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Sutter Securities, Inc.

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Business Continuity and  
Contingency Plan

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## **INTRODUCTION TO BUSINESS CONTINUITY PLANS**

Despite the efforts of each business, state and local government and federal agency to renovate, validate, and implement their mission-critical information systems, the financial industry remains vulnerable to the disruption of its business processes. Because most companies in the financial industry are highly dependent on information technology to carry out their business, a business disruption induced failure of one or more mission critical system(s) may have a severe impact on a financial services firm's ability to deliver core business services.

Because of these risks, the United States Securities and Exchange Commission ("SEC") has implemented programs to attempt to mitigate the risks associated with business failures in the financial industry which would be caused by an event causing a failure to deliver financial services as a result of a significant business disruption. Specifically, the SEC has required that each FINRA member to create and maintain business continuity plans.

Ultimately, the business continuity planning process focuses on reducing the risk of business failures resulting from business disruptions. It safeguards a company's ability to produce a minimum acceptable level of outputs and services in the event of failures of internal or external mission-critical information systems and services. While it does not offer a long-term solution to all situations, which create a significant business disruption, it will help Sutter Securities, Inc., ("SSI" or the "Firm") to prepare for a potential crisis.

## **REGULATORY BACKGROUND**

Based upon the survey findings, discussions with the SEC and the United States General Accounting Office, the experiences of September 11th, very few firms indicated that its customers were unable to access their accounts or excuse transactions when the market re-open after September 11<sup>th</sup>. On April 7, 2004 the SEC approved the FINRA Rule 3500 Series.

Rule 4370: Requires each member to create and maintain a business continuity plan. The plan must identify procedures relating to an emergency or Significant Business Disruption ("SBD") that are "reasonably designed to enable its member to meet its existing obligations to customers." In addition, the plan must address the members existing relationships with other broker-dealers and counterparties.

The rule change recognizes that business continuity plans should reflect the particular operations and activities of a member. This allows member firms to tailor plans to suit their size, business, and structure. The proposed rule change, however, requires that a member's business continuity plan must, at a minimum, address:

- data back-up and recovery (hard copy and electronic)
- mission critical systems
- financial and operational assessments
- alternate communications between customers and the member
- alternate communications between the member and its employees
- business constituent, bank and counter-party impact
- regulatory reporting
- communications with regulators

The following Business Continuity Plan ("BCP") has been prepared to address the concerns set out above.

## **INTRODUCTION OF SUTTER SECURITIES, INC.**

Sutter Securities, Inc, ("SSI") is a SEC registered FINRA member engaging in:

- Private placement of securities including Reg CF, Reg D and Reg A+ (including the use of a Firm website, to be operated under the name FlashFunders, as an Internet-based electronic platform to facilitate the sales of such private placements) and the carrying and clearing of customer funds and securities in connection with such offerings;
- Corporate finance and investment banking and advisory services;
- Broker or dealer retailing corporate equity securities;
- Broker or dealer selling corporate debt securities;
- Firm Commitment Underwriter (can also act as a Selling Group Participant or a Best Efforts Underwriter);
- Mutual fund retailer on an application basis;
- U.S. government securities broker or dealer;
- Municipal securities broker;
- Put and call broker or dealer or option writer;
- Investment banking services to corporations and other entities;
- Solicitor of time deposits in financial institutions;
- Broker or dealer selling securities of non-profit organizations (i.e. churches, hospitals);
- Trading securities for own account;
- Operation of an Alternative Trading System ("ATS") to facilitate transactions in securities that are not registered under the Securities Act of 1933 or the Exchange Act and that are not listed on a registered national securities exchange. Transactions executed through the platform will be exempt from registration with the SEC pursuant to 1) intrastate offering exemption of Section 1(a)(11) of the Securities Act; 2) the private offering exemption of Section 4(2) of the Securities Act and Section 3(b) of the Securities Act (Regulation A); 3) Regulation D-Rule 504- 506; 4) the accredited investor exemption under 4(6) of the Securities Act and other exemptions under Section 4, and 5) the California limited offering exemption;
- Private placement of securities;
- Mergers and acquisitions services; and
- Fairness opinions, valuations and expert testimony.

The Firm complies with the recordkeeping provisions of the SEC Rules 17a-3 and 17a-4, and the records of the Firm are maintained at the Firm's principle place of business (220 Montgomery Street, Suite 468, San Francisco, CA 94104). The Firm has one office location.

## **PLAN OVERVIEW**

### **Designated Principals**

Executive management is aware of the potentially devastating financial, organizational, and political consequences of the failure of one or more mission-critical information systems. The Chief Executive Officer ("CEO") is Keith Moore and the Senior Managing Director is Robert Maley. Together the CEO and Senior Managing Director make up the "Designated Principals". A Designated Principal will be designated as the executive responsible for initiation, and

implementation of the BCP for the Firm. The CCO, in conjunction with the Designated Principals, will update this plan as necessary and will notify the FINRA should this plan be found to be materially deficient.

### **Increase Employee Awareness of Business Continuity Plan**

The Firm has taken steps to both educate and increase the awareness of its employee and associated persons with respect to the firm's Business Continuity Plan, and the current actions being taken to address such problem by the industry as a whole. To this end, the Firm will provide access to the BCP to all associated persons via email. Additionally, the BCP will be saved on a shared server.

In the event of a significant business interruption, the Firm's CEO and the CCO will review the Business Continuity Plan for relevance and adequacy, and re-distribute to associated persons along with any updates, changes or specific instructions, as applicable. In the communication, the Firm shall require each associated person to provide his/her current contact information including but not limited to mobile phone numbers.

### **Identify Business Systems**

The Firm has identified the mission critical systems utilized by the Firm in services to its clients. Due to the fact that the Firm does not have retail clients, its mission critical systems are its internal network and servers as well as the telephone lines, data lines and access to email and the internet.

### **Business Resumption Team**

The Firm has designated Mitchell Miller to participate in the resumption of core business processes and priorities for the 6 Venture, Suite 395, Irvine, CA 92618 office location. Mr. Miller is responsible for managing the implementation of the contingency plan and will deal with a wide range of operational problems, including the potential failures of systems thought to be renovated and tested, and the potential failures of external systems and data exchanges.

In the event of a significant business interruption, Mr. Miller will provide a timely report or reports to the CEO and CCO to advise them of the level of operational status of systems, processes, controls or other related applications or functions that impact the Firm's day-to-day business. The frequency of the reports shall be determined and agreed among the CEO and the CCO and communicated to Mr. Miller. Notwithstanding the prescribed reporting schedule, at any time during the implementation of the contingency plan, Mr. Miller shall provide timely reports as he deems appropriate. Copies of the reports shall be retained among the Firm's central records as deemed appropriate by the CEO and the CCO.

### **Notification**

In addition to any action taken by the Firm with respect to disruption of its business processes which relate to the ability to deliver financial services to its customer's, the Firm will promptly notify the SEC, its FINRA Regional Member Associate ("RMA"), or state regulator of any such problems or updates as deemed appropriate by the CEO and the CCO.

### **Plan Outlines**

The BCP for the Firm is comprised of the following elements: (1) data back-up and recovery (hard copy and electronic); (2) mission critical systems; (3) financial and operational assessments; (4) alternate communications – both between customers and the member and between the member and its employees; (5) business constituent, bank and counter-party impact; (6) regulatory reporting; and (7) communications with regulators.

## **DATA BACK-UP AND RECOVERY**

### **Third Party Records**

All customer submitted information on the website, such as their personal information, suitability, banking details, and investment information, are all stored in a relational database. In addition, an append-only audit log entry is created each time a customer submits new information, allowing us to retrieve all historical information that a customer has submitted. Both sets of data are stored in databases that are hosted on and stored on Amazon Web Services and AdvisorVault. Backups are done on a daily basis, and a backup rotation schedule keeps these logs for at least 3 years; these are also kept on Amazon Web Services and AdvisorVault. Multi-media files provided by customers, such as images, pdfs, and video files, are also stored in Amazon Web Services and kept for at least 3 years.

In addition to the above data retentions, the Firm will preserve a copy of all records required by SEC Rule 17a-4 in electronic media meeting the requirements of subsection (f) of Rule 17a-4. All emails are archived with Global Relay.

### **On-Site Records**

All customer information attained via fax or mail service is stored on-site at the Firm's principal office located at 220 Montgomery Street, Suite 468, San Francisco, CA 94104.

## **MISSION CRITICAL SYSTEMS**

### **Mission Critical Systems - Definition**

Mission Critical Systems are defined as, "any system that is necessary, to ensure prompt and accurate processing of securities transactions, including order taking, entry, execution, comparison, allocation, clearance and settlement of securities transactions, the maintenance of customer accounts, access to customer accounts and the delivery of funds and securities."

### **Mission Critical Systems – Assessment**

Due to the nature of the firm's business, its mission critical system is its network server that archives client documents that are stored electronically. This system is backed up at least daily and a copy of the backup is stored off site. To ensure continuous access to these systems the Firm shall implement the following applicable measures: (a) if electricity or telephone systems are not accessible at the main office, the business shall be conducted at each representative's personal residence. If such is not available, firm personnel shall implement alternative communications described in the section below titled, "Alternate Communications Between the Firm and Its Employees". If electricity is available but telephone service is unavailable, Firm personnel shall be permitted to use cell telephones until instructed to do otherwise.

### **Significant Business Disruption "(SBD")**

Our plan anticipates two kinds of significant business disruption, internal and external. Internal SBD affect only our Firm's ability to communicate and do business, such as a fire in our building. External SBD prevent the operation of the securities markets or a number of firms, such as a terrorist attack, a city flood, or a wide-scale, regional disruption. Our response to an external SBD relies more heavily on other organizations and systems. If a disruption occurs where we no longer can use our office, all of our clients have the cell phone numbers of all personnel. Cell phones would be the main form of communication until we could return to our office.

### **Pandemics**

A pandemic is defined as "an outbreak of a disease that occurs over a wide geographic area and affects an exceptionally high proportion of the population." As such, it is also classified as an SBD. During a local, state, or national quarantine, financial institutions may be deemed as "essential business;" therefore, the Firm may be

required to continue to operate. In such an event, essential personnel will be required to work from home and all non-essential personnel may work from home or be furloughed.

Essential personnel roles are the CEO, CCO, FINOP, and the Director of Operations. A schedule of such roles is listed as Schedule A. Such personnel shall confirm to the CEO that online access to the Firm's electronic mail, books and records and any applicable regulatory agency's systems that are required to continue the Firm's ordinary business operations is available and functioning. Further, such personnel shall also confirm that a telephone number line is available and functioning.

As noted above, the Firm shall communicate with its registered representatives and other personnel as to the Firm's operations and responsibilities during this time. Periodically, as applicable, the Firm may alert its registered representatives and other personnel about pandemic related items such as scams or other news.

The CEO and CCO shall communicate with its vendors as to operational availability on an ongoing basis as appropriate. Critical vendors shall include any clearing broker arrangements, custodians, other financial institutions such as banks, recordkeeping archival systems, and communications systems and be listed on Schedule B. In addition, as a courtesy, the CEO and CCO may communicate any significant changes and/or the implementation of its contingency plan to its RMA.

## **FINANCIAL AND OPERATIONAL ASSESSMENTS**

In the event of an SBD, the Firm will immediately deploy resources that will permit it to communicate with customers, employees, critical business constituents, banks, counter-parties, and regulators. Although the effects of an SBD will determine the means of alternative communication, the communications options to be employed will include cellular phone, home telephones, voice mail, secure e-mail, fax, and messenger. It is anticipated that these alternative methods will permit the Firm to function until full connectivity is restored. In addition, the Firm it will have remote access to key activity records as described in the section above, Data Back-Up and Recovery (Hard Copy and Electronic) since the majority of these records is accessible through remote connections.

### **Financial and Credit Risk**

On an ongoing basis the Firm will determine the value and liquidity of its investments and other assets to evaluate its ability to continue to fund its operations and remain in capital compliance. In the case of an SBD, the Firm will contact its banks, and investors to apprise them of its financial status. If it is determined that the Firm may be unable to meet its obligations to those counter-parties or otherwise continue to fund its operations, the Firm will request additional financing from its parent company, bank or other credit sources to fulfill its obligations to its customers and clients. It is noted that access to capital through the parent has been pre-arranged for use in instances of emergencies. If the Firm cannot remedy a capital deficiency, it will file appropriate notices with its designated exam authority and immediately take appropriate steps to meet the net capital requirement.

### **Alternate Communications Between Customers and the Firm.**

The Firm communicates with its customers primarily through cell phones and email but may also on occasion receive communications via telephone, e-mail, fax, U.S. mail or in-person visits at the Firm headquarters or at approved branch locations. Notably, paper and in-person communication are substantially less frequent. In the event of an SBD, the Firm will assess which means of communication are still available to the Firm at its location(s) and use the best available venue comparable to that used in the past to communicate with another party.

### **Alternate Communications Between the Firm and its Employees.**

Each employee shall receive a copy of this plan and a corporate telephone directory upon its approval. If a disruption shall occur and Firm personnel cannot be at the same location, communications shall be maintained by the following methods: (a) phone tree; (b) home phones and/or cell phones; (c) e-mail; (d) messenger. The CEO is responsible for the deployment of the phone tree. To ensure its viability, associated persons on the tree will be required to update their contact information when it changes, and she will circulate the list for verification on a periodic basis.

## **BUSINESS CONSTITUENTS, BANK, AND COUNTER-PARTY IMPACT**

The Firm shall maintain contact with its parent company and bank via the following methods: (a) cell and/or home telephones; (b) fax; (c) Internet and e-mails; (d) messenger.

## **REGULATORY REPORTING**

Unless waived by FINRA or the SEC, regulatory reporting (i.e., FOCUS filings, Forms BD, U-4s and U-5s, etc.) shall be continued by making use of the following to the extent they are available: (a) internet; (b) service providers; (c) telephone contact to the FINRA Gateway Help Center 301-590-6500.

## **COMMUNICATIONS WITH REGULATORS**

Communications with regulators shall be continued by the following methods: (a) internet; (b) service providers; (c) telephone contact to the FINRA Gateway Help Center 301-590-6500, direct communications by phone or email to the RMA.

## **EMERGENCY CONTACT**

The Firm has a Business Continuity Plan in the event the Firm's headquarters becomes inaccessible. Its goal is to minimize any impact an event may have on operations and its ability to conduct business. For this purpose, all associated persons are instructed to contact a Designated Principal (contact information listed below). The Designated Principal will inform associated persons of the location(s) nearest them that are viable, and/or alternative instructions.

Keith Moore: 949. 295.1580  
Robert Maley: 646.491.3806  
Alexis Wiedeman: 718.622.6473

The following is the primary alternate location that the Firm will use for its executive officers if its main office is not available.

### **Primary Alternate Location:**

6 Venture, Suite 395, Irvine, CA 92618

The CEO or CCO shall notify the RMA if/when the main office is relocated to the Primary Alternate Location.

## **UPDATES AND ANNUAL REVIEW**

The Firm will update the BCP plan when change occurs to the operations, structure, and businesses. In addition, the Firm will review this BCP annually, to modify it for any changes in the Firm operations, structure, and business location.

**Schedule A**  
**Essential Firm Personnel**

CEO: Keith Moore

CCO: Alexis Wiedeman

FINOP: Robert Bull

Designated Principal: Robert Maley

Director of Operations: Mitchell Miller

**Schedule B  
Critical Vendors**

Adobe  
ADP  
Amazon  
AT&T  
Business Information Group, Inc.  
Comcast  
Cox Communications  
Delaware Secretary of State  
DocuSign  
eFax  
  
FINRA  
FlashFunders  
Global Relay Communications, Inc.  
GoDaddy  
Google  
HubSpot  
Lantern Financial Corporation  
LinkedIn  
McDonald Information Service, Inc.  
Microsoft  
NYSE ARCA LLC  
Pacific Mercantile Bank  
Pershing, LLC  
QuickBooks  
Rackspace  
Right Networks  
Smash  
Sutter Securities Clearing, LLC  
Verizon Wireless  
Wells Fargo  
Whelan & Whelan

**SENIOR MANAGEMENT APPROVAL**

I have approved this Business Continuity Plan as reasonably designed to enable the Firm to meet its obligations to customers in the event of an SBD.

Signed: \_\_\_\_\_  
/s/Keith Moore

Name & Title: Keith Moore, CEO