

TREC 2011 Legal Track
Coding Manual – Topic 401
Topic Authority: Kevin F. Brady

I. Full Text of Request for Production

401. All documents or communications that describe, discuss, refer to, report on, or relate to the design, development, operation, or marketing of enrononline, or any other online service offered, provided, or used by the Company (or any of its subsidiaries, predecessors, or successors-in-interest), for the purchase, sale, trading, or exchange of financial or other instruments or products, including but not limited to, derivative instruments, commodities, futures, and swaps.

II. Coding Instructions

Request 401 broadly seeks documents concerning enrononline, the Company's general purpose trading system, or any other online financial or commodities services offered, provided, or used by the Company and its agents.

A document should be marked **Responsive** if all of the following are true:

1. It describes / discusses / refers to / reports on / relates to
2. the design / development / operation / marketing of enrononline, or any other online services offered, provided or used; this includes, but is not limited to, how the system was set up, how the system worked on a day-to-day basis, how the Company developed or modified the system, how the Company marketed or advertised the system, and the actual use of the system
3. by the Company / its subsidiaries / its predecessors / its successors-in-interest
4. for the purchase / sale / trading / exchange of
5. financial instruments / financial products, including, but not limited to, derivative instruments / commodities / futures / swaps. These instruments and products are distinguished from other goods and services by the fact that their value depends on future events and their purchase incurs financial risk.

A document is **Responsive** even if it makes only implicit reference to these parameters.

For example, no particular transaction (*i.e.*, purchase or sale) need be cited specifically. If the document generally references such activities, transactions, or a system whose function is to execute such transactions, and it otherwise meets the criteria, it is **Responsive**.

Examples of **Responsive** documents include:

- Correspondence regarding electronic trade agreements for enrononline;
- Policy statements about enrononline;
- Press releases concerning enrononline;
- Contact lists for enrononline;
- Enrononline guest access emails.

If the document does not meet any one of the five parameters, it should be marked **Non-Responsive**.

For example, if a document refers to the purchase, sale, trading, or exchange of a financial instrument or product, but does not involve the use of an online system, the document is **Non-Responsive**.

Examples of **Non-Responsive** documents include:

- Documents concerning an online system that is used for the purchase, sale, trading or exchange of products or services other than financial instruments or products, such as consumer goods or services;
- Documents relating to employee stock options or stock purchase plans offered as incentives or compensation, or the exercise thereof;
- Documents relating to structured finance deals or swaps that are specified explicitly by written contracts, even if the contracts themselves are electronic or electronically signed;
- Documents related to the use of online systems by Enron employees for their personal use.

III. Date Restrictions

There is no date restriction for Request 401. Therefore, a document bearing any date *or no date at all* may be considered Responsive (if it otherwise meets the criteria for responsiveness).

IV. IV. Privileged Documents

A document may be both privileged and responsive. If you find documents that are attorney-client communications or otherwise contain privileged information, please review the document for responsiveness. All responsive documents should be tagged as such regardless of whether they are privileged or not.

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