each Program Bank at which your funds are on deposit and by disclosure on your Apex Account statement. You will not be given any additional evidence of ownership. If there is excess cash in your Apex Account such that a single deposit through the Program would exceed the FDIC's maximum deposit insurance limit, then Apex will sweep the excess cash into multiple Program Banks. Apex may transfer balances between Program Banks at any times at its discretion and may utilize one or more intermediary banks to route funds in the Program. While Apex provides the Program as a service to its customers, Apex shall be under no obligation to sweep any excess cash in your account into a Program Bank at any time. You may not deposit funds into the Program directly with any Program Banks; all funds in the Program must be deposited through your Apex Account.

#### II. WITHDRAWALS

By enrolling in the Program, you consent to have Apex, as your agent, automatically

withdraw any and all of your funds in the Program at Program Banks in the event of a debit in your Apex Account, or to pay for securities purchased for or sold to your Apex Account, or otherwise in Apex's discretion. If funds that have been swept to a Program Bank are needed to cover a purchase, withdrawal, or other debit in your Apex Account, the funds will be automatically swept out of the Program Bank(s) and back into your Apex Account by Apex. You will not need to do anything for this process to occur.

Although Apex may sweep your excess cash balance to an account at a Program Bank, you shall not be able to make withdrawals from that account, even if you contact the Program Bank directly. Your excess cash balance is only available through your Apex Account. Please contact your broker with any questions on accessing your cash balance.

### **III. ACCESS TO YOUR EXCESS CASH BALANCE**

Use of your Apex Account will not be affected when your excess cash is swept to a Program Bank. You will still be able to make purchases and withdrawals using your excess cash balance through your Apex Account at any time. However, any funds withdrawn or used for purchase will no longer be available to sweep to a Program Bank. You can only access your excess cash balance directly through your Apex Account. Being swept to a Program Bank shall not provide protection to your excess cash balance from legal processes such as levies or garnishments served on Apex.

### **IV. INTEREST**

You may earn interest on excess cash balances that Apex sweeps to Program Banks. The interest rate will be based on numerous factors, including the current interest rate environment, and is subject to change without notice. Over any given period, the interest rates on your swept excess cash balances may

be lower than the rate of return on similar non-FDIC-insured investments or deposit accounts offered outside of the Program, including deposit accounts held directly by you with a Program Bank. Interest payments to you and movements of your excess cash balance will be reflected on your Apex Account statement. Interest accrues daily and is paid into the deposit account at each Program Bank. Any interest paid to you will be posted directly to your Apex Account. Interest rates and APY on funds in the Program will vary over time and can change daily without notice to you. Please contact your broker for specific details on current interest rates and payments.

### **V. FDIC INSURANCE & SIPC COVERAGE**

Your excess cash balances that Apex sweeps to a Program Bank, together with any non-Program deposits you may have at the same Program Bank, are insured by the FDIC, subject to the satisfaction of certain conditions, up to a standard maximum amount in accordance with the FDIC's rules. The applicable FDIC insurance limit depends on a number of factors. Please consult [www.fdic.gov](http://www.fdic.gov) for further details. If you have both excess cash and non-Program funds at the same Program Bank held in the same right and legal capacity, you must aggregate all such deposits for purposes of determining your FDIC insurance coverage. If that aggregate exceeds applicable FDIC insurance limit, the FDIC may not insure the funds in excess of the applicable limits. If you have funds on deposit at a Program Bank outside of the Program, you may elect not to have funds deposited through the Program in that Program Bank. Please see Section VII below. Apex recommends you contact your financial and legal advisors for further details on FDIC limits and advice on participation in the Program. Apex shall have no obligation to consider any non-Program deposits when sweeping your excess cash balances. Please note that there is no specific time period during which the FDIC must make insurance payments available, and the FDIC may

require you provide certain documentation before insurance payments are made.

Apex is not responsible for monitoring whether you have other deposits at a particular Program Bank, including CDs held at Apex, to determine if you exceed the FDIC insurance limit at any Program Bank.

You are solely responsible for monitoring the total amount of your funds on deposit with each Program Bank (including non-Program funds and accounts) in order to determine the extent of FDIC insurance coverage available to you on those deposits, including Program deposits. Apex shall not take into account any money you have on deposit at a Program Bank outside of the Program. FDIC insurance protects only against the failure of an FDIC-insured Program Bank and does not protect you against the failure of Apex Clearing Corporation. Apex Clearing Corporation is not an FDIC-insured depository institution.

Any securities and funds held in your Apex Account (as opposed to funds swept to a Program Bank), and any funds invested in a money market mutual fund, are (i) not a bank deposit, (ii) not insured by the FDIC, (iii) have no bank or government guarantees, and (iv) may have associated risks. Securities and funds not swept to a Program Bank are held in your Apex Account, and funds invested in a money market mutual fund, and are covered by the Securities Investor Protection Corporation ("SIPC"), of which Apex is a member. Your excess cash balance is only eligible for FDIC coverage once it is in an account at a Program Bank. However, it shall be covered by SIPC while held by Apex and in transit to or from a Program Bank. As a member of SIPC, funds are available to meet customer claims up to a current ceiling of \$500,000, including a maximum of \$250,000 for cash claims. For additional information regarding SIPC coverage, including a brochure, please contact SIPC at (202) 371-8300 or visit [www.sipc.org](http://www.sipc.org). Apex has purchased an additional insurance policy through a group of London Underwriters to supplement SIPC protection. This additional insurance policy becomes available to

customers in the event that SIPC limits are exhausted and provides protection for securities and cash up to certain limits. Similar to SIPC protection, this additional insurance does not protect against a loss in the market value of securities. SIPC coverage does not cover fluctuations or losses in the market value of your investments.

## VI. RELATIONSHIP; CONFLICTS

Apex receives payment of fees from each Program Bank in connection with its participation in and operation of the Program. These fees are typically based on the average aggregate amount of funds at each Program Bank. The fees paid to Apex by one Program Bank differ from the fees paid to Apex by another Program Bank, even if the deposit amounts are identical. The fees paid by a Program Bank to Apex affect the amount of interest a Program Bank pays to you on funds deposited through the Program. Apex has a conflict of interest in setting fees for operating the Program, because higher fees result in higher revenues to Apex and result in lower interest rates paid to you.

Program Banks earn money from the difference in the amount of interest they pay on deposits and the amount of interest they receive on loans, and therefore have an incentive to keep deposit interest rates low. Banks have discretion in setting the interest rates on deposits.

Other products for the investment of short-term cash, including money market mutual funds, U.S. Treasury securities, and bank certificates of deposit, are available for purchase through Apex on a position-traded (not sweep) basis.

By contrast to Program Banks, a money market mutual fund has a fiduciary duty to seek to maximize returns to investors, consistent with the money market mutual fund's investment objectives and risk policies. In some market conditions, money market mutual fund interest rates typically are higher than bank deposit interest rates. However, money market mutual fund

investments, unlike bank deposits, are not subject to FDIC insurance protection. Additionally, money market mutual funds are permitted to, and in some situations are required to, impose liquidity fees upon redemptions, unlike bank deposits.

## VII. PROGRAM BANKS

A list of current Program Banks in the Program can be found on Apex's website, at <https://apexfintechsolutions.com/legal/disclosures/banksweep-bank-list>. You may contact your broker to specify any Program Banks into which you do not wish your excess cash balance to be swept. You may withdraw any such exclusion of Program Banks you have made at any time by contacting your broker. Please note that if there are insufficient Program Banks available in the Program, taking into account any from which you have opted out, such that not all of your excess cash balance can be spread among Program Banks so that no single deposit at a Program Bank through the Program exceeds the FDIC insurance limits, then some or all of your excess cash balance may remain dormant in your Apex Account or may be deposited at a Program Bank but not covered by FDIC insurance. You can obtain additional information on each Program Bank at [www.fdic.gov](http://www.fdic.gov).

Occasionally, Program Banks may be added or removed from the Program Bank list available on Apex's website. In such instances, you may check your next available account statement which will direct you to the location on our website where we provide information regarding changes to the list of active Program Banks. If a Program Bank is removed from the Program, it will no longer be able to receive sweeps of your excess cash balance. If any of your excess cash balance is at a Program Bank that is removed from the Program, Apex will transfer those funds into another Program Bank still in the Program or into your Apex Account, at Apex's discretion.

By electing to participate in the

Program, whether when opening your Apex Account or by instruction to your broker, you attest that you have received and read this Program Statement. You consent to all the provisions herein and for Apex to change the amounts and Program Banks into which your excess cash balance is swept at any time in Apex's discretion. For the elimination of doubt, you agree that nothing herein shall obligate Apex in any way to sweep any portion of your excess cash balance to any Program Bank at any time. You agree to hold harmless Apex for any results that may occur from participation in the Program, including specifically your receiving smaller payment than you could in a different type of account or had your excess cash balance been swept into a different Program Bank. You direct Apex to return all your swept funds to your Apex Account and to terminate your participation in the Program in the event (i) you instruct your broker to remove you from the Program or (ii) you utilize the services of an investment advisor who instructs Apex to remove you from or not include you in the Program. You agree Apex may share personal information about you, including name, social security number, tax identification number, address, date of birth, or others with certain entities or individuals that provide services to Apex in connection with the program, including, but not limited to, any Apex agent, your investment advisor, and your broker. For further information regarding the collection, processing, or use of your personal information, please see Apex's Privacy Policy provided to you with your account opening documents and available on Apex's website.

## VIII. TAXATION

If you are paid interest in the Program in a given year, you will receive a Form 1099, if applicable, reflecting the interest you have earned in that year. Nothing in these Terms and Conditions should be construed as to constitute legal or tax advice. Please contact your own legal or tax advisor.

Apex may be required to withhold United States federal income tax at the prevailing rate on taxable distributions payable to certain depositors who fail to provide sufficient and correct taxpayer identification information or to make required certifications or who have been notified by the Internal Revenue Service that they are subject to backup withholding. Please consult your tax advisor for further information or visit [www.irs.gov](http://www.irs.gov).

#### **IX. LIMITATION OF LIABILITY**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL APEX, THE PROGRAM BANKS, OR THEIR AGENTS, AFFILIATES, ASSIGNS, SUBSIDIARIES, OFFICERS, DIRECTORS, OR EMPLOYEES BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES OF ANY NATURE NO MATTER THE CONTEXT IN WHICH IT IS ASSERTED AND INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, GOODWILL, BUSINESS INTERRUPTION OR ANY PENALTIES OR PUNITIVE DAMAGES.

Any failure by Apex, its agent, your broker, or any Program Bank shall not constitute a violation or subject them to any liability if caused in any way by your negligence or willful act, force majeure, suspension of payment by another institution, market irregularity or loss of market access, war, act of terrorism, or any other circumstances beyond the control of them.

#### **X. COMPLIANCE WITH LEGAL PROCESS**

Apex, its agent(s), and the Program Banks may comply, without notice to you, with any writ of attachment, execution, garnishment, levy, restraining order, subpoena, warrant, regulator or government request, or other legal process that the recipient believes to be valid. You agree to indemnify and hold harmless Apex, its agent(s) and the Program

Banks from all actions, claims, liabilities, losses, costs, attorney's fees, and damages that may be associated with their compliance with any legal process in accordance with this section and you agree they may comply with any legal process received, even if such is not served properly on the recipient in accordance with all applicable legal requirements, so long as compliance is not done in bad faith.

#### **XI. NO WARRANTIES**

EXCEPT AS SPECIFICALLY SET FORTH IN THESE TERMS AND CONDITIONS, NO REPRESENTATIONS OR WARRANTIES (ORAL OR WRITTEN, STATUTORY, EXPRESS, IMPLIED, OR OTHERWISE) ARE MADE TO YOU REGARDING THE PROGRAM, INCLUDING, WITHOUT LIMITATION, AS TO MERCHANTABILITY, FITNESS FOR ANY PURPOSE, CONFORMITY TO ANY DESCRIPTION OR REPRESENTATION, NON-INTERFERENCE, OR NONINFRINGEMENT. NONE OF YOUR BROKER, INVESTMENT ADVISOR, REGISTERED REPRESENTATIVE, OR OTHER PERSON OR ENTITY IS AUTHORIZED TO MAKE, OR MAY THEY MAKE, ANY REPRESENTATIONS OR UNDERTAKINGS ON BEHALF OF APEX OR THE PROGRAM BANKS OR THEIR RESPECTIVE AFFILIATES OR AGENTS WITH RESPECT TO THE PROGRAM.

#### **XII. NO GUARANTEE OF PROGRAM BANKS**

Your participation in the program is a direct obligation of the applicable Program Bank(s) to you. Apex is under no such obligation and Apex does not guarantee the financial condition of any Program Bank. Under federal banking regulations, a Program Bank may exercise its right to require prior notice of up to seven days before permitting your excess cash balance to be swept out. In the event of a failure of a Program Bank, there may be a time period during which you may



not be able to access your money. Interest in a Program Bank account is not transferrable.

### **XIII. ADDITIONAL DISCLOSURES**

- A. **Corporate Status.** Apex is a registered broker-dealer and is a member of the Financial Industry Regulatory Authority. Apex is not a bank or an investment advisor. Apex and the Program Banks do not provide advice regarding whether the Program is beneficial or right for you or your Apex Account.
- B. **Acceptance of Terms and Conditions.** By continuing to maintain your Apex Account and participate in the Program, you accept the terms and conditions herein and you accept and will be legally bound by any new terms and conditions.
- C. **Obligation to Review Statements.** In accordance with your account opening documents with Apex, you must carefully examine your Apex Account statement once you receive it. If you feel that there is an error, you must notify Apex promptly. Failure to comply with this notification requirement may bar you from claiming any error involving your Program Bank accounts. Please see your Apex Account opening documents for specific details and timelines.
- D. **Escheatment.** In certain circumstances, Apex and the Program Banks may be required by law to escheat a portion or all of your excess cash balance and Apex Account to a state due to account inactivity for certain time periods, in accordance with state law. If funds are escheated to a state, you must file a claim with that state to reclaim the funds.
- E. **Assignment.** You may not assign these terms and conditions or your participation in the Program, except through an assignment of your entire Apex Account. Apex may assign its rights and obligations under the Program and these terms and

conditions without prior notice to you and without obtaining your consent.

- F. **Set Off.** Under the terms of your account agreements with Apex, Apex may charge or set off assets from your Apex Account against any obligations or debt you owe to Apex. This right extends to any excess cash balances that are swept to a Program Bank and swept funds shall have no additional protection solely because they are with a Program Bank.
- G. **No Waiver.** There shall be no waiver by Apex of any of these terms and conditions unless such waiver is in writing and signed by Apex. No failure or delay by Apex, its agent, or any Program Bank in exercising any right, power, or privilege hereunder shall operate as a waiver thereof nor shall any partial exercise preclude further or full exercise of any right, power, or privilege.
- H. **Severability.** If any term, provision, covenant or restriction of these terms and conditions is held to be invalid, void, or unenforceable, the remainder shall remain in full force and effect and shall in no way, to the maximum extent allowed by law, be affected, impaired, or invalidated.
- I. **Entire Agreement.** These terms and conditions, any additional documents provided to you by Apex, its agent, or any Program Bank concerning the Program, and your account opening agreements with Apex constitute the entire agreement with you regarding the Program and supersede all prior agreements, both oral and written, with respect to the subject matter herein. These terms and conditions are to be read in conjunction with, and not independently of, your Customer Account Agreement with Apex. For all purposes, your participation in the program is through your Apex Account and is subject to all terms of your Customer Account Agreement with Apex and any other account opening agreements you have with Apex.
- J. **Controlling Document.** In the event of any inconsistency between these terms

and conditions and a provision of any such other document provided to you in connection with the Program, these terms and conditions shall prevail.

**K. Governing Law and Arbitration.**

These terms and conditions shall be construed in accordance with and governed by the laws of the State of Texas. In accordance with your account opening agreements with Apex, any disputes regarding the Program or your Apex Account shall be subject to and controlled by the Arbitration Agreement set forth in your Customer Account Agreement with Apex shall fully control.

**L. Headings and Construction.** The headings herein are included only for convenience and shall not be considered in the construction or interpretation of these terms and conditions. Any singular items herein shall be deemed to include the plural and vice versa. Any use of the term "include" or any derivative or synonym of it shall be deemed to be followed by the words "without limitation". References to any agreement or document provided to you shall include that agreement or document as amended, modified, supplemented, or replaced from time to time. In any construction of these terms and conditions, it shall not be construed against a party on the basis of that party potentially being the drafter of the terms and conditions.

THESE TERMS AND CONDITIONS ARE SUBJECT TO THE PREDISPUTE ARBITRATION CLAUSE CONTAINED IN YOUR CUSTOMER ACCOUNT AGREEMENT GOVERNING YOUR APEX ACCOUNT. PLEASE REVIEW THE PREDISPUTE ARBITRATION CLAUSE IN YOUR CUSTOMER ACCOUNT AGREEMENT CAREFULLY.