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November 25, 2008

AOR 2008-21

Thomasenia P. Duncan, Esq.
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

RE: Advisory Opinion Request on Parent Company's
Solicitation of Wholly Owned Subsidiary Membership
Organizations' Members

Dear Ms. Duncan:

We are submitting this advisory opinion request ("AOR") pursuant to the Federal Election Campaign Act of 1971, as amended, ("FECA" or the "Act") on behalf of CME Group, Inc. ("CME Group"), a publicly traded holding corporation. We seek an advisory opinion regarding whether under FECA and the relevant regulations, the members of Chicago Mercantile Exchange, Inc. ("CME"), Chicago Board of Trade, Inc. ("CBOT") and New York Mercantile Exchange, Inc. ("NYMEX") may be solicited by CME Group for contributions to the CME Group Inc. PAC (CME/CBOT PAC), its separate segregated fund ("CME Group PAC"). As is discussed below, CME, CBOT and NYMEX are membership organizations which are wholly owned subsidiaries of CME Group, and are all affiliated under FECA. The Commission previously held that CBOT, NYMEX and CME were membership organizations and that those who held seats in the respective organizations were members. See AOs 1988-38, 1994-34 and 1997-05.¹ Because of

¹ In AO 1997-05 CME only asked if lessees of seat holders could be solicited as members for purposes of FECA and the regulations, to which the FEC responded in the affirmative. At the same time, the FEC noted that the opinion supersedes the conclusion in prior advisory opinions that with respect to "leased" seats only one membership exists. AO 2097-05, Footnote 10. The current Advisory Opinion Request only asks about members (including lessors of seats) of the

the unique nature of these membership organizations as previously recognized by the Commission and due to mergers in 2007 and 2008, we wish to confirm that the individual members of the membership organizations, including those members that lease their seats to others, are solicitable by the CME Group PAC under FECA.

I. Overview

The Act prohibits corporations from making any contribution or expenditure in connection with a Federal election. 2 U.S.C. § 441b(a). The term "contribution or expenditure," however, does not include "the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock." 2 U.S.C. § 441b(b)(2)(C); see also 2 U.S.C. § 431(8)(B)(vi) and (9)(B)(v). Under 2 U.S.C. § 441b(b)(4)(A), a corporation may solicit contributions to its separate segregated fund from its stockholders and their families and its executive or administrative personnel and their families. See also 11 C. F. R. § 114.5(g)(1). Similarly, a corporation without capital stock can solicit contributions to its separate segregated fund from its members. 2 U.S.C. § 441b(b)(4)(C). Wholly owned subsidiaries of a corporation are considered affiliated for the purposes of FECA. 2. U.S.C. § 441a(a)(5); see also 11 C.F.R. § 114.5(g)(1).

Therefore, CME Group's ability to solicit the members of CME, CBOT and NYMEX for its PAC is dependent on CME Group's relationship to those companies and their members. As CME, CBOT and NYMEX are wholly owned by CME Group, there is little question they are affiliated for purposes of FECA. As is discussed below, CBOT and NYMEX, which are non-stock corporations, each clearly meet the requirements of a membership organization, and their members satisfy the membership criteria under FECA and the regulations. CME also meets all of the stated criteria of a membership organization with members. However, CME has 100 shares of stock outstanding, which is not publicly traded and is wholly owned by CME Group. While this should not affect its ability to be a membership organization for purposes of FECA, all of CME's members also own at least one share of stock in CME Group, which establishes an independent basis for CME Group's ability to solicit CME members for contributions to the CME Group PAC.

II. Description of the Facts

A. CME, CBOT and NYMEX Prior to the 2007 and 2008 Mergers

1. CME

When AO 1997-05 was issued, CME was a not-for-profit corporation that provided markets for the trading of futures contracts and options on futures contracts. In 2002, CME restructured and became a wholly owned subsidiary of Chicago Mercantile Exchange Holdings, Inc. ("CME Holdings"). However, CME retained its character as a membership organization, and the rules governing rights and responsibilities of membership continued in place much as before.

2. CBOT

When AO 1988-38 was issued, CBOT was a self-regulating incorporated membership organization that defined its membership categories by floor trading privileges. In 2005, CBOT restructured and became a wholly owned subsidiary of Chicago Board of Trade Holdings, Inc., ("CBOT Holdings"). The CBOT Rules concerning rights and responsibilities of membership continued in place as much as before.

3. NYMEX

Prior to the 2008 merger with CME Group, NYMEX was an incorporated membership exchange subsidiary wholly owned by NYMEX Holdings, Inc. ("NYMEX Holdings"). Members belonged to one of two trading divisions: The COMEX member division (resulting from a prior merger between NYMEX and the Commodities Exchange, or "COMEX") and the NYMEX member division.²

B. Current Structure of CME Group and the Membership Subsidiary Exchanges Resulting from the 2007 and 2008 Mergers

CME Group is a Delaware stock corporation formed by the 2007 merger of CME Holdings and CBOT Holdings. In August 2008, NYMEX Holdings merged with CME NY Inc., a wholly owned subsidiary of CME Group, and became CME NYMEX Holdings, Inc. ("CME NYMEX Holdings"), a wholly

² See AO 1994-34, in which the Commission concluded that COMEX was a membership organization affiliated with NYMEX and thus NYMEX PAC could solicit the restricted class of COMEX. Hereinafter the reference to "NYMEX members" throughout this request includes members of COMEX. There are no differences between membership in NYMEX and COMEX that are relevant to the issue of whether members may be solicited by the CME Group PAC.

owned subsidiary of CME Group and 100% owner of NYMEX. As a result of the mergers, CME, CBOT and NYMEX (through CME Group's ownership of CME Group NYMEX Holdings), are CME Group's wholly-owned subsidiary exchanges. Each exchange has a Certificate of Incorporation, By-laws, and a Rulebook. In addition, the separate segregated funds of CME Holdings and CBOT Holdings merged in 2007 to form the CME Group PAC. The CME Group PAC is in the process of merging with the NYMEX PAC.

CBOT and NYMEX have no authority to issue capital stock. CME has 100 shares of stock outstanding, all of which are owned by CME Group, which pursuant to the CME Certificate of Incorporation is the sole shareholder of CME stock.³

CME Group Class A Common Stock is publicly traded on the NASDAQ. In addition to Class A Common Stock, CME Group issues preferred stock and Class B Common Stock. Class B Common Stock may only be held by CME members and gives the holder certain voting rights in addition to the voting rights applicable to holders of Class A Common Stock. Each membership in CME is associated with a share of Class B Common Stock, and neither the Class B Common Stock share nor the membership may be sold or purchased separately from the other. Exhibit 24, Article Four, Division B, Subdivision 2, Section 2; see also Exhibit 1, Rule 103.A.

The Boards of Directors of CME and CBOT are the Board of Directors of CME Group. Exhibit 7, Article Fifth, paragraph 3⁴; Exhibit 14, Article VI. The Certificate of Incorporation of CME Group provides that the Board of Directors of CME Group shall have at least ten "CBOT" directors and six directors elected by CME members, through their ownership of the Class B Common Stock. Exhibit 24, Article Five, paragraph A. In addition, the merger agreement between CME Group and NYMEX Holdings provides that the CME Group Board will include three directors that are proposed by NYMEX Holdings (the "NYMEX Directors"; see Exhibit 26, page 140).

The Nominating Committee and the Board of Directors of CME Group must take into consideration that the CME Group Board of Directors shall

³ CME has the authority to issue a total of 1,000 shares of stock, and may only issue it to CME Group, the sole shareholder. CME Group does not foresee causing CME to issue the remaining 900 shares.

⁴ Article Fifth paragraph 3 of the Certificate indicates that the Board of CME Holdings shall be the Board of CME. CME Group is the successor corporation to CME Holdings.

include meaningful representation of a diversity of interests, including floor brokers, floor traders, futures commission merchants, and the like. Exhibit 25, Article III, Section 3.5. All such persons must be members of one of the subsidiary membership exchanges.

Membership in CME, CBOT or NYMEX costs between approximately \$500,000 and \$1,500,000 each.

C. Post-Merger Rights and Responsibilities of CME, CBOT, and NYMEX Members

The formation of CME Group did not result in any change to trading privileges for CME, CBOT or NYMEX members, who continue to trade on the same terms as before the merger. As before the merger transactions, CME, CBOT and NYMEX members may own, sell or lease memberships. CME, CBOT and NYMEX organizational documents and rulebooks control terms, transfer, rights and responsibilities of membership; trading privileges; disciplinary actions; and all other activities at each exchange. Membership types, fees and requirements vary to some degree, as do some terms for purchasing and leasing memberships.

CME Group has harmonized, to the extent possible, the CME and CBOT Rulebooks. Thus, most provisions relevant to the rights and responsibilities of members are the same as between CME and CBOT. The NYMEX rulebook contains provisions similar to the CME and CBOT rulebooks, but has not yet been harmonized.

1. CME

All CME members are subject to the CME Rulebook, which governs trading and operations of CME. Rules for obtaining membership in CME are provided in Chapter 1 of the CME Rulebook and are consistent with rules described in AO 1997-05. Chapter 1, CME Rule 100, states that membership in CME is a personal privilege subject to transfer only as authorized and on the conditions prescribed in the Rules. See Exhibit 1, Rule 100.

Each membership in CME is held and may only be sold or purchased in conjunction with the share of Class B Common Stock in CME Group that is coupled with that membership. Exhibit 1, Rule 103.A; see also Exhibit 24, Article Four, Division B, Subdivision 2, Section 2 and discussion above in section II, B.

In order to obtain a membership in CME, an applicant must be approved. Exhibit 1, Rules 105 and 107. Under CME Rule 105.A, an applicant files an Application for Membership with the Membership Services Department, and the appropriate fee is paid. An applicant who wishes to procure a seat by purchase or by transfer may do so either prior to or subsequent to approval for membership pursuant to CME Rule 105.A. However, an applicant approved for membership prior to acquiring a seat shall become a member only if, within thirty calendar days after approval for membership, he procures a seat; otherwise his membership shall be deemed vacated and CME shall retain the membership application processing fee. Exhibit 1, Rule 105.A.

CME Rule 121 outlines membership privileges including the rights to access the trading floor if properly qualified by a clearing member and act as a floor broker and/or floor trader in accordance with the requirements of the Rules. Pursuant to CME Rule 126, all members must attend an initial educational program as a prerequisite to accessing the trading floor.

The CME Board of Directors is comprised of the Board of Directors of CME Group, some of whom must be elected by members of CME or be members of CME. Chapter 2 of the CME Rulebook sets forth the powers and duties of the CME Board of Directors. See Exhibit 2. In general, CME Rule 230 provides that the Board shall, subject to all applicable provisions in the relevant corporate charter and bylaws, set forth rules concerning operations of CME. For example, CME Rule 230 provides that the Board shall fix, determine and levy all membership dues, fees and assessments when necessary (CME Rule 230 g), and act in a judicial capacity in the conduct of hearings with respect to any charges proffered against members (CME Rule 230 h). The Board determines the commodities traded, the Division in which they shall be traded, the delivery months, and the hours of trading (CME Rule 230 i); moreover, the Board along with the Chairman, Vice Chairman and the Chief Executive Officer of CME makes and amends the Rules of CME (CME Rule 230 j).

Chapter 4 of the CME Rulebook sets forth rules for investigating misconduct of or violations by members and for imposing penalties on members. See Exhibit 4. Under Chapter 5, CME Rule 513, members are subject to sanctions for violation of CME policy on conduct, access, or appearance. See Exhibit 5. Under CME Rule 600, disputes among members must be submitted to binding arbitration. See Exhibit 6.

The CME rules provide that a member may lease a membership to another. Lessors may revoke a lease upon written notice to the Membership Services Department, and the lessor has the right at any time to have the lessee disqualified from trading. Exhibit 1, Rule 106.D.1 and Rule 106.D.2. The lessor is eligible to be elected to the Board of Directors while the lease is outstanding, but may not trade on the trading floor. Exhibit 1, Rule 106.D.4. If a lessor is expelled from the exchange, the lessee's lease automatically terminates and the membership is transferred to the lessor who must sell or liquidate the membership within 30 days (Exhibit 1, Rule 106.D.9). Moreover, under the standard lease used by both CME and CBOT, the lease will terminate automatically without prior notice upon the effective date of any action by CME or CBOT, as applicable, that results in, or will result in, the expulsion of the lessee from membership in CME/CBOT. Under the standard lease the lessor and lessee may decide between them which party will be obligated to pay dues, fees, taxes, and other charges. Exhibit 6.

2. CBOT

The rules governing how CBOT membership is obtained and the rights and responsibilities of CBOT members have been harmonized to a great extent with the CME rules.⁵ (See Exhibit 16.) Thus, the current CBOT rules that govern membership and leasing are the same in material respects as the current CME rules governing membership and leasing. In addition, CBOT members are subject to materially similar rules as CME members concerning the powers and responsibilities of the CBOT Board of Directors (Exhibit 10, Chapter 2); investigations of misconduct and violations, and imposition of penalties (Exhibit 11, Chapter 4); imposition of sanctions for violations of conduct, access, or appearance (Exhibit 12, Chapter 5); and mandatory arbitration of disputes (Exhibit 13, Rule 600).

Membership in CBOT represents the right to trade on and otherwise utilize the facilities of CBOT. Exhibit 14, Article IV, Section B. As noted above in section II, B, the CBOT bylaws provides that the Board of Directors of CBOT shall be the Board of Directors of CME Group. Exhibit 15, Article II Section 3.2. Rules very similar to those of CME provide for the responsibilities and duties of the Board. Exhibit 10, Rule 230.

⁵ The CBOT members referred to throughout this request are the Class B members of CBOT. There are two classes of CBOT membership: Class A and Class B. The sole Class A member of CBOT is CME Group.

CBOT members are not required to own any type of stock in CME Group, nor are memberships tied in any way to CME Group stock ownership.

The relevant rules and standard lease terms applicable to CBOT memberships are substantially similar to the CME lease rules. See Exhibit 9, CBOT Rules 106.D et. seq. and Exhibit 6, which includes the standard CBOT member lease.

3. NYMEX

Those who apply for membership⁶ in NYMEX are subject to all application procedures set forth in Chapter 2 of the NYMEX Rulebook ("Membership Rules"), including meeting ethical standards, having a sponsor, and appearing before the membership committee. NYMEX members are subject to all rules in the NYMEX Rulebook concerning membership (Exhibit 17, Chapter 2); government (Exhibit 18, Chapter 2A); committees (Exhibit 19, Chapter 3); arbitration (Exhibit 20, chapter 5); floor rules (Exhibit 21, Chapter 6); and discipline (Exhibit 22, Chapter 8). Similarly to CBOT and CME members, NYMEX and COMEX members must conduct floor trades through a Clearing member (called a "Primary Clearing Member"); see Exhibit 17, Rule 2.20.

NYMEX's board consists of members and non-members and shares authority with CMEG NYMEX Holdings. Exhibit 27, Articles IV, VI, and VII; see also, e.g., Exhibit 18, Rule 230Ak (hearing panel must include 2 directors one of which is not a member of NYMEX); Exhibit 19, Rule 3.00. Rules very similar to those of CME and CBOT provide for the responsibilities and duties of the Board. Exhibit 18, Rule 230A.

As with CBOT memberships, NYMEX members are not required to own stock in CME Group, nor are NYMEX memberships tied in any way to CME Group stock ownership.

Similarly to CME and CBOT, NYMEX memberships may be leased. The NYMEX standard lease provides that all voting rights with respect to the membership belong to the lessor. The lease terminates upon the sale of the membership by the lessor, the death of the lessee or lessor, the Primary Clearing member's revocation of its guarantee of the lessee, or the lessor or lessee's expulsion by NYMEX. Exhibit 23.

⁶ The NYMEX members referred to throughout this request are the Class A members. The sole Class B member of NYMEX is CMEG NYMEX Holdings. See Exhibit 27, Article IV, paragraph B.

III. CME, CBOT, and NYMEX Members May Be Solicited for Voluntary Contributions to the CME Group PAC

A. Law

As noted above, a membership organization may solicit its members for contributions to its separate segregated fund. 2 U.S.C. § 441b(b)(4)(C); 11 C.F.R. 114.7.

In relevant part, 11 C.F.R. § 114.1(e)(1) provides that a corporation without capital stock will be considered a membership organization if it is composed of members, some or all of whom are vested with the power and authority to operate or administer the organization, pursuant to the organization's formal organizational documents; expressly states the qualifications and requirements for membership in its formal organizational documents; makes its formal organizational documents available to its members upon request; expressly solicits persons to become members; expressly acknowledges the acceptance of membership; and is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office. 11 C.F.R. § 114.1(e)(2) provides that the term "members" includes all persons who are currently satisfying the requirements for membership in a membership organization, affirmatively accept the membership organization's invitation to become a member, and either have some significant financial attachment to the membership organization, such as a significant investment or ownership stake; or pay membership dues at least annually of a specific amount predetermined by the organization; or have a significant organizational attachment to the membership organization which may include, among other things, direct participatory rights in the governance of the organization. In addition, 11 C.F.R. § 114.1(e)(3) provides that a person who does not meet the other criteria for being treated as a member but that has a relatively enduring and independently significant financial or organizational attachment to the organization may be treated as a member. The regulations further provide that whether an organization is considered a membership organization, or someone is considered a member, for FECA purposes is determined by these regulations and not by reference to state law governing corporations. 11 C.F.R. § 114.1(e)(5).

Pursuant to the Act and regulations, all separate segregated funds established, financed, maintained or controlled by a corporation, including any parent, subsidiary, branch, division, department or local unit of such corporation, are considered affiliated. See 2 U.S.C. § 441a(a)(5); 11 C.F.R. § 110.3(a)(2)(i); 11 C.F.R. § 100.5(g)(2). Contributions made or received by affiliated committees, including separate segregated funds, are considered to be made or received by a single committee for the purposes of the contribution limits. 11 C.F.R. § 110.3(a);

11 C.F.R. § 100.5(g). Likewise, the members of the solicitable class of one corporation can be solicited for contributions to the separate segregated fund of any of the affiliated corporations. 11 C.F.R. § 114.5(g)(1).

B. CME, CBOT, and NYMEX are Membership Organizations

In May 1997, the Commission issued Advisory Opinion 1997-05, finding in part that CME was a membership organization for purposes of FECA. The Commission found that Chapter 1 of the CME Rules met the requirements of 11 C.F.R. § 114.1(e)(1) by expressly providing for membership. The opinion notes that all members of CME were granted significant trading rights; thus, the Commission found that the requirement under 11 C.F.R. § 114.1(e)(1)(iii) (now 11 C.F.R. § 114.1(e)(1)(v)) that membership be expressly recognized was satisfied. The Commission also found that 11 C.F.R. § 114.1(e)(2) (now 11 C.F.R. § 114.1(e)(1)(iv)) was satisfied because CME had indicated that in the past it had solicited persons to become members.

1. The organization is composed of members some or all of whom have the power and authority to operate or administer the organization (11 C.F.R. § 114.1(e)(1)(i))

Following the Commission's analysis in AOR 1997-05, CME, CBOT and NYMEX clearly meet the requirements for being "membership organizations" under 11 C.F.R. § 114.1(e)(1). At least some of the members of CME, CBOT and NYMEX have the power and authority to operate or administer their respective organizations pursuant to each organization's formal documents, as required under 11 C.F.R. § 114.1(e)(1)(i). Currently the CME Board of Directors is comprised of the Board of Directors of CME Group. Exhibit 7, Article Fifth. The Nominating Committee of CME Group must take into consideration that there should be meaningful representation of exchange members on the CME Group board. Exhibit 25, Article III, Section 3.5. In addition, CME members may elect at least six directors of the CME Group Board. Exhibit 24, Article Four, Division B, Subdivision 2, Section 1. As noted in II, C, 1, above, CME Rule 230 (found in Exhibit 2) provides that the Board shall set forth rules concerning operations of CME, including fixing, determining and levying all membership dues, fees and assessments when necessary and acting in a judicial capacity in the conduct of hearings with respect to any charges proffered against members. Under CME Rule 230 the CME Board determines the commodities traded, the Division in which they shall be traded, the delivery months, and the hours of trading and participates in making and amending the Rules of CME. In addition, CME committees have

considerable authority to enforce rules relating to the committee's subject matter. See, e.g., Exhibit 4, Rules 402.A and 406.

The Board of Directors of CBOT is required to be the Board of Directors of CME Group. Exhibit 15, Article III, Section 1. The CME Group Board must have at least 10 directors chosen by CBOT. Exhibit 24, Article Five, paragraph (A); Exhibit 25, Article II, Section 2.2(b) and Article X, Section 10.02(a). As noted in II, C, 2, CBOT Rule 230 provides for the CBOT Board to have similar responsibilities to that of the CME Board. Exhibit 10, Rule 230. In addition, CBOT committees, which have considerable authority to administer different aspects of the organization, must be composed in part of CBOT members. Exhibit 11, Rules 402A and 406.

NYMEX committees have authority similar to those of CME and CBOT and are composed of at least some members who have the authority over the subject matter of such committees. Exhibit 19, Rules 3.00, 3.01; see also, e.g., Exhibit 18, Rule 230Ak (hearing panel must include 2 directors one of which is not a member of NYMEX).

As noted in II, C, 3 above, CME and CBOT lessors of membership seats retain the rights to be elected to the board. Exhibit 1, Rule 106.D.4; Exhibit 9, Rule 106.D.4.

Thus, the requirement of 11 C.F.R. § 114.1(e)(1)(i) is satisfied, as the organizations are composed of members some or all of whom are vested with the power and authority to operate or administer the organization pursuant to formal organizational documents.

2. **The organization expressly states qualifications for membership, makes formal organizational documents available to its members upon request, and expressly solicits persons to be members (11 C.F.R. § 114.1(e)(1)(ii), (iii), and (iv))**

The Articles of Incorporation and the Rulebooks of each exchange expressly provide for membership, and the qualifications for membership are expressly set forth in Chapter 1 of the CME and CBOT Rulebooks and Chapter 2 of the NYMEX Rulebook. Therefore, the requirement in 11 C.F.R. § 114.1(e)(1)(ii) that the organization expressly state the qualifications and requirements of membership in formal organizational documents is satisfied. Moreover, the CME, CBOT, and NYMEX Rulebooks are available online to all members and the general public, and CME Group's and NYMEX's web sites post the qualifications for

membership and provide online instructions on how to apply.
www.cmegroup.com/company/membership/index.html;
http://www.nymex.com/htbm_main.aspx. Thus, the requirements of 11 C.F.R. § 114.1(e)(1)(iii) and (iv) that the organization makes its formal organizational documents available to its members upon request, and that the organization expressly solicits persons to be members, are satisfied.

3. The organization expressly acknowledges acceptance of membership (11 C.F.R. § 114.1(e)(1)(v))

Each organization's detailed application and approval process for membership meets the requirement under 11 C.F.R. § 114.1(e)(1)(v) that the organization expressly acknowledges the acceptance of membership. In addition, upon acceptance for membership members are provided with a badge that allows members to access the trading floor of the exchange, and members are provided with a color-coded jacket to wear on the trading floor (colors are coded to the type of commodity the member is authorized to trade.)

4. The organization is not organized primarily for the purpose of influencing nomination or election of any individual to Federal office (11 C.F.R. § 114.1(e)(1)(vi))

Lastly, CME Group represents that CME, CBOT and NYMEX are not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office.

5. Unique nature of stock exchanges and relationship to members

The fact that CME, CBOT and NYMEX are wholly owned subsidiaries of CME Group does not change their identity as membership organizations or change their relationship with their members. In fact, the relationship of the members to the membership organizations is the same in all material respects as the relationship between the members and the exchanges prior to the mergers. In the past, the Commission has recognized the unique connection and financial attachment between members and stock exchanges and held that the exchanges were appropriately treated as membership organizations.

In the Explanation and Justification for the Commission's "Definition of 'Member' of a Membership Organization," 58 Fed. Reg. 45770, 45772 (August 30, 1993), the Commission noted that non-voting members of non-stock exchanges possess significant equitable rights because of their significant financial stake in the

organization. Id. at 45771; see also 64 Fed. Reg. 41266, 41267 (July 30, 1999). In fact, the Commission acknowledged that members of such exchanges who own or lease seats have a stronger financial interest in the organization than those members of issue-oriented membership organizations who "merely" pay annual dues or have the right to vote for the organization's governing body. Explanation and Justification, 58 Fed. Reg. 45770, 45771. As the FEC noted, even though such members may not have voting rights, they pay substantial amounts of money in the tens of thousands of dollars to acquire and retain seats in the exchanges; see also, e.g., AOs 1997-05, 1994-34, 1988-39 and 1987-31.

C. Members of CME, CBOT and NYMEX are Members of their Respective Membership Organization for Purposes of FECA

1. Section 114.1(e)(2)

A review of the relationship between CME, CBOT and NYMEX and their members shows that these individuals are members of their respective membership organization for purposes of FECA and the relevant regulations. In fact, the relationship between the members and the organizations is more substantial than the minimum required by 11 C.F.R. § 114.1(e)(2). Members, including those who lease their seats to others, apply for and accept membership and must satisfy the requirements for membership set forth in the Rulebooks and Bylaws. See, e.g., Exhibits 1, 9, and 17. The membership requirements include obtaining a seat on the respective exchange, which currently costs between \$500,000 and \$1,500,000. In addition to the significant financial attachment involved in obtaining a seat, members also pay dues on an annual basis in an amount predetermined by the organization, and in addition to that assume financial obligations pursuant to trading and pay an application fee. Thus, even though it is not necessary to meet the requirements of both 11 C.F.R. § 114.1(e)(2)(i) and (ii), both are in fact satisfied.

2. Section 114.1(e)(3)

Clearly, even if members are not found to meet the requirements of 11 C.F.R. § 114.1(e)(2), they fall within the broader standards of 11 C.F.R. § 114.1(e)(3), allowing for a case-by-case determination of membership status based on their relatively enduring and independently significant financial or organizational attachment to CME, CBOT and NYMEX, respectively. Members, including lessors, must make a significant financial investment in the organization in order to be a member by way of the substantial price of obtaining and maintaining a membership.

By virtue of membership in CME, CBOT or NYMEX, members are provided significant trading rights in the trading of options contracts, futures

contracts, and commodities contracts and are subject to the rules and regulations of CME, CBOT or NYMEX, as applicable, in order to get the benefit of these privileges. See Rulebook chapters. Members must submit all disputes to arbitration. Exhibits 5 and 13, Rule 600; Exhibit 20, Rule 5.04. Moreover, members, including lessors, are subject to disciplinary sanctions that impact their ability to pursue their profession. Exhibits 5 and 12, Rule 513, and, with respect to lessors, Exhibits 1 and 9 Rule 106.D.9; Exhibit 23, section 12f. As noted above, lessors may revoke a lease upon written notice, and the lessor has the right at any time to have the lessee disqualified from trading. Exhibit 1, Rule 106.D.1; Exhibit 9, Rule 106.D.2; Exhibit 23.

D. CME Members are CME Group Stockholders

Even if CME's limited ability to issue stock that may only be owned by CME Group affected its status as a membership organization under FECA, CME's members and their families are part of the solicitable class of the CME Group PAC because every CME member is a stockholder in CME Group. All CME members are required to own the share of Class B Common Stock of CME Group with which their CME membership is associated, and memberships may not be purchased or sold without the sale of the accompanying Class B Common Stock share to the purchaser of the membership. Exhibit 1 Rule 103.A; Exhibit 24, Article Four, Division B, Subdivision 2, Section 2. In addition, lessors of seats may not separate the CME Group Class B Common Stock share from the membership interest while the membership is leased, and thus lessors remain stockholders while the lease is outstanding. See Exhibit 1, Rule 106.D.4; Exhibit 24, Division B, Subdivision 2, Section 2. Therefore, pursuant to the Act and the regulations, CME members and their families, including those members who lease their seats to others, may be solicited by the CME Group PAC.

IV. Conclusion

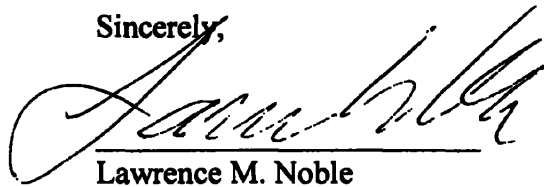
Members of CME, CBOT and NYMEX who own shares in CME Group are clearly solicitable by the CME Group PAC pursuant to FECA and the regulations. As discussed, however, CME, CBOT and NYMEX are now wholly owned subsidiaries of CME Group. Given the relationship of each entity to CME Group, CME, CBOT and NYMEX are affiliated with each other and with CME Group. See, e.g., AO 1984-36; see also 11 C.F.R. § 100.5(g). Because of this, the CME Group PAC is in the process of merging with NYMEX PAC so that CME, CBOT, NYMEX and CME Group will have a common PAC. Under FECA and the Commission regulations, a corporation may solicit the restricted class of its affiliates and subsidiaries for voluntary contributions to its PAC. 11 C.F.R. § 114.5(g)(1); 11 C.F.R. § 114.1(j). Therefore, CME Group should be allowed to solicit contributions

Ms. Thomasenia Duncan
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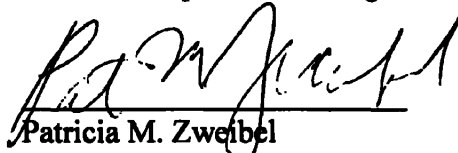
to the CME Group PAC from the members of CME, CBOT and NYMEX, regardless of whether those members also own shares of stock in CME Group.

Please call if you have any questions regarding this request or if you need any further information.

Sincerely,



Lawrence M. Noble
Skadden, Arps, Slate, Meagher & Flom LLP



Patricia M. Zweibel
Skadden, Arps, Slate, Meagher & Flom LLP
(admitted to practice in Maryland only)

Attorneys for CME Group Inc.

CME Group, Inc.

Advisory Opinion Request

Exhibits

Federal Election Commission

November 25, 2008

**CME Group Inc. Advisory Opinion Request
November 25, 2008
Exhibits**

Please note that the attached Exhibits contain relevant excerpts rather than entire documents. Entire Rulebook chapters may be viewed online at <http://www.cmegroup.com/company/membership/> and http://www.nymex.com/rule_main.aspx. The CME Group Inc. Certificate of Incorporation and Bylaws may be viewed online at <http://investor.cmegroup.com/investor-relations/groupCharter.cfm>, <http://investor.cmegroup.com/investor-relations/groupBylaws.cfm>. Other Exhibits are available upon request in their entirety.

- 1. CME Rulebook, Chapter 1**
- 2. CME Rulebook, Chapter 2**
- 3. CME Rulebook, Chapter 4**
- 4. CME Rulebook, Chapter 5**
- 5. CME Rulebook, Chapter 6**
- 6. Sample CME/CBOT lease**
- 7. CME Certificate of Incorporation**
- 8. CME By-laws**
- 9. CBOT Rulebook Chapter 1**
- 10. CBOT Rulebook Chapter 2**
- 11. CBOT Rulebook Chapter 4**
- 12. CBOT Rulebook Chapter 5**
- 13. CBOT Rulebook Chapter 6**
- 14. CBOT Certificate of Incorporation**
- 15. CBOT By-laws**
- 16. CME and CBOT Rulebook Harmonization Memorandum**
- 17. NYMEX Rulebook Chapter 2**
- 18. NYMEX Rulebook Chapter 2A**
- 19. NYMEX Rulebook Chapter 3**
- 20. NYMEX Rulebook Chapter 5**
- 21. NYMEX Rulebook Chapter 6**
- 22. NYMEX Rulebook Chapter 8**
- 23. Sample COMEX/NYMEX lease**
- 24. CME Group Third Amended and Restated Certificate of Incorporation**
- 25. CME Group Fifth Amended and Restated By-laws**
- 26. Excerpts from the CME Group-NYMEX Holdings Merger Agreement**
- 27. Second Amended and Restated Certificate of Incorporation of NYMEX, Inc.**
- 28. Amended and Restated By-laws of NYMEX, Inc.**
- 29. CME Group organizational chart (pre-NYMEX Holdings merger)**

**CHAPTER 1
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- 102. NON-MEMBER INVESTORS**

- PROCEDURES FOR PURCHASE, SALE AND TRANSFER**
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Chapter 1 Membership

100. GENERAL

Membership with full privileges in the CME Division shall be limited to 625; membership with full privileges in the IMM Division shall be limited to 813; membership with full privileges in the IOM Division shall be limited to 1287; and membership with full privileges in the GEM Division shall be limited to 413. Membership in the Exchange is a personal privilege subject to transfer only as authorized and on the conditions prescribed herein.

101. QUALIFICATIONS AND RESPONSIBILITIES

Any adult of good moral character, reputation and business integrity, with adequate financial resources and credit to assume the responsibilities and privileges of membership, is eligible for membership in the Exchange. A determination as to whether an applicant for membership or an applicant for an incentive program offered by CME satisfies the Exchange requirements shall be made by the Membership Committee or by staff in the applicable department. A person approved for membership and an individual or entity approved for an incentive program shall be subject to all of the rules and regulations of the Exchange. Notwithstanding a transfer of membership, a person shall continue to be responsible for violations of Exchange rules and regulations committed by him while he was a member and also agrees to have any disputes, which arose while he was a member and which relate to or arise out of any transaction upon the Exchange or membership in the Exchange, resolved in accordance with Chapter 6.

102. NON-MEMBER INVESTORS

A person may purchase a membership interest and be approved as a "Non-Member Investor" in the Exchange. The person shall file an Application to become a Non-Member Investor with the Membership Services Department (the "Department"). A Non-Member Investor is presumed to know all the rules and regulations of the Exchange and agrees to abide by and be subject to them. In the event that multiple individuals own a membership, such individuals shall appoint a designated individual who shall have the authority to sell, lease, pledge or otherwise dispose of or encumber the membership. Further, in the event that a legal entity owns a membership, such entity must provide the Department with appropriate corporate, partnership or other legal documentation indicating who has authority to sell, lease, pledge or otherwise dispose of or encumber the membership and any other documentation requested by the Department.

PROCEDURES FOR PURCHASE, SALE AND TRANSFER

103. PURCHASE OF MEMBERSHIP AND MECHANICS OF PURCHASE

103.A. Purchase of Membership

The prospective purchaser of a membership shall sign and file with the Department a Bid to Purchase which shall be guaranteed by: a) a clearing member of the Exchange; or b) the deposit of a certified or cashier's check; or c) a wire transfer; or d) for swap transactions, the deposit of a CME, IMM, or IOM membership and/or a wire transfer or a certified or cashier's check. The Bid to Purchase shall contain an agreement by the purchaser to take no recourse against the Exchange in the event his Application for Membership is rejected (except as provided in Section 8c of the Commodity Exchange Act).

For Purposes of this Chapter 1, a membership in the Exchange may only be purchased in conjunction with the Class B Share coupled to such membership. References to a "membership" shall include the associated Class B Share. In addition, all of the forms described in Chapter 1 are available on the Exchange's website or in the Department.

103.B. Mechanics of Purchase

The Department shall post the lowest offer to sell and the highest bid to purchase a membership in each Division. The Department shall match bids and offers and, in the event of an agreement, shall promptly notify the purchaser and the seller. Within two business days of such notification, the purchaser shall deposit with the Department the following:

- a. A check, payable to the Exchange, for a transfer fee in an amount set by the Board; and

- b. (1) A wire transfer, or a certified or cashier's check, if not previously deposited, or a check or a wire transfer from a CME clearing firm, payable to the Exchange, in the amount of the purchase price or, (2) if the seller has filed a written consent, a CME, IMM, or IOM membership if not previously deposited, owned free of any Rule 110 claims or any other liens, representing partial or complete satisfaction of the purchase price, and constituting a partial or complete exchange of membership(s) to that extent. Pursuant to such an exchange of membership(s), the purchaser and seller each must file an Indemnification agreement in favor of the Exchange from a clearing member by which the clearing member agrees to pay all valid Rule 110 claims against the purchaser or the seller, as the case may be, up to the value at the time of the exchange of the membership(s) transferred by such purchaser or seller.

104. SALE OF MEMBERSHIP

A membership in the Exchange may only be sold as provided for in the Rules. When the owner or the legal representative of an owner desires to sell a membership, he shall sign and file with the Department an Offer to Sell, which shall set forth the price at which he is offering his membership, and contain an agreement to the conditions of sale set forth in these rules.

Upon the sale of a membership, any and all membership privileges granted by these rules shall terminate.

105. APPLICATION FOR MEMBERSHIP**105.A. Application Process for Members Accessing the Trading Floor**

The applicant shall file an Application for Membership and the appropriate fee with the Department. The applicant shall agree to take no recourse against the Exchange in the event his application is rejected (except as provided in Section 8c of the Commodity Exchange Act), set forth all financial arrangements made in connection with the proposed purchase or transfer of the membership and agree to abide by the applicable rules and regulations of the Exchange and all amendments thereto.

Upon completion of the foregoing, the Department shall notify the membership by posting for a period of 20 days of the name of the applicant, the seller, the purchase price and the transfer type. The notice shall request the submission to the Department of claims against the seller or transferor arising out of Exchange transactions or any other relationship regulated by the Exchange. A Long Form application shall not be considered during the posting period; however, upon request, Exchange staff may waive any part of the period.

During the posting period, the Department shall prepare a report on the qualifications of the applicant.

The Short Form application of a member who is transferring onto a membership may be approved by Exchange staff before the expiration of the posting period, provided the member obtains an Indemnification agreement in favor of the Exchange from a clearing member to cover Rule 110 claims up to the value of the membership at the time of the transfer.

An applicant who wishes to procure a membership by purchase, or by transfer, may do so either prior or subsequent to approval for membership pursuant to Rule 107. An applicant who has acquired a membership prior to approval for membership shall become a member upon such approval. An applicant approved for membership prior to acquiring a membership shall become a member if, within thirty calendar days after approval for membership, he procures a membership; otherwise his membership shall be deemed vacated and the Exchange shall retain the membership application processing fee. Extensions of the 30-day period in which the applicant must acquire a membership may be granted by the Department.

105.B. Application Process for Members Not Requesting Access to the Trading Floor

The applicant shall file an Application for Membership and the appropriate fee with the Department. The applicant shall agree to take no recourse against the Exchange in the event his application is rejected (except as provided in Section 8c of the Commodity Exchange Act), set forth all financial arrangements made in connection with the proposed purchase or transfer of the membership and agree to abide by the applicable rules and regulations of the Exchange and all amendments thereto.

The applicant may receive temporary membership privileges which do not permit trading floor

access upon the filing of a complete Application unless the Department has reason to believe that the applicant is not qualified for membership. An applicant that receives temporary membership privileges shall be subject to all of the rules of the Exchange including the rules related to the approval and rejection of an applicant. Such temporary membership privileges will expire upon the earlier of: 1) sixty days after the temporary membership privileges are granted; 2) a rejection of the applicant's membership application by the Membership Committee; or 3) notification that the application for membership has been approved. An applicant who receives temporary non-trading floor membership privileges who is subsequently rejected for membership shall reimburse the Exchange for the difference between trading and clearing fees paid by reason of the temporary membership status and the fees that would have been paid on the same transactions at the rates that would have otherwise prevailed.

The Department shall notify the membership by posting for a period of 20 days of the name of the applicant, the seller or transferor and the purchase price. The notice shall request the submission to the Department of claims against the seller or transferor arising out of Exchange transactions or any other relationship regulated by the Exchange. During the posting period, the Department shall prepare a report on the qualifications of the applicant.

The Application of a member who obtains a membership may be approved by the Department before the expiration of the posting period, provided the member obtains an indemnification agreement in favor of the Exchange from a clearing member to cover Rule 110 claims up to the value of the membership at the time of purchase or transfer.

An applicant who has acquired a membership prior to approval for membership shall become a member upon such approval. An applicant approved for membership prior to acquiring a membership shall become a member if, within thirty calendar days after approval for membership, he procures a membership; otherwise his membership shall be deemed vacated and the Exchange shall retain the membership application processing fee. Extensions of the 30-day period in which the applicant must acquire a membership may be granted by the Department.

105.C. Application for Floor Broker's or Floor Trader's License

Each membership applicant seeking a floor broker's or floor trader's license shall apply for registration as a floor broker or a floor trader with the National Futures Association. Individuals not accessing the trading floor are not required to obtain floor broker or floor trader registration.

106. TRANSFERS, SECURITY TRANSACTIONS, AND AUTHORIZATIONS TO TRANSFER OR SELL

Transfers of memberships may be made only in accordance with the following provisions. All of the applicable procedures and requirements for the sale and purchase of a membership as set forth in Chapter 1, including the provisions of Rule 110, shall apply to transfers made under this rule. A transfer, reinstatement or revocation of a transfer shall not be completed until all valid Rule 110 claims against a member are satisfied unless a properly completed Indemnification Form is filed by a member's qualifying clearing member.

106.A. Authorization to Sell

An Authorization to Sell ("Authorization Agreement") is a grant of authority by a member or applicant for membership that may be used only for the purposes specified in Rule 106.B. Authorization Agreements shall be effective only if executed on the form supplied by the Exchange and filed with the Department. Authorization Agreements shall be irrevocable without the written consent of the grantee.

A member or applicant for membership who executes an Authorization Agreement relinquishes his power to direct the sale of his membership. A grantee shall have all powers of sale that otherwise would have been available to the grantor. The Exchange shall act at the grantee's direction as if the grantee was the member-owner.

Private agreements between the grantor and the grantee shall not be recognized by the Exchange and shall not affect the rights of the Exchange or its members. The grantee shall be entitled, in addition to any other rights he may have under Rule 110, to the residual proceeds after all Rule 110 claims have been satisfied up to the amount of the outstanding debt owed.

106.B. Security Transactions

A member, applicant for membership or a Non-Member Investor, may execute an

Authorization Agreement, in favor of a clearing member, a financial institution or bank, or in favor of the member that financed the purchase of the membership and associated Class B Share in order to secure any outstanding debt connected with that financing.

A member, applicant for membership or a Non-Member Investor may execute an Authorization Agreement in favor of a member or clearing member to whom the member is indebted or may become indebted by reason of transactions upon the Exchange in order to secure such current or future debts.

106.C. Family Transfers

A member or Non-Member Investor may temporarily transfer his membership to a member of his immediate family who shall be subject to all Exchange rules and regulations. For purposes of this rule, immediate family members shall be limited to parents, siblings, children, grandchildren, grandparents, fathers-in-law, mothers-in-law, sons-in law, daughters-in-law and spouses.

Rule 106.C transfers shall be subject to the following terms and conditions:

1. The transferor may revoke the transfer upon written notice filed with the Department.
2. The transferor shall have the right at any time to have the transferee disqualified from trading by giving notice to the transferee's qualifying clearing member, who in turn must notify the Exchange pursuant to Rule 511.A.
3. The transfer shall be revoked and the membership shall revert to the transferor's estate or conservator upon official notice of the death or formally declared incompetence of the transferor. However, the legal representative of a deceased member's estate may transfer his membership pursuant to this Rule 106.C. during the pendency of probate.
4. Upon a transferor's expulsion from the Exchange, the transfer shall be revoked and the membership shall revert to the transferor who must sell the membership within 30 days.
5. Upon approval for membership, the transferee shall be treated as a member for all purposes, except that the transferee shall have no authority to sell, transfer or assign the membership. The transferor shall be considered the member and an assignment of the membership for clearing purposes pursuant to Rule 902 shall not be terminated by the transferee.
6. The transferor may sell the membership at any time in accordance with the provisions of Rule 104 or transfer the membership and associated Class B Share pursuant to Rule 106. The proceeds of the sale of the membership and associated Class B Share will be distributed to the transferor following the settlement of all claims pursuant to Rule 110.
7. The transferred membership may be sold in accordance with Rule 133, and the proceeds may be applied as provided in Rule 110, to satisfy financial obligations of the transferee to the Exchange, to another member or to a clearing member arising out of the transferee's use of the membership in the event that such financial obligations have not been otherwise satisfied.

106.D. Futures Industry Transfers

A member or Non-Member Investor may temporarily transfer his membership to another member who shall be subject to all Exchange rules and regulations.

Transfers under this section shall be subject to the following terms and conditions:

1. The transferor may revoke the transfer upon written notice filed with the Department.
2. The transferor shall have the right at any time to have the transferee disqualified from trading by giving notice to the transferee's qualifying clearing member and such clearing member must subsequently notify the Exchange pursuant to Rule 511.A.
3. The transfer shall be revoked and the membership shall revert to the transferor's estate or conservator upon official notice of the death or formally declared incompetence of the transferor. However, the legal representative of a deceased member's estate may transfer his membership pursuant to this Rule 106.D. during the pendency of probate.
4. The transferor is eligible to be elected to the Board of Directors as a Class B-1 Director, Class B-2 Director or Class B-3 Director (as such terms are defined in the Certificate of Incorporation), whichever is applicable. A transferor who is a member of the Board may have access to the trading floor in order to meet with other members, but may not trade while on the trading floor.

5. The transferor may sell the membership at any time in accordance with the provisions of Rule 104 or transfer the membership pursuant to Rule 106. The proceeds of the sale of the membership will be distributed to the transferor following the settlement of all claims pursuant to Rule 110.
6. The transferred membership may be sold in accordance with Rule 133, and the proceeds may be applied as provided in Rule 110, to satisfy financial obligations of the transferee to the Exchange, to another member or to a clearing member arising out of the transferee's use of the membership in the event that such financial obligations have not been otherwise satisfied.
7. The transferee must be qualified to trade by a clearing member acceptable to the transferor. The transferor may not assign the membership for clearing purposes pursuant to Rule 902.
8. A transferee shall place all trades on the books of his qualifying clearing member unless written authorization to the contrary from said clearing member and from the transferor has been filed with the Department. Failure to adhere to the requirements of this rule and Rule 511 shall exclude a clearing member not qualifying the transferor from receiving proceeds under Rule 110.
9. Upon a transferor's expulsion from the Exchange, the transfer shall be revoked and the membership shall revert to the transferor who must sell the membership within 30 days.
10. Except as provided in Rule 135, any transferee approved for membership pursuant to this Rule 106.D. after January 7, 1985, who was not a member as of January 7, 1985, shall be eligible to execute trades only for his own account for a cumulative period of twelve (12) months following his or her election to membership unless exempted there from by the Membership Committee.
11. A lease entered into on or after February 1, 1996, which is terminated by a transferee prior to its expiration date, shall be controlled by the following early cancellation payment obligation:

A transferee who unilaterally terminates a lease remains obligated to make the agreed rental payments to transferor until the end of the term of the lease; however, transferee's obligation to make such rental payments shall be reduced by the amount of rental payments received by transferor if transferor is able to lease the membership to another person during the remaining term of the original lease. Transferor must use his best efforts to lease the membership to another person as soon as possible and at the highest possible rental obtainable based on similar leases, if any, then being executed.

12. A lessor shall notify the Exchange, in a manner designated by the Exchange, of the terms of a new lease agreement or any renewal of a lease agreement within two (2) business days of the negotiation of the lease agreement, or renewal thereof. A lessor's failure to comply with this Rule 106.D.12 may result in the issuance of a warning letter to the lessor. A lessor may then be subject to an automatic fine of \$500 and \$1000 respectively for a second and third violation of this rule within a rolling 12-month period from the issuance of the warning letter. Repeated violations of this rule may be referred to a disciplinary committee.
13. For leases expiring on or after December 31, 2006, unless otherwise previously agreed to by the transferor and the transferee, notice must be provided by the parties of their intention to continue a leasing arrangement at least ten (10) days prior to the expiration of the current lease term. If either party fails to provide such notice, it is assumed that the lease will not be renewed upon its expiration. Terms of the renewal, if any, will be subject to negotiation between the parties.

106.E. Unconditional Bequests and Bona Fide Gifts of Membership

A member or Non-Member Investor may make a bona fide gift or bequest of membership. The bona fide gift may be made only to immediate family members as defined in Rule 106.C. Unless otherwise required by law, a letter affirming the gift or Letters of Office from the Probate Court and a letter from the decedent's personal representative allowing the transfer will be required as a precondition of transfer.

106.F. Clearing Member

A membership may be owned by a clearing member, or a person or an entity having an acceptable proprietary interest in the clearing member. The membership may be transferred to a member provided that: (1) the transfer is approved by Exchange staff; and (2) the transferee is approved pursuant to the rules of the Exchange.

106.G. Transfer to Wholly-Owned Entities

A membership may be transferred to an entity which is wholly-owned by the member or his immediate family members as that term is used in Rule 106.C. Transfers pursuant to this authorization shall be limited to transfers pursuant to Rules 106.C., D. or E.

A 106.G. transferee may assign the membership for clearing purposes in accordance with Rule 902.

106.H. Trading Member Firm

A membership may be owned by, or two memberships may be leased by, a trading member firm. The memberships may be held in the name of the trading member firm or transferred to a principal or employee of the trading member firm and transferred among its principals and employees provided that: (1) the transfer is approved by Exchange staff; (2) the transferee is approved pursuant to the rules of the Exchange; and (3) the transfer is for the legitimate business purposes of the firm. The firm shall have the right, at any time, to have the principal or employee disqualified from trading, but must have him disqualified upon termination of his employment or other association with the firm. Notice to have the principal or employee disqualified from trading must be given to his qualifying clearing member who in turn must notify the Exchange pursuant to Rule 511.A. The trading member firm shall designate on a form provided by the Exchange a representative who shall be authorized to deal with the Exchange with respect to the membership transferred under this Section.

A Rule 106.H. membership may not be transferred pursuant to any other provision of Rule 106. The membership may not be assigned for clearing purposes under Rule 902.

Rule 106.H. trading member firm benefits apply only to the firm's proprietary trading and not to the trading of any affiliates, subsidiaries or customers. All proprietary positions of the trading member firm must be carried by a clearing member(s) in accounts separate from positions of affiliates, subsidiaries, customers and other entities.

Any holder or transferee of a Rule 106.H. membership may not solicit or contact customers from the floor of the Exchange.

A Rule 106.H. firm may not hold itself out to the public as a clearing member.

106.I. Affiliate Member Firm

An "affiliate" shall be defined to include a clearing member or a firm that either: owns, directly or indirectly, 100% of a clearing member or has 100% ownership, direct or indirect, in common with a firm that owns, directly or indirectly, 100% of a clearing member.

A membership may be owned by a clearing member or affiliate firm under this Rule. The membership may be held in the name of the firm or transferred to a principal or employee of an affiliate that directly or indirectly owns or is owned by all other affiliated parties within the organization of affiliated parties and be transferred among its principals and employees provided that: (1) the transfer is approved by Exchange staff; (2) the transferee is approved for membership pursuant to the rules of the Exchange; and (3) the transfer is for the legitimate business purposes of the firm. The affiliate shall have the right, at any time, to have a principal or employee disqualified from trading, but must have him disqualified upon termination of his employment or other association with the firm. Notice to have the principal or employee disqualified from trading must be given to his qualifying clearing member, and such clearing member must subsequently notify the Exchange pursuant to Rule 511.A. The clearing member or affiliate firm shall designate on a form provided by the Exchange a representative who shall be authorized to deal with the Exchange with respect to the membership held under this Section.

A Rule 106.I. membership may not be transferred pursuant to any other provision of Rule 106. The membership may not be assigned for clearing purposes under Rule 902.

Rule 106.I. firm benefits apply to the proprietary trading activity of any affiliate within the 100% related party structure. All proprietary positions of the firm and its affiliates must be carried by a clearing member(s) in accounts separate from positions of subsidiaries, customers and other entities.

A Rule 106.I. firm may not hold itself out to the public as a clearing member.

Exchange staff may grant exemptions from the requirements of this Rule.

106.J. [Reserved]

106.K. Transfer to a Trust

A member may transfer his membership to a trust for which the member is the grantor. The document(s) establishing the trust shall at all times include the restrictions as to permissible beneficiaries and state that (1) the trust takes the membership subject to all of the rules of the Exchange, as may be amended, (2) the interests in the membership that inure to the beneficiaries of the trust shall be subject to all of the rules of the Exchange, as may be amended, (3) the Exchange's rights with respect to the membership are superior to those of the beneficiaries, and (4) the Exchange shall have no liability to the beneficiaries of the trust in the event of the mishandling of the trust assets by the trustee. Permissible beneficiaries are immediate family members as set forth in Rule 106.C. The grantor (or the grantor's personal representative) and the trustee (and any successor) shall each provide in the form provided by the Exchange an acknowledgment that the trust takes the membership subject to all of the rules of the Exchange and that the trust is in compliance with the requirements of this Rule. The grantor shall comply with any request to produce trust information made by Exchange staff.

If such a transfer is made by a bona fide gift or bequest, it shall also be subject to the requirements of Rule 106.E.

The grantor's liability to the Exchange under Rule 439 shall continue with respect to any claim arising out of an act or omission occurring prior to such transfer, and the membership will continue to be treated as the asset of the grantor for the purposes of Rule 439 and for otherwise meeting any obligations to the Exchange arising out of the grantor's use of the membership prior to the transfer to the trust, including fines imposed with respect to conduct occurring prior to the transfer.

A membership held pursuant to a transfer under this section may be assigned for clearing privileges or reinstated to the transferor pursuant to this section.

The transfer shall be revoked and the membership shall revert to the transferor upon official notice to the Exchange that the trust has been revoked. The membership must be transferred out of the trust within 90 days of the closing of the member's estate.

106.L. Transfer of Membership Created by the Membership Rights Program

Exchange staff is authorized to allow the transfer of the ownership of record of any membership created by the combination of four quarter memberships pursuant to the Membership Rights Program provided that the transferor and the transferee have each continuously maintained at least a quarter interest in the membership from the date of the combination of the membership.

106.M. Transfer to Joint Tenants With Right of Survivorship

A member may transfer his membership to himself and a member of his immediate family, as defined in Rule 106.C., as joint tenants with right of survivorship.

The joint tenants shall designate on a form provided by the Exchange which one of them shall be authorized to deal with the Exchange with respect to the membership transferred under this Section. The designee must qualify for membership by satisfying the requirements of Chapter 1 of these rules, and shall be treated as a member for all purposes. In the designation form, the joint tenants shall acknowledge that the designee shall have the exclusive right to transfer the membership or to execute an Authorization to Sell pursuant to Rule 106.A. and that the Exchange shall have no liability to the non-designee in the event of such transfer or execution or the mishandling of the membership by the designee. The joint tenants may at any time change such designation in writing signed by both of them, and each such change shall be deemed a transfer for the purposes of these rules. Upon such change in designation, the new designee must qualify for membership by satisfying the requirements of Chapter 1 of these rules.

Whether or not the transferor is the designee, the transferor's liability to the Exchange under Rule 439 shall continue with respect to any claim arising out of an act or omission occurring prior to a transfer under this rule, and the membership will continue to be treated as an asset of the transferor for the purposes of Rule 439 and for otherwise meeting any obligations to the

Exchange arising out of the transferor's use of the membership prior to such transfer, including fines imposed with respect to conduct occurring prior to the transfer.

Upon receipt of satisfactory proof of the death of a joint tenant, the Exchange will transfer the membership to the survivor.

Upon receipt by the Exchange of written notice signed by both joint tenants terminating joint ownership of the membership transferred under this section and instructing the Exchange to transfer the membership to one of the joint tenants as sole owner, the Exchange shall transfer such membership pursuant to such instructions.

A membership held pursuant to a transfer under this section may not be assigned for clearing privileges under Rule 902.

106.N. GEM Institutional Access Firm

A GEM membership may be owned by a non-member firm. The membership may be held in the name of the firm or may be transferred to an employee of the non-member firm and transferred among its employees provided that: (1) the transfer is approved by Exchange staff, (2) the transferee is approved pursuant to the rules of the Exchange; (3) the transfer is for the legitimate business purposes of the firm; and (4) the firm is not engaged in futures customer business with U.S. customers. The firm shall have the right, at any time, to have the employee disqualified from trading, but must have him disqualified upon termination of his employment with the firm. Notice to have the employee disqualified from trading must be given to the employee's qualifying clearing member. The non-member firm shall designate on a form provided by the Exchange a representative who shall be authorized to deal with the Exchange with respect to the membership transferred under this Section.

A Rule 106.N. membership may not be transferred pursuant to any other provision of Rule 106. The membership may not be assigned for clearing purposes under Rule 902.

Rule 106.N. non-member firm benefits apply only to the firm's proprietary trading and not to the trading of any affiliates, subsidiaries or customers. All proprietary positions of the non-member firm must be carried by a clearing member(s) in accounts separate from positions of affiliates, subsidiaries, customers and other entities.

A Rule 106.N. firm may not hold itself out to the public as a clearing member.

The holder of a GEM membership pursuant to this section may solicit foreign customers from the floor of the Exchange, but only in products within the GEM Division and bona fide spreads involving such products.

106.O. Transfer of GEM Membership

Ownership of record of a GEM membership that was formed by the combination of GEM fractional interests may be transferred to any of the members whose fractional interests were combined to form that GEM membership.

106.P. Transfer to a Family Limited Partnership

A member may transfer his membership to a Family Limited Partnership ("FLP") with respect to which all partners are members of the member's family who would be eligible for a family transfer from the member pursuant to Rule 106.C. The limited partnership agreement or other document(s) governing the FLP shall at all times prohibit transfers of an interest in the FLP to any person who is not eligible pursuant to Rule 106.C and shall state that (1) the FLP's interest in the membership shall at all times be subject to all of the rules of the Exchange, as may be amended, including, but not limited to, Rule 110 and, if the membership is assigned to a clearing member for clearing qualification, Rule 902; (2) management of the FLP shall be vested exclusively in a managing general partner, who must qualify for membership by satisfying the requirements of Chapter 1 of these rules; and (3) the Exchange shall have no liability to the partners for any loss, damage, or expense resulting from any acts or omissions by the managing general partner or any person acting by or through the authority of a general partner. The transferor and the managing general partner (and any successor) shall each provide in the form provided by the Exchange a certification that the FLP acquires the membership subject to all of the rules of the Exchange and that the FLP is in compliance with the requirements of this Rule. The FLP also may transfer the membership back to the transferor.

If the transfer of a membership to the FLP is made by a bona fide gift or bequest, it shall also be subject to the requirements of Rule 106.E.

Transfer of a membership pursuant to this rule shall not relieve the transferor of any liability to the Exchange under Rule 439 with respect to any claim arising out of an act or omission occurring prior to such transfer, and the membership will continue to be treated as the asset of the transferor for the purposes of Rule 439 and for otherwise meeting any obligations to the Exchange arising out of the transferor's use of the membership prior to the transfer to the FLP, including fines imposed with respect to conduct occurring prior to the transfer.

A membership held pursuant to a transfer under this section may be assigned for clearing purposes under Rule 902.

106.Q. [Reserved]

106.R. Electronic Corporate Member Firm

A membership may be owned by, or two memberships may be transferred to a proprietary trading firm. The membership may be held in the name of the firm or transferred to a principal or employee of the electronic corporate member firm and transferred among its principals and employees provided that: (1) the transfer is approved by Exchange staff; (2) the transferee is approved pursuant to the rules of the Exchange; and (3) the transfer is for the legitimate business purposes of the firm. The electronic corporate member firm shall have the right, at any time, to have the principal or employee disqualified from trading, but must have him disqualified upon termination of his employment or other association with the firm. Notice to have the principal or employee disqualified from trading must be given to his qualifying clearing member who in turn must notify the Exchange pursuant to Rule 511.A. The electronic corporate member firm shall designate on a form provided by the Exchange a representative who shall be authorized to deal with the Exchange with respect to the membership transferred under this Section.

A Rule 106.R. membership may not be transferred pursuant to any other provision of Rule 106. The membership may not be assigned for clearing purposes under Rule 902.

Rule 106.R. benefits apply only to an electronic corporate member firm's proprietary trading and not to the trading of any affiliates, subsidiaries or customers. All proprietary positions of the electronic corporate member firm must be carried by a clearing member(s) in accounts separate from positions of affiliates, subsidiaries, customers and other entities.

A Rule 106.R. membership does not confer upon a holder or transferee of such membership the ability to access the trading floor. In addition, an individual that has owned or held a CME, IMM or IOM membership in the previous two years, may not be a holder or transferee of a Rule 106.R. membership.

A Rule 106.R. firm may not hold itself out to the public as a clearing member.

106.S. Family of Funds Member Firm

A membership may be owned under this Rule by: (1) a clearing member that is a hedge fund or a fund management company; (2) a fund management company of a clearing member; or (3) a fund that is part of the family of funds of a clearing member. The membership may be held in the name of the fund management company or an approved fund and may be transferred to a principal or employee of the fund management company or an approved fund and be transferred among their principals and employees provided that: (i) the transfer is approved by Exchange staff; (ii) the transferee is approved pursuant to the rules of the Exchange; and (iii) the transfer is for the legitimate business purposes of the fund management company or fund. The fund management company or the fund shall have the right, at any time, to have the principal or employee disqualified from trading, but must have him disqualified upon termination of his employment or other association with the company. Notice to have the principal or employee disqualified from trading must be given to his qualifying clearing member who in turn must notify the Exchange pursuant to Rule 511.A. The fund management company or the fund shall designate on a form provided by the Exchange a representative who shall be authorized to deal with the Exchange with respect to the membership transferred under this Section.

A Rule 106.S. membership may not be transferred pursuant to any other provision of Rule 106. The membership may not be assigned for clearing purposes under Rule 902.

For each CME, IMM or IOM membership owned by such fund management company or fund over the requirement needed to qualify as a clearing member, Rule 106.S. benefits shall apply to the proprietary trading activity of up to five funds within the family of funds managed by the fund management company. All proprietary positions of each fund must be carried by a

clearing member(s) in accounts separate from positions of affiliates, subsidiaries, customers and other funds within the family of funds.

Exchange staff may grant exemptions from the requirements of this Rule.

107. APPROVAL OF APPLICANT

Department staff shall review and approve applicants for membership on the Exchange. Such approval shall be based upon admission criteria established by the Membership Committee. The Membership Committee shall review applicants for membership not meeting the staff administered admission criteria.

Department staff shall inquire into and be satisfied with respect to the reputation and financial responsibility of the applicant and the details of the financial arrangements made in connection with the purchase or transfer of the membership. After review of all of the information, a decision shall be made as to whether the applicant is qualified for membership.

An applicant not approved for membership by Department staff shall be referred to a panel of the Membership Committee. A panel of the Membership Committee shall consist of two members and a chairman, who shall have a vote. A unanimous vote of the panel is required for approval of the applicant.

An applicant approved for membership either by Department staff or the Membership Committee, as applicable, shall assume the responsibilities and privileges of membership once a membership is obtained.

108. [RESERVED]

109. REJECTION OF APPLICANT

If an applicant is rejected by the Membership Committee panel, the applicant may appeal the decision to the full Membership Committee. The Membership Committee, consisting of five members and a chairman, shall decide, by majority vote, whether the applicant is qualified for membership. The decision of the Membership Committee shall be final. An applicant rejected by the Membership Committee may be reconsidered for membership if new or additional information is subsequently brought to the attention of the Membership Committee. If an applicant is rejected for membership or if for any reason his application is withdrawn, the Exchange shall retain the processing fee and the applicant shall assume all risk of gain or loss from the resale of any membership purchased by him prior thereto.

If the applicant executed and filed an Authorization to Sell pursuant to Rule 106.A. with the Department in connection with the financing of the purchase of a membership, then the proceeds of any sale of such membership shall be paid to the grantee, up to the amount of the debt, including interest.

110. CLAIMS AGAINST MEMBERSHIP, APPLICATION OF PROCEEDS

For the purposes of this rule "sale" shall include a sale made pursuant to Rule 104 or a transfer made in accordance with the provisions of Rule 106; "seller" shall include firms that have membership privileges pursuant to Rules 106. F., G., H., I., N., R. or S.; and "claim" shall be limited to claims involving incidents that occurred prior to the sale of the membership and which arose in connection with transactions on the Exchange or membership in the Exchange.

Claims resulting from conduct subsequent to the sale of a membership may not be asserted against that membership or its proceeds. All claims against the seller's membership or its proceeds shall be submitted in writing to the Department within 20 days of the posting of notice of the sale of said membership. At the conclusion of the 20-day claim filing period, the Market Regulation Department and the Department shall conduct an investigation of all claims properly filed against the seller's membership or its proceeds. This investigation shall be completed within 20 days unless the investigation cannot be resolved within that period.

The total proceeds of the sale, or in the case of a transfer, the value at the mid-point of the bid-offer spread as of the date of the transfer, of the membership shall be applied to the following purposes and in the following order of priority:

- a. Payment of all dues, fines, contributions, charges and other indebtedness due to the Exchange, the CME Gratuity Fund or GFX Corporation;
- b. Payment of any indebtedness to the clearing member who last qualified the selling

- member prior to the sale arising out of a pledge of: (i) such membership as collateral security on such indebtedness, or (ii) a deficit which the Exchange staff determines to have arisen directly out of transactions on the Exchange or transactions with GFX Corporation;
- c. Payment of amounts due to other clearing members on claims filed which the Exchange staff determines to have arisen directly out of transactions on the Exchange;
 - d. Payment of amounts due to members and member firms on claims filed which the Exchange staff determines to have arisen directly out of transactions on the Exchange;
 - e. Payment of amounts due to public customers of the seller based on claims filed by such customers or based on reports of the Market Regulation Department, which claims are determined by the Exchange staff to be based upon misappropriation of customer funds, improperly executed transactions, unpaid credit balances, or other similar matters, directly related to transactions on the Exchange;

No other claims against the proceeds of the sale of a membership shall be recognized and administered by the Exchange, but the creditors of the seller of a membership not falling in the foregoing categories may pursue other legal means of securing payment of their obligations.

The Exchange staff shall make a final determination of all claims filed in time or reported by the Market Regulation Department and the Department against the proceeds of the sale of a membership.

Except as provided in Rule 913, the Exchange staff shall make a distribution of such proceeds within 40 days after receiving notification and confirmation of the sale of the membership, unless claims to the proceeds are not resolved within that period. If, however, at such time an Exchange disciplinary proceeding is pending against the seller or, based upon a pending investigation, is highly probable, or if a legal proceeding, in respect to which the indemnification provisions of Rule 439 would operate, is pending, has been announced or is highly probable, then the Exchange staff shall retain so much of the proceeds as determined by staff in order to satisfy such obligations until such time as the pending matter is concluded.

Distribution of proceeds shall be made by the payment of claims in the categories listed in this rule to the extent the proceeds from the sale are sufficient to meet those obligations. If the proceeds of the sale of a membership are insufficient to pay all amounts determined to be due under the categories listed in this rule, the proceeds shall be applied to pay the full amounts determined to be due under subparagraphs a, b, c, d and e in the priority named. If the proceeds are insufficient to pay the amounts determined to be due under any priority, the claims due under that priority shall be paid pro rata, and the remaining priorities shall be left unpaid. In determining the amount of any claim, the Exchange staff shall first deduct the fair cash value of any collateral held by that claimant. Creditors of the seller of a membership whose obligations are not fully satisfied pursuant to this paragraph may pursue other legal means of securing payment of their obligations.

The surplus, if any, shall be paid to the person whose membership was sold or his legal representative or a 106.A.-B. grantee, as applicable, upon the execution of a satisfactory release. The Exchange staff's determination and allowance of claims hereunder shall be final. The death, incompetence, expulsion, suspension, insolvency or bankruptcy of a member shall not affect the rights of claimants under this rule.

111.— 119. [RESERVED]

PRIVILEGES AND RESPONSIBILITIES

120. MEMBERSHIP CATEGORIES

There are four categories of membership: CME, IMM, IOM and GEM. CME Division membership privileges extend to all CME products; IMM Division membership privileges are limited to products assigned to that Division, the IOM Division and the GEM Division by the Board; IOM Division membership privileges are limited to products assigned to that Division and the GEM Division by the Board; and GEM Division membership privileges are limited to products assigned to that Division by the Board. CME, IMM, IOM and/or GEM members may also be granted Expanded-Access Product privileges in connection with designated products listed by CBOT.

A member of the IMM, IOM or GEM Division who personally executes trades on the floor in products other than those assigned to his respective Division or designated Expanded-Access Products shall be deemed to have committed an act detrimental to the interest or welfare of the Exchange, except as provided by Rule 194. A member who trades products on Globex in which he does not have membership privileges is not entitled to member's rates for such trades.

121. MEMBERSHIP PRIVILEGES

Membership in the Exchange entitles the member to certain privileges including the right:

- a. To access the trading floor if properly qualified by a clearing member;
- b. To act as a floor broker and/or floor trader in accordance with the requirements of Chapter 5; and
- c. To receive member or lessee clearing fee rates in accordance with Exchange requirements.

122. MEMBERSHIP DUES AND ASSESSMENTS PAYABLE

Dues and other amounts owed to the Exchange, including CME Gratuity Fund dues and assessments, and amounts owed to the CME Club are payable upon receipt of the invoice. Members in arrears 60 days after the invoice date may forfeit all membership privileges, including the privilege of accessing the floor and reduced clearing and trading fees, including Globex fees. Exchange staff shall use reasonable efforts to notify the member before any privileges are forfeited.

Each permit holder's employing clearing member is responsible for the payment of the permit holder's dues, fees and assessments.

123. COMPLIANCE WITH THE COMMODITY EXCHANGE ACT

All members of the Exchange shall comply with the provisions of the Commodity Exchange Act and the rules and regulations duly issued pursuant thereto by the CFTC, including the filing of reports, maintenance of books and records, and permitting inspection and visitation by duly authorized representatives of the CFTC.

124. VIOLATIONS OF COMMODITY EXCHANGE ACT

Within a reasonable time following the receipt of final notice under Section 6(c) of the Commodity Exchange Act from the CFTC that any person has been found guilty of violating the provisions of the Commodity Exchange Act, Exchange staff shall take the necessary action to effectuate the order of the CFTC, as applicable, and shall report such action to the Board.

125. GRATUITY FUND

Every person becoming a member of the Exchange who is not leasing a membership and every person becoming a member of any Division of the Exchange, whether now or hereafter existing, who at the time of his admission has not attained his 55th birthday, shall automatically become a member of Chicago Mercantile Exchange Inc. Gratuity Fund and shall be required to pay the initial fee and all assessments imposed, in compliance with the by-laws of said Gratuity Fund and shall be bound by said by-laws and all amendments thereof and by such other rules and regulations as may be adopted by the Board of Directors of the Exchange or the Gratuity Fund in conformity with such by-laws. Every person who becomes a member of the Gratuity Fund shall be required to continue as a member thereof so long as he continues as a member of the Exchange or any of its Divisions.

126. MEMBERSHIP EDUCATION PROGRAMS

A member's right to access the trading floor requires that he first attend an initial educational program respecting CFTC and Exchange trading rules, federal, Exchange, and administrative sanctions for violating rules, and members' legal and professional responsibilities concerning treatment of customer orders and handling of customer business.

Continued access requires members to comply with the ethics standards set forth in Appendix B to Part 3 of the CFTC's Regulations-Statement of Acceptable Practices, or any equivalent ethics training.

**CHAPTER 2
GOVERNMENT**

200.-229. [RESERVED]

BOARD OF DIRECTORS – POWERS AND DUTIES

230. GENERAL

231. [RESERVED]

232. EXCHANGE FACILITIES

233. [RESERVED]

234. AVOIDING CONFLICTS OF INTEREST IN “SIGNIFICANT ACTIONS”

234.A. Definitions

234.B. Review of Position Information

234.C. Determination Whether Abstention Required

235.-255. [RESERVED]

EXCHANGE OFFICERS AND EMPLOYEES

256. INDEMNIFICATION OF CERTAIN PERSONS

257. EXCHANGE PHYSICAL EMERGENCIES

**Chapter 2
Government**

200.— 229. [RESERVED]

BOARD OF DIRECTORS – POWERS AND DUTIES**230. GENERAL¹**

The Board shall, subject to applicable provisions in the relevant corporate charter and bylaws:

- a. Be the governing body of the Exchange;
- b. Have charge and control of all property of the Exchange;
- c. Provide, acquire and maintain suitable Exchange quarters and facilities;
- d. [Reserved];
- e. [Reserved];
- f. Designate and authorize specific appointed officers to act on behalf of the Board to execute contracts within specified budgetary limits;
- g. Fix, determine and levy all membership dues, fees and assessments when necessary;
- h. Act in a judicial capacity in the conduct of hearings with respect to any charges proffered against members and, after such hearings, determine what disciplinary action, if any, should be taken by the Exchange with respect to those charges;
- i. Determine the commodities traded, the Division in which they shall be traded, the delivery months, hours of trading, the days of the contract month on which delivery may be made, and performance bond requirements;
- j. Make and amend the Rules of the Exchange; provided, the Board has also delegated such authority to make and amend the Rules of the Exchange to the Chairman and Vice Chairman of the Board and the Chief Executive Officer acting together; and
- k. Have power to act in emergencies. In the event that the Board or a hearing panel of the Board pursuant to Rule 410 determines that an emergency situation exists in which the free and orderly market in a commodity is likely to be disrupted, or the financial integrity of the Exchange is threatened, or the normal functioning of the Exchange has been or is likely to be disrupted, it may, upon a majority vote of the members present or upon a majority vote of the members who respond to a poll, take such action as may in the Board's sole discretion appear necessary to prevent, correct or alleviate the emergency condition. Board members who abstain from voting on a Significant Action as defined in Rule 234 shall not be counted in determining whether such action was approved by a majority vote, but such members can be counted for the purpose of determining whether a quorum exists. Without limiting the foregoing, the Board may: (1) terminate trading, (2) limit trading to liquidation of contracts only, (3) order liquidation of all or a portion of a member's proprietary and/or customers' accounts, (4) order liquidation of positions of which the holder is unable or unwilling to make or take delivery, (5) confine trading to a specific price range, (6) modify the trading days or hours, (7) alter conditions of delivery, (8) fix the settlement price at which contracts are to be liquidated, and (9) require additional performance bonds to be deposited with the Clearing House. All Exchange contracts shall be subject to the Board's emergency powers and the specifications of each shall be deemed subject to this rule.

Any authority or discretion by these rules vested in the Chairman, Chief Executive Officer, President or other officer or delegated to any committee shall not be construed to deprive the Board of such authority or discretion and in the event of a conflict, the determination of the matter by the Board shall prevail.

231. [RESERVED]

232. EXCHANGE FACILITIES

The Exchange shall provide trading facilities which shall be open for trading on such days and at such hours as the Exchange shall determine, except during emergency situations as provided by

¹ Revised August 2008.

**CHAPTER 4
ENFORCEMENT OF RULES**

- 400. GENERAL PROVISIONS**
- 401. THE CHIEF REGULATORY OFFICER**
- 402. BUSINESS CONDUCT COMMITTEE**
 - 402.A. Jurisdiction and General Provisions**
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- 403. CLEARING HOUSE RISK COMMITTEE**
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Chapter 4 Enforcement of Rules

400. GENERAL PROVISIONS

The Board has adopted rules, and from time to time adopts amendments and supplements to such rules, to promote a free and open market on the Exchange, to maintain appropriate business conduct and to provide protection to the public in its dealings with the Exchange and its Members. The Board has created committees to which it has delegated responsibility for the investigation, hearing and imposition of penalties for violations of Exchange rules. The Board has also delegated responsibility for the investigation and imposition of penalties for violations of Exchange rules to Exchange staff as set forth in the rules. The delegation of such responsibility and authority shall in no way limit the authority of the Board with respect to all rule violations.

For purposes of Chapter 4, the term "Member" shall mean: 1) members and clearing members of the Exchange, including retired members with floor access privileges and individuals and entities described in Rule 106; 2) associated persons ("APs") and affiliates of clearing members and member firms of the Exchange; 3) guaranteed introducing brokers of clearing members and member firms of the Exchange and their APs, 4) Exchange permit holders and any person or entity that has been granted cross-exchange trading privileges; 5) employees, authorized representatives, contractors, and agents of any of the above persons or entities, in regard to the Exchange related activities of such employees and agents; 6) individuals and entities that have agreed in writing to comply with the rules of the Exchange; and 7) CBOT members and other individuals who have access to the combined CME and CBOT trading floors.¹

Members are deemed to know, consent to and be bound by all Exchange rules. Former Members shall be subject to the continuing jurisdiction of the Exchange, including, without limitation, the application of Rule 432.L., with respect to any conduct that occurred while a Member.

401. THE CHIEF REGULATORY OFFICER

It shall be the duty of the Chief Regulatory Officer to enforce Exchange rules, and he shall have available to him at all times the resources of the Market Regulation Department and such other Exchange resources as may be necessary to conduct investigations of alleged rule violations and market conditions. The Chief Regulatory Officer shall have the authority to inspect the books and records of all Members and the authority to require any Member to appear before him and produce his or its books and records and answer questions regarding alleged violations of Exchange rules. The Chief Regulatory Officer may also delegate such authority to staff of the Market Regulation Department.

402. BUSINESS CONDUCT COMMITTEE

402.A. Jurisdiction and General Provisions

The Business Conduct Committee ("BCC") shall have: 1) jurisdiction over Members with respect to matters relating to conduct, trading practices, sales practices, trading ethics and market manipulations or other actions that threaten the integrity of the market; 2) the authority, pursuant to Rule 402.C., to take emergency actions; 3) the authority, pursuant to Rule 402.D., to take actions against non-members; 4) the authority, pursuant to Rule 413.B., to conduct hearings on denials of access pursuant to Rule 413.A., and 5) the authority to conduct hearings on all matters over which it has jurisdiction.

The BCC shall act through a Panel composed of a chairman, three Exchange members or employees of member firms and three non-members. A quorum of a Panel shall consist of a majority of the panel, but must include at least two members or employees of member firms and two non-members.

Any Panel that conducts a hearing or proceeding shall consist of panelists who possess sufficiently diverse interests so as to ensure fairness.

¹ Revised April 2008.

No person shall serve on the BCC unless he has agreed in writing that he will not publish, divulge, or make known in any manner, any facts or information regarding the business of any person or any other information which may come to his attention in his official capacity as a member of the BCC, except when reporting to the Board or to a committee concerned with such information or to the Legal Department or Market Regulation Department, when requested by the CFTC or other governmental agency or when compelled to testify in any judicial or administrative proceeding.

All information and documents provided to the BCC and all deliberations and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further an Exchange investigation or as required by law.

402.B. Hearings

Hearings by the BCC shall be before a Panel, and shall be conducted by a chairman of the BCC in accordance with the provisions of Rule 408. If a Member is found guilty, by a majority vote, the Panel may do one or more of the following:

1. Order the Member to cease and desist from the conduct found to be in violation of the rules;
2. Order the Clearing Member or other Member to liquidate such portion of the open contracts in the Clearing Member's or other Member's proprietary or customers' accounts, or both, as the Panel deems appropriate to ensure the integrity of Exchange contracts or to ensure an orderly and liquid market;
3. Order the Clearing Member or its customer to deposit such additional performance bonds with the Clearing House as the Panel deems appropriate to protect the integrity of open contracts;
4. Prescribe such additional capital or other financial requirements as it deems appropriate;
5. Restrict the privilege of being affiliated with, or having an interest in, a broker association or guaranteed introducing broker and/or suspend the trading floor access and/or the right to associate with a Member;
6. Restrict the Member's access to the Globex platform or to supervise the entry of any orders into the Globex platform by others;
7. Restrict the Member's access to the combined CME and CBOT trading floors¹;
8. Restrict the Member's ability to trade or enter orders in any or all Exchange products;
9. Suspend any or all of the privileges of membership;
10. Expel the member;
11. Impose a fine upon the Member not to exceed \$1,000,000 per violation plus the amount of any benefit received as a result of the violation;
12. Issue a reprimand;
13. Prescribe limitations on positions of the Member as may be appropriate;
14. Impose advertising restrictions upon the Member pursuant to these rules; and/or
15. Direct the Member to make restitution, in such amount as is warranted by the evidence, to the account of any party damaged by the conduct, or to the Clearing Member who has previously made restitution to the account of such party.

The Panel may also find that the evidence warrants an adjustment to the account of a party where a Member, though not in violation of an Exchange rule, has not fulfilled his or its responsibility for proper execution of such party's order.

When determining whether to impose any of the sanctions listed above, the Panel may consider any factors determined by the Panel to be relevant in the context of a particular case, including any of the factors described in the "Sanctioning Guidance to Self-Regulatory Organizations" in the CFTC Policy Statement Relating to the Commission's Authority to Impose Civil Money Penalties and Futures Self-Regulatory Organizations' Authority to Impose Sanctions: Penalty Guidelines (1994).

If the Panel shall decide by a majority vote that the matter might warrant a penalty in excess of its own authority, the chairman of the Panel shall refer the matter to the Board for further

¹ Revised April 2008.

- a. Order the Clearing Member or his customer to deposit such additional performance bond with the Clearing House as deemed appropriate to protect the integrity of open contracts;
- b. Prescribe such additional capital requirements as it deems appropriate;
- c. Prescribe such position limitations as it deems appropriate;
- d. Order special or advance performance bond or funds to be deposited with the Clearing House from Members or from longs, shorts or both; and/or
- e. Order such performance bond changes as it deems appropriate.

All actions taken pursuant to this subsection shall be by majority vote of the committee members present. A Member affected by the action taken shall be notified in writing of such action. As soon as practicable, the Board and the CFTC shall be promptly notified of the emergency action in accordance with CFTC regulations. Nothing in this section shall in any way limit the authority of the Board, other committees, or other appropriate officials to act in an emergency situation as defined by these rules.

403.D. Appeal of Administrative Fines

Appeals of administrative fines in excess of \$25,000, imposed pursuant to Rule 852, shall be heard by a panel comprised of a co-chairman and three members of the CHRC. The panel's decision shall be final. The appellant shall be advised of its right to appear at the hearing and of its right to be represented by legal counsel or a member of the Exchange, other than a member of the CHRC, a member of the Board or an employee of the Exchange. The appellant may present evidence in support of its appeal. The panel shall not set aside, modify or amend the decision appealed from unless the panel determines by a majority vote that the decision was:

1. Arbitrary, capricious, or an abuse of Exchange staff's discretion;
2. In excess of Exchange staff's authority or jurisdiction; or
3. Based on a clearly erroneous application or interpretation of Exchange rules.

404. PIT COMMITTEE

The Pit Committee shall have the authority to: 1) participate in the determination of opening and closing ranges in accordance with Rule 546; 2) oversee and enforce changes in prices in accordance with Rule 528; 3) resolve pit space disputes; 4) remove unauthorized persons from the pit; 5) resolve, by immediate action, all grievances arising from price infractions pursuant to Rule 514 during pit trading; and 6) issue charges for alleged violations of Rule 514.

To the extent that Pit Committee members participate in the creation of settlement prices, they agree to assign and transfer to the Exchange any and all right, title and interest in and to the settlement prices, including, but not limited to, all copyrights in the settlement prices.

A Pit Committee member shall not exercise his authority if he or any person, firm, or broker association with which he is affiliated has a personal, financial, or other direct interest in the matter under consideration. A Pit Committee member shall be deemed to have a financial interest if the decision is likely to have an immediate financial impact on a transaction for his account or an account in which he has an interest or if the decision is likely to impact on liability for filling an order for which he or a person with whom he has a financial or business relationship was responsible.

405. FLOOR CONDUCT COMMITTEE

The Floor Conduct Committee shall be responsible for resolving pit space disputes that are not resolved by the Pit Committee. The committee shall conduct summary proceedings for alleged violations of Rule 514. Floor Conduct Committee members shall participate in the resolution of quotation change requests pursuant to the Quotation Change Procedures set forth in the Appendix to Chapter 5. The Floor Conduct Committee shall have jurisdiction to conduct summary proceedings for violations of, and assess penalties in accordance with, Exchange rules. The procedures contained in Rule 409 shall govern summary proceedings.

406. PROBABLE CAUSE COMMITTEE

The Probable Cause Committee ("PCC") shall receive and review investigation reports from the Market Regulation Department. The PCC shall act through a Panel comprised of a

chairman, three Exchange members or employees of member firms and three non-members. A quorum of a Panel shall consist of a majority of the Panel, but must include at least two members or employees of member firms and two non-members.

Each Panel shall consist of panelists who possess sufficiently diverse interests so as to ensure fairness.

The PCC shall have the power to compel any Member to appear before it and to produce all books and records relevant to the subject matter under investigation. No Member shall have the right to appear before the PCC.

A Panel shall endeavor to review an investigation report prepared by the Market Regulation Department within 30 days of receipt of a report the Panel deems to be complete. The Panel shall, by majority vote, take one of the following actions: If the Panel determines that disciplinary action is unwarranted it shall direct that no further action be taken or that a warning letter be issued. If the Panel determines that a reasonable basis exists for finding that a violation of an Exchange rule may have occurred which may warrant disciplinary action, it shall issue appropriate charges. The Panel shall direct the Market Regulation Department to give notice of the charges to the respondent in accordance with Rule 407.B. and to the appropriate BCC Panel chairman.

The Market Regulation Department may appeal to the Board any refusal by a Panel to issue those charges requested by the Market Regulation Department. If such an appeal is requested, the Board shall conduct a hearing on the matter in accordance with the procedures in Rule 411.

No person shall serve on the PCC unless he has agreed in writing that he will not publish, divulge or make known in any manner, any facts or information regarding the business of any person or entity or any other information which may come to his attention in his official capacity as a member of the PCC, except when reporting to the Board or to a committee concerned with such information or to the Legal Department or Market Regulation Department, when requested by the CFTC or other governmental agency or when compelled to testify in any judicial or administrative proceeding.

All information and documents provided to the PCC and all deliberations and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further an Exchange investigation or as required by law.

407. INITIAL INVESTIGATION, ASSIGNMENT FOR HEARING AND NOTICE OF CHARGES

The Market Regulation Department shall investigate alleged rule violations. Investigations and all information and documents obtained during the course of an investigation shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further an Exchange investigation or as required by law. The Market Regulation Department is authorized to record interviews conducted pursuant to an Exchange investigation.

The Market Regulation Department may take oral depositions of witnesses during an investigation. The Member under investigation shall be given at least five days written notice of the time of the deposition and place where the witness will be deposed, which may be at any location within the United States. The Member under investigation shall have the right to be present in person or by representative at the oral deposition, with right of cross-examination. All oral depositions of witnesses shall be taken under oath, before an officer qualified in the place of the deposition to administer oaths, and the complete testimony of the witnesses shall be transcribed by such officer or by a person under his supervision. Oral depositions taken in accordance with this rule shall be admissible in evidence at any hearing of the Board of Directors or a committee, reserving to the Member under investigation the right to object at the hearing to the relevancy or materiality of the testimony contained therein.

Upon conclusion of an investigation, the Market Regulation Department may issue a warning letter to the Member under investigation. Such letter shall not constitute either the finding of a rule violation or a penalty.

If the Market Regulation Department has reasonable cause to believe an offense has occurred which should be dealt with by a panel of the BCC ("BCC Panel"), it shall request a panel of the PCC ("PCC Panel") to convene to consider its recommendation for charges. The Market Regulation Department's presentation to the PCC Panel shall not constitute an ex parte

communication as described in Rule 417.

407.A. Investigation File

The Market Regulation Department shall maintain a file once an investigation is initiated. The file shall include any materials in the possession of the Market Regulation Department that may be relevant to the conduct being investigated. A member charged with a violation of the rules shall have the right to review the evidence in the investigation file relevant to the issued charges but shall not be entitled to review privileged work product and attorney-client communications. In any matter in which a PCC Panel issues charges, the investigation file shall include an investigation report prepared by the Market Regulation Department. The investigation report is privileged work product and is neither discoverable by a respondent in disciplinary proceedings nor subject to review by a respondent as part of the investigation file. Production of the investigation report to a PCC Panel shall not constitute a waiver of the privileged nature of the investigation report.

407.B. Notice of Charges; Opportunity for Hearing

The notice of charges shall set forth the alleged misconduct and the rule(s) alleged to have been violated, and shall advise the respondent regarding the submission of a responsive answer to each charge in accordance with Rule 407.C. Further, the notice shall advise the respondent that the matter will be heard by a BCC Panel and of the time and place for the hearing, if known. The respondent shall also be advised of his right to appear personally at the hearing and of his right to be represented by legal counsel or a member of the Exchange, other than a member of the charging or hearing committee, a member of the Board or an employee of the Exchange. A respondent may waive his right to a hearing within 10 days of receipt of the notice of charges.

A respondent who elects to waive his right to a hearing on the charges will be notified of the date on which the BCC Panel will render its decision. Upon a finding of guilt on any charge, the BCC Panel will promptly determine what penalties, if any, are to be imposed and their effective date. A respondent who has waived his right to a hearing and/or admitted the charges against him will be advised of his right to participate in the hearing solely with respect to the penalty.

407.C. Answer to Charges

The respondent shall have 21 days after notice to submit a written answer to the charges. Upon a showing of good cause, the BCC Panel chairman may extend the period of time in which the respondent is required to submit his answer. The answer must state that the respondent admits, denies, or lacks sufficient knowledge to admit or deny each charge. A statement of lack of sufficient knowledge shall be deemed a denial. Any charge not denied in whole or in part shall be deemed admitted, and the failure to file a timely answer may be deemed an admission to the charges. If all the charges are admitted, the respondent shall be deemed to waive his right to a hearing on the charges and the BCC Panel shall find that the violations alleged in the notice have been committed. The BCC Panel will determine the penalty, if any, to be imposed at a hearing, due notice of which will be provided to the respondent. The respondent shall be advised of his right to appear personally at the penalty hearing and advised of his right to be represented by legal counsel or another member of the Exchange, other than a member of the charging or hearing committee, a member of the Board or an employee of the Exchange.

If an answer contains both an admission to one or more charges and a denial of one or more charges, the BCC Panel will consider the penalties which may be imposed for the admitted charges at the same time as the charges denied by the respondent are considered.

408. CONDUCT OF HEARINGS

408.A. General

All disciplinary proceedings conducted before a panel of the BCC or before a hearing panel of the Board of Directors (collectively, "Panel") shall be conducted in accordance with the following procedures. Hearings shall be fair. The respondent shall have the right to appear personally at the hearing and to be represented by legal counsel or a member of the Exchange, other than a member of the charging or hearing committee, a member of the Board or an employee of the Exchange. The Panel or its chairman shall have the power to compel any Member to attend, testify and/or produce evidence in connection with the hearing. Parties

C. Based on a clearly erroneous application or interpretation of Exchange rules.

In the case of an appeal of a disciplinary decision, the Appellate Panel shall issue a written decision which shall include a statement of findings with respect to the decision from which the appeal was taken and the Appellate Panel's determination that such initial decision is affirmed, set aside, modified or amended in whole or in part and, with respect to any initial decision that is not affirmed in whole, the Appellate Panel's determination of the order or penalty to be imposed, if any, and the effective date. The decision of the Appellate Panel shall be deemed a decision of the Board and shall be a final decision of the Exchange.

In the case of an appeal by the Market Regulation Department of a decision by the PCC not to issue those charges requested by the Market Regulation Department, the Appellate Panel shall either affirm or set aside the decision of the PCC. If the decision is set aside, the Appellate Panel shall remand the matter to the PCC for the issuance of charges. If the decision is affirmed, the Appellate Panel shall direct that no further action be taken and such decision shall be deemed a decision of the Board and shall be a final decision of the Exchange.

In the case of an appeal by the Market Regulation Department of a decision by the BCC to grant a respondent's motion to dismiss any or all of the charges, the Appellate Panel shall either affirm or set aside the decision of the BCC with respect to each dismissed charge. If the decision is set aside with respect to any dismissed charge, such charge shall be deemed to be reinstated and disciplinary proceedings with respect to all of the charges shall be conducted before a different panel of the BCC pursuant to the procedures in Rule 408. If the decision is affirmed with respect to any dismissed charge, the Panel shall direct that no further action be taken with respect to such dismissed charge and such decision shall be deemed a decision of the Board and shall be a final decision of the Exchange.

This rule shall not apply to appeals of Arbitration Committee decisions, which shall be governed by the rules contained in Chapter 6.

412. SUMMARY ACTION

In cases of action taken against a Member pursuant to Rules 976 or 977, the Member affected shall be notified in writing of such action. The notice shall state: the action taken; the reason for action; and the effective time, date and duration thereof.

The Member may, within two business days following receipt of notice of action taken, request a hearing before a hearing panel of the Board ("Panel"). The hearing shall be conducted within 60 days of such request, in accordance with the requirements of Rule 408, unless the chairman of the Panel determines that good cause for an extension has been shown, but shall not stay any action taken pursuant to Rules 976 or 977.

Following the hearing, if any, the Panel shall cause to be prepared a written decision containing: a description of the summary action; the reasons for such action; a description of the evidence produced at the hearing; findings and conclusions; a determination that the summary action should be affirmed, set aside, modified or amended and the reasons therefor; and the effective date and duration, if any, of subsequent or continuing actions. The Panel shall not set aside, modify or amend the summary action taken against a Member unless it determines, by a majority vote, that the summary action taken was:

- A. Arbitrary, capricious, or an abuse of the committee's discretion; or
- B. In excess of the committee's authority or jurisdiction.

413. SUMMARY ACCESS DENIAL ACTIONS

413.A. Authority to Deny Access¹

Members may be denied access to any or all CME and CBOT markets or be denied access to the Globex platform or be immediately removed from the combined CME and CBOT trading floors by the Chief Regulatory Officer or his delegate upon a good faith determination that there are substantial reasons to believe that such immediate action is necessary to protect the best interests of the Exchange.

¹ Revised April 2008.

413.B. Notice

Promptly after an action is taken pursuant to Rule 413.A., the Member shall be informed of the action taken, the reasons for the action, and the effective date, time and the duration of the action taken. The Member shall be advised of his right to a hearing before a panel of the BCC ("Panel") by filing notice of intent with the Market Regulation Department within 10 business days of the Notice date.

413.C. Hearing

The Member shall have the right to be represented by legal counsel or a member of the Exchange, other than a member of the BCC, a member of the PCC, a member of the Board or an employee of the Exchange. The Panel shall conduct a de novo hearing solely on the issue of the denial of access in accordance with the procedures in Rule 408. Filing of a notice of intent pursuant to Rule 413.B. shall not stay the Chief Regulatory Officer's decision to deny access.

413.D. Duration of Access Denial

Any decision to deny access pursuant to Rule 413.A. or Rule 413.C. shall not remain in effect for more than 60 days unless the Chief Regulatory Officer or his delegate, upon further consideration of the circumstances that resulted in a prior access denial action, provides written Notice to the Member advising that the Member's access will be denied for an additional period of time not to exceed 60 days. Such Notice shall comport with the provisions of Rule 413.B. At any time, a Member may petition the BCC to reconsider the access denial based upon materially changed circumstances.

414. INVESTIGATIONS BY OTHER SELF-REGULATORY ORGANIZATIONS

If a self-regulatory organization that is a party to an information sharing agreement with the Exchange requests assistance in connection with an investigation, the Chief Regulatory Officer may direct a Member to submit to an examination by the requesting self-regulatory organization and to produce information pertinent to that investigation. The request for assistance shall describe the investigation, explain why Exchange assistance is necessary and describe the scope of assistance sought. An order directing a Member to submit to an examination shall be issued unless the Chief Regulatory Officer determines that such order would not be in the best interests of the Exchange. An examination pursuant to such order shall be conducted according to Exchange rules and shall be conducted on Exchange premises under the direction of Exchange staff. At the discretion of the Chief Regulatory Officer, representatives of the requesting self-regulatory organization may observe and participate in the examination. Failure to comply with an order issued under this rule shall be an offense against the Exchange.

415. COOPERATION WITH OTHER EXCHANGES AND CLEARING ORGANIZATIONS

The Chief Executive Officer or the President, or their delegates, are authorized to provide information to an exchange or clearing organization that is a party to an information sharing agreement with the Exchange, in accordance with the terms and conditions of such agreement.

416. CONFLICTS OF INTEREST**416.A. Abstention Requirements**

A member of a charging, adjudicating, or appeal committee or panel must abstain from participating in any matter where such member:

1. Is a witness, potential witness, or a party;
2. Is an employer, employee, or co-worker of a witness, potential witness, or a party;
3. Is associated with a witness, potential witness, or a party through a broker association as defined in Exchange rules;
4. Has any significant personal or business relationship with a witness, potential witness, or a party, not including relationships limited to (a) executing futures or options transactions opposite each other, or (b) clearing futures or option transactions through the same clearing member; or
5. Has a familial relationship to a witness, potential witness, or a party.

suspended or expelled Member shall not be entitled to any of the privileges of membership during the period of such suspension or expulsion, including, but not limited to, the right to:

- A. access the Exchange floor or the Globex platform;
- B. obtain member rates;
- C. any applicable cross-exchange trading privileges; and
- D. lease out an owned membership.

436. [RESERVED]

437. **NOTICE OF DISCIPLINE**

Notice, in accordance with Section 8c(a)(2) of the Commodity Exchange Act, shall be made available to an internet accessible computer database at the National Futures Association and shall be provided to any Member who is suspended, expelled, disciplined or denied access to the Exchange within 30 days after the decision becomes final. Additionally, a written notice shall be posted on the floor of the Exchange for five business days promptly after the disciplinary action becomes effective. The notice shall include the Member's name, the rule(s) violated, the reason for the Exchange's action, and the action taken or penalty imposed.

438. [RESERVED]

439. **MEMBER'S INDEMNIFICATION LIABILITY**

A Member or former Member shall indemnify and hold harmless the Exchange, Chicago Mercantile Exchange Holdings Inc., the New York Mercantile Exchange Inc., CME Alternative Marketplace Inc., and solely in its capacity as a provider of auction services for CME Alternative Marketplace Inc., the International Securities Exchange, including each of their respective subsidiaries and affiliates (collectively, the indemnified parties) and their officers, directors, employees, and agents, for any and all losses, damages, costs and expenses (including attorneys' fees) incurred by the indemnified parties as a result (directly or indirectly) of such Member's violation or alleged violation of Exchange rules or state or federal law.

Any charges arising out of this rule shall be subject to liens as provided in Rule 110(a).

440. **CLAIMS BY MEMBERS**

A Member who commences a legal action against the Exchange, its directors, officers, employees, or agents, or another Member of the Exchange without first resorting to and exhausting the procedures established by Rule 110 and the mandatory arbitration provisions of Chapter 6 (including appeals to the Board), or any other rules relating to settlement of disputes arising out of transactions or matters pertaining to the Exchange shall be deemed to have committed an act detrimental to the interest or welfare of the Exchange. This rule shall not abrogate an individual's right to reparations pursuant to Section 14 of the Commodity Exchange Act.

A Member who commences a legal action against the Exchange, its directors, officers, employees, or agents, after he has exhausted all of the procedures established by the Exchange, may be found to have committed an act detrimental to the interest or welfare of the Exchange in the event that at hearing the Board or the BCC determines that the Member's action was not meritorious or warranted.

441. **COMMUNICATIONS WITH THE PUBLIC AND PROMOTIONAL MATERIAL**

Promotional material and similar information issued by Members shall comply with the requirements of National Futures Association Rule 2-29, as amended.

442. **NOTIFICATION OF SIGNIFICANT EVENTS**

Each Member shall immediately notify the Market Regulation Department in writing upon becoming aware of any of the following events relating to such Member:

1. any suspension, expulsion, revocation or restriction of such Member's trading privileges or any fine in excess of \$25,000, through an adverse determination, voluntary settlement or otherwise, by any court, commodity or securities exchange or related clearing organization, the Securities and Exchange Commission, the Commodity Futures Trading Commission or the securities commission or equivalent authority of any state, territory, the

**CHAPTER 5
TRADING QUALIFICATIONS AND PRACTICES**

- 500. SCOPE OF CHAPTER**
 - FLOOR PRIVILEGES**
- 501. EMPLOYEES OF MEMBERS**
- 502. ADMISSION TO FLOOR**
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- 525. [RESERVED]**

The Panel may assess attorneys' fees and the administrative costs of the proceeding against one or both of the parties if it determines that a claim or defense was frivolous or filed in bad faith.

511.A. Floor Trading

A clearing member may, without prior notice, revoke a member's authorization to trade by written revocation filed with the Shareholder Relations and Membership Services Department. Such revocation shall be effective and the member's qualification to trade shall terminate when notice of the disqualification is posted on the Exchange floor. A member shall not appear upon the floor of the Exchange until he has been requalified. A member who has been disqualified shall promptly return his membership badge to the Shareholder Relations and Membership Services Department.

511.B. Globex Trading

Unless otherwise specified by a member's qualifying clearing member, a member suspended from entering orders through Globex shall not be disqualified from pit or board trading.

In the case of a member who has Globex access guaranteed by a clearing member other than his qualifying clearing member, the qualifying clearing member may terminate the member's ability to place orders through Globex by notifying the clearing member providing the member access to Globex. The clearing member providing the access to Globex will be responsible for ensuring that the member does not place orders through Globex.

512. [RESERVED]

513. CONDUCT, APPAREL AND BADGES

513.A. General

Members and their employees are expected to conduct themselves on Exchange premises with dignity and integrity in order to maintain a safe workplace and the efficiency and good name of the Exchange. Members and their employees shall refrain from excessive speed in moving about the trading floors, and shall be respectful of all others on Exchange premises and shall abide by Exchange policy concerning access, conduct, and appearance. Members and their employees, while on the trading floors, shall be professionally attired in accordance with Exchange policy, and shall wear jackets bearing identification badges issued by the Exchange. Members and their employees not professionally attired in accordance with Exchange policy may be barred or removed from the trading floors. Refreshments and smoking are forbidden on the trading floors at all times.

513.B. Sanctions

1. Designated Exchange officials may impose fines on members or their employees for violations of the Exchange policy concerning access, conduct, and appearance. Fines imposed pursuant to Rule 513.B.1. are final and may not be appealed.
2. A fourth violation of the Exchange policy concerning access, conduct, and appearance within a rolling 18-month period will be subject to a \$1,000 fine.
3. A fifth or subsequent violation of the Exchange policy concerning access, conduct, and appearance within a rolling 18-month period will be referred to a summary proceeding before a Panel of the Floor Conduct Committee. The Panel may impose a fine not to exceed \$5,000 per violation.
4. Notwithstanding any other provision in this Rule, the Chief Regulatory Officer shall have the authority to impose a fine not to exceed \$5,000 per offense on members and their employees for egregious violations of Rule 513.A.
5. The Market Regulation Department, at its discretion, may refer any alleged violation of Rule 513 to the Probable Cause Committee for consideration of charges.

513.C. Hearings and Appeals

An individual fined pursuant to Rule 513.B.2., 3. or 4. may, within 10 days of the decision, file a written appeal with the Market Regulation Department. A written appeal that fails to specify the grounds for the appeal and the specific error or impropriety of the original decision shall be dismissed. The appeal shall be heard by a Panel of the Business Conduct Committee ("BCC Panel") whose decision shall be final. The appellant shall be entitled to be represented by counsel, appear personally before the BCC Panel and present evidence that he may have in

support of his appeal. The BCC Panel shall not set aside, modify or amend the appealed decision unless it determines, by majority vote, that the decision was:

1. Arbitrary, capricious, or an abuse of the Panel's or Exchange staff's discretion;
2. In excess of the Panel's or Exchange staff's authority or jurisdiction; or
3. Based on a clearly erroneous application of Exchange rules.

514. TRADING INFRACTIONS

A written complaint concerning a trading infraction pursuant to Rule 514.A. may be initiated by members, member firms, trading floor employees of members or member firms or staff of the Exchange. Charges shall be issued and hearings shall be conducted for violations of this rule in accordance with Rule 409.

514.A. Definition

The following shall constitute trading infractions:

1. a bid or offer out of line with the market;
2. a bid or offer which tends to confuse the other traders;
3. a trade through the existing bid or offer;
4. failure to confirm a transaction;
5. failure of a buyer and seller to properly notify the pit reporter of transaction prices in accordance with Rule 528 and/or failure to ascertain that such prices are properly recorded;
6. use of profane, obscene or unbusinesslike language on the trading floor;
7. use of undue force while on, entering or leaving the trading floor;
8. conduct which tends to confuse, distract, abuse or intimidate any Exchange employee;
9. conduct of an unbusinesslike nature;
10. failure to defer to a member who has clearly turned the market;
11. failure to indicate a quantity on a bid or offer; and
12. disseminating false, misleading or inaccurate quotes.

514.B. Floor Conduct Committee Fining Authority

A Panel of the Floor Conduct Committee that finds a member or his employee guilty of violating Rule 514 may impose a fine of up to \$10,000 per offense on such member or employee, except that an egregious violation of Rule 514.A.6., 7., 8. or 9. may result in a fine of up to \$20,000. Notwithstanding the above, the total fine levied by a Panel against a respondent may not exceed \$20,000 based on the single issuance of charges.

The following non-binding schedule of fines may be used by Panels of the Floor Conduct Committee with respect to members or their employees found guilty by a Panel of non-egregious trading infractions:

First offense	a letter of warning and/or a fine not to exceed \$2,500
Second offense within a rolling one-year period	a fine of at least \$1,000, but not to exceed \$5,000
Third offense within a rolling one-year period	a fine of at least \$2,500, but not to exceed \$10,000

If an individual is found guilty of three violations of Rule 514.A. within a rolling one-year period, or any three violations of Rule 514.A.6., 7., 8., and/or 9., within a rolling five-year period, any subsequent alleged violation under Part A. of this rule within such period shall be reviewed by the Market Regulation Department to determine whether to forward the alleged violation to a Panel of the Floor Conduct Committee for adjudication or to investigate and refer the matter to the Probable Cause Committee for review. Notwithstanding the above, the Market Regulation Department may, at any time, refer matters that it deems egregious to the Probable Cause Committee.

**CHAPTER 6
ARBITRATION**

JURISDICTION

- 600. DISPUTES SUBJECT TO CME ARBITRATION**
 - 600.A. Disputes Among Members**
 - 600.B. Disputes Between Members and Certain Non-Member Employees**
 - 600.C. Claims Against the Exchange**
 - 600.D. Permissive Arbitrations**
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- 602. INITIATING AN ARBITRATION CLAIM**
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**Chapter 6
Arbitration****JURISDICTION****600. DISPUTES SUBJECT TO CME ARBITRATION****600.A. Disputes Among Members**

It is contrary to the objectives and policy of the Exchange for members to litigate certain Exchange-related disputes. Disputes between and among members that are described below and that are based upon facts and circumstances that occurred at a time when the parties were members shall be subject to mandatory arbitration in accordance with the rules of this Chapter:

1. claims between members that relate to or arise out of any transaction on or subject to the rules of the Exchange;
2. claims between or among members relating to ownership of, or interests in, trading rights on the Exchange; and
3. claims between members relating to the enforceability of:
 - a. non-compete clauses to the extent they relate to the Exchange,
 - b. terms of employment on the trading floor, and
 - c. financial arrangements relating to the resolution of error trades in Exchange products that are included in any employment agreement entered into on or after August 1, 1998.

Nothing in this rule, however, shall require a member employee to submit to arbitration any claim that includes allegations of a violation of federal, state or local employment discrimination, wage payment or benefits laws.

600.B. Disputes Between Members and Certain Non-Member Employees

The enforceability of the following provisions of an employment agreement entered into on or after August 1, 1998, between a member and a non-member employee registered pursuant to Rule 501 shall be subject to mandatory arbitration in accordance with the rules of this Chapter:

1. non-compete clauses to the extent that they relate to the Exchange; and
2. terms of employment on the trading floor.

Nothing in this rule, however, shall require a non-member employee to submit to arbitration any claim that includes allegations of a violation of federal, state or local employment discrimination, wage payment or benefits laws. A non-member employee shall mean a member's bona fide employee who has been registered by the Exchange to work on the trading floor.

600.C. Claims Against the Exchange

Claims against the Exchange pursuant to the provisions of Rule 578.C., Rule 578.D., Rule 579.C., and/or Rule 587.C. shall be subject to mandatory arbitration in accordance with the rules of this Chapter, provided the claimant has complied with all pre-filing requirements under the applicable rule(s).

600.D. Permissive Arbitrations

The following may be submitted for arbitration at the Exchange and, in the event such a claim is submitted against a member, that member is required to arbitrate the dispute under these rules, unless otherwise provided:

1. claims of a customer against a member that relate to or arise out of any transaction on or subject to the rules of the Exchange;
2. claims against an Exchange clearing member and its Globex user pursuant to Rule 588.C.3.a., b. or c., where the claimant has complied with the provisions of Rule 588.D., and pursuant to Rule 588.C.3.d., provided that any non-member Globex user has consented to arbitration of the dispute at the Exchange within 21 days of receipt of a

- claim¹;
3. claims of a customer against a clearing member responsible for the spot-call delivery performance of a transaction on or subject to the rules of the Exchange and/or against a member in connection with such a transaction;
 4. claims of an SGX member against a member that relate to or arise out of transactions subject to or relating to the Mutual Offset System;
 5. claims of a non-member (other than those claims required to be arbitrated under Rule 600.B) against a member that relate to or arise out of employment on the trading floor;
 6. claims by or against an entity whose majority ownership is held by Exchange members and whose principal business relates to activity on or at the Exchange, where the dispute has a material connection to the business or purpose of the Exchange, provided such entity has consented to arbitration of the dispute at the Exchange within 20 days of receipt of a claim; and
 7. at the discretion of the Chief Regulatory Officer, any claim involving the interests of the Exchange, its members, their business relations or commodity futures trading in general not otherwise arbitrable under these rules, provided the parties have consented to such arbitration.

600.E. Waiver of Any Objection to Jurisdiction

Any member or non-member who submits a claim or grievance to arbitration or any member who appeals to a hearing committee of the Board from any panel decision, or who takes any steps therein, shall be conclusively presumed to have voluntarily recognized and agreed to the jurisdiction of the panel or hearing committee of the Board to hear and determine the claim or appeal.

600.F. Hearing Panel

Any claim involving only members shall be heard by a Member panel and its decision shall be rendered in accordance with the rules of this Chapter. A Member panel shall mean an arbitration panel consisting of a co-chairman of the Arbitration Committee and five Members as defined in Rule 400.

601. CUSTOMER CLAIMS AGAINST MEMBERS

601.A. Definitions

1. **Customer.** Customer shall mean any person, not a member of the Exchange, who places an order or for whose account an order is placed for execution on the Exchange or who otherwise executes a transaction on or subject to the rules of the Exchange.
2. **Claim.** Claim shall mean any dispute arising out of any transaction on or subject to the rules of the Exchange, including mutual offset rules.
3. **Mixed Panel.** Mixed Panel shall mean an arbitration panel consisting of a co-chairman of the Arbitration Committee and five Arbitration Committee members, three of whom shall be persons who are non-members and who are not associated with any member of a contract market, or employee thereof, and are not otherwise associated with a contract market.
4. **Member.** Member as used in this Chapter shall mean 1) members and clearing members of the Exchange, including retired members with floor access privileges and individuals and entities described in Rule 106; 2) associated persons ("APs") and affiliates of clearing members of the Exchange; 3) guaranteed introducing brokers of clearing members of the Exchange and their APs; 4) Exchange permit holders; and 5) individuals and entities that have agreed in writing to comply with the rules of the Exchange.
5. **Punitive Damages.** Punitive damages shall mean an award in excess of actual damages suffered. Punitive damages shall be limited to twice the amount of actual damages and may be awarded only to a customer after a determination that there has been willful and wanton misconduct in the execution or handling of an order by a member or an employee acting on behalf of a member.

601.B. Refusal to Hear Certain Disputes

¹ Revised January 2008.

A chairman may, but shall not be required to, order that a dispute that is otherwise arbitrable under these rules not be arbitrated hereunder if the dispute requires for adjudication the presence of essential witnesses or third parties over whom the Exchange has no jurisdiction or who are not otherwise available, or if the dispute requires the application of the rules of another exchange.

601.C. Initiation of Arbitration

In the event that a complaint is received by the Exchange from a customer, it shall be referred to the Market Regulation Department, which shall inform the customer of alternative dispute settlement forums and, when appropriate, forward to the customer a Consent Form for arbitration at the Exchange. Such form shall inform the customer, by attachment of all pertinent rules, of the customer's rights and liabilities, including costs associated with arbitration, and the option of selecting an arbitration panel consisting of Exchange members or a Mixed Panel to decide the claim and any counterclaims, cross-claims or third-party claims.

A customer who submits a claim for arbitration in accordance with these rules consents thereby to the jurisdiction of the arbitrators and agrees to the arbitration of any counterclaims, cross-claims or third-party claims by any respondent which arise out of the transaction that is the subject of the customer's claim. The claim shall comply with the requirements of Rule 602, and in the case of a request for punitive damages, the claim shall set forth the facts the customer intends to present in support of the claim that the misconduct was willful and wanton.

The customer shall file a completed Consent Form and deposit the arbitration fee with the Market Regulation Department. Notice shall then be given to the member against whom the claim is asserted, who shall respond to the claim in accordance with Rule 603.

601.D. Referral to Arbitration Panel or Mixed Panel

A Customer claim against a member shall be heard by the type of panel selected by the customer and its decision shall be rendered in accordance with the rules of this Chapter. Customer claims (and any counterclaims, cross-claims or third-party claims applicable thereto) that do not exceed \$5,000 and do not include any claim for punitive damages may, in the interests of efficiency and economy, be resolved without hearing. The panel shall render its decision based upon the parties' written submissions and any other relevant information obtained and provided to the panel and the parties at the direction of the chairman and/or the panel.

FILING PROCEDURES

602. INITIATING AN ARBITRATION CLAIM

A claimant may initiate a claim by submitting a written description of the dispute, a completed Arbitration Cover Sheet and depositing the appropriate arbitration fee with the Market Regulation Department within the period of eligibility for arbitration claims. The written claim shall include a clear description of the facts and circumstances involved in the dispute, including the transaction(s) or agreement(s) complained of, the names of the persons and firms alleged to be responsible for any loss to the claimant, the dates of all acts or omissions relevant to the claim, a detailed calculation of the amount claimed and any other information necessary to fully describe the dispute.

The Market Regulation Department shall reject for filing any claim that does not fully describe the dispute, is clearly filed after the period of eligibility has expired or is clearly not arbitrable at the Exchange. Such a claim will be promptly returned to the filing party with a notice describing the deficiency. A claimant seeking to correct the deficiency and file an amended claim may do so within 30 days of receiving notice describing the deficiency despite any expiration of the period of eligibility prescribed by Rule 609 during that 30-day period. The acceptance for filing by the Market Regulation Department shall not preclude a challenge to the arbitrability of the claim nor create a presumption that the claim is arbitrable.

603. ANSWERING AN ARBITRATION CLAIM

Each respondent shall file a written response within 21 days after receipt of the written claim. However, if a party has timely filed a challenge to the arbitrability of the dispute, its response shall be due 21 days after receipt of the written decision confirming the arbitrability of the dispute.

Provided below is a sample Membership Lease Agreement. Please be advised that the parties may negotiate any additional or different provisions within their specific Membership Lease Agreement.

FORM OF MEMBERSHIP LEASE AGREEMENT

MEMBERSHIP LEASE AGREEMENT

THIS AGREEMENT is made this ____ day of _____, 20____, (this "Agreement") by and between

_____, (hereinafter referred to as "Lessor"), and

_____, (hereinafter referred to as "Lessee").

RECITALS:

WHEREAS, Lessor is the record and beneficial owner of, and desires to lease to Lessee certain rights and privileges associated with, a membership in Chicago Mercantile Exchange Inc. (the "CME");

WHEREAS, Lessee desires to lease from Lessor certain rights and privileges associated with a membership in the CME;

WHEREAS, _____ is a clearing member of the CME and will qualify and clear Lessee's trades on the CME (the "Qualifying Clearing Member"); and WHEREAS, as a condition to Lessor's willingness to enter into this Agreement, Qualifying Clearing Member has, on behalf of Lessee, entered into an indemnification agreement for the benefit of Lessor in the form attached to this Agreement as Exhibit A

AGREEMENTS:

NOW AND THEREFORE, in consideration of the mutual covenants hereinafter set forth, Lessor and Lessee hereby agree as follows:

1. Lease of Membership.

- a. *Identification of Leased Interests.* Subject to the terms and conditions set forth herein, Lessor leases to Lessee during the Lease Term (as defined below) the trading rights and privileges associated with the following interests (each, a "Leased Interest"):
- CME B-1 MEMBERSHIP (Membership # _____).
 - IMM B-2 MEMBERSHIP (Membership # _____).
 - IOM B-3 MEMBERSHIP (Membership # _____).
 - GEM B-4 MEMBERSHIP (Membership # _____).
- b. *Lease Term.* The "Lease Term" shall be the _____ month / year (circle one) period commencing at the open of business on _____, 20__ (the "Effective Date") and ending at the close of business on _____, 20__, including all trading sessions occurring during this period, as may be extended from time to time by written agreement between Lessor and Lessee.
- c. *Automatic Termination.* Notwithstanding Section 1(b) above, the Lease Term will terminate automatically without prior notice upon:
- (1) the effective date of any action by CME that results in, or will result in, the expulsion of Lessee from membership in CME, or
 - (2) the effective date of any action by the CME that results in, or will result in, the expulsion of Lessor from membership in the CME, or
 - (3) the sale by Lessor of one or more of the Leased Interest
- d. *Notice of Termination.* Lessor and Lessee shall provide the Membership Services Department with written notice of any termination pursuant to Section 1(c) above as soon as reasonably practicable following actual knowledge of such termination of the Lease Term.
- e. *Qualifying Clearing Member.*
- (1) Lessee agrees not to change the Qualifying Clearing Member without the prior written consent of Lessor.
 - (2) Lessee will be liable to Lessor for any costs incurred by Lessor in connection with the preparation of a new lease agreement, indemnity agreement and/or other related documents to the extent such documents are required as a result of Lessee changing the Qualifying Clearing Member.

2. **Lease Payments.**

a. ***Lease Payments.*** During the Lease Term, Lessee shall pay to Lessor the following consideration ("**Lease Payments**") in exchange for the rights granted under this Agreement (check box and, to the extent required, fill in applicable section):

For the first calendar month during the Lease Term, Lessee shall pay to Lessor \$ _____, payable on or before the Effective Date, and for each calendar month thereafter, a fixed amount of \$ _____ per month, payable in advance on the 1st business day of each such calendar month (subject to pro-ration in the event that the beginning or end of the Lease Term does not coincide with the beginning or end of a calendar month).

For the first calendar month during the Lease Term, Lessee shall pay to Lessor \$ _____, payable on or before the Effective Date, and for each calendar month thereafter, a variable amount determined by mutual agreement of Lessor and Lessee on before the second to the last business day of each calendar month (the "**Renegotiation Deadline**") payable in advance on the 1st business day of each the next calendar month (subject to pro-ration in the event the beginning or end of the Lease Term does not coincide with the beginning or end of a calendar month). Notwithstanding Section 1(b) above, if Lessor and Lessee cannot agree on a new Lease Payment, the Lease Payment shall remain the amount last agreed to by the parties and within thirty (30) calendar days of the Renegotiation Deadline, the Lease Term will automatically terminate without penalty to either Lessor or Lessee at the end of such thirty (30) calendar day period.

Another amount determined as follows:

b. ***Late Lease Payments.*** At the discretion of Lessor, and without any further notice to Lessee, beginning on the 10th calendar day following the Lease Payment due date, a late payment fee shall be charged in the amount of:

\$ _____ per day accruing beginning on the Lease Payment due date.

_____ % of the outstanding Lease Payment accruing daily from the Lease Payment due

date.

Other _____.

3. **Ownership and Use.** The Leased Interest(s) shall at all times remain the sole and exclusive property of Lessor, and Lessee shall have no right or property interest therein except as contemplated by this Agreement. Without limiting the foregoing in any manner, Lessor shall be entitled to receive all dividends and distributions in respect of the Leased Interest(s).

4. **Assignment by Lessee.** Lessee may not assign, transfer or sublease his or her rights, privileges or obligations under this Agreement. Any attempted assignment, transfer or sublease will be deemed null and void.

5. **Obligations for Dues, Fees, Taxes, and Other Charges.** Lessor / Lessee (circle one) shall be responsible to Lessor / Lessee (circle one) for satisfying all obligations including but not limited to dues, fees, taxes or assessments of any kind or other charges imposed with respect to the use or lease of the Leased Interest(s).
6. **Representations and Warranties.**
- a. Lessor represents and warrants that he/she/it owns beneficially and of record the Leased Interest(s). Lessor further represents and warrants that he/she/it has not previously entered into a lease agreement or other arrangement whereby he/she/it has granted the rights that are granted hereunder to Lessee with respect to the Leased Interest(s), during the Lease Term.
 - b. Lessor and Lessee each represent and warrant that this Agreement has been duly authorized, executed and delivered by he/she/it, and is a valid and binding obligation of he/she/it, enforceable against he/she/it, respectively, in accordance with its terms.
7. **Lessee Indemnity.**
- a. Lessee shall indemnify, protect, and hold harmless Lessor, his or her agents, servants, employees, officers, directors, successors, and assigns from and against all losses, damages, injuries, claims, demands and expenses, including legal expenses, of whatever nature, arising out of the use by Lessee of the Leased Interest(s).
 - b. Lessee shall, at the written direction of Lessor, assume the settlement of, and the defense of any suit or suits or other legal proceedings brought to enforce all such losses, damages, injuries, claims, demands, and expenses, and shall pay all judgments entered in any such suit or other legal proceeding.
 - c. The indemnities and assumptions of liabilities and obligations herein provided for shall continue in full force and effect notwithstanding the termination or expiration of the Lease Term.
8. **Arbitration.** Any dispute or difference of interpretation respecting this Agreement or matters relating to members or other Lessees of the CME or trades with members of the CME shall be submitted to arbitration pursuant to the Rules of the CME and Lessee agrees to arbitrate such matters under the Rules of that Exchange.
9. **Bylaws, Certificate of Incorporation, Rules of the CME.** The parties hereto hereby agree to be bound by the provisions of the Amended and Restated Certificate of Incorporation, Amended and Restated Bylaws and Rules and Regulations of CME and all applicable interpretations thereof, in each case, as may be amended from time to time. In the event of any conflict between the terms of this Agreement and the terms of the Amended and Restated Certificate of Incorporation, amended and Restated Bylaws and Rules and Regulations of the CME, the Amended and Restated Certificate of Incorporation, amended and Restated Bylaws and Rules and Regulations of the CME shall take precedence.

10. **Notices.** All notice required to be given pursuant to this Agreement shall be given by personal delivery to the party entitled thereto or by registered or certified mail addressed to the parties as set forth below:

If to Lessor: _____

If to Lessee: _____

11. **Severability.** Lessor's failure to enforce any provision of this or any future contract or agreement, shall have no effect on any other provision of this or any other related or subsequent contract, document or agreement.

12. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties hereto and may not be modified except by a written instrument signed by the parties hereto.

13. **Governing Law.** This Agreement is deemed to be entered into and shall be construed in accordance with the laws of the State of Illinois.

14. Clearing Firm Representative to Contact If Leased Privilege is Sold or Transferred:

Name: _____

Firm: _____

Telephone Number: _____

Facsimile Number: _____

E-Mail Address: _____

[Signature Page to Follow]

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the date written above.

LESSOR:

[Print Lessor's Name]

[Print Authorized Signatory's Name (if Lessor is an Entity)]

[Print Authorized Signatory's Title (if Lessor is an Entity)]

[Lessor's/Authorized Signatory's Signature]

LESSEE:

[Print Lessee's Name]

[Lessee's Signature]

Provided below is a sample Membership Lease Agreement. Please be advised that the parties may negotiate any additional or different provisions within their specific Membership Lease Agreement.

FORM OF MEMBERSHIP LEASE AGREEMENT

MEMBERSHIP LEASE AGREEMENT

THIS AGREEMENT is made this ____ day of _____, 20____, (this "Agreement") by and between

_____, (hereinafter referred to as "Lessor"), and

_____, (hereinafter referred to as "Lessee").

RECITALS:

WHEREAS, Lessor is the record and beneficial owner of, and desires to lease to Lessee certain rights and privileges associated with, a membership in Board of Trade of the City of Chicago, Inc. (the "CBOT") and/or a CBOE Exercise Right Privilege (within the meaning of the CBOT Rules and Regulations) (a "CBOE ERP");

WHEREAS, Lessee desires to lease from Lessor certain rights and privileges associated with a membership in the CBOT and/or a CBOE ERP;

WHEREAS, Lessor and Lessee may desire to arrange for the pledge/assignment of the Class A common stock of CME Group Inc. ("CME Group") associated with a Series B-1 (Full) membership in the CBOT leased hereunder in connection with Lessee's use of such membership and CBOE ERP as the basis for exercising and becoming a member of the Chicago Board Options Exchange ("CBOE") without purchasing a membership on such exchange;

WHEREAS, _____ is a clearing member of the CBOT and will qualify and clear Lessee's trades on the CBOT (the "Qualifying Clearing Member") (strike out and initial if inapplicable _____); and

WHEREAS, as a condition to Lessor's willingness to enter into this Agreement, Qualifying Clearing Member has, on behalf of Lessee, entered into an indemnification agreement for the benefit of Lessor in the form attached to this Agreement as Exhibit A (strike out and initial if inapplicable _____).

AGREEMENTS:

NOW AND THEREFORE, in consideration of the mutual covenants hereinafter set forth, Lessor and Lessee hereby agree as follows:

1. **Lease of Membership/CBOE ERP.**

a. *Identification of Leased Interests.* Subject to the terms and conditions set forth herein, Lessor leases to Lessee during the Lease Term (as defined below) the trading rights and privileges (in the case of a membership in the CBOT) and rights and privileges (in the case of a CBOE ERP) associated with the following interests (each, a "Leased Interest"):

- SERIES B-1 (FULL) MEMBERSHIP WITH CBOE ERP (Membership/ERP # _____/_____).
- SERIES B-1 (FULL) MEMBERSHIP WITHOUT CBOE ERP (Membership # _____).
- SERIES B-2 (ASSOCIATE) MEMBERSHIP (Membership # _____).
- SERIES B-3 (GIM) MEMBERSHIP (Membership # _____).
- SERIES B-4 (IDEM) MEMBERSHIP (Membership # _____).
- SERIES B-5 (COM) MEMBERSHIP (Membership # _____).
- CBOE ERP (ON A STAND-ALONE BASIS) (ERP # _____).

b. *Lease Term.* The "Lease Term" shall be the _____ month / year (circle one) period commencing at the open of business on _____, 20__ (the "Effective Date") and ending at the close of business on _____, 20__, including all trading sessions occurring during this period, as may be extended from time to time by written agreement between Lessor and Lessee.

c. *Lessor/Lessee Optional Termination.* Notwithstanding Section 1(b) above, the Lease Term may be earlier terminated by either party hereto at any time after _____, 20__, with or without cause, upon _____ calendar days prior written notice by the terminating party to the other party.¹

d. *Lessor Optional Termination.* Notwithstanding Section 1(b) above, the Lease Term may be earlier terminated by Lessor:

(1) immediately without prior notice to Lessee if all or a portion of one or more Lease Payments (as defined below) is delinquent for more than ten (10) calendar days; and

(2) upon ten (10) calendar days prior written notice to Lessee if Lessee materially breaches this Agreement.

e. *Automatic Termination.* Notwithstanding Section 1(b) above, the Lease Term will terminate automatically without prior notice upon:

(1) the effective date of any action by the CBOT that results in, or will result in, the expulsion of Lessee from membership in the CBOT;

(2) the effective date of any action by the CBOT that results in, or will result in, the expulsion of Lessor from membership in the CBOT, or the suspension of Lessor's trading rights and privileges in the CBOT; and

¹ Please be aware that CBOT Regulation 221.03 provides that leases cannot have a term of less than 30 days unless the lease is being used by lessee of a Series B-1 (Full) membership as the basis to exercise and become a member of Chicago Board Options Exchange without having to purchase or lease a membership on such exchange, in which case, the term may be shorter.

(3) the sale by Lessor of one or more of the Leased Interest(s).

f. *Notice of Termination.* Lessor and Lessee shall provide the Membership Services Department with written notice of any termination pursuant to Section 1(e) above as soon as reasonably practicable following actual knowledge of such termination of the Lease Term.

g. *Qualifying Clearing Member.*

(1) If the Leased Interest(s) include a membership in the CBOT and Lessee has designated a Qualifying Clearing Member hereunder, Lessee agrees not to change the Qualifying Clearing Member without the prior written consent of Lessor.

(2) If the Leased Interest(s) include a membership in the CBOT and Lessee has not designated a Qualifying Clearing Member hereunder, Lessee agrees to provide to Lessor not less than one business day's prior written notice of Lessee's intent to utilize the trading rights and privileges associated with such membership to transact at the CBOT.

(3) Lessee will be liable to Lessor for any costs incurred by Lessor in connection with the preparation of a new lease agreement, indemnity agreement and/or other related documents to the extent such documents are required as a result of Lessee changing the Qualifying Clearing Member or Lessee subsequently identifying a Qualifying Clearing Member.

2. **Pledge/Assignment of Class A Common Stock to CBOE Exercisers.** Subject to the terms and conditions set forth herein, Lessor hereby agrees to a pledge/assignment arrangement whereby Lessor agrees that he or she will not sell or transfer the following shares of Class A common stock of CME Group ("**Pledged/Assigned Shares**") during the Lease Term so that such Pledged/Assigned Shares, together with a Series B-1 (Full) membership in the CBOT and CBOE ERP, can be used by Lessee as the basis to exercise and become a member at the CBOE without purchasing or leasing a membership on such exchange:

27,338 SHARES OF CLASS A COMMON STOCK OF CME GROUP.

Lessor acknowledges and agrees that he or she may not sell or transfer the Pledged/Assigned Shares during the Lease Term nor may Lessor pledge/assign the Pledged/Assigned shares to a party other than Lessee for the purpose of allowing such third party to use the Pledged/Assigned Shares as the basis to exercise and become a member of the CBOE without purchasing a membership on such exchange.

3. **Registration of Leased Interest(s) on behalf of Member Firms.** Subject to the terms and conditions set forth herein, Lessor hereby agrees to permit Lessee to register the following Leased Interest(s) ("**Registered Interests**") during the Lease Term on behalf of a member firm as contemplated by the CBOT's Rules:

Memberships

- SERIES B-1 (FULL) MEMBERSHIP WITH CBOE ERP (Membership/ERP # _____/_____).
- SERIES B-1 (FULL) MEMBERSHIP WITHOUT CBOE ERP (Membership # _____).
- SERIES B-2 (ASSOCIATE) MEMBERSHIP (Membership # _____).

The name of the member firm ("Member Firm") on behalf of which such Registered Interests are to be registered is:

Lessor acknowledges and agrees that he or she may not sell or transfer the Registered Interests nor may Lessor register the Registered Interests or permit the Registered Interests to be registered on behalf of a member firm other than the Member Firm during the Lease Term and until the later of (1) the end of the claims filing period applicable to Lessee and the Registered Interests pursuant to Rule 110 and (2) the resolution of any outstanding claims against Lessee and the Registered Interests, including claims associated with disciplinary actions and arbitrations, properly made pursuant to Rule 110 (the "Claims Period").

Lessor further acknowledges and agrees that, during the Claims Period, the Registered Interests are subject to claims brought under CBOT Rule 110, including claims brought following the end of the Lease Term, against the Member Firm and Lessee that relate to the obligations of the Member Firm and Lessee under the Rules of the CBOT arising during the Lease Term.

4. Lease Payments.

a. *Lease Payments.* During the Lease Term, Lessee shall pay to Lessor the following consideration ("Lease Payments") in exchange for the rights granted under this Agreement (check box and, to the extent required, fill in applicable section):

For the first calendar month during the Lease Term, Lessee shall pay to Lessor \$ _____, payable on or before the Effective Date, and for each calendar month thereafter, a fixed amount of \$ _____ per month, payable in advance on the 1st business day of each such calendar month (subject to pro-ration in the event that the beginning or end of the Lease Term does not coincide with the beginning or end of a calendar month).

For the first calendar month during the Lease Term, Lessee shall pay to Lessor \$ _____, payable on or before the Effective Date, and for each calendar month thereafter, a variable amount determined by mutual agreement of Lessor and Lessee on before the second to the last business day of each calendar month (the "Renegotiation Deadline") payable in advance on the 1st business day of each the next calendar month (subject to pro-ration in the event the beginning or end of the Lease Term does not coincide with the beginning or end of a calendar month). Notwithstanding Section 1(b) above, if Lessor and Lessee cannot agree on a new Lease Payment, the Lease Payment shall remain the amount last agreed to by the parties and within thirty (30) calendar days of the Renegotiation Deadline, the Lease Term will automatically terminate without penalty to either Lessor or Lessee at the end of such thirty (30) calendar day period.

Another amount determined as follows:

b. **Late Lease Payments.** At the discretion of Lessor, and without any further notice to Lessee, beginning on the 10th calendar day following the Lease Payment due date, a late payment fee shall be charged in the amount of:

\$ _____ per day accruing beginning on the Lease Payment due date.

_____ % of the outstanding Lease Payment accruing daily from the Lease Payment due date.

Other _____

5. **Ownership and Use.** The Leased Interest(s) and any Pledged/Assigned Shares shall at all times remain the sole and exclusive property of Lessor, and Lessee shall have no right or property interest therein except as contemplated by this Agreement. Without limiting the foregoing in any manner, Lessor shall be entitled to receive all dividends and distributions in respect of the Leased Interest(s) and/or Pledged/Assigned Shares.

6. **Assignment by Lessee.** Lessee may not assign, transfer or sublease his or her rights, privileges or obligations under this Agreement. Any attempted assignment, transfer or sublease will be deemed null and void.

7. **Obligations for Dues, Fees, Taxes, and Other Charges.** Lessor / Lessee (circle one) shall be responsible to Lessor / Lessee (circle one) for satisfying all obligations including but not limited to dues, fees, taxes or assessments of any kind or other charges imposed with respect to the use or lease of the Leased Interest(s) and/or Pledged/Assigned Shares.

8. **Exercise of Voting Rights.** Lessor, acting on his or her own behalf, shall/may during the Lease Term continue to exercise any of the voting rights associated with the Leased Interest(s) and/or Pledged/Assigned Shares. In the event that Lessee exercises and become a member of the CBOE without purchasing a membership on such exchange, Lessee will deliver to Lessor in a timely manner, a signed proxy so as to allow Lessor to vote on any matter Lessee is entitled to vote on at the CBOE.

9. **Representations and Warranties.**

a. Lessor represents and warrants that he/she/it owns beneficially and of record the Leased Interest(s) and/or Pledged/Assigned Shares, as applicable. Lessor further represents and warrants that he/she/it has not previously entered into a lease agreement or other arrangement whereby he/she/it has granted the rights that are granted hereunder to Lessee with respect to the Leased Interest(s) and/or Pledged/Assigned Shares, as applicable, during the Lease Term.

b. Lessor and Lessee each represent and warrant that this Agreement has been duly authorized, executed and delivered by he/she/it, and is a valid and binding obligation of he/she/it, enforceable against he/she/it, respectively, in accordance with its terms.

10. Lessee Indemnity.

a. Lessee shall indemnify, protect, and hold harmless Lessor, his or her agents, servants, employees, officers, directors, successors, and assigns from and against all losses, damages, injuries, claims, demands and expenses, including legal expenses, of whatever nature, arising out of the use by Lessee of the Leased Interest(s) and/or Pledged/Assigned Shares.

b. Lessee shall, at the written direction of Lessor, assume the settlement of, and the defense of any suit or suits or other legal proceedings brought to enforce all such losses, damages, injuries, claims, demands, and expenses, and shall pay all judgments entered in any such suit or other legal proceeding.

c. The indemnities and assumptions of liabilities and obligations herein provided for shall continue in full force and effect notwithstanding the termination or expiration of the Lease Term.

11. Arbitration. Any dispute or difference of interpretation respecting this Agreement or matters relating to members or other Lessees of the CBOT or trades with members of the CBOT Shall be submitted to arbitration pursuant to the Rules of the CBOT and Lessee agrees to arbitrate such matters under the Rules of that Exchange.

12. Bylaws, Certificate of Incorporation and Rules of the CBOT. The parties hereto hereby agree to be bound by the provisions of the Amended and Restated Certificate of Incorporation, Amended and Restated Bylaws and Rules of the CBOT and all applicable interpretations thereof, in each case, as may be amended from time to time. In the event of any conflict between the terms of this Agreement and the terms of the Amended and Restated Certificate of Incorporation, amended and Restated Bylaws and Rules of the CBOT, the Amended and Restated Certificate of Incorporation, amended and Restated Bylaws and Rules of the CBOT shall take precedence.

13. Notices. All notice required to be given pursuant to this Agreement shall be given by personal delivery to the party entitled thereto or by registered or certified mail addressed to the parties as set forth below:

If to Lessor: _____

If to Lessee: _____

14. Severability. Lessor's failure to enforce any provision of this or any future contract or agreement, shall have no effect on any other provision of this or any other related or subsequent contract, document or agreement.

15. Entire Agreement. This Agreement constitutes the entire Agreement between the parties hereto and may not be modified except by a written instrument signed by the parties hereto.

16. Governing Law. This Agreement is deemed to be entered into and shall be construed in accordance with the laws of the State of Illinois.

[Signature Page to Follow]

17. Clearing Firm Representative to Contact If Leased Privilege is Sold or Transferred:

Name: _____

Firm: _____

Telephone Number: _____

Facsimile Number: _____

E-Mail Address: _____

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the date written above.

LESSOR:

[Print Lessor's Name]

[Print Authorized Signatory's Name (if Lessor is an Entity)]

[Print Authorized Signatory's Title (if Lessor is an Entity)]

[Lessor's/Authorized Signatory's Signature]

LESSEE:

[Print Lessee's Name]

[Lessee's Signature]

**RESTATED CERTIFICATE OF INCORPORATION
OF
CHICAGO MERCANTILE EXCHANGE INC.**

FIRST

NAME OF CORPORATION

The name of the Corporation is Chicago Mercantile Exchange Inc. (hereinafter the "Corporation").

SECOND

ADDRESS

The address of the registered office of the Corporation in the State of Delaware is 1209 Orange Street, in the City of Wilmington, County of New Castle, Delaware 19801. The name of its registered agent at that address is The Corporation Trust Company.

THIRD

PURPOSE

The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of the State of Delaware as set forth in Title 8 of the Delaware Code (the "DGCL").

FOURTH

SHARES

The total number of shares of stock which the Corporation shall have authority to issue is One Thousand (1000) shares of Common Stock, each having a par value of one cent (\$.01).

FIFTH

PROVISIONS

The following provisions are inserted for the management of the business and the conduct of the affairs of the Corporation, and for further definition, limitation and regulation of the powers of the Corporation and of its Board of Directors and shareholders:

- (1) The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.
- (2) The Board of Directors shall have concurrent power with the shareholders to make, alter, amend, change, add to or repeal the By Laws of the Corporation.
- (3) The number of directors of the Corporation shall be as from time to time fixed by, or in the manner provided in, the By Laws of the Corporation. Election of directors need not be by written ballot unless the By Laws so provide. The Board of Directors of the Corporation shall at all times be comprised of the same directors as those of Chicago Mercantile Exchange Holdings Inc., the sole stockholder of the Corporation; provided, however, that any director that is suspended or expelled from membership of the Corporation shall automatically be removed from the Board of Directors of the Corporation.
- (4) No director shall be personally liable to the Corporation or any of its shareholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its shareholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) pursuant to Section 174 of the DGCL or (iv) for any transaction from which the director derived an improper personal benefit. Any repeal or modification of this Article FIFTH by the

¹ Revised April 2004.

CME Rulebook



shareholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification with respect to acts or omissions occurring prior to such repeal or modification.

(5) In addition to the powers and authority hereinbefore or by statute expressly conferred upon them, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation, subject, nevertheless, to the provisions of the DGCL, this Restated Certificate of Incorporation, and any By Laws adopted by the shareholders; provided, however, that no By Laws hereafter adopted by the shareholders shall invalidate any prior act of the directors which would have been valid if such By Laws had not been adopted.

SIXTH

MEETINGS AND BOOKS

Meetings of shareholders may be held within or without the State of Delaware, as the By Laws may provide. The books of the Corporation may be kept (subject to any provision contained in the DGCL) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the By Laws of the Corporation.

SEVENTH

RIGHTS

The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon shareholders herein are granted subject to this reservation.

(End Certificate of Incorporation)

**BY-LAWS
OF
CHICAGO MERCANTILE EXCHANGE INC.**

ARTICLE I

STOCKHOLDERS' MEETINGS

Section 1.1. Annual Meetings.

(a) The annual meetings of stockholders shall be held on such date, at such time and at such place, either within or without the state of Delaware, as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting. Subject to paragraph (b) of this Section 1.1, any other proper business may be transacted at an annual meeting.

(b) At the annual meetings the stockholders shall elect the Board of Directors, which directors shall at all times be comprised of the same directors as those of Chicago Mercantile Exchange Holdings, Inc., the sole stockholder of the Corporation and transact such other business as may properly be brought before the meeting. For such business to be properly brought before the meeting, it must be: (i) authorized by the Board of Directors and specified in the notice, or a supplemental notice, of the meeting, (ii) otherwise brought before the meeting by or at the direction of the Board of Directors or the chairman of the meeting, or (iii) otherwise properly brought before the meeting by a stockholder. For business to be properly brought before an annual meeting by a stockholder, the stockholder must have given written notice thereof to the Secretary, delivered or mailed to and received at the principal executive offices of the Corporation (x) not less than 90 days nor more than 120 days prior to the meeting, or (y) if less than 100 days notice of the meeting or prior public disclosure of the date of the meeting is given or made to stockholders, not later than the close of business on the tenth day following the day on which the notice of the meeting was mailed or, if earlier, the day on which such public disclosure was made. A stockholder's notice to the Secretary shall set forth as to each item of business the stockholder proposes to bring before the meeting (1) a brief description of such item and the reasons for conducting such business at the meeting and a representation that the stockholder intends to appear in person or by proxy at the meeting to introduce the business specified in the notice, (2) the name and address, as they appear on the Corporation's records, of the stockholder proposing such business, (3) the class, and series if any, and number of shares of stock of the Corporation which are beneficially owned by the stockholder (for purposes of the regulations under Sections 13 and 14 of the Securities Exchange Act of 1934, as amended (the "Exchange Act")), and (4) any material interest of the stockholder in such business. No business shall be conducted at any annual meeting except in accordance with the procedures set forth in this paragraph (b). The chairman of the meeting at which any business is proposed by a stockholder shall, if the facts warrant, determine and declare to the meeting that such business was not properly brought before the meeting in accordance with the provisions of this paragraph (b), and, in such event, the business not properly before the meeting shall not be transacted.

Section 1.2. Special Meetings.

Special meetings of stockholders for any purpose or purposes may be called at any time only by the Chairman of the Board or by a majority of the total number of authorized directors. The business transacted at a special meeting of stockholders shall be limited to the purpose or purposes for which such meeting is called.

Section 1.3. Notice of Meetings.

A written notice of each annual or special meeting of stockholders shall be given stating the place, date and time of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise provided by law, the Certificate of Incorporation or these By-laws, such notice of meeting shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be given when deposited in the mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation. An affidavit of the Secretary or an Assistant Secretary or of the transfer agent of the Corporation that the notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

stockholder shall determine otherwise.

(e) In determining the validity and counting of proxies and ballots, the inspectors shall be limited to an examination of the proxies, any envelopes submitted with such proxies, any information referred to in paragraphs (b) and (c) of Section 1.8 of these By-laws, ballots and the regular books and records of the Corporation, except that the inspectors may consider other reliable information for the limited purpose of reconciling proxies and ballots submitted by or on behalf of banks, brokers, their nominees or similar persons which represent more votes than the holder of a proxy is authorized by a stockholder of record to cast or more votes than such stockholder holds of record. If the inspectors consider other reliable information for the limited purpose permitted herein, the inspectors, at the time they make their certification pursuant to paragraph (c) of this Section 1.9, shall specify the precise information considered by them, including the person or persons from whom such information was obtained, when and the means by which such information was obtained and the basis for the inspectors' belief that such information is accurate and reliable.

Section 1.10. Fixing Date of Determination of Stockholders of Record.

(a) In order that the Corporation may determine the stockholders entitled (i) to notice of or to vote at any meeting of stockholders or any adjournment thereof, (ii) to receive payment of any dividend or other distribution or allotment of any rights, (iii) to exercise any rights in respect of any change, conversion or exchange of stock or (iv) to take, receive or participate in any other action, the Board of Directors may fix a record date, which shall not be earlier than the date upon which the resolution fixing the record date is adopted by the Board of Directors and which (1) in the case of a determination of stockholders entitled to notice of or to vote at any meeting of stockholders or adjournment thereof, shall, unless otherwise required by law, be not more than 60 nor less than 10 days before the date of such meeting; and (2) in the case of any other action, shall be not more than 60 days before such action.

(b) If no record date is fixed, (i) the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held; and (ii) the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

(c) A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting, but the Board of Directors may fix a new record date for the adjourned meeting.

Section 1.11. List of Stockholders Entitled to Vote.

The Secretary shall prepare, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least 10 days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof and may be inspected by any stockholder who is present. The stock ledger shall be the only evidence as to who are the stockholders entitled to examine the stock ledger or to vote in person or by proxy at any meeting of stockholders.

ARTICLE II

Section 2.1. Number; Qualifications.

The Board of Directors shall consist of the number of Directors as from time to time fixed by the Board of Directors, provided that the Board of Directors shall at all times be comprised of the same directors as those of Chicago Mercantile Exchange Holdings Inc., the sole stockholder of the Corporation, and no person shall serve as a Director unless he or she meets the requirements, if any, provided in the Certificate of Incorporation for service on the Board of Directors.

Section 2.2. Election; Resignation; Vacancies.

(a) Subject to the provisions of the Certificate of Incorporation and Section 1.1(b) of these By-laws, at each annual meeting of stockholders, the stockholders shall elect, pursuant to the terms of

**CHAPTER 1
MEMBERSHIP**

- 100. GENERAL**
- 101. QUALIFICATIONS AND RESPONSIBILITIES**
- 102. NON-MEMBER INVESTORS**

- PROCEDURES FOR PURCHASE, SALE AND TRANSFER**
- 103. PURCHASE OF MEMBERSHIP AND MECHANICS OF PURCHASE**
 - 103.A. Purchase of Membership**
 - 103.B. Mechanics of Purchase**
- 104. SALE OF MEMBERSHIP**
- 105. APPLICATION FOR MEMBERSHIP**
 - 105.A. Application Process for Members Accessing the Trading Floor**
 - 105.B. Application Process for Members Not Requesting Access to the Trading Floor**
 - 105.C. Application for Floor Broker's or Floor Trader's License**
- 106. TRANSFERS, SECURITY TRANSACTIONS, AND AUTHORIZATIONS TO TRANSFER OR SELL**
 - 106.A. Authorization to Sell**
 - 106.B. Security Transactions**
 - 106.C. Family Transfers**
 - 106.D. Futures Industry Transfers**
 - 106.E. Unconditional Bequests and Bona Fide Gifts of Membership**
 - 106.F. Clearing Member**
 - 106.G. Transfer to Wholly-Owned Entities**
 - 106.H. Trading Member Firm**
 - 106.I. Affiliate Member Firm**
 - 106.J. Equity Member Firm**
 - 106.K. Transfer to a Trust**
 - 106.L. [Reserved]**
 - 106.M. Transfer to Joint Tenants With Right of Survivorship**
 - 106.N. [Reserved]**
 - 106.O. [Reserved]**
 - 106.P. Transfer to a Family Limited Partnership**
 - 106.Q. [Reserved]**
 - 106.R. Electronic Corporate Member Firm**
 - 106.S. Family of Funds Member Firm**
 - 106.T. Transfer Restrictions on Series B-3 (GIM) Memberships**

Chapter 1 Membership

100. GENERAL

Class B memberships shall be divided into Series B-1 (Full), Series B-2 (Associate), Series B-3 (GIM), Series B-4 (IDEM) and Series B-5 (COM) memberships, as set forth in Article IV.B.2. of the Exchange's Certificate of Incorporation. Membership in the Exchange is a personal privilege subject to transfer only as authorized and on the conditions prescribed herein.

101. QUALIFICATIONS AND RESPONSIBILITIES

Any adult of good moral character, reputation and business integrity, with adequate financial resources and credit to assume the responsibilities and privileges of membership, is eligible for membership in the Exchange. A determination as to whether an applicant for membership or an applicant for an incentive program offered by the CBOT satisfies the Exchange requirements shall be made by the Membership Committee or by staff in the applicable department. A person approved for membership and an individual or entity approved for an incentive program shall be subject to all of the rules and regulations of the Exchange. Notwithstanding a transfer of membership, a person shall continue to be responsible for violations of Exchange rules and regulations committed by him while he was a member and also agrees to have any disputes, which arose while he was a member and which relate to or arise out of any transaction upon the Exchange or membership in the Exchange, resolved in accordance with Chapter 6.

102. NON-MEMBER INVESTORS

A person may purchase a membership interest and be approved as a "Non-Member Investor" in the Exchange. The person shall file an Application to become a Non-Member Investor with the Membership Services Department (the "Department"). A Non-Member Investor is presumed to know all the rules and regulations of the Exchange and agrees to abide by and be subject to them. In the event that multiple individuals own a membership, such individuals shall appoint a designated individual who shall have the authority to sell, lease, pledge or otherwise dispose of or encumber the membership. Further, in the event that a legal entity owns a membership, such entity must provide the Department with appropriate corporate, partnership or other legal documentation indicating who has authority to sell, lease, pledge or otherwise dispose of or encumber the membership and any other documentation requested by the Department.

PROCEDURES FOR PURCHASE, SALE AND TRANSFER

103. PURCHASE OF MEMBERSHIP AND MECHANICS OF PURCHASE

103.A. Purchase of Membership

The prospective purchaser of a membership shall sign and file with the Department a Bid to Purchase which shall be guaranteed by: a) a clearing member of the Exchange; or b) the deposit of a certified or cashier's check; or c) a wire transfer; or d) for swap transactions, the deposit of a Series B-1 (Full), Series B-2 (Associate), Series B-3 (GIM), Series B-4 (IDEM), or Series B-5 (COM) membership and/or a wire transfer or a certified or cashier's check. The Bid to Purchase shall contain an agreement by the purchaser to take no recourse against the Exchange in the event his Application for Membership is rejected (except as provided in Section 8c of the Commodity Exchange Act).

All of the forms described in Chapter 1 are available on the Exchange's website or in the Department.

103.B. Mechanics of Purchase

The Department shall post the lowest offer to sell and the highest bid to purchase a membership in each Series. The Department shall match bids and offers and, in the event of an agreement, shall promptly notify the purchaser and the seller. Within two business days of such notification, the purchaser shall deposit with the Department the following:

- a. A check, payable to the Exchange, for a transfer fee in an amount set by the Board; and
- b. (1) A wire transfer, or a certified or cashier's check, if not previously deposited, or a check or a wire transfer from a clearing firm, payable to the Exchange, in the amount of the purchase price or, (2) if the seller has filed a written consent, a Series B-1 (Full), Series B-2 (Associate), Series B-3 (GIM), Series B-4 (IDEM), or Series B-5 (COM) membership if not previously deposited, owned free of any Rule 110 claims or any other liens, representing partial or complete satisfaction of the purchase price, and constituting a partial or complete exchange of membership(s) to that extent.

Pursuant to such an exchange of membership(s), the purchaser and seller each must file an indemnification agreement in favor of the Exchange from a clearing member by which the clearing member agrees to pay all valid Rule 110 claims against the purchaser or the seller, as the case may be, up to the value at the time of the exchange of the membership(s) transferred by such purchaser or seller.

104. SALE OF MEMBERSHIP

A membership in the Exchange may only be sold as provided for in the Rules. When the owner or the legal representative of an owner desires to sell a membership, he shall sign and file with the Department an Offer to Sell, which shall set forth the price at which he is offering his membership, and contain an agreement to the conditions of sale set forth in these rules.

Upon the sale of a membership, any and all membership privileges granted by these rules shall terminate.

105. APPLICATION FOR MEMBERSHIP

105.A. Application Process for Members Accessing the Trading Floor

The applicant shall file an Application for Membership and the appropriate fee with the Department. The applicant shall agree to take no recourse against the Exchange in the event his application is rejected (except as provided in Section 8c of the Commodity Exchange Act), set forth all financial arrangements made in connection with the proposed purchase or transfer of the membership and agree to abide by the applicable rules and regulations of the Exchange and all amendments thereto.

Upon completion of the foregoing, the Department shall notify the membership by posting for a period of 20 days of the name of the applicant, the seller, the purchase price and the transfer type. The notice shall request the submission to the Department of claims against the seller or transferor arising out of Exchange transactions or any other relationship regulated by the Exchange. A Long Form application shall not be considered during the posting period; however, upon request, Exchange staff may waive any part of the period.

During the posting period, the Department shall prepare a report on the qualifications of the applicant.

The Short Form application of a member who is transferring onto a membership may be approved by Exchange staff before the expiration of the posting period, provided the member obtains an indemnification agreement in favor of the Exchange from a clearing member to cover Rule 110 claims up to the value of the membership at the time of the transfer.

An applicant who wishes to procure a membership by purchase, or by transfer, may do so either prior or subsequent to approval for membership pursuant to Rule 107. An applicant who has acquired a membership prior to approval for membership shall become a member upon such approval. An applicant approved for membership prior to acquiring a membership shall become a member if, within thirty calendar days after approval for membership, he procures a membership; otherwise his membership shall be deemed vacated and the Exchange shall retain the membership application processing fee. Extensions of the 30-day period in which the applicant must acquire a membership may be granted by the Department.

105.B. Application Process for Members Not Requesting Access to the Trading Floor

The applicant shall file an Application for Membership and the appropriate fee with the Department. The applicant shall agree to take no recourse against the Exchange in the event his application is rejected (except as provided in Section 8c of the Commodity Exchange Act), set forth all financial arrangements made in connection with the proposed purchase or transfer of the membership and agree to abide by the applicable rules and regulations of the Exchange and all amendments thereto.

The applicant may receive temporary membership privileges which do not permit trading floor access upon the filing of a complete Application unless the Department has reason to believe that the applicant is not qualified for membership. An applicant that receives temporary membership privileges shall be subject to all of the rules of the Exchange including the rules related to the approval and rejection of an applicant. Such temporary membership privileges will expire upon the earlier of: 1) sixty days after the temporary membership privileges are granted; 2) a rejection of the applicant's membership application by the Membership Committee; or 3) notification that the application for membership has been approved. An applicant who receives temporary non-trading floor membership privileges who is subsequently rejected for membership shall reimburse the Exchange for the difference between trading and clearing fees paid by reason of the temporary membership status and the fees that would have been paid on the same transactions at the rates that would have otherwise prevailed.

The Department shall notify the membership by posting for a period of 20 days of the name of the applicant, the seller or transferor and the purchase price. The notice shall request the submission to the

Department of claims against the seller or transferor arising out of Exchange transactions or any other relationship regulated by the Exchange. During the posting period, the Department shall prepare a report on the qualifications of the applicant.

The Application of a member who obtains a membership may be approved by the Department before the expiration of the posting period, provided the member obtains an indemnification agreement in favor of the Exchange from a clearing member to cover Rule 110 claims up to the value of the membership at the time of purchase or transfer.

An applicant who has acquired a membership prior to approval for membership shall become a member upon such approval. An applicant approved for membership prior to acquiring a membership shall become a member if, within thirty calendar days after approval for membership, he procures a membership; otherwise his membership shall be deemed vacated and the Exchange shall retain the membership application processing fee. Extensions of the 30-day period in which the applicant must acquire a membership may be granted by the Department.

105.C. Application for Floor Broker's or Floor Trader's License

Each membership applicant seeking a floor broker's or floor trader's license shall apply for registration as a floor broker or a floor trader with the National Futures Association. Individuals not accessing the trading floor are not required to obtain floor broker or floor trader registration.

106. TRANSFERS, SECURITY TRANSACTIONS, AND AUTHORIZATIONS TO TRANSFER OR SELL

Transfers of memberships may be made only in accordance with the following provisions. All of the applicable procedures and requirements for the sale and purchase of a membership as set forth in Chapter 1, including the provisions of Rule 110, shall apply to transfers made under this rule. A transfer, reinstatement or revocation of a transfer shall not be completed until all valid Rule 110 claims against a member are satisfied unless a properly completed Indemnification Form is filed by a member's qualifying clearing member.

106.A. Authorization to Sell

An Authorization to Sell ("Authorization Agreement") is a grant of authority by a member or applicant for membership that may be used only for the purposes specified in Rule 106.B. Authorization Agreements shall be effective only if executed on the form supplied by the Exchange and filed with the Department. Authorization Agreements shall be irrevocable without the written consent of the grantee.

A member or applicant for membership who executes an Authorization Agreement relinquishes his power to direct the sale of his membership. A grantee shall have all powers of sale that otherwise would have been available to the grantor. The Exchange shall act at the grantee's direction as if the grantee was the member-owner.

Private agreements between the grantor and the grantee shall not be recognized by the Exchange and shall not affect the rights of the Exchange or its members. The grantee shall be entitled, in addition to any other rights he may have under Rule 110, to the residual proceeds after all Rule 110 claims have been satisfied up to the amount of the outstanding debt owed.

106.B. Security Transactions

A member, applicant for membership or a Non-Member Investor, may execute an Authorization Agreement, in favor of a clearing member, a financial institution or bank, or in favor of the member that financed the purchase of the membership in order to secure any outstanding debt connected with that financing.

A member, applicant for membership or a Non-Member Investor may execute an Authorization Agreement in favor of a member or clearing member to whom the member is indebted or may become indebted by reason of transactions upon the Exchange in order to secure such current or future debts.

106.C. Family Transfers

A member or Non-Member Investor may temporarily transfer his membership to a member of his immediate family who shall be subject to all Exchange rules and regulations. For purposes of this rule, immediate family members shall be limited to parents, siblings, children, grandchildren, grandparents, fathers-in-law, mothers-in-law, sons-in-law, daughters-in-law and spouses.

Rule 106.C transfers shall be subject to the following terms and conditions:

1. The transferor may revoke the transfer upon written notice filed with the Department.
2. The transferor shall have the right at any time to have the transferee disqualified from trading by giving notice to the transferee's qualifying clearing member, who in turn must notify the Exchange pursuant to Rule 511.A.

3. The transfer shall be revoked and the membership shall revert to the transferor's estate or conservator upon official notice of the death or formally declared incompetence of the transferor. However, the legal representative of a deceased member's estate may transfer his membership pursuant to this Rule 106.C. during the pendency of probate.
4. Upon a transferor's expulsion from the Exchange, the transfer shall be revoked and the membership shall revert to the transferor who must sell or liquidate the membership within 30 days.
5. Upon approval for membership, the transferee shall be treated as a member for all purposes, except that the transferee shall have no authority to sell, transfer or assign the membership. The transferor shall be considered the member and an assignment of the membership for clearing purposes pursuant to Rule 902 shall not be terminated by the transferee.
6. The transferor may sell the membership at any time in accordance with the provisions of Rule 104 or transfer the membership pursuant to Rule 106. The proceeds of the sale of the membership will be distributed to the transferor following the settlement of all claims pursuant to Rule 110.
7. The transferred membership may be sold in accordance with Rule 133, and the proceeds may be applied as provided in Rule 110, to satisfy financial obligations of the transferee to the Exchange, to another member or to a clearing member arising out of the transferee's use of the membership in the event that such financial obligations have not been otherwise satisfied.
8. A transfer of a Series B-3 (GIM) membership to a family member under this Rule 106.C. shall not count toward the two consecutive assignments specified in Rule 106.T.

106.D. Futures Industry Transfers

A member or Non-Member Investor may temporarily transfer his membership to another member who shall be subject to all Exchange rules and regulations.

Transfers under this section shall be subject to the following terms and conditions:

1. The transferor may revoke the transfer upon written notice filed with the Department.
2. The transferor shall have the right at any time to have the transferee disqualified from trading by giving notice to the transferee's qualifying clearing member and such clearing member must subsequently notify the Exchange pursuant to Rule 511.A.
3. The transfer shall be revoked and the membership shall revert to the transferor's estate or conservator upon official notice of the death or formally declared incompetence of the transferor. However, the legal representative of a deceased member's estate may transfer his membership pursuant to this Rule 106.D. during the pendency of probate.
4. The transferor is eligible to be elected to the Board of Directors as a CBOT Director (as such term is defined in, and subject to the provisions of, the Bylaws of CME Group Inc). A transferor who is a member of the Board may have access to the trading floor in order to meet with other members, but may not trade while on the trading floor.
5. The transferor may sell the membership at any time in accordance with the provisions of Rule 104 or transfer the membership pursuant to Rule 106. The proceeds of the sale of the membership will be distributed to the transferor following the settlement of all claims pursuant to Rule 110.
6. The transferred membership may be sold in accordance with Rule 133, and the proceeds may be applied as provided in Rule 110, to satisfy financial obligations of the transferee to the Exchange, to another member or to a clearing member arising out of the transferee's use of the membership in the event that such financial obligations have not been otherwise satisfied.
7. The transferee must be qualified to trade by a clearing member acceptable to the transferor. The transferor may not assign the membership for clearing purposes pursuant to Rule 902.
8. A transferee shall place all trades on the books of his qualifying clearing member unless written authorization to the contrary from said clearing member and from the transferor has been filed with the Department. Failure to adhere to the requirements of this rule and Rule 511 shall exclude a clearing member not qualifying the transferor from receiving proceeds under Rule 110.
9. Upon a transferor's expulsion from the Exchange, the transfer shall be revoked and the membership shall revert to the transferor who must sell or liquidate the membership within 30 days.
- 10.-11. [Reserved]
12. A lessor shall notify the Exchange, in a manner designated by the Exchange, of the terms of a new lease agreement or any renewal of a lease agreement within two (2) business days of the negotiation of the lease agreement, or renewal thereof. A lessor's failure to comply with this Rule 106.D.12 may result in the issuance of a warning letter to the lessor. A lessor may then be subject to an automatic fine of \$500 and \$1000 respectively for a second and third violation of this rule within a rolling 12-month period from the issuance of the warning letter. Repeated violations of this

rule may be referred to a disciplinary committee.

13. Unless otherwise previously agreed to by the transferor and the transferee, notice must be provided by the parties of their intention to continue a leasing arrangement at least ten (10) days prior to the expiration of the current lease term. If either party fails to provide such notice, it is assumed that the lease will not be renewed upon its expiration. Terms of the renewal, if any, will be subject to negotiation between the parties.
14.
 - i. In accordance with the Agreement entered into on September 1, 1992 ("the 1992 Agreement") between the Exchange and the Chicago Board Options Exchange ("CBOE"), only an individual who is an "Eligible CBOT Full Member" or an "Eligible CBOT Full Member Delegate", as those terms are defined in the 1992 Agreement, is a "member" of the Exchange within the meaning of paragraph (b) of Article Fifth of CBOE's Certificate of Incorporation ("Article Fifth(b)") and only such individuals are eligible to become and to remain regular members of the CBOE pursuant to Article Fifth(b). No person who is not either an Eligible CBOT Full Member or an Eligible CBOT Full Member Delegate shall knowingly apply to become, or knowingly remain, a regular member of CBOE pursuant to Article Fifth(b).
 - ii. For purposes of the 1992 Agreement, an "Eligible CBOT Full Member Delegate" means the individual to whom a CBOT Full Membership is delegated (leased) and who is in possession of all trading rights and privileges appurtenant to such CBOT Full Membership. "Trading rights and privileges appurtenant to such CBOT Full Membership" means (1) the rights and privileges of a CBOT Full Membership which entitle a holder or delegate to trade as principal and broker for others in all contracts traded on the CBOT, whether by open outcry, by electronic means, or otherwise, during any segment of a trading day when trading is authorized; and (2) every trading right or privilege granted, assigned or issued by CBOT after the effective date of this Agreement to holders of CBOT Full Memberships, as a class, but excluding any right or privilege which is the subject of an option granted, assigned or issued by CBOT to a CBOT Full Member and which is not exercised by such CBOT Full Member.
 - iii. In accordance with the Agreements entered into on August 7, 2001 and December 17, 2003 respectively, between the Exchange and the CBOE and the Letter Agreements entered into on October 7, 2004 and February 11, 2005, among the Exchange, CBOT Holdings and the CBOE, and consistent with, and in furtherance of, the 1992 Agreement, upon completion of the proposed strategic restructuring of the CBOT, an individual delegate of such CBOT Full Membership shall be deemed to be an Eligible CBOT Full Member Delegate only if the individual: (i) is in possession of 27,338 shares of Class A common stock of CBOT Holdings (whether restricted or unrestricted and without regard to any series thereof, such number being subject to anti-dilution adjustment in the event the Class A common stock is subject to a stock split, reverse split, stock dividend or other stock distribution made to existing shareholders); (ii) is in possession of one Series B-1 membership in the CBOT subsidiary; (iii) holds one of the items listed above in (i) or (ii) through delegation rather than ownership; (iv) is in possession of all of the other rights and privileges appurtenant to a CBOT Full Membership; (v) meets the applicable membership and eligibility requirements of the CBOT and is deemed to be a "CBOT Full Member Delegate" under the Rules and Regulations of the Exchange then in effect; and (vi) if a CBOT Full Membership is one in respect of which the CBOT has issued the Exercise Right Privilege, an individual delegate of such CBOT Full Membership shall be deemed to be an Eligible CBOT Full Member Delegate only if the individual is also in possession of one Exercise Right Privilege. The delegate of a CBOT Full Membership in respect of which an Exercise Right Privilege has not been issued shall qualify as an Eligible CBOT Full Member Delegate if the requirements of the 1992 Agreement are satisfied, without having to possess an Exercise Right Privilege.

Exercise Right Privileges may be separately bought, sold, leased, or otherwise transferred and may be unbundled and rebundled with the lease of CBOT Full Memberships in respect of which an Exercise Right Privilege has been issued, for purposes of qualifying the delegate thereof as an Eligible CBOT Full Member Delegate. For purpose hereof, the words "possess" and "in possession of" shall be deemed to include possession by ownership or lease, or as a nominee.
 - iv. In connection with the delegation (lease) of a CBOT Full Membership, or upon completion of the proposed restructuring of the CBOT the Series B-1 membership in the CBOT subsidiary, in which the associated Exercise Right Privilege has been previously issued by the Exchange and sold or transferred to a third party, the delegation agreement contemplated in paragraph (b) above shall provide, among other things, that the delegate acknowledges that the CBOT Full Membership or the Series B-1 membership in the CBOT subsidiary, as applicable, being

delegated (leased) does not have associated with it an Exercise Right Privilege and therefore such delegate may not become a regular member of CBOE pursuant to Article Fifth(b) without otherwise possessing the Exercise Right Privilege.

15. No Series B-1(Full) member or Series B-2 (Associate) member may delegate (within the meaning of this Rule 106.D.) to any other person the voting rights associated with his membership; provided, however, that nothing herein shall prohibit a member from naming as his proxy a person or persons designated as such by the Exchange in connection with any annual or special meeting of the membership.

106.E. Unconditional Bequests and Bona Fide Gifts of Membership

A member or Non-Member Investor may make a bona fide gift or bequest of membership. The bona fide gift may be made only to immediate family members as defined in Rule 106.C. Unless otherwise required by law, a letter affirming the gift or Letters of Office from the Probate Court and a letter from the decedent's personal representative allowing the transfer will be required as a precondition of transfer.

106.F. Clearing Member

A membership may be owned by a clearing member, or a person or an entity having an acceptable proprietary interest in the clearing member. The membership may be transferred to a member provided that: (1) the transfer is approved by Exchange staff; and (2) the transferee is approved pursuant to the rules of the Exchange.

106.G. Transfer to Wholly-Owned Entities

A membership may be transferred to an entity which is wholly-owned by the member or his immediate family members as that term is used in Rule 106.C. Transfers pursuant to this authorization shall be limited to transfers pursuant to Rules 106.C., D. or E.

A 106.G. transferee may assign the membership for clearing purposes in accordance with Rule 902.

106.H. Trading Member Firm

A firm may qualify as a Corporate Trading Firm or a Trading FCM (each a "trading member firm") if the membership required by the Exchange is owned by the trading member firm; by a clearing member or a member firm which is wholly owned by such trading member firm, which wholly owns such trading member firm, or which is wholly owned by the same parent company(ies) as such trading member firm; or by a principal or employee of the trading member firm. The membership may be held in the name of the trading member firm or transferred to a principal or employee of the trading member firm and transferred among its principals and employees provided that: (1) the transfer is approved by Exchange staff; (2) the transferee is approved pursuant to the rules of the Exchange; and (3) the transfer is for the legitimate business purposes of the firm. Unless the membership is owned by the principal or employee, the firm shall have the right, at any time, to have the principal or employee disqualified from trading, but must have him disqualified upon termination of his employment or other association with the firm. Notice to have the principal or employee disqualified from trading must be given to his qualifying clearing member who in turn must notify the Exchange pursuant to Rule 511.A. The trading member firm shall designate on a form provided by the Exchange a representative who shall be authorized to deal with the Exchange with respect to the membership transferred under this Section.

A Rule 106.H. membership may not be transferred pursuant to any other provision of Rule 106. The membership may not be assigned for clearing purposes under Rule 902.

Rule 106.H. trading member firm benefits apply only to the firm's proprietary trading and not to the trading of any affiliates, subsidiaries or customers. All proprietary positions of the trading member firm must be carried by a clearing member(s) in accounts separate from positions of affiliates, subsidiaries, customers and other entities.

Any holder or transferee of a Rule 106.H. membership may not solicit or contact customers from the floor of the Exchange, unless the trading member firm is a Trading FCM.

A Rule 106.H. firm may not hold itself out to the public as a clearing member.

106.I. Affiliate Member Firm

An "affiliate" shall be defined to include a non-FCM, non-clearing entity that is not a pool or hedge fund, and which is wholly owned by one or more clearing members or member firms, which wholly owns a clearing member or member firm, or which is wholly owned by the same parent company(ies) as a clearing member or member firm.

A firm may qualify as an affiliate if the memberships and/or shares of Class A common stock of CME Group Inc. required by the Exchange are owned by the clearing member or member firm, by one or more affiliates, or by member-principals or member-employees of one or more affiliates, except in those circumstances where the qualifying membership may be leased by the affiliate. A qualifying

Regulation Department and the Department against the proceeds of the sale of a membership.

Except as provided in Rule 913, the Exchange staff shall make a distribution of such proceeds within 40 days after receiving notification and confirmation of the sale of the membership, unless claims to the proceeds are not resolved within that period. If, however, at such time an Exchange disciplinary proceeding is pending against the seller or, based upon a pending investigation, is highly probable, or if a legal proceeding, in respect to which the indemnification provisions of Rule 439 would operate, is pending, has been announced or is highly probable, then the Exchange staff shall retain so much of the proceeds as determined by staff in order to satisfy such obligations until such time as the pending matter is concluded.

Distribution of proceeds shall be made by the payment of claims in the categories listed in this rule to the extent the proceeds from the sale are sufficient to meet those obligations. If the proceeds of the sale of a membership are insufficient to pay all amounts determined to be due under the categories listed in this rule, the proceeds shall be applied to pay the full amounts determined to be due under subparagraphs a, b, c, d and e in the priority named. If the proceeds are insufficient to pay the amounts determined to be due under any priority, the claims due under that priority shall be paid pro rata, and the remaining priorities shall be left unpaid. In determining the amount of any claim, the Exchange staff shall first deduct the fair cash value of any collateral held by that claimant. Creditors of the seller of a membership whose obligations are not fully satisfied pursuant to this paragraph may pursue other legal means of securing payment of their obligations.

The surplus, if any, shall be paid to the person whose membership was sold or his legal representative or a 106.A.-B. grantee, as applicable, upon the execution of a satisfactory release. The Exchange staff's determination and allowance of claims hereunder shall be final. The death, incompetence, expulsion, suspension, insolvency or bankruptcy of a member shall not affect the rights of claimants under this rule.

111.- 119. [RESERVED]

PRIVILEGES AND RESPONSIBILITIES

120. MEMBERSHIP CATEGORIES

There are five categories of membership: Series B-1 (Full), Series B-2 (Associate), Series B-3 (GIM), Series B-4 (IDEM), and Series B-5 (COM). Series B-1 (Full) membership privileges extend to all CBOT products; Series B-2 (Associate) membership privileges are limited to products assigned to the Government Instruments Market, the Index Debt and Energy Market, and the Commodity Options Market by the Board; Series B-3 (GIM) membership privileges are limited to products assigned to the Government Instruments Market by the Board; Series B-4 (IDEM) membership privileges are limited to products assigned to the Index, Debt and Energy Market by the Board; and Series B-5 (COM) membership privileges are limited to products assigned to the Commodity Options Market by the Board. Series B-1 (Full), Series B-2 (Associate), Series B-3 (GIM), Series B-4 (IDEM), and/or Series B-5 (COM) members may also be granted Expanded-Access Product privileges in connection with designated products listed by CME.

A Series B-2 (Associate), Series B-3 (GIM), Series B-4 (IDEM) or Series B-5 (COM) member who personally executes trades on the floor in products other than those assigned to his respective Series or designated Expanded-Access Products shall be deemed to have committed an act detrimental to the interest or welfare of the Exchange. A member who trades products on Globex in which he does not have membership privileges is not entitled to member's rates for such trades.

121. MEMBERSHIP PRIVILEGES

Membership in the Exchange entitles the member to certain privileges including the right:

- a. To access the trading floor if properly qualified by a clearing member;
- b. To act as a floor broker and/or floor trader in accordance with the requirements of Chapter 5; and
- c. To receive member or lessee transaction fee rates in accordance with Exchange requirements.

122. MEMBERSHIP DUES AND ASSESSMENTS PAYABLE

Dues and other amounts owed to the Exchange are payable upon receipt of the invoice. Members in arrears 60 days after the invoice date may forfeit all membership privileges, including the privilege of accessing the floor and reduced clearing and trading fees, including Globex fees. Exchange staff shall use reasonable efforts to notify the member before any privileges are forfeited.

Each permit holder's qualifying clearing member is responsible for the payment of the permit holder's

**CHAPTER 2
GOVERNMENT**

200.-229. [RESERVED]

BOARD OF DIRECTORS – POWERS AND DUTIES

230. GENERAL

231. [RESERVED]

232. EXCHANGE FACILITIES

233. [RESERVED]

234. AVOIDING CONFLICTS OF INTEREST IN "SIGNIFICANT ACTIONS"

234.A. Definitions

234.B. Review of Position Information

234.C. Determination Whether Abstention Required

235.-255. [RESERVED]

EXCHANGE OFFICERS AND EMPLOYEES

256. INDEMNIFICATION OF CERTAIN PERSONS

257. EXCHANGE PHYSICAL EMERGENCIES

Chapter 2 Government

200.— 229. [RESERVED]

BOARD OF DIRECTORS – POWERS AND DUTIES

230. GENERAL¹

The Board shall, subject to applicable provisions in the relevant corporate charter and bylaws:

- a. Be the governing body of the Exchange;
- b. Have charge and control of all property of the Exchange;
- c. Provide, acquire and maintain suitable Exchange quarters and facilities;
- d. [Reserved];
- e. [Reserved];
- f. Designate and authorize specific appointed officers to act on behalf of the Board to execute contracts within specified budgetary limits;
- g. Fix, determine and levy all membership dues, fees and assessments when necessary;
- h. Act in a judicial capacity in the conduct of hearings with respect to any charges proffered against members and, after such hearings, determine what disciplinary action, if any, should be taken by the Exchange with respect to those charges;
- i. Determine the commodities traded, the membership Series which shall be permitted to trade such commodities, the delivery months, hours of trading, the days of the contract month on which delivery may be made, and performance bond requirements;
- j. Make and amend the Rules of the Exchange; provided, the Board has also delegated such authority to make and amend the Rules of the Exchange to the Chairman and Vice Chairman of the Board and the Chief Executive Officer acting together, provided, further, that the CBOT Directors (as defined in the Certificate of Incorporation) retain their rights for advance notice of such new and amended Rules and their right to submit such new and amended Rules to the Rule Change Committee (as defined in the Certificate of Incorporation) as set forth in Article IV, Section D(2)(e) of the Certificate of Incorporation prior to approval by the Chairman and Vice Chairman of the Board and the Chief Executive Officer; and
- k. Have power to act in emergencies. In the event that the Board or a hearing panel of the Board pursuant to Rule 410 determines that an emergency situation exists in which the free and orderly market in a commodity is likely to be disrupted, or the financial integrity of the Exchange is threatened, or the normal functioning of the Exchange has been or is likely to be disrupted, it may, upon a majority vote of the members present or upon a majority vote of the members who respond to a poll, take such action as may in the Board's sole discretion appear necessary to prevent, correct or alleviate the emergency condition. Board members who abstain from voting on a Significant Action as defined in Rule 234 shall not be counted in determining whether such action was approved by a majority vote, but such members can be counted for the purpose of determining whether a quorum exists. Without limiting the foregoing, the Board may: (1) terminate trading, (2) limit trading to liquidation of contracts only, (3) order liquidation of all or a portion of a member's proprietary and/or customers' accounts, (4) order liquidation of positions of which the holder is unable or unwilling to make or take delivery, (5) confine trading to a specific price range, (6) modify the trading days or hours, (7) alter conditions of delivery, (8) fix the settlement price at which contracts are to be liquidated, and (9) require additional performance bonds to be deposited with the Clearing House. All Exchange contracts shall be subject to the Board's emergency powers and the specifications of each shall be deemed subject to this rule.

Any authority or discretion by these rules vested in the Chairman, Vice-Chairman, Chief Executive Officer, President or other officer or delegated to any committee shall not be construed to deprive the Board of such authority or discretion and in the event of a conflict, the determination of the matter by the Board shall prevail.

231. [RESERVED]

¹ Revised August 2008.

**CHAPTER 4
ENFORCEMENT OF RULES**

- 400. GENERAL PROVISIONS**
- 401. THE CHIEF REGULATORY OFFICER**
- 402. BUSINESS CONDUCT COMMITTEE**
 - 402.A. Jurisdiction and General Provisions**
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- 403. CLEARING HOUSE RISK COMMITTEE**
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Chapter 4 Enforcement of Rules

400. GENERAL PROVISIONS

The Board has adopted rules, and from time to time adopts amendments and supplements to such rules, to promote a free and open market on the Exchange, to maintain appropriate business conduct and to provide protection to the public in its dealings with the Exchange and its Members. The Board has created committees to which it has delegated responsibility for the investigation, hearing and imposition of penalties for violations of Exchange rules. The Board has also delegated responsibility for the investigation and imposition of penalties for violations of Exchange rules to Exchange staff as set forth in the rules. The delegation of such responsibility and authority shall in no way limit the authority of the Board with respect to all rule violations.

For purposes of Chapter 4, the term "Member" shall mean: 1) members and clearing members of the Exchange, including retired members with floor access privileges and individuals and entities described in Rule 106; 2) associated persons ("APs") and affiliates of clearing members and member firms of the Exchange; 3) guaranteed introducing brokers of clearing members and member firms of the Exchange and their APs, 4) Exchange permit holders and any person or entity that has been granted cross-exchange trading privileges; 5) employees, authorized representatives, contractors, and agents of any of the above persons or entities, in regard to the Exchange related activities of such employees and agents; 6) regular firms; 7) individuals and entities that have agreed in writing to comply with the rules of the Exchange; and 8) CME members and other individuals who have access to the combined CBOT and CME trading floors.¹

Members are deemed to know, consent to and be bound by all Exchange rules. Former Members shall be subject to the continuing jurisdiction of the Exchange, including, without limitation, the application of Rule 432.L., with respect to any conduct that occurred while a Member.

401. THE CHIEF REGULATORY OFFICER

It shall be the duty of the Chief Regulatory Officer to enforce Exchange rules, and he shall have available to him at all times the resources of the Market Regulation Department and such other Exchange resources as may be necessary to conduct investigations of alleged rule violations and market conditions. The Chief Regulatory Officer shall have the authority to inspect the books and records of all Members and the authority to require any Member to appear before him and produce his or its books and records and answer questions regarding alleged violations of Exchange rules. The Chief Regulatory Officer may also delegate such authority to staff of the Market Regulation Department.

402. BUSINESS CONDUCT COMMITTEE

402.A. Jurisdiction and General Provisions

The Business Conduct Committee ("BCC") shall have: 1) jurisdiction over Members with respect to matters relating to conduct, trading practices, sales practices, trading ethics and market manipulations or other actions that threaten the integrity of the market; 2) the authority, pursuant to Rule 402.C., to take emergency actions; 3) the authority, pursuant to Rule 402.D., to take actions against non-members; 4) the authority, pursuant to Rule 413.B., to conduct hearings on denials of access pursuant to Rule 413.A., and 5) the authority to conduct hearings on all matters over which it has jurisdiction.

The BCC shall act through a Panel composed of a chairman, three Exchange members or employees of member firms and three non-members. A quorum of a Panel shall consist of a majority of the panel, but must include at least two members or employees of member firms and two non-members.

Any Panel that conducts a hearing or proceeding shall consist of panelists who possess sufficiently diverse interests so as to ensure fairness.

No person shall serve on the BCC unless he has agreed in writing that he will not publish, divulge, or make known in any manner, any facts or information regarding the business of any person or any other information which may come to his attention in his official capacity as a member of the BCC, except when reporting to the Board or to a committee concerned with such information or to the Legal Department or Market Regulation Department, when requested by the CFTC or other governmental agency or when compelled to testify in any judicial or administrative proceeding.

All information and documents provided to the BCC and all deliberations and documents related thereto

¹ Revised April 2008.

shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further an Exchange investigation or as required by law.

402.B. Hearings

Hearings by the BCC shall be before a Panel, and shall be conducted by a chairman of the BCC in accordance with the provisions of Rule 408.

If a Member is found guilty, by a majority vote, the Panel may do one or more of the following:

1. Order the Member to cease and desist from the conduct found to be in violation of the rules;
2. Order the Clearing Member or other Member to liquidate such portion of the open contracts in the Clearing Member's or other Member's proprietary or customers' accounts, or both, as the Panel deems appropriate to ensure the integrity of Exchange contracts or to ensure an orderly and liquid market;
3. Order the Clearing Member or its customer to deposit such additional performance bonds with the Clearing House as the Panel deems appropriate to protect the integrity of open contracts;
4. Prescribe such additional capital or other financial requirements as it deems appropriate;
5. Restrict the privilege of being affiliated with, or having an interest in, a broker association or guaranteed introducing broker and/or suspend the trading floor access and/or the right to associate with a Member;
6. Restrict the Member's access to the Globex platform or to supervise the entry of any orders into the Globex platform by others;
7. Restrict the Member's access to the combined CBOT and CME trading floors¹;
8. Restrict the Member's ability to trade or enter orders in any or all Exchange products;
9. Suspend any or all of the privileges of membership;
10. Expel the member;
11. Impose a fine upon the Member not to exceed \$1,000,000 per violation plus the amount of any benefit received as a result of the violation;
12. Issue a reprimand;
13. Prescribe limitations on positions of the Member as may be appropriate;
14. Impose advertising restrictions upon the Member pursuant to these rules; and/or
15. Direct the Member to make restitution, in such amount as is warranted by the evidence, to the account of any party damaged by the conduct, or to the Clearing Member who has previously made restitution to the account of such party.
16. Revoke the regularity status of a regular firm.

The Panel may also find that the evidence warrants an adjustment to the account of a party where a Member, though not in violation of an Exchange rule, has not fulfilled his or its responsibility for proper execution of such party's order.

When determining whether to impose any of the sanctions listed above, the Panel may consider any factors determined by the Panel to be relevant in the context of a particular case, including any of the factors described in the "Sanctioning Guidance to Self-Regulatory Organizations" in the CFTC Policy Statement Relating to the Commission's Authority to Impose Civil Money Penalties and Futures Self-Regulatory Organizations' Authority to Impose Sanctions: Penalty Guidelines (1994).

If the Panel shall decide by a majority vote that the matter might warrant a penalty in excess of its own authority, the chairman of the Panel shall refer the matter to the Board for further hearings and decision.

402.C. Emergency Actions

1. The BCC is authorized to determine whether an emergency exists and whether emergency action is warranted. The following events and/or conditions may constitute emergencies:
 - a. Any actual, attempted, or threatened market manipulation;
 - b. Any actual, attempted, or threatened corner, squeeze, congestion, or undue concentration of positions;
 - c. Any action taken by the United States or any foreign government or any state or local government body, any other contract market, board of trade, or any other exchange or trade association (foreign or domestic), which may have a direct impact on trading on the Exchange;

¹ Revised April 2008.

In submitting a settlement offer, the respondent waives his right to a hearing and to appeal the CHRC's decision if the offer is accepted; the respondent also waives any claim of bias or prejudice on the part of the CHRC. If a respondent submits an offer within 14 days of a scheduled BCC hearing on the charges, or after the BCC hearing has begun, the offer shall not stay the BCC hearing unless otherwise determined by the chairman of the BCC. Any settlement offer submitted within 14 days of a scheduled BCC hearing will be directed to the BCC in the first instance. The BCC may determine to accept or reject the settlement offer, or the BCC may refer the settlement offer to the CHRC, in which case the CHRC will determine whether to accept or reject the offer.

403.C. Emergency Actions

1. The CHRC is authorized to determine whether an emergency exists and whether emergency action is warranted. The following events and/or conditions may constitute emergencies:
 - a. Any circumstances which may materially affect the performance of contracts traded on the Exchange, including failure of the payment system;
 - b. Any action taken by the United States or any foreign government or any state or local government body, any other contract market, board of trade, or any other exchange or trade association (foreign or domestic), which may have a direct impact on trading on the Exchange;
 - c. The actual or threatened bankruptcy or insolvency of any Member or the imposition of any injunction or other restraint by any government agency, court or arbitrator upon a Member of the Exchange which may affect the ability of that Member to perform on its contracts;
 - d. Any circumstance in which it appears that a Member or any other person or entity has failed to perform contracts, is insolvent, or is in such financial or operational condition or is conducting business in such a manner that such person or entity cannot be permitted to continue in business without jeopardizing the safety of customer funds, Members, and/or the Exchange; and/or
 - e. Any other circumstances which may have a severe, adverse effect upon the functioning of the Exchange.
2. In the event that the CHRC determines, in the good faith exercise of its sole discretion, that an emergency exists, it may take any of the following emergency actions or any other action that may be appropriate to respond to the emergency:
 - a. Order the Clearing Member or his customer to deposit such additional performance bond with the Clearing House as deemed appropriate to protect the integrity of open contracts;
 - b. Prescribe such additional capital requirements as it deems appropriate;
 - c. Prescribe such position limitations as it deems appropriate;
 - d. Order special or advance performance bond or funds to be deposited with the Clearing House from Members or from longs, shorts or both; and/or
 - e. Order such performance bond changes as it deems appropriate.

All actions taken pursuant to this subsection shall be by majority vote of the committee members present. A Member affected by the action taken shall be notified in writing of such action. As soon as practicable, the Board and the CFTC shall be promptly notified of the emergency action in accordance with CFTC regulations. Nothing in this section shall in any way limit the authority of the Board, other committees, or other appropriate officials to act in an emergency situation as defined by these rules.

403.D. Appeal of Administrative Fines

Appeals of administrative fines in excess of \$25,000, imposed pursuant to Rule 852, shall be heard by a panel comprised of a co-chairman and three members of the CHRC. The panel's decision shall be final. The appellant shall be advised of its right to appear at the hearing and of its right to be represented by legal counsel or a member of the Exchange, other than a member of the CHRC, a member of the Board or an employee of the Exchange. The appellant may present evidence in support of its appeal. The panel shall not set aside, modify or amend the decision appealed from unless the panel determines by a majority vote that the decision was:

1. Arbitrary, capricious, or an abuse of Exchange staff's discretion;
2. In excess of Exchange staff's authority or jurisdiction; or
3. Based on a clearly erroneous application or interpretation of Exchange rules.

404. PIT COMMITTEE

The Pit Committee shall have the authority to: 1) participate in the determination of opening and closing ranges in accordance with Rule 546; 2) oversee and enforce changes in prices in accordance with Rule

528; 3) resolve pit space disputes; 4) remove unauthorized persons from the pit; 5) resolve, by immediate action, all grievances arising from price infractions pursuant to Rule 514 during pit trading; and 6) issue charges for alleged violations of Rule 514.

To the extent that Pit Committee members participate in the creation of settlement prices, they agree to assign and transfer to the Exchange any and all right, title and interest in and to the settlement prices, including, but not limited to, all copyrights in the settlement prices.

A Pit Committee member shall not exercise his authority if he or any person, firm, or broker association with which he is affiliated has a personal, financial, or other direct interest in the matter under consideration. A Pit Committee member shall be deemed to have a financial interest if the decision is likely to have an immediate financial impact on a transaction for his account or an account in which he has an interest or if the decision is likely to impact on liability for filling an order for which he or a person with whom he has a financial or business relationship was responsible.

405. FLOOR CONDUCT COMMITTEE

The Floor Conduct Committee shall be responsible for resolving pit space disputes that are not resolved by the Pit Committee. The committee shall conduct summary proceedings for alleged violations of Rule 514. Floor Conduct Committee members shall participate in the resolution of quotation change requests pursuant to the Quotation Change Procedures set forth in the Appendix to Chapter 5. The Floor Conduct Committee shall have jurisdiction to conduct summary proceedings for violations of, and assess penalties in accordance with, Exchange rules. The procedures contained in Rule 409 shall govern summary proceedings.

406. PROBABLE CAUSE COMMITTEE

The Probable Cause Committee ("PCC") shall receive and review investigation reports from the Market Regulation Department. The PCC shall act through a Panel comprised of a chairman, three Exchange members or employees of member firms and three non-members. A quorum of a Panel shall consist of a majority of the Panel, but must include at least two members or employees of member firms and two non-members.

Each Panel shall consist of panelists who possess sufficiently diverse interests so as to ensure fairness. The PCC shall have the power to compel any Member to appear before it and to produce all books and records relevant to the subject matter under investigation. No Member shall have the right to appear before the PCC.

A Panel shall endeavor to review an investigation report prepared by the Market Regulation Department within 30 days of receipt of a report the Panel deems to be complete. The Panel shall, by majority vote, take one of the following actions: If the Panel determines that disciplinary action is unwarranted it shall direct that no further action be taken or that a warning letter be issued. If the Panel determines that a reasonable basis exists for finding that a violation of an Exchange rule may have occurred which may warrant disciplinary action, it shall issue appropriate charges. The Panel shall direct the Market Regulation Department to give notice of the charges to the respondent in accordance with Rule 407.B. and to the appropriate BCC Panel chairman.

The Market Regulation Department may appeal to the Board any refusal by a Panel to issue those charges requested by the Market Regulation Department. If such an appeal is requested, the Board shall conduct a hearing on the matter in accordance with the procedures in Rule 411.

No person shall serve on the PCC unless he has agreed in writing that he will not publish, divulge or make known in any manner, any facts or information regarding the business of any person or entity or any other information which may come to his attention in his official capacity as a member of the PCC, except when reporting to the Board or to a committee concerned with such information or to the Legal Department or Market Regulation Department, when requested by the CFTC or other governmental agency or when compelled to testify in any judicial or administrative proceeding.

All information and documents provided to the PCC and all deliberations and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further an Exchange investigation or as required by law.

407. INITIAL INVESTIGATION, ASSIGNMENT FOR HEARING AND NOTICE OF CHARGES

The Market Regulation Department shall investigate alleged rule violations. Investigations and all information and documents obtained during the course of an investigation shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further an Exchange investigation or as required by law. The Market Regulation Department is authorized to record interviews conducted pursuant to an Exchange investigation.

The Market Regulation Department may take oral depositions of witnesses during an investigation. The Member under investigation shall be given at least five days written notice of the time of the deposition and place where the witness will be deposed, which may be at any location within the United States. The Member under investigation shall have the right to be present in person or by representative at the oral deposition, with right of cross-examination. All oral depositions of witnesses shall be taken under oath, before an officer qualified in the place of the deposition to administer oaths, and the complete testimony of the witnesses shall be transcribed by such officer or by a person under his supervision. Oral depositions taken in accordance with this rule shall be admissible in evidence at any hearing of the Board of Directors or a committee, reserving to the Member under investigation the right to object at the hearing to the relevancy or materiality of the testimony contained therein.

Upon conclusion of an investigation, the Market Regulation Department may issue a warning letter to the Member under investigation. Such letter shall not constitute either the finding of a rule violation or a penalty.

If the Market Regulation Department has reasonable cause to believe an offense has occurred which should be dealt with by a panel of the BCC ("BCC Panel"), it shall request a panel of the PCC ("PCC Panel") to convene to consider its recommendation for charges. The Market Regulation Department's presentation to the PCC Panel shall not constitute an ex parte communication as described in Rule 417.

407.A. Investigation File

The Market Regulation Department shall maintain a file once an investigation is initiated. The file shall include any materials in the possession of the Market Regulation Department that may be relevant to the conduct being investigated. A member charged with a violation of the rules shall have the right to review the evidence in the investigation file relevant to the issued charges but shall not be entitled to review privileged work product and attorney-client communications. In any matter in which a PCC Panel issues charges, the investigation file shall include an investigation report prepared by the Market Regulation Department. The investigation report is privileged work product and is neither discoverable by a respondent in disciplinary proceedings nor subject to review by a respondent as part of the investigation file. Production of the investigation report to a PCC Panel shall not constitute a waiver of the privileged nature of the investigation report.

407.B. Notice of Charges; Opportunity for Hearing

The notice of charges shall set forth the alleged misconduct and the rule(s) alleged to have been violated, and shall advise the respondent regarding the submission of a responsive answer to each charge in accordance with Rule 407.C. Further, the notice shall advise the respondent that the matter will be heard by a BCC Panel and of the time and place for the hearing, if known. The respondent shall also be advised of his right to appear personally at the hearing and of his right to be represented by legal counsel or a member of the Exchange, other than a member of the charging or hearing committee, a member of the Board or an employee of the Exchange. A respondent may waive his right to a hearing within 10 days of receipt of the notice of charges.

A respondent who elects to waive his right to a hearing on the charges will be notified of the date on which the BCC Panel will render its decision. Upon a finding of guilt on any charge, the BCC Panel will promptly determine what penalties, if any, are to be imposed and their effective date. A respondent who has waived his right to a hearing and/or admitted the charges against him will be advised of his right to participate in the hearing solely with respect to the penalty.

407.C. Answer to Charges

The respondent shall have 21 days after notice to submit a written answer to the charges. Upon a showing of good cause, the BCC Panel chairman may extend the period of time in which the respondent is required to submit his answer. The answer must state that the respondent admits, denies, or lacks sufficient knowledge to admit or deny each charge. A statement of lack of sufficient knowledge shall be deemed a denial. Any charge not denied in whole or in part shall be deemed admitted, and the failure to file a timely answer may be deemed an admission to the charges. If all the charges are admitted, the respondent shall be deemed to waive his right to a hearing on the charges and the BCC Panel shall find that the violations alleged in the notice have been committed. The BCC Panel will determine the penalty, if any, to be imposed at a hearing, due notice of which will be provided to the respondent. The respondent shall be advised of his right to appear personally at the penalty hearing and advised of his right to be represented by legal counsel or another member of the Exchange, other than a member of the charging or hearing committee, a member of the Board or an employee of the Exchange.

If an answer contains both an admission to one or more charges and a denial of one or more charges, the BCC Panel will consider the penalties which may be imposed for the admitted charges at the same time as the charges denied by the respondent are considered.

408.

CONDUCT OF HEARINGS

408.A. General

All disciplinary proceedings conducted before a panel of the BCC or before a hearing panel of the Board of Directors (collectively, "Panel") shall be conducted in accordance with the following procedures. Hearings shall be fair. The respondent shall have the right to appear personally at the hearing and to be represented by legal counsel or a member of the Exchange, other than a member of the charging or hearing committee, a member of the Board or an employee of the Exchange. The Panel or its chairman shall have the power to compel any Member to attend, testify and/or produce evidence in connection with the hearing. Parties to the hearing may request the Panel chairman to strike any panelist for good cause shown. The Panel chairman may then excuse such panelist and direct that an alternate panelist be appointed.

408.B. Pre-Hearing

1. Procedural and Evidentiary Matters

The Panel chairman may require a pre-hearing conference.

The Panel chairman shall have the authority to decide all procedural and evidentiary matters and all pre-hearing motions, and the chairman's decision shall be final. Notwithstanding the preceding sentence, a motion to dismiss any or all of the charges may be granted only by the Panel. The Market Regulation Department may appeal to the Board any decision of the Panel to grant such a motion. If such an appeal is requested, the Board shall conduct a hearing on the matter in accordance with the procedures in Rule 411.

Pre-hearing motions must be submitted in writing to the BCC's counsel and a copy shall also be provided to the Market Regulation Department. Motions to dismiss any or all of the charges must be submitted at least 21 days in advance of the originally scheduled hearing date and a copy shall also be provided to the Market Regulation Department. Upon receipt, the Market Regulation Department shall have seven days to submit a written response to the BCC's counsel, and shall provide a copy to the respondent.

Prior to the hearing, the respondent may examine all evidence which is to be relied upon by the Market Regulation Department during the hearing, or which is relevant to the charges. However, the respondent shall not be entitled to examine privileged work product, attorney-client communications or the investigation report. The respondent may obtain a copy of all such evidence, and any copying costs shall be the sole responsibility of the respondent. A respondent who seeks documents that are not in the possession of the Market Regulation Department may request the documents from their custodian. The Market Regulation Department is not required to produce or obtain any documents that are not in its possession. Upon a showing of good cause, the respondent may petition the Panel chairman to compel the production of documents by a custodian, provided that the custodian is subject to the jurisdiction of the Exchange, the custodian has refused voluntarily to provide the documents, and the documents are relevant to the charges. The Market Regulation Department may object, in whole or in part, to any such petition.

The issuance of charges shall not restrict the Market Regulation Department from further investigating the activity underlying the charges or investigating other potential violations by the respondent.

2. Submission of Documents and Identification of Witnesses by Respondent

At least 10 days in advance of the hearing, the respondent shall submit to the Market Regulation Department copies of all documents and records upon which the respondent plans to rely at the hearing, and provide a list of, and make available for inspection by the Market Regulation Department, all books, records, names of witnesses and other tangible evidence upon which the respondent plans to rely at the hearing. The Panel may refuse to consider any books, records, documents or other tangible evidence which was not made available to, or witnesses whose names were not submitted to, the Market Regulation Department pursuant to this section.

408.C. Settlement Offers

A respondent that is the subject of an investigation or charges may submit for consideration by the Panel a written offer of settlement in disposition of such investigation or charges. However, the CHRC will determine whether to accept or reject any settlement offer with respect to charges issued by the CHRC submitted more than 14 days before a scheduled BCC hearing, pursuant to Rule 403.B.

A respondent may submit a settlement offer without admitting or denying the rule violations upon which the penalty is based; provided, however, that an offer must include a consent to entry of findings by the Panel regarding the conduct and rule violations at issue and to the penalty to be imposed.

If the Market Regulation Department does not oppose the respondent's offer of settlement, the

respondent's written offer of settlement and the Market Regulation Department's supporting statement shall be submitted to the Panel for consideration.

If the Market Regulation Department opposes the respondent's offer of settlement, then following the issuance of any charges by the PCC, the respondent may submit a written offer of settlement for consideration by the Panel. In considering whether to accept the respondent's offer, the Panel shall examine the respondent's written offer of settlement and the Market Regulation Department's written opposition thereto.

The respondent may withdraw his offer at any time prior to final acceptance of the offer by the Panel. If the Panel accepts the offer, a written decision setting forth the Panel's findings and sanction shall be issued, and written notice of the decision shall be given to the respondent.

If the Panel rejects the offer, the respondent will be notified of the rejection and the offer will be deemed withdrawn. If an offer is withdrawn or rejected by the Panel, the respondent shall not be deemed to have made any admissions by reason of the offer and shall not otherwise be prejudiced by having submitted the offer.

The Panel chairman may decline to convene the Panel to consider a settlement offer. Upon consent by the respondent, any hearing that follows a rejected settlement offer will be heard by the same Panel.

In submitting a settlement offer, the respondent waives his right to a hearing and to appeal the Panel's decision if the offer is accepted; the respondent also waives any claim of bias or prejudgment on the part of the Panel. If a respondent submits an offer within 14 days of a scheduled hearing on the charges, or after the hearing has begun, the offer shall not stay the hearing unless otherwise determined by the Panel chairman.

408.D. Hearings

The Market Regulation Department shall be a party to the hearing and shall present evidence on the charges. The Market Regulation Department and the members of the Panel may question any witness and examine all the evidence stipulated to or presented at the hearing. The respondent shall be entitled to appear personally, testify, produce evidence, call witnesses on his own behalf and cross-examine any witness. The Market Regulation Department bears the burden of establishing the basis for a finding of guilt on any charge by a preponderance of the evidence. Formal rules of evidence shall not apply.

All testimony and documents produced in connection with a disciplinary hearing shall be deemed non-public and confidential and shall not be disclosed except in connection with proceedings resulting from that hearing or as required by law. A recording or other substantially verbatim record of the hearing shall be made and become part of the record of the proceeding. If a respondent requests a transcript, he shall be solely responsible for the cost of producing the transcript.

A majority vote of the Panel is required for a finding of guilt. A respondent that is found not guilty shall not again be charged with or tried for the same underlying conduct. In the event of a finding of guilt, the Panel may request additional information or argument from the parties as to the appropriate nature and amount of a sanction prior to determining such sanction. In the absence of exceptional circumstances, as determined by the Panel chairman, such argument shall proceed immediately upon the conclusion of the evidence and determination of the committee.

408.E. Decisions

Promptly following a hearing, the respondent shall be issued a written decision of the Panel's findings, which shall include: the notice of charges (or a summary thereof); the answer to the charges, if any (or a summary thereof); a brief summary of the evidence produced at the hearing; a statement of findings and conclusions with respect to each charge, including the specific rules which the respondent is found to have violated; a declaration of any penalty imposed and the effective date of such penalty; and the availability, if any, of an appeal of the decision within the Exchange or to the Commodity Futures Trading Commission.

409. SUMMARY PROCEEDINGS BEFORE THE FLOOR CONDUCT COMMITTEE

409.A. Jurisdiction

A member of the Pit Committee, a member of the Floor Conduct Committee, or a designated representative of the Market Regulation Department shall have the authority to issue charges against an individual with respect to trading infractions as set forth in Rule 514. A panel of the Floor Conduct Committee shall have authority to conduct summary proceedings with respect to charges under Rule 514.

Charges against an individual shall be issued by filing the appropriate forms with the Market Regulation Department and by giving a copy to the respondent.

409.B. Selection of the Panel

For proceedings before the Floor Conduct Committee, the Chief Regulatory Officer or his designee, in consultation with a Floor Conduct Committee Co-Chairman, shall select a panel consisting of three additional members of the Floor Conduct Committee, which may include other Co-Chairmen of the committee. The Chief Regulatory Officer shall endeavor to rotate the members serving on the panels.

No panelist may serve on the particular panel if he or any person, firm, or broker association with which he is affiliated has a personal, financial, or other direct interest in the matter under consideration.

409.C. Conduct of Summary Proceedings¹

A summary proceeding before the Floor Conduct Committee shall be conducted in a fair and impartial manner.

A summary proceeding before the Floor Conduct Committee shall take place as soon as practicable after the issuance of charges. The proceeding will not be recorded. The respondent shall be entitled to appear personally and answer the charges issued. Respondents and witnesses may not be represented by counsel at a summary proceeding. However, an employee without membership privileges who is a respondent may be represented by a single representative of his employer. A panel shall decide by a majority vote whether the individual is guilty of the violation or offense charged. If the accused individual is found guilty, a panel may impose fines in accordance with Exchange rules. A witness who fails to appear at a summary proceeding after being directed to do so by the Chairman of the panel or by staff may be charged with a violation of Rule 432.

If a panel of the Floor Conduct Committee, by a majority vote, decides that the matter is of major importance or might warrant a penalty in excess of its own authority, the Chairman of the Panel shall refer the matter to the PCC and shall inform the individual of this referral in writing.

409.D. Appeals

An individual found guilty of an offense who receives a fine greater than \$1,000 may, within 10 days of the decision, file a written appeal of the decision with the Market Regulation Department. A written appeal that fails to specify the grounds for the appeal and the specific error or impropriety of the original decision shall be dismissed by the Chief Regulatory Officer. The appeal shall be heard by a Panel of the BCC ("BCC Panel") whose decision shall be final. The appellant shall be entitled to be represented by counsel, appear personally before the BCC Panel and present evidence that he may have in support of his appeal. The BCC Panel shall not set aside, modify or amend the appealed decision unless it determines, by majority vote, that the decision was:

1. Arbitrary, capricious, or an abuse of the committee's discretion;
2. In excess of the committee's authority or jurisdiction; or
3. Based on a clearly erroneous application or interpretation of Exchange rules.

410. HEARINGS BEFORE A HEARING PANEL OF THE BOARD OF DIRECTORS

Whenever a hearing is scheduled to be held before a hearing panel of the Board ("Panel"), the Chairman of the Board shall appoint a director to serve as the Panel chairman, who shall conduct the hearing, and two additional directors to serve on the Panel. One of these directors shall be a non-member. A majority decision by the Panel shall be considered the action of the Board as a whole.

Each Panel that conducts a hearing or proceeding shall consist of directors that possess sufficiently diverse interests so as to ensure fairness. In a disciplinary matter, the hearing shall be conducted in accordance with the provisions of Rule 408.

No member of the Board may serve on a particular Panel if he participated on the charging committee or has a personal, financial or other direct interest in the matter under consideration or is a member of the same broker association as the respondent.

411. APPEAL TO A HEARING PANEL OF THE BOARD OF DIRECTORS

The Market Regulation Department may request an appeal to a hearing panel of the Board ("Appellate Panel") regarding any decision of or sanction imposed by the BCC, or any refusal by the PCC to issue those charges requested by the Market Regulation Department, by filing a request for an appeal with the Exchange Legal Department within 10 business days after receiving notice of such decision, sanction or refusal. Filing of a request for an appeal by the Market Regulation Department shall stay any decision that is appealed unless the Chairman of the Board or the chairman of the BCC Panel from which the appeal is taken specifically directs that the decision is not stayed pending appeal.

¹ Revised June 2008.

a Member to accept or transmit a customer order which has not been specifically authorized, i.e., the customer has not specified commodity, contract month, quantity, time and price;

- V. to be expelled from a U.S. or foreign designated commodities or securities exchange;
- W. for a Member to fail to diligently supervise its employees and agents in the conduct of their business relating to the Exchange;
- X. for a Member to aid or abet the commission of any offense against the Exchange;
- Y. to improperly use the Globex platform or permit the unauthorized use of the Globex platform; and/or
- Z. for a Member to fail to disclose to the Exchange and his qualifying Clearing Member that an involuntary bankruptcy petition has been filed against him or, in the case of a voluntary bankruptcy proceeding, that he has filed or has formed a definite intention to file for bankruptcy.

433.-434. [RESERVED]

435. EFFECT OF SUSPENSION OR EXPULSION

The effects of a suspension or expulsion from membership shall apply to all Exchange markets in which the suspended or expelled member is eligible to trade.

Unless otherwise determined by the committee with jurisdiction over such matters, a suspended or expelled Member shall not be entitled to any of the privileges of membership during the period of such suspension or expulsion, including, but not limited to, the right to:

- A. access the Exchange floor or the Globex platform;
- B. obtain member rates;
- C. any applicable cross-exchange trading privileges; and
- D. lease out an owned membership.

436. [RESERVED]

437. NOTICE OF DISCIPLINE

Notice, in accordance with Section 8c(a)(2) of the Commodity Exchange Act, shall be made available to an internet accessible computer database at the National Futures Association and shall be provided to any Member who is suspended, expelled, disciplined or denied access to the Exchange within 30 days after the decision becomes final. Additionally, a written notice shall be posted on the floor of the Exchange for five business days promptly after the disciplinary action becomes effective. The notice shall include the Member's name, the rule(s) violated, the reason for the Exchange's action, and the action taken or penalty imposed.

438. [RESERVED]

439. MEMBER'S INDEMNIFICATION LIABILITY

A Member or former Member shall indemnify and hold harmless the Exchange and CME Group, Inc., including each of their respective subsidiaries and affiliates (collectively, the indemnified parties) and their officers, directors, employees, and agents, for any and all losses, damages, costs and expenses (including attorneys' fees) incurred by the indemnified parties as a result (directly or indirectly) of such Member's violation or alleged violation of Exchange rules or state or federal law.

Any charges arising out of this rule shall be subject to liens as provided in Rule 110(a).

440. CLAIMS BY MEMBERS

A Member who commences a legal action against the Exchange, its directors, officers, employees, or agents, or another Member of the Exchange without first resorting to and exhausting the procedures established by Rule 110 and the mandatory arbitration provisions of Chapter 6 (including appeals to the Board), or any other rules relating to settlement of disputes arising out of transactions or matters pertaining to the Exchange shall be deemed to have committed an act detrimental to the interest or welfare of the Exchange. This rule shall not abrogate an individual's right to reparations pursuant to Section 14 of the Commodity Exchange Act.

A Member who commences a legal action against the Exchange, its directors, officers, employees, or agents, after he has exhausted all of the procedures established by the Exchange, may be found to have committed an act detrimental to the interest or welfare of the Exchange in the event that at hearing the Board or the BCC determines that the Member's action was not meritorious or warranted.

441. COMMUNICATIONS WITH THE PUBLIC AND PROMOTIONAL MATERIAL

**CHAPTER 5
TRADING QUALIFICATIONS AND PRACTICES**

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 - FLOOR PRIVILEGES**
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507.B. Terms and Conditions of Use

The Exchange may, in its sole discretion, impose restrictions on the use of any authorized electronic device by any Member. The Exchange may limit, suspend or terminate any Member's right to use any authorized electronic device at any time, without prior notice and without any liability to the Exchange.

The Exchange shall have the right, at any time, to audit the use of any authorized electronic device by any Member.

The Exchange accepts no responsibility for loss, theft or damage to any equipment authorized for use by a Member on Exchange premises.

507.C. Electronic Surveillance

The Exchange may intercept and record any electronic communication received or sent from the trading floor to ensure compliance with Exchange Rules. Exchange members, their employees, and all others who are granted access to the trading floor consent, as a condition of their membership, employment, or access to the floor, to the interception, recording, and use of any such communication.

507.D. Personal Electronic Devices

Personal electronic handheld information devices including, but not limited to, cell phones, personal digital assistants (PDAs) and other devices with instant messaging capability may be used on the trading floor only for non-business purposes, except that members may use such devices to place orders for their own account provided the member complies with all audit trail requirements. Such devices must not interfere with any Exchange system.

507.E. Cameras and Video Equipment

Unless authorized by the Exchange, the use of any type of camera or video equipment on the trading floor is prohibited.

508. GIVING AND RECEIVING OF GRATUITIES

A member, member firm, broker association, trading group or an employee of any of the foregoing may not give, directly or indirectly, to any employee of another member, member firm, broker association or trading group any gratuities or gifts with an aggregate market value in excess of \$100 within any twelve-month period.

This rule applies notwithstanding any internal policy of an entity that allows for gifts in excess of \$100. The requirements of this rule apply to both the providers and the recipients of such gifts and gratuities.

509. [RESERVED]

TRADING QUALIFICATIONS AND REGULATIONS

510. REQUIREMENTS FOR MEMBERS AND THEIR EMPLOYEES ON THE TRADING FLOOR

All members and their employees on the trading floor shall satisfy all orientation requirements of the Exchange. All members seeking to act as a floor broker, floor trader, or in any other capacity requiring registration pursuant to the Commodity Exchange Act, must be registered in accordance with applicable CFTC regulations.

A member shall be prohibited from engaging in activities requiring registration under the Commodity Exchange Act or from representing himself to be a registrant under the Commodity Exchange Act or the representative or agent of any registrant if such member's floor broker or floor trader registration is suspended by the CFTC or if the Exchange has suspended such member's privilege to act as a floor broker or floor trader on the Exchange.

All members registered with the CFTC must report any changes to such status in accordance with applicable CFTC regulations and must promptly notify the Shareholder Relations and Membership Services Department of any such changes.

511. QUALIFIED TRADERS AND BROKERS

No member shall be permitted to execute a pit transaction or an allowable privately negotiated transaction on the Exchange unless he is qualified to do so by a clearing member.

A member shall place all trades, including trades for his own account or any account which he controls, on the books of his qualifying clearing member unless written authorization to the contrary from said clearing member has been filed with the Shareholder Relations and Membership Services Department. Regardless of such authorization, a member in a deficit position with any clearing member shall place trades only through his qualifying clearing member. Any non-qualifying clearing member that carries a member's account in a deficit position shall promptly notify the clearing member that is qualifying such

member.

All trades initiated for a member's account, an account which he controls or an account in which he has a proprietary interest shall be disclosed on the books of a clearing member.

A member who believes his qualifying clearing member is unreasonably withholding a release necessary to permit the member to be qualified by a different clearing member may request a hearing before a Panel of the Business Conduct Committee ("Panel") pursuant to the applicable provisions of Rule 408. The Panel may, in its sole discretion, remand a dispute concerning the validity of a signed non-compete agreement between the parties to arbitration pursuant to Rule 600.A. Either party may petition the arbitration chairman for expedited handling of the matter pursuant to Rule 613.

The Panel may assess attorneys' fees and the administrative costs of the proceeding against one or both of the parties if it determines that a claim or defense was frivolous or filed in bad faith.

511.A. Floor Trading

A clearing member may, without prior notice, revoke a member's authorization to trade by written revocation filed with the Shareholder Relations and Membership Services Department. Such revocation shall be effective and the member's qualification to trade shall terminate when notice of the disqualification is posted on the Exchange floor. A member shall not appear upon the floor of the Exchange until he has been requalified. A member who has been disqualified shall promptly return his membership badge to the Shareholder Relations and Membership Services Department.

511.B. Globex Trading

Unless otherwise specified by a member's qualifying clearing member, a member suspended from entering orders through Globex shall not be disqualified from pit trading.

In the case of a member who has Globex access guaranteed by a clearing member other than his qualifying clearing member, the qualifying clearing member may terminate the member's ability to place orders through Globex by notifying the clearing member providing the member access to Globex. The clearing member providing the access to Globex will be responsible for ensuring that the member does not place orders through Globex.

512. [RESERVED]

513. CONDUCT, APPAREL AND BADGES

513.A. General

Members and their employees are expected to conduct themselves on Exchange premises with dignity and integrity in order to maintain a safe workplace and the efficiency and good name of the Exchange. Members and their employees shall refrain from excessive speed in moving about the trading floors, and shall be respectful of all others on Exchange premises and shall abide by Exchange policy concerning access, conduct, and appearance. Members and their employees, while on the trading floors, shall be professionally attired in accordance with Exchange policy, and shall wear jackets bearing identification badges issued by the Exchange. Members and their employees not professionally attired in accordance with Exchange policy may be barred or removed from the trading floors. Refreshments and smoking are forbidden on the trading floors at all times.

513.B. Sanctions

1. Designated Exchange officials may impose fines on members or their employees for violations of the Exchange policy concerning access, conduct, and appearance. Fines imposed pursuant to Rule 513.B.1. are final and may not be appealed.
2. A fourth violation of the Exchange policy concerning access, conduct, and appearance within a rolling 18-month period will be subject to a \$1,000 fine.
3. A fifth or subsequent violation of the Exchange policy concerning access, conduct, and appearance within a rolling 18-month period will be referred to a summary proceeding before a Panel of the Floor Conduct Committee. The Panel may impose a fine not to exceed \$5,000 per violation.
4. Notwithstanding any other provision in this Rule, the Chief Regulatory Officer shall have the authority to impose a fine not to exceed \$5,000 per offense on members and their employees for egregious violations of Rule 513.A.
5. The Market Regulation Department, at its discretion, may refer any alleged violation of Rule 513 to the Probable Cause Committee for consideration of charges.

513.C. Hearings and Appeals

An individual fined pursuant to Rule 513.B.2., 3. or 4. may, within 10 days of the decision, file a written appeal with the Market Regulation Department. A written appeal that fails to specify the grounds for the

appeal and the specific error or impropriety of the original decision shall be dismissed. The appeal shall be heard by a Panel of the Business Conduct Committee ("BCC Panel") whose decision shall be final. The appellant shall be entitled to be represented by counsel, appear personally before the BCC Panel and present evidence that he may have in support of his appeal. The BCC Panel shall not set aside, modify or amend the appealed decision unless it determines, by majority vote, that the decision was:

1. Arbitrary, capricious, or an abuse of the Panel's or Exchange staff's discretion;
2. In excess of the Panel's or Exchange staff's authority or jurisdiction; or
3. Based on a clearly erroneous application of Exchange rules.

514. TRADING INFRACTIONS

A written complaint concerning a trading infraction pursuant to Rule 514.A. may be initiated by members, member firms, trading floor employees of members or member firms or staff of the Exchange. Charges shall be issued and hearings shall be conducted for violations of this rule in accordance with Rule 409.

514.A. Definition

The following shall constitute trading infractions:

1. a bid or offer out of line with the market;
2. a bid or offer which tends to confuse the other traders;
3. a trade through the existing bid or offer;
4. failure to confirm a transaction;
5. failure of a buyer and seller to properly notify the pit reporter of transaction prices in accordance with Rule 528 and/or failure to ascertain that such prices are properly recorded;
6. use of profane, obscene or unbusinesslike language on the trading floor;
7. use of undue force while on, entering or leaving the trading floor;
8. conduct which tends to confuse, distract, abuse or intimidate any Exchange employee;
9. conduct of an unbusinesslike nature;
10. failure to defer to a member who has clearly turned the market;
11. failure to indicate a quantity on a bid or offer; and
12. disseminating false, misleading or inaccurate quotes.

514.B. Floor Conduct Committee Fining Authority

A Panel of the Floor Conduct Committee that finds a member or his employee guilty of violating Rule 514 may impose a fine of up to \$10,000 per offense on such member or employee, except that an egregious violation of Rule 514.A.6., 7., 8. or 9. may result in a fine of up to \$20,000. Notwithstanding the above, the total fine levied by a Panel against a respondent may not exceed \$20,000 based on the single issuance of charges.

The following non-binding schedule of fines may be used by Panels of the Floor Conduct Committee with respect to members or their employees found guilty by a Panel of non-egregious trading infractions:

First offense	a letter of warning and/or a fine not to exceed \$2,500
Second offense within a rolling one-year period	a fine of at least \$1,000, but not to exceed \$5,000
Third offense within a rolling one-year period	a fine of at least \$2,500, but not to exceed \$10,000

If an individual is found guilty of three violations of Rule 514.A. within a rolling one-year period, or any three violations of Rule 514.A.6., 7., 8., and/or 9., within a rolling five-year period, any subsequent alleged violation under Part A. of this rule within such period shall be reviewed by the Market Regulation Department to determine whether to forward the alleged violation to a Panel of the Floor Conduct Committee for adjudication or to investigate and refer the matter to the Probable Cause Committee for review. Notwithstanding the above, the Market Regulation Department may, at any time, refer matters that it deems egregious to the Probable Cause Committee.

**CHAPTER 6
ARBITRATION**

JURISDICTION

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 - 600.C. Claims Against the Exchange**
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Chapter 6 Arbitration

[Arbitrations that were filed prior to November 29, 2007, will continue to be governed by the Rules and Regulations in former CBOT Chapter 6.]

JURISDICTION

600. DISPUTES SUBJECT TO CBOT ARBITRATION

600.A. Disputes Among Members

It is contrary to the objectives and policy of the Exchange for members to litigate certain Exchange-related disputes. Disputes between and among members that are described below and that are based upon facts and circumstances that occurred at a time when the parties were members shall be subject to mandatory arbitration in accordance with the rules of this Chapter:

1. claims between members that relate to or arise out of any transaction on or subject to the rules of the Exchange;
2. claims between or among members relating to ownership of, or interests in, trading rights on the Exchange; and
3. claims between members relating to the enforceability of:
 - a. non-compete clauses to the extent they relate to the Exchange,
 - b. terms of employment on the trading floor, and
 - c. financial arrangements relating to the resolution of error trades that are included in any employment agreement.

Nothing in this rule, however, shall require a member employee to submit to arbitration any claim that includes allegations of a violation of federal, state or local employment discrimination, wage payment or benefits laws.

600.B. Disputes Between Members and Certain Non-Member Employees

The enforceability of the following provisions of an employment agreement between a member and a non-member employee registered pursuant to Rule 501 shall be subject to mandatory arbitration in accordance with the rules of this Chapter:

1. non-compete clauses to the extent that they relate to the Exchange; and
2. terms of employment on the trading floor.

Nothing in this rule, however, shall require a non-member employee to submit to arbitration any claim that includes allegations of a violation of federal, state or local employment discrimination, wage payment or benefits laws. A non-member employee shall mean a member's bona fide employee who has been registered by the Exchange to work on the trading floor.

600.C. Claims Against the Exchange

Claims against the Exchange pursuant to the provisions of Rule 578.C., Rule 578.D., Rule 579.C., and/or Rule 587.C. shall be subject to mandatory arbitration in accordance with the rules of this Chapter, provided the claimant has complied with all pre-filing requirements under the applicable rule(s).

600.D. Permissive Arbitrations

The following may be submitted for arbitration at the Exchange and, in the event such a claim is submitted against a member, that member is required to arbitrate the dispute under these rules, unless otherwise provided:

1. claims of a customer against a member that relate to or arise out of any transaction on or subject to the rules of the Exchange;
2. claims against an Exchange clearing member and its Globex user pursuant to Rule 588.C.3.a., b. or c., where the claimant has complied with the provisions of Rule 588.D., and pursuant to Rule 588.C.3.d., provided that any non-member Globex user has consented to arbitration of the dispute at the Exchange within 21 days of receipt of a claim¹;
3. [Reserved];

¹ Revised January 2006.

4. [Reserved];
5. claims of a non-member (other than those claims required to be arbitrated under Rule 600.B) against a member that relate to or arise out of employment on the trading floor;
6. claims by or against an entity whose majority ownership is held by Exchange members and whose principal business relates to activity on or at the Exchange, where the dispute has a material connection to the business or purpose of the Exchange, provided such entity has consented to arbitration of the dispute at the Exchange within 20 days of receipt of a claim; and
7. at the discretion of the Chief Regulatory Officer, any claim involving the interests of the Exchange, its members, their business relations or commodity futures trading in general not otherwise arbitrable under these rules, provided the parties have consented to such arbitration.

600.E. Waiver of Any Objection to Jurisdiction

Any member or non-member who submits a claim or grievance to arbitration or any member who appeals to a hearing committee of the Board from any panel decision, or who takes any steps therein, shall be conclusively presumed to have voluntarily recognized and agreed to the jurisdiction of the panel or hearing committee of the Board to hear and determine the claim or appeal.

600.F. Hearing Panel

Any claim involving only members shall be heard by a Member panel and its decision shall be rendered in accordance with the rules of this Chapter. A Member panel shall mean an arbitration panel consisting of a co-chairman of the Arbitration Committee and five Members as defined in Rule 400.

601.

CUSTOMER CLAIMS AGAINST MEMBERS

601.A. Definitions

1. **Customer.** Customer shall mean any person, not a member of the Exchange, who places an order or for whose account an order is placed for execution on the Exchange or who otherwise executes a transaction on or subject to the rules of the Exchange.
2. **Claim.** Claim shall mean any dispute arising out of any transaction on or subject to the rules of the Exchange.
3. **Mixed Panel.** Mixed Panel shall mean an arbitration panel consisting of a co-chairman of the Arbitration Committee and five Arbitration Committee members, three of whom shall be persons who are non-members and who are not associated with any member of a contract market, or employee thereof, and are not otherwise associated with a contract market.
4. **Member.** Member as used in this Chapter shall mean 1) members and clearing members of the Exchange, including retired members with floor access privileges and individuals and entities described in Rule 106; 2) associated persons ("APs") and affiliates of clearing members and member firms of the Exchange; 3) guaranteed introducing brokers of clearing members and member firms of the Exchange and their APs; 4) Exchange permit holders; 5) regular firms; and 6) individuals and entities that have agreed in writing to comply with the rules of the Exchange.
5. **Punitive Damages.** Punitive damages shall mean an award in excess of actual damages suffered. Punitive damages shall be limited to twice the amount of actual damages and may be awarded only to a customer after a determination that there has been willful and wanton misconduct in the execution or handling of an order by a member or an employee acting on behalf of a member.

601.B. Refusal to Hear Certain Disputes

A chairman may, but shall not be required to, order that a dispute that is otherwise arbitrable under these rules not be arbitrated hereunder if the dispute requires for adjudication the presence of essential witnesses or third parties over whom the Exchange has no jurisdiction or who are not otherwise available, or if the dispute requires the application of the rules of another exchange.

601.C. Initiation of Arbitration

In the event that a complaint is received by the Exchange from a customer, it shall be referred to the Market Regulation Department, which shall inform the customer of alternative dispute settlement forums and, when appropriate, forward to the customer a Consent Form for arbitration at the Exchange. Such form shall inform the customer, by attachment of all pertinent rules, of the customer's rights and liabilities, including costs associated with arbitration, and the option of selecting an arbitration panel consisting of Exchange members or a Mixed Panel to decide the claim and any counterclaims, cross-claims or third-party claims.

A customer who submits a claim for arbitration in accordance with these rules consents thereby to the jurisdiction of the arbitrators and agrees to the arbitration of any counterclaims, cross-claims or third-party claims by any respondent which arise out of the transaction that is the subject of the customer's

Delaware

PAGE 1

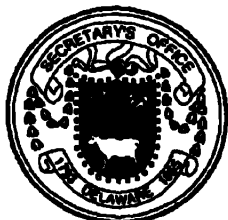
The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "BOARD OF TRADE OF THE CITY OF CHICAGO, INC.", FILED IN THIS OFFICE ON THE TWELFTH DAY OF JULY, A.D. 2007, AT 4:02 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE KENT COUNTY RECORDER OF DEEDS.

3226044 8100

070809060



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 5837675

DATE: 07-12-07

RESTATED
CERTIFICATE OF INCORPORATION
OF

BOARD OF TRADE OF THE CITY OF CHICAGO, INC.

Board of Trade of the City of Chicago, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), does hereby certify as follows:

- (a) The name of the Corporation is Board of Trade of the City of Chicago, Inc.
- (b) The name under which the Corporation was originally incorporated was Delaware CBOT, Inc. and the original Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on May 12, 2000.
- (c) This Restated Certificate of Incorporation was duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware.
- (d) The text of the Restated Certificate of Incorporation of the Corporation as amended hereby is restated to read in its entirety, as follows:

ARTICLE I

NAME

The name of the corporation is Board of Trade of the City of Chicago, Inc. (hereinafter referred to as the "Corporation").

ARTICLE II

REGISTERED AGENT

The address of the registered office of the Corporation in the State of Delaware is 160 Greentree Drive, Suite 101, in the City of Dover, County of Kent, Delaware 19904. The name of the registered agent of the Corporation at such address is National Registered Agents, Inc.

ARTICLE III

CORPORATE PURPOSES

The nature of the business or purposes to be conducted or promoted by the Corporation are to engage in any lawful act or activity for which corporations may be organized under the Delaware General Corporation Law (as amended from time to time, the "DGCL").

ARTICLE IV

MEMBERSHIP

A. *General.*

The Corporation shall have no authority to issue capital stock. The terms and conditions of membership in the Corporation shall be as provided in or pursuant to this Certificate of Incorporation, the Bylaws of the Corporation (the "Bylaws") and the Rules and Regulations of the Corporation as in effect from time to time (the "Rules").

B. *Classes and Series of Membership.*

Membership in the Corporation shall be divided into classes and series as set forth in this Article IV.

1. *Class A Membership.*

There shall be one Class A Membership in the Corporation (the "Class A Membership") and the holder thereof, the "Class A Member", which Class A Membership shall be held by CME Group Inc., a Delaware corporation ("CME Group"). It shall be a term and condition of such Class A Membership that such membership may not be transferred to or held by any person or entity other than CME Group unless authorized by an amendment to this Section B(1) of Article IV. Except to the extent (if any) expressly provided herein or required by law, the Class A Member shall have the right to vote on any matter to be voted on by the members of the Corporation other than on those matters expressly reserved to the vote of the holders of Series B-1 Memberships and Series B-2 Memberships (each as defined in Section B(2) of this Article IV) and shall have the exclusive right to receive any dividend or other distribution (including upon liquidation, dissolution, winding-up or otherwise) to be declared, paid or distributed by the Corporation, and no other member of or class or series of membership in the Corporation shall be entitled to vote on any matter except as set forth in Section D(2) or Section E of this Article IV or Article IX of this Certificate of Incorporation, or to receive any such dividend or other distribution.

2. *Class B Membership.*

(a) Class B Memberships in the Corporation (each a "Class B Membership") and the holder thereof, a "Class B Member") shall represent the right to trade on and otherwise utilize the facilities of the Corporation in accordance with and to the extent permitted by this Certificate of Incorporation, the Bylaws and, to the extent not inconsistent with this Certificate of Incorporation, the Bylaws or the Rules. There shall be authorized three thousand six hundred eighty-one (3,681) Class B Memberships, which shall be divided into five (5) series ("Series") as follows:

1,402 Series B-1 Memberships (each, a "Series B-1 Membership") and the holder thereof, a "Series B-1 Member");

867 Series B-2 Memberships (each, a "Series B-2 Membership" and the holder thereof, a "Series B-2 Member");

128 Series B-3 Memberships (each, a "Series B-3 Membership" and the holder thereof, a "Series B-3 Member");

641 Series B-4 Memberships (each, a "Series B-4 Membership" and the holder thereof, a "Series B-4 Member"); and

643 Series B-5 Memberships (each, a "Series B-5 Membership" and the holder thereof, a "Series B-5 Member");

(b) Notwithstanding Section B(2)(a) of this Article IV, the Corporation may issue additional authorized but unissued Series B-2 Memberships only in connection with the conversion of Series B-3 Memberships into Series B-2 Memberships pursuant to Section D(3) of this Article IV and no person may become or qualify as a Series B-2 Member at any time by acquiring a theretofore authorized but unissued Series B-2 Membership except as a result of such a conversion.

(c) Class B Memberships shall have no right to receive any dividend or other distribution (including upon liquidation, dissolution, winding-up or otherwise) to be declared, paid or distributed by the Corporation. The respective rights and privileges of each Series of Class B Membership shall be as provided in or pursuant to this Certificate of Incorporation and the Bylaws.

C. *Class B Voting Rights.*

Except as otherwise expressly provided in this Certificate of Incorporation, the holders of Class B Memberships shall not be entitled to vote on any matter. On any matter on which the holders of Series B-1 Memberships and Series B-2 Memberships are entitled to vote together as a single class pursuant to this Certificate of Incorporation, each holder of Series B-1 Memberships shall be entitled to one (1) vote per such membership and each holder of Series B-2 Memberships shall be entitled to one-sixth (1/6) of one (1) vote per such membership.

D. *Special Rights of Class B Membership.*

The holders of each Series of Class B Membership shall have the trading rights and other rights and privileges, and shall be subject to the restrictions, terms and conditions, set forth below.

1. *Series Trading Rights.*

(a) *Series B-1 Memberships.* Each holder of a Series B-1 Membership who satisfies the qualifications for and requirements of Full Membership in the Corporation as set forth in the Rules shall be entitled to the rights and privileges of, and shall be subject to the restrictions, conditions and limitations on, a Full Member as set forth in this Certificate of Incorporation, the Bylaws and the Rules. Each holder of a Series B-1 Membership shall also be entitled to all trading rights

and privileges for all new products first made available after the filing of this Certificate of Incorporation traded on the open outcry exchange system of the Corporation or Chicago Mercantile Exchange Inc. ("CME Exchange") or any electronic trading system maintained by the Corporation or CME Exchange or any of their respective successors or successors-in-interest, and the Board of Directors of the Corporation shall enforce this requirement.

(b) *Series B-2 Memberships.* Each holder of a Series B-2 Membership who satisfies the qualifications for and requirements of Associate Membership in the Corporation as set forth in the Rules shall be entitled to the rights and privileges of, and shall be subject to the restrictions, conditions and limitations on, an Associate Member as set forth in this Certificate of Incorporation, the Bylaws and the Rules.

(c) *Series B-3 Memberships.*

(1) Each holder of a Series B-3 Membership who satisfies the qualifications for and requirements of being a holder of a one-half Associate Membership as set forth in clause (2) of Rule 296.00 of the Rules shall be entitled to the rights and privileges of, and subject to the restrictions, conditions and limitations on, a holder of a one-half Associate Membership as set forth in this Certificate of Incorporation, the Bylaws and the Rules.

(2) Each holder of a Series B-3 Membership who satisfies the qualifications for and requirements of being a holder of a GIM Membership Interest in the Corporation as set forth in clause (1) of Rule 296.00 of the Rules shall be entitled to the rights and privileges of, and shall be subject to the restrictions, conditions and limitations on, a holder of a GIM Membership Interest as set forth in this Certificate of Incorporation, the Bylaws and the Rules.

(d) *Series B-4 Memberships.* Each holder of a Series B-4 Membership who satisfies the qualifications for and requirements of being a holder of an IDEM Membership Interest in the Corporation as set forth in the Rules shall be entitled to the rights and privileges of, and shall be subject to the restrictions, conditions and limitations on, a holder of an IDEM Membership Interest as set forth in this Certificate of Incorporation, the Bylaws and the Rules.

(e) *Series B-5 Memberships.* Each holder of a Series B-5 Membership who satisfies the qualifications for and requirements of being a holder of a COM Membership Interest in the Corporation as set forth in the Rules shall be entitled to the rights and privileges of, and shall be subject to the restrictions, conditions and limitations on, a holder of a COM Membership Interest as set forth in this Certificate of Incorporation, the Bylaws and the Rules.

**AMENDED AND RESTATED BYLAWS
OF
BOARD OF TRADE OF THE
CITY OF CHICAGO, INC.**

Capitalized terms used but not otherwise defined herein (including the Rules) shall have the meaning given to such terms in the Certificate of Incorporation of the Corporation.

ARTICLE I—RULES AND REGULATIONS

Section 1. *Incorporation of Rules and Regulations.* The affairs and operations of the Corporation, in addition to being governed by the Delaware General Corporation Law (the “DGCL”), the Certificate of Incorporation and these Bylaws, shall also be governed by the Rules. Where there exists any inconsistency between the Rules and the DGCL, the Certificate of Incorporation or these Bylaws, the DGCL, the Certificate of Incorporation or these Bylaws shall govern to the extent of the inconsistency.

Section 2. *Member Consent to Be Bound.* Applicants for membership and any person or entity holding any membership in the Corporation shall be required to sign a written agreement to observe and be bound by the Certificate of Incorporation, these Bylaws and the Rules, as each may be amended from time to time. In addition, the Board of Directors may adopt interpretations of the Certificate of Incorporation, these Bylaws and the Rules (“Interpretations”), which shall be incorporated into and deemed to be Rules.

ARTICLE II—MEMBERSHIP

Section 1. *Terms and Conditions.* The terms and conditions of membership in the Corporation, including, without limitation, the rights and obligations of members, member firms and delegates, in addition to being governed by the DGCL, the Certificate of Incorporation and these Bylaws, shall also be governed by the Rules. Without limiting the foregoing, requirements with respect to, and restrictions and limitations on, the ownership, use, purchase, sale, transfer or other disposition of any membership or interest therein, or any other interest of or relating to the Corporation or membership therein, including the payment of proceeds from the sale, transfer or other disposition of any membership or interest therein, shall be as provided herein, in the Certificate of Incorporation and in the Rules, or as otherwise provided in accordance with applicable law.

Section 2. *Voting Rights.* Members shall have such voting rights as are specified in the Certificate of Incorporation. To the extent authorized by the Certificate of Incorporation, the Board of Directors shall be entitled to fix a record date for purposes of determining the members entitled to vote on any matter. Except as expressly provided in the Certificate of Incorporation of the Corporation, on any matter upon which the holders of Series B-1 Memberships and Series B-2 Memberships are entitled to vote, such members shall have the authority to authorize such proposal on the affirmative vote of a majority of votes cast at any annual or special meeting of the members of the Corporation.

Section 3. *Annual and Special Meetings.* 1. The Annual Meetings of members shall be held on such date, at such time and at such place, either within or without the state of Delaware, as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting.

2. At the Annual Meetings the Class A Member shall elect the Board of Directors, which directors shall at all times be comprised of the same directors as those of CME Group Inc. (“CME Group”), the sole Class A Member of the Corporation, and transact such other business as may properly be brought before the meeting. For such business to be properly brought before the meeting, it must be: (i) authorized by the Board of Directors and specified in the notice, or a supplemental notice, of the meeting, (ii) otherwise brought before the meeting by or at the direction of the Board of Directors or the chairman of the meeting, or (iii) otherwise properly brought before the meeting by the Class A Member. No other business may be brought before or conducted at the meeting.

3. Special meetings of members for any purpose or purposes may be called at any time only by the Chairman of the Board or by a majority of the total number of authorized directors. The business transacted at a special meeting of members shall be limited to the purpose or purposes for which such meeting is called.

Section 4. *Notice of Meetings.* Written notice of the place, date, and time of all meetings of the members shall be given, not less than ten (10) nor more than sixty (60) days before the date on which the meeting is to be held, to each member

entitled to vote at such meeting, except as otherwise provided herein or required by law (meaning, here and hereinafter, as required from time to time by the DGCL or the Certificate of Incorporation of the Corporation). The notice of any special meeting of members shall also state the purpose or purposes for which such meeting is called.

When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place, if any, thereof, and the means of remote communications, if any, by which members and proxy holders may be deemed to be present in person and vote at such adjourned meeting is announced at the meeting at which the adjournment is taken; provided, however, that if the date of any adjourned meeting is more than thirty (30) days after the date for which the meeting was originally noticed, or if a new record date is fixed for the adjourned meeting, notice of the place, if any, date, and time of the adjourned meeting and the means of remote communications, if any, by which members and proxy holders may be deemed to be present in person and vote at such adjourned meeting shall be given in conformity herewith. At any adjourned meeting, any business may be transacted which might have been transacted at the original meeting without regard to the presence of a quorum at such adjournment.

Section 5. *Quorum.* The presence of the holder of the Class A Membership, in person or by proxy, shall constitute a quorum with respect to any matter on which the holder of the Class A Membership is entitled to vote pursuant to the Certificate of Incorporation, or any meeting called to vote on such matters.

With respect to any matter on which the holders of Class B Memberships are entitled to vote pursuant to the Certificate of Incorporation, or any meeting called to vote on such matters, the presence of holders of Class B Memberships, in person or by proxy, representing one-third of the votes entitled to be cast on such matters, shall constitute a quorum. If a quorum shall fail to attend any meeting, the chairman of the meeting or, in his or her absence, the Chairman of the Board of Directors or the President may adjourn the meeting to another place, if any, date or time.

Section 6. *Organization.* Such person as the Board of Directors may have designated or, in the absence of such a person, the Chairman of the Board of Directors or, in his or her absence, such person as may be chosen by the holder of the Class A Membership, shall call to order any meeting of the members and act as chairman of the meeting. In the absence of the Secretary of the Corporation, the secretary of the meeting shall be such person as the chairman appoints.

Section 7. *Conduct of Business.* The chairman of any meeting of members shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seem to him or her in order.

Section 8. *Proxies and Voting.* At any meeting of the members, every member entitled to vote may vote in person or by proxy authorized by an instrument in writing or by a transmission permitted by law filed in accordance with the procedure established for the meeting. Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission created pursuant to this paragraph may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

ARTICLE III—BOARD OF DIRECTORS

Section 1. *General.* The Board of Directors shall consist of the number of Directors as from time to time may be fixed by the Board of Directors, provided that the Board of Directors shall at all times be comprised of the same directors as those of CME Group, the sole Class A Member of the Corporation.

Section 2. *Quorum.* A majority of the total number of directors then in office shall constitute a quorum of the Board of Directors.

Section 3. *Attendance at Board Meetings.* Members of the Board of Directors or any committee who are physically present at a meeting of the Board of Directors or any committee may adopt as the procedure of such meeting that, for quorum purposes or otherwise, any member not physically present but in continuous communication with such meeting shall be deemed to be present. Continuous communication shall exist only when, by conference telephone or similar communications equipment, a member not physically present is able to hear and be heard by each other member deemed present, and to participate in the proceedings of the meeting.

Section 4. *Regular Meetings.* The Board of Directors shall hold regular meetings at such times as the Board of Directors may determine from time to time.

Section 5. *Special Meetings.* Special meetings of the Board of Directors may be called by the Chairman of the Board of Directors or the President, and shall be called by the Secretary upon the written request of three Directors. Notice of the time



Memorandum

SUBJECT: CME and CBOT Rulebook Harmonization
DATE: October 25, 2007
CONTACTS: Dean Payton, Managing Director & Chief Regulatory Officer
312.435.3658; Dean.Payton@cmegroup.com
Eric Wolff, Managing Director of Regulatory Affairs
312.930.3255; Eric.Wolff@cmegroup.com
Robert Sniegowski, Associate Director, Market Regulation
312.648.5493; Robert.Sniegowski@cmegroup.com

Overview of Rulebook Harmonization

On July 12, 2007, Chicago Mercantile Exchange Holdings Inc. and CBOT Holdings Inc. completed their merger to form CME Group Inc. The integration plans are rapidly moving forward, and in the coming months, members and member firms will begin conducting business on a common electronic trading platform, Globex[®], and on consolidated trading floors in the CBOT Building.

As part of that integration, CME Group undertook a project to harmonize, to the extent possible, the rules of CME and CBOT. In the integrated environment, there are compelling efficiencies to harmonizing the rules in such a way that users of either exchange will have the benefit of largely consistent rulebook structures, rule numbers and rule language. In that context, it is important to understand that each subsidiary retains its independent registration status as a Designated Contract Market, and the exchanges remain separate self-regulatory organizations. However, there is now a single Market Regulation Department performing the regulatory functions for both CME and CBOT.

At the outset of the harmonization project, a decision was made to adopt the general structure of the CME Rulebook. While the harmonization project has resulted in a significant number of changes to CME rules, the CBOT Rulebook effectively has been rewritten to structurally conform to the CME Rulebook. The principal factors involved in the decision to adopt the CME Rulebook structure included CME's recent completion of a multi-year project to update and revise its rules, as well as the decision to largely adopt the existing CME disciplinary structure, for which appropriately drafted rules were already in place.

The revisions to the CME and CBOT Rulebooks were self-certified with the CFTC on October 25, 2007, and the first group of rule changes is scheduled to be implemented on Thursday, November 29. At that time, a common rulebook structure will be adopted and the largest group of rule changes will become effective. A second set of rule changes will be implemented concurrent with the migration of CBOT products to the Globex platform in



Memorandum

January. Additional rule changes related to the harmonization of practices on the combined trading floors will be implemented as the exchanges move toward trading floor consolidation.

As noted above, the revised rules were self-certified on October 25 and the new rules, including information regarding the timing of their implementation, are available on the CME, CBOT and CME Group websites.

The revised CME Rulebook is available in a marked version and a clean version. The marked version shows the changes scheduled for implementation on November 29 as well as the changes that will be implemented in connection with Globex migration and trading floor consolidation. The clean version incorporates only those changes that will become effective on November 29.

The CBOT rules are also available in a marked version and a clean version. The marked version reflects how the CBOT rules will differ from the corresponding CME rules, with the exception of CBOT Chapters 7 and 7A ("Delivery Procedures and Delivery Facilities"), which are largely product specific. The CBOT marked version shows those rules scheduled for implementation on November 29 and includes notes identifying those changes to be implemented in subsequent stages. The clean version incorporates only those changes that will become effective on November 29.

The remainder of this memorandum provides a chapter-by-chapter overview of many of the significant changes and important issues with respect to both rulebooks, but is not intended to represent a comprehensive review of all of the changes.

Chapter 1 ("Membership")

Rule 106 ("Transfers, Security Transactions, and Authorizations to Transfer or Sell")

The Rule 106 member firm nomenclature has been harmonized as much as possible while retaining the separate membership and share requirements that qualify CME and CBOT member firms. A chart has been added to the CBOT Interpretations & Special Notices Section of CBOT Chapter 1 which provides trading right and Class A share requirements for the CBOT member firms set forth in CBOT Rule 106.

The CBOT modified its rules to allow a CBOT Equity FCM to qualify with an Associate Membership and 1,750 shares as an alternative to a Full Membership and 8,000 shares. As certain firms with an FCM registration may be engaged primarily in proprietary trading, the change makes the requirements consistent with those for CBOT Equity Corporate Members, thereby allowing the firm to obtain lower fees for its proprietary trades in Series B-2 (Associate) products.

Memorandum

CBOT will not be adopting the provisions of CME Rule 106.D.10, which prohibits a new lessee from executing orders for a one-year period or CME Rule 106.D.11, which concerns a continuing payment obligation by a lessee who terminates a lease prior to its expiration date. These rules will remain in effect at CME.

Rule 110 ("Claims Against Membership, Application of Proceeds")

Both CME and CBOT have made certain changes to the manner in which seat sale proceeds are applied to various claims which are filed. The changes achieve as closely harmonized a rule as possible. The principal change for CME is to elevate the claims of "non-qualifying" clearing firms over the claims of other individual members and member firms. The principal change for CBOT is to allow for the filing of claims by public customers. A provision has also been added to CBOT Rule 110 providing for membership proceeds to be applied pursuant to the order of priority set forth in former CBOT Rule 252.00 for debts incurred prior to November 29, 2007, provided such claims are filed by February 29, 2008.

Rule 127 ("Trading and Solicitation Privileges")

Existing CME and CBOT intra-exchange member solicitation privileges will not be altered on the combined trading floor. However, a new policy has been established for cross-exchange solicitation privileges on the combined trading floor. The new policy and a corresponding FAQ are included in Special Executive Report S-4630, dated October 25, 2007, which is available on the CME, CBOT and CME Group websites.

Chapter 2 ("Government")

The harmonization of the governance rules establishing the powers and duties of the Board of Directors, including conflict of interest and emergency action provisions, was completed following the close of the merger. The CBOT rules are currently in Chapter 1A but will be moved to Chapter 2 when the first changes are implemented in November.

This chapter also sets forth the rule change procedures, including those unique provisions that are contained in the CBOT Certificate of Incorporation. In general, the Board can make and amend CME rules, and it has also delegated that authority to the Chairman, Vice-Chairman and CEO (the Approving Officers), acting together. New or amended CBOT rules must be initially submitted to the CBOT Directors for review. If a majority of the CBOT Directors determine that a new or amended rule will materially impair the business of CBOT or the business opportunities of the holders of Class B memberships, then the CBOT Directors may submit the proposed rule to the Rule Change Committee. The Rule Change Committee is comprised of three CBOT Directors designated by the Vice Chairman and two CME Directors designated by the Chairman. Rules submitted to this Committee will be approved or rejected by majority vote, and approved rule changes would thereafter be submitted to the Approving Officers for final approval. Pursuant to the merger agreement, this process for CBOT rule changes will be in place until 2012.



Memorandum

Chapter 3 ("Exchange Committees")

Rule 300 ("Committees") sets forth restrictions on the individuals who can serve on the Board or certain committees based on such individuals' past disciplinary offenses. The definition of disciplinary offense for both CME and CBOT has been modified to exclude violations of rules that receive cumulative fines of \$5,000 or less within any twelve-month period, provided such violations do not involve fraud, deceit or conversion or result in an access denial, suspension or expulsion. The change will eliminate an automatic bar to committee service for individuals who have received de minimis fines.

Effective November 29, CBOT will eliminate its prohibition on members of the Board of Directors serving on charging or hearing committees. No such prohibition presently exists at CME.

Chapter 4 ("Enforcement of Rules")

The harmonization of the CBOT and CME disciplinary rules will result in fundamental changes to the CBOT's disciplinary structure and processes. An overview of the new committee structure is included as Exhibit A.

CBOT will adopt the regulatory committee structure of CME. CBOT will eliminate its Regulatory Compliance Committee and there will be a single Market Regulation Oversight Committee for the two SROs. Staff will assume the Regulatory Compliance Committee's current responsibility for approving delivery facilities, while revocation of a firm's status as a delivery facility will be addressed by the Business Conduct Committee.

Disciplinary Committee Structure

CBOT will establish a Probable Cause Committee ("PCC") (pursuant to Rule 406) which will function in a capacity similar to the current CBOT Floor Governors and Business Conduct Committees with respect to the issuance of charges; however, the PCC will not establish preliminary penalties, consider settlement offers or conduct hearings. The CBOT Floor Governors Committee and Hearing Committee will be eliminated. CBOT will also establish a new Business Conduct Committee ("BCC") (pursuant to Rule 402) which will consider settlement offers, conduct hearings, hear appeals from the Floor Conduct Committee and have the authority to take emergency actions.

At CME and CBOT, each committee will act via rotating panels comprised of a chairman, three members or employees of member firms and three nonmembers. There will be a single pool of nonmember panelists for the CME and CBOT PCC and BCC; however, member panelists will be unique to each exchange. Existing CBOT committees are presently comprised exclusively of members.



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CBOT will eliminate its Financial Compliance Committee and there will be a single Clearing House Risk Committee ("CHRC") (pursuant to Rule 403) for both CME and CBOT that will be comprised of two co-chairmen, who are members of the Board, and seven additional members, five of whom are Clearing Member representatives and at least one who is a nonmember. The CHRC will issue charges and consider settlement offers and have the authority to take certain emergency actions. Hearings on charges issued by the CHRC will be conducted by the BCC. The addition of the nonmember to the CHRC and the transfer of the CHRC's hearing authority to the BCC represent changes to current CME rules.

CBOT will eliminate its Appellate Committee. Appeals of BCC decisions will be heard by a hearing panel of the Board comprised of three directors appointed by the Chairman, one of whom will be a nonmember, pursuant to the provisions of Rule 411 ("Appeals to a Hearing Panel of the Board of Directors").

Sanctioning Authority

Fines for CTR recordkeeping violations will be administered on a summary basis by the Market Regulation Department rather than by the Floor Governors or Business Conduct Committees as is presently the case at the CBOT.

With respect to disciplinary processes, the new CBOT BCC will have broader sanctioning authority, including the ability to impose fines of up to \$1,000,000 per violation plus the amount of any benefit received as a result of the violation. The CBOT BCC may also impose any length of suspension or expel a member, mirroring the existing authority of the CME BCC.

CME is eliminating the major/minor distinction with respect to characterizing rule violations, a distinction that does not exist at CBOT. Investigative reports, which are presently provided to respondents and BCC panels at CME, will be treated as privileged work product and will not be discoverable under the new rules, as is currently the practice at CBOT. Both the CME and CBOT BCC will be given the power to prescribe additional capital and other financial requirements which is currently a power of the CHRC. The addition is necessary because of the transfer of authority to conduct hearings from the CHRC to the BCC discussed above, as well as the BCC's authority with respect to delivery facilities at the CBOT.

Appeal Process

Under current CBOT rules, any finding of a disciplinary committee may be appealed and the decision is stayed pending the appeal. The Appellate Committee or the Board may reverse or reduce any sanction only if it determines that the finding or sanction is "clearly erroneous." Under the revised rules, and consistent with existing CME rules, BCC decisions may be appealed by a respondent only if the decision assesses a monetary sanction in excess of \$10,000 and/or an access denial or suspension greater than five days.



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Additionally, under the new rules, filing of a request for an appeal by a respondent will stay the decision unless the Market Regulation Department objects to the stay and the Chairman of the Board or the BCC Panel chairman specifically directs that the decision not be stayed pending appeal. The Board panel hearing the appeal may set aside or modify the appealed decision only if it determines that the decision was: a) arbitrary, capricious, or an abuse of the committee's discretion; b) in excess of the committee's authority or jurisdiction; or c) based on a clearly erroneous application or interpretation of Exchange rules. The last appellate standard is new for both exchanges.

Under the revised CBOT rules and consistent with current CME rules, the Chief Regulatory Officer may appeal to a Board panel any refusal by the PCC to issue those charges requested by the Market Regulation Department. The Chief Regulatory Officer may also appeal any decision of, or sanction imposed by, the BCC to a hearing panel of the Board. There is no provision in current CBOT rules for Market Regulation to appeal a committee's decision.

Floor Conduct Committees

The CBOT Floor Conduct Committee's sanctioning authority is limited to the imposition of fines of up to \$5,000 and access denials of up to five days. Under the revised rules for the CME and CBOT Floor Conduct Committees, the sanctioning authority will include the imposition of monetary penalties up to a maximum of \$20,000, but no authority to deny access. For CME, this will represent a change from the existing \$20,000 maximum per egregious violation for certain trading infractions. In contrast to current CBOT rules, Floor Conduct proceedings will be summary proceedings and respondents may not be represented by counsel. Appeals of fines greater than \$1,000 may be heard by the BCC.

CME is also eliminating the authority of a pit committee to conduct summary proceedings for trading infraction violations under CME Rule 514 and transferring the authority to the Floor Conduct Committee. At CME, the Pit Supervision Committee will be renamed the Floor Conduct Committee.

Consistent with CME rules, CBOT is adopting Rule 413 ("Summary Access Denial Actions") which empowers the Chief Regulatory Officer to summarily deny access to exchange markets or the trading floors in situations where such denial is necessary to protect the best interests of the Exchange. A member denied access may request a hearing before the BCC, but the request does not stay the access denial decision.

Chapter 5 ("Trading Qualifications and Practices")

Rule 501 ("Employees of Members")

No later than trading floor consolidation, the CBOT will eliminate the requirement that members must register if they are acting in a clerical capacity outside the scope of their membership privileges on the trading floor. CME will adopt the existing CBOT provision

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allowing for broker assistants, nonmember employees of members who are authorized to stand in a trading pit. A determination as to whether to allow broker assistants in CME pits will be made on a pit-by-pit basis based on member demand and space considerations.

Rule 505 (“Booth and Floor Privileges”)

No later than trading floor consolidation, the CME will adopt the more liberal CBOT policy with respect to obtaining booth space on the trading floor.

Rule 506 (“Headset Privileges on the Trading Floor”)

CME will adopt the more liberal CBOT rule concerning headset use on the trading floor nearer to floor consolidation. The change will eliminate the CME quadrant- and product-specific restrictions on headset use. CME will also adopt the CBOT requirement that all headset communications be voice recorded and that the recordings be maintained for ten business days.

Rule 508 (“Giving and Receiving of Gratuities”)

CBOT is adopting the CME gratuity limit of \$100 per year with respect to gifts by members and member firms to employees of other members and member firms. Previously, the CBOT allowed gratuities subject to the standard that any gratuity was “reasonable and proper under normal business practices as determined by the Business Conduct Committee” and was not “a vehicle to obtain Exchange related business in a non-competitive fashion.”

Rule 513 (“Conduct, Apparel and Badges”) and Rule 514 (“Trading Infractions”)

Food and refreshments will not be permitted on the Exchange floors, reversing the present practice whereby food is allowed on the CBOT Financial Floor. The CBOT and CME are adopting a common set of pit etiquette standards that will apply to all pits whereas each pit had adopted its own etiquette standards at CBOT, subject to the approval of the Floor Governors Committee.

Rule 515 (“Registration and Identification of Broker Associations”)

The CME and CBOT broker association rules are very dissimilar and each exchange will retain its existing rules.

The most significant difference between the rules is that CBOT does not allow a member who is uninvolved in the execution or pre-execution handling of orders to participate in revenues generated from filling orders. The CBOT rule also prohibits members of a broker association from sharing profits or losses associated with their personal trading. These provisions do not exist in the CME rule. Additionally, CBOT does not restrict intra-association trading among members of a broker association while CME enforces such restrictions in several products.

Memorandum

Rule 559 ("Position Limits and Exemptions"), Rule 560 ("Position Accountability"), Rule 561 ("Reports of Large Positions") and the Position Limit and Reportable Level Table

Former CME Rule 543 has been clarified and moved to Rule 559 and CME is adopting Rule 560 and a new Position Limit and Reportable Level Table in the Interpretations & Special Notices Section of Chapter 5. CBOT is also adopting these three rules and a new Position Limit and Reportable Level Table. The three rules concerning positions are now grouped together in the same location in both the CME and CBOT Rulebooks. The new Position Limit and Reportable Level Table provides a single point of reference for specific position-related information for each exchange's products.

Globex Electronic Trading System Rules

The general Globex electronic trading system rules (CME Rules 573-588), including trading algorithms, the error trade policy and other similar system rules will be adopted by CBOT upon migration of e-cbot products to Globex. Until Globex migration is complete and CBOT metals are no longer trading on e-cbot, CBOT will retain e-cbot rules in new CBOT Chapter 5B.

Interpretations & Special Notices Relating to Chapter 5 - Quotation Change Procedures

CME and CBOT have agreed to adopt common quotation change procedures for implementation nearer to floor consolidation. Language has been added authorizing senior exchange officials to make changes outside of the parameters in the procedures where such changes are necessary to ensure the integrity or promote the orderly functioning of the market.

Chapter 6 ("Arbitration")

Existing CME and CBOT practices with respect to arbitrations are very similar. The chapters have been substantially harmonized except that CBOT will not adopt CME arbitration provisions relating to electronic trading systems and services until Globex migration. An arbitration filed prior to the effective date of the rules will be governed by the rules that were in place at the time the arbitration was filed.

Chapter 7 ("Delivery Facilities and Delivery Procedures") and CBOT Chapter 7A ("Delivery Facilities and Delivery Procedures")

The only CME and CBOT rules that are closely related in Chapter 7 are the general rules in the first section of the chapter. The remaining rules in each exchange's Chapter 7 are unique to the specific delivery requirements for each exchange's products. The rules in current CBOT Chapters 10 ("Grains"), 10C ("Corn Futures") and 10S ("Soybean Futures") have been streamlined and updated to conform to existing CBOT delivery practices.

All CME Group exchange Web sites are available: cmegroup.com, cme.com, cbot.com, and nymex.com



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(A) Every Member and every applicant for membership must be the greater of either eighteen (18) years of age or the minimum age of majority required to be responsible for his contracts in each jurisdiction in which the Member or applicant conducts business.

(B) Any adult of good moral character, reputation and business integrity, with adequate financial resources and credit to assume the responsibilities and privileges of membership, is eligible for membership in the Exchange. A determination as to whether an applicant for membership or an applicant for an incentive program offered by NYMEX satisfies the Exchange requirements shall be made by the Membership Committee or by staff in the applicable department. A person approved for membership and an individual or entity approved for an incentive program shall be subject to all of the rules and regulations of the Exchange.

(C) No person who has been employed by the Exchange shall be eligible for membership until six (6) months after he has ceased to be an employee; provided, however, the Membership Committee, based on the recommendation of the President, may waive, in its sole discretion, all or any part of such six (6) month period.

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2.03 Application for Membership; Application Fees

(A) An applicant for membership must submit to the Exchange an application for membership in the form prescribed by the Board and such other documents as the Membership Committee shall deem necessary or appropriate or, shall require. For the purposes of this provision, and for purposes of Chapter 2 generally, references to the "Board" shall mean the Board of Directors of the Exchange, or its designee(s).

(B) Applications that are deemed by the Membership Department to be incomplete shall be kept on file for four (4) months. Thereafter, the application shall be deemed to have been withdrawn and the applicant must submit a new application for membership prior to any consideration by the Membership Committee.

(C) Each application for membership shall be accompanied by a payment of a non-refundable application fee in such amount as may be fixed from time to time by the Board.

(D) Unless the Chairman of the Membership Committee decides otherwise, in his sole discretion, the provisions of Rules 2.03 through 2.08 shall not apply to any Member who transfers his last membership and acquires a new Membership within 45 days.

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2.04 Notice of Application

The names of each applicant and his employer shall be posted on the Exchange premises and on the Exchange's website and distributed electronically, where possible, at least ten (10) days prior to the consideration of an application for membership.

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2.05 Procedures for Determining Fitness of Applicants for Exchange Membership

(A) The Exchange shall refer each application for membership for an independent investigation to determine and report to the Exchange any past or pending criminal actions, disciplinary proceedings or investigations.

(B) The applicant's financial statement may be verified by an independent inquiry of all banks scheduled as holding the applicant's assets and by requiring each applicant to provide copies of appropriate supporting documentation.

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2.06 Approval of Applicant and Referral to a Subcommittee of the Membership Committee

(A) When the application is complete staff shall review and approve applicants for membership on the

Exchange. Such approval shall be based upon admission criteria established by the Membership Committee. A subcommittee of the Membership Committee shall review applicants for membership not meeting the staff-administered admission criteria. A subcommittee of the Membership Committee shall review any application for Membership not approved by Exchange staff. Any such subcommittee shall consist of three members and a Chairman. At least three of the four persons comprising a subcommittee of the COMEX Division Membership Panel must be COMEX Division Members. The subcommittee may direct the applicant to supplement any information provided to it and may direct the Exchange to investigate any such information.

(B) The Chairman of the subcommittee shall have a vote and a unanimous vote of the subcommittee is required for approval of the applicant. If the applicant is not approved, the membership denial procedures set forth in Rule 2.80 shall apply.

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2.07 APPEARANCE OF APPLICANT

Each applicant for membership not approved by staff is required to appear personally before the Membership Committee. In its discretion, the Membership Committee may waive the appearance of the applicant. Unless waived by the Membership Committee, an applicant's failure to appear on the date fixed by the Membership Committee shall constitute a withdrawal of the application.

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2.09 Denial of Membership

The Membership Committee may deny membership to any applicant who:

(A) does not meet any one or more of the qualifications for membership, or does not follow the procedures for applications for membership, set forth in the Rules;

(B) has been denied registration or whose registration has been revoked or is currently suspended by the Commission or by the Securities and Exchange Commission;

(C) has been convicted of a felony or a misdemeanor involving the purchase or sale of any commodity, security or option;

(D) is temporarily or permanently enjoined by any order, judgment or decree of any court of competent jurisdiction, of the Commission, of the Securities and Exchange Commission or of any state securities authority or agency from engaging or continuing in any conduct or practice involving the purchase or sale of any commodity, security option or similar instrument;

(E) is subject to any outstanding order issued by the Commission denying such person trading privileges on any contract market or, suspending or expelling such person from membership on any contract market;

(F) has been found to have violated willfully any provision of the Commodity Exchange Act, the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940 or the Investment Advisors Act of 1940 (as such Acts may have been, or may be, amended from time to time) or any rule, regulation or order promulgated under such Acts;

(G) has ever been convicted of a crime of moral turpitude or, within the ten (10) years preceding the date of his application, has been convicted of or pleaded guilty to a charge involving a felony;

(H) has ever been or is suspended or expelled from any commodity or securities exchange, related clearing organization, registered futures association, the National Association of Securities Dealers, Inc. or other self-regulatory organization or other business or professional association for violation of any rule of such organization;

(I) is subject to any substantial unsatisfied liens or judgments;

(J) has been insolvent, unable to pay debts as they matured, made an assignment for the benefit of creditors or was involved in any liquidation, reorganization or bankruptcy proceeding as a debtor, whether voluntary or involuntary, within the seven (7) years preceding the date of the application;

(K) has made any materially false statement or failed to state a material fact in or in connection with any application filed with the Exchange;

(L) fails to meet such other qualifications as the Board may from time to time determine are in the best interests of the Exchange; or

A Member Firm may relinquish or inactivate its privileges provided that:

(A) the Exchange has received written notice of the Member Firm's intention to relinquish or inactivate its privileges, including the name of each Member guaranteed by the Member Firm pursuant to Exchange Rules 2.21 and/or 2.23 and the name and number of each non-Member account guaranteed by the Member Firm pursuant to Rule 9.04(B).

(B) the Exchange has given to Members at least ten (10) days notice of the Member Firm's intent to relinquish or inactivate its privileges; and

(C) the Member Firm delivers to the Exchange a written statement that all claims arising out of Exchange transactions against the Member Firm have been settled or discharged; and

(D) no Member or Member Firm has filed a claim against the withdrawing Member Firm and/or any Members or non-Members it guarantees.

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2.18 Termination of Member Firm Privileges

(A) Member Firm privileges shall be suspended or terminated automatically as set forth below,

(1) If the sole conferring Member dies or ceases to be an executive officer, general partner, representative, limited partner or employee of the Member Firm, the Member Firm's privileges shall be terminated ninety (90) days after the date of the occurrence of any such event unless a new conferring Member is approved for the Member Firm prior to such termination.

(2) If a sole conferring Member shall be suspended or expelled for any reason, such suspension or expulsion shall apply to the Member Firm.

(B) Member Firm privileges may be suspended, or terminated by the action of the Exchange in accordance with the By-Laws and the Rules.

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2.19 Reinstatement of Member Firm Privileges

A Member Firm whose membership privileges have been terminated for any reason may apply to the Audit Department for reinstatement of such privileges. If the Audit Department approves the request, it shall forward the request, with its recommendation, to the Board which may reinstate such privileges upon such terms and conditions as it, in its sole discretion, may impose.

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2.20 Floor Trading Privileges

The privilege of trading on the floor of the Exchange is limited to Members who have obtained a formal guarantee from a Primary Clearing Member, have completed a training course administered by the Training and Education Committee and have registered with the NFA, as further provided by Rules §§2.21, 2.22, 2.23, 2.24, 2.25, 2.26, 2.27 and 2.29; and to such other persons as established by the Board under a plan to grant access to such other persons.

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2.21 Guarantee by Primary Clearing Member

(A) Each Floor Member must be guaranteed to trade on the floor by a Primary Clearing Member ("PCM"). To guarantee a Floor Member, the PCM must execute such guarantees and other documents as required by the Exchange. No Floor Trader may be guaranteed by two (2) PCMs at the same time.

(B) In order to guarantee a Floor Member, the PCM shall:

(1) agree to accept and clear all trades executed by the guaranteed Floor Member which are not otherwise accepted for clearance;

(2) agree to accept financial responsibility for the trades held in an account in the record name and for the benefit of the guaranteed Floor Member which have been accepted for clearance by another Clearing Member authorized by the PCM to clear trades for the Floor Member pursuant to Rule 2.31, provided that the other clearing member has notified the PCM and the Audit Department of any deficit in the guaranteed floor member's account by 12:00 P.M. on the next trading day after the deficit arose;

(3) agree to accept financial responsibility for all trades determined through the Exchange adjudication or arbitration process to have been executed by the guaranteed Floor Member, whether for his own account or for the accounts of others;

(4) execute such guarantees and other documents as the Exchange shall require in connection with the PCM's guarantee of a Floor Member and shall file said documents with the Membership Department; and

(5) comply with the financial requirements for guarantors as set forth in Rule 2.30 and in Rule 9.21.

(C) The guarantee shall be in writing, filed by the PCM with the Membership Department and may only be withdrawn by means of a written notice of revocation filed with the Exchange in accordance with the provisions of Section (A) ("Regular Trading Hours") of Rule 2.33.

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2.22 Floor Member Training

(A) Prior to the grant of Floor Member privileges, a Member must successfully complete a Broker Training Course administered by the Training and Education Committee.

(B) The Training and Education Committee, for good cause shown, may waive any part, or all, of the Broker Training Course for a particular Member or class of Members.

(C) In order for a Floor Member to maintain Floor Member privileges, every three years a Member must attend a Continuing Education Program approved by the Training and Education Committee. Failure of a Floor Member to attend shall result in the automatic suspension of Floor Member and NYMEX ACCESS® trading privileges. Such suspension shall commence on the business day following the expiration of three years from the date a member last completed an approved Continuing Education and Ethics Program, and continue until proof of completion of a Continuing Education and Ethics Program.

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2.23 Financial Requirements of Floor Members

(A) There shall be no minimum financial requirements for either NYMEX or COMEX Division Floor Members other than for those individuals obtaining their membership privileges via a lease agreement or an Exchange-issued Floor Trading Permit as noted in subsection (B) below.

(B) Unless a formal guarantee is obtained as noted in Subsection (C) below, and filed with the Membership Department, each Floor Member obtaining his membership privileges via a lease agreement or an Exchange-issued, Floor Trading Permit must maintain, at all times, a minimum equity balance in a trading account with his Primary Clearing Member as follows:

- (i) NYMEX Division Floor Member: \$50,000
- (ii) COMEX Division Floor Member: \$25,000

(C) Floor Members obtaining their membership privileges via a lease agreement or an Exchange-issued trading Permit may be exempt from maintaining the minimum equity balance with their Primary Clearing Member, as required in Subsection (B) above, if a formal guarantee is obtained from a Member Firm of which he is a bona-fide, full time employee. Such guarantee shall obligate the Member Firm to:

- (1) Indemnify the Floor Member's PCM for any amount paid and/or incurred as a result of and allowable pursuant to its guarantee of the individual;
- (2) Assume any and all unsatisfied financial obligations of the lessee or Permit Trader to the Exchange and its Members arising out of the individual's conduct of business on the Exchange; and
- (3) Comply with the capital requirements of Rule 2.30 and reporting requirements of Rule 2.14 (B).

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2.27 Termination of Floor Trading Privileges

(A) Floor trading privileges terminate automatically upon the occurrence of any of the following events:

- (i) the filing with the Exchange of a termination by the Clearing Member of its qualifications;

(ii) failure of the Floor Member to satisfy the requirements of Rule §2.23;

(iii) suspension, expulsion, or termination of the Membership of the Floor Member or the qualifying Clearing Member; or

(iv) for any other reason specified in the Bylaws or Rules.

(B) When Floor Trading privileges have been terminated for any reason, an application for renewal must be made in accordance with these Rules.

(C) When floor trading privileges have been terminated or suspended for any reason, the member subject to such termination of privileges, upon notification of termination or suspension, shall forthwith surrender his NYMEX Trader badge to the Chairman or a Vice Chairman of the Floor Committee, or their designee.

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2.30 Additional Capital Required for Employee Guarantees

(A) Both Member Firms and Clearing Member Firms may issue certain financial guarantees of bona-fide full time employees which, when properly prepared and filed with the Exchange's Membership Department, will exempt such employees from the requirement that lease members and permit holders maintain minimum equity balances with their respective Primary Clearing Member.

(B) Each Member Firm and Clearing Member Firm must maintain capital in excess of that required by Rule 2.14 and 2.15 for each financial guarantee issued and allowed by Subsection (A), beyond a base of four guarantees per Division, as follows:

- (i) NYMEX Division: \$50,000
- (ii) COMEX Division: \$25,000

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2.31 Duties of Guaranteed Members

(A) Each Member guaranteed by a Member Firm or Primary Clearing Member shall file with such Member Firm or Primary Clearing Member a copy of any financial statement or document filed with any other Exchange.

(B) No Member may hold a direct or indirect interest in any commodity account carried by any other Clearing Member without the prior written consent of the Primary Clearing Member.

(C) Unless otherwise requested by a Member Firm or a Clearing Member or the Member's PCM, a guaranteed Member shall cause to be delivered to a guarantor or to his or her Primary Clearing Member as applicable all statements and confirmations with respect to any commodity account, in which such Member has a direct or indirect interest or over which such Member exercises direct or indirect control.

(D) No guaranteed or qualified Member shall open a commodity account without the prior written consent of such Member's guarantor or qualifying Clearing Member.

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2.32 Duties of Guarantors and Primary Clearing Members

(A) Monitoring of Guaranteed Members

Each PCM shall affirmatively monitor the financial condition of each Floor Member guaranteed to determine that Floor Member's compliance with the terms and financial requirements of Rule 2.23 (lease members) and shall take steps to terminate its guarantee upon non-compliance with such requirements.

In the event a Lease Member fails to maintain the minimum deposit in his trading account as required by Rule 2.23 (B), he may obtain from his Primary Clearing Member a temporary thirty (30) day financial guarantee. The issuance of such a financial guarantee relieves the Clearing Member from initiating steps to terminate its relationship as the Lease Member's Primary Clearing Member and provides the applicable Lease Member with additional time to attain compliance.

The financial guarantee referred to in the paragraph above must be filed with the Exchange's Audit Department on the same date it is executed. For each financial guarantee issued, the applicable Primary Clearing Member must maintain working capital in excess of that required by Rules 2.14 and 2.15 in amounts equal to \$50,000 for NYMEX Division Lease Members and \$25,000 for COMEX Division Lease Members.

(b) any error, omission or delay in calculating or disseminating any current, closing or settlement prices, values, transactions in, quotations for or other information about futures contracts and options contracts traded on the Exchange.

(c) the use of data transmitted or disseminated by or on behalf of the Exchange or any reporting authority designated by the Exchange, including but not limited to reports of transactions in, quotations for or other information about futures contracts and option contracts or reports of index values or related data; and, in connection with the use of such data, the Exchange makes no express or implied warranties as to such data, including but not limited to (i) the result to be obtained or (ii) the merchantability or fitness for a particular purpose or use.

(d) any suspension, inaccuracy, interruption or termination, or any other cause, relating to the furnishing, performance, operation, maintenance, use of or inability to use any or all portion of Exchange systems, or services and facilities used to support the Exchange systems and services related thereto, regardless of whether such services or facilities are provided by the Exchange or a third-party. In addition, the Exchange shall have no liability for errors or inaccuracies in information provided by Exchange systems or for losses or other injury or damages resulting from unauthorized access or any other misuse of any Exchange systems by any person.

(e) The foregoing limitation of liability and disclaimers shall be in addition to any other limitation of liability provision contained in these Rules, and, to the extent that they are inconsistent, the provisions of this Rule shall control.

(f) The foregoing limitation of liability shall be subject to the Commodity Exchange Act and Regulations thereunder.

(g) The limitation of liability set forth in these rules shall not apply to or affect the rights or remedies of either any Claimant or the Exchange with respect to violations of the commodities laws and regulations.

4. Any Claimant that institutes a lawsuit or other similar proceeding against the Exchange in any court of law or otherwise and that fails to prevail in such lawsuit or proceeding shall pay to the Exchange any and all reasonable expenses and disbursements of the Exchange, including reasonable attorney's fees, incurred by the Exchange in the defense of such lawsuit or proceeding in addition to any statutory costs incurred by the Exchange.

5. Any claim may only be litigated in the County of Cook in the State of Illinois and will be governed by the laws of the State of Illinois without regard to any provisions of Illinois law that would apply the substantive law of a different jurisdiction. No action against the Exchange shall be commenced except in those courts located in the County of Cook in the State of Illinois. Claimant waives personal service and consents to service of process by registered or certified mail to the most recent address provided by Claimant to the Membership Department. Nothing in these Rules shall affect the right of the Exchange to serve legal process in any other manner permitted by law or affect the right of the Exchange to bring any action or proceeding against Claimant or Claimant's property in a court of any other jurisdiction.

6. The Exchange and Claimant waive their right to trial by jury in any action or proceeding between them. To the extent permissible by law, Claimant waives the right to punitive damages, consequential damages, multiple damages and attorneys' fees in any such action or proceeding.

7. This Rule shall be construed and enforced in accordance with the laws of the State of Illinois without regard to conflict of any other laws, except to the extent pre-empted by Federal law. Each provision of this Rule shall be viewed as legally separate and distinct from the other provisions contained herein and if any provision of this Rule is held invalid, that provision shall not effect the legality and enforceability of any other provision.

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2.44 Disputes Between Members

Any Member, Member Firm or Clerk involved in a transaction or business relationship on the Exchange about which a dispute arises that is not resolved shall act in the most expeditious manner practicable to mitigate or limit any damage to any party to such transaction or relationship. There shall be a rebuttable presumption that such acts of mitigation shall not be admissible with respect to liability for the transaction or relationship giving rise to the dispute.

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2.45 Failure to Pay Fines, Dues, Assessments and Fees

(A) Fines - If a Class A Member or Member Firm defaults in the payment of any fine on the date due, such Class A Member or Member Firm may forfeit all membership privileges, including the privilege of accessing the floor and reduced clearing and trading fees, including Globex fees, as applicable. Exchange staff shall use reasonable efforts to notify the Class A Member or Member Firm before any privileges are forfeited.

(B) Dues, assessments and fees— Dues, assessments, and fees owed to the Exchange are payable upon receipt of the invoice. Class A Members in arrears 30 days after the invoice date may forfeit all membership

privileges, including the privilege of accessing the floor and reduced clearing and trading fees, including Globex fees. Exchange staff shall use reasonable efforts to notify the Class A Member before any privileges are forfeited.

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2.46 Effect of Suspension or Expulsion from Membership

(A) A Class A Member or Member Firm whose rights and privileges of Membership have been suspended shall continue to be:

- (1) subject to the Bylaws and the Rules;
- (2) liable for all dues, assessments, fees and fines imposed by the Exchange; and
- (3) obligated to the Exchange and to its Members for all contracts, obligations and liabilities entered into or incurred before, during and after such suspension.

(B) A Class A Member or Member Firm who has been expelled from the rights and privileges of Membership shall continue to be:

- (1) subject to the disciplinary and arbitration rules of the Exchange;
- (2) liable for all dues, assessments, fees and fines imposed by the Exchange prior to such expulsion; and
- (3) obligated to the Exchange and its Members for all contracts, obligations, liabilities, fines and penalties entered into or incurred prior to or after such expulsion.

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2.50 Transfer of Memberships

(A) A Member, Member Firm or other entity may transfer ownership of a membership upon sale of a membership to another Member, Member Firm or Member-elect as provided in Rule 2.52.

(B) A Member may transfer ownership of his membership as a result of a bona fide gift, bequeath or bequest from the Member:

- (1) To an eligible family member (i.e., a spouse, parent, child, sibling, grandparent, or grandchild);
- (2) To a trust for which the Member is grantor and, if/while living and competent, a trustee of the trust; and with respect to which all beneficiaries are members of the Member's family who would be eligible for a family transfer from the Member pursuant to paragraph (B)(1) of this Rule.
 - (i) The document(s) establishing and governing the trust shall at all times prohibit assignments of an interest in the trust to any person who is not an eligible family member and state that:
 - (a) The trust's interest in the membership shall at all times be subject to all of the Rules of the Exchange, as may be amended;
 - (b) The management of the trust shall be vested exclusively in a trustee (and any successor) who, if not already a Member, shall qualify for membership by satisfying the requirements of Chapter 2 of these Rules;
 - (c) The Exchange's rights with respect to the membership shall be superior to those of the beneficiaries; and
 - (d) The Exchange shall have no liability to the beneficiaries for any loss, damage, or expense resulting from any acts or omissions by the trustee.

(ii) The transferor and the trustee (and any successor) shall each provide, in a form acceptable to the Exchange, a certification that the trust shall/has acquire (d) the membership subject to all of the Rules of the Exchange and that the trust is in compliance with the requirements of the Exchange's By-Laws and Rules.

(iii) Transfer of a membership pursuant to this Rule shall not relieve the transferor of any liability to the Exchange or its Members with respect to any claim arising out of an act or omission occurring prior to such transfer, and the membership will continue to be treated as the asset of the transferor for the purposes of satisfying any obligations to the Exchange and/or its Members arising out of the transferor's use of the membership prior to the transfer to the trust, including, but not limited to, fines imposed with respect to conduct occurring prior to the transfer to the trust.

(iv) If the transferor, trustee or any subsequent trustee exercises, in his own name, the floor trading privileges associated with said membership, the membership will be treated as the asset of the transferor, trustee or any subsequent trustee for the purposes of satisfying any obligations to the Exchange or its Members arising out of the transferor's, trustee's or subsequent trustee's use of the membership.

(v) A membership held in trust may not be used to confer member firm privileges.

(vi) Upon official notice to the Exchange that the trust will be or has been revoked, the membership may:

- (a) Be transferred back to the transferor, if living;
- (b) Be transferred to the transferor's estate; or
- (c) Be sold in accordance with and subject to the provisions of Rule 2.52.

(3) To a Family Limited Partnership ("FLP") with respect to which all partners are members of the member's family who would be eligible for a family transfer from the member pursuant to paragraph B(1) of this Rule.

(I) The limited partnership agreement or other document(s) governing the FLP shall at all times prohibit assignments of an interest in the FLP to any person who is not an Eligible Family Member and state that:

(a) The FLP's interest in the membership shall at all times be subject to all of the Rules of the Exchange, as may be amended;

(b) The management of the FLP shall be vested exclusively in a managing general partner, who shall qualify for membership by satisfying the requirements of Chapter 2 of these Rules;

(c) The Exchange's rights with respect to the membership shall be superior to those of the partners; and

(d) The Exchange shall have no liability to the partners for any loss, damage, or expense resulting from any acts or omissions by the managing general partner.

(II) The transferor and the managing general partner (and any successor) shall each provide, in a form acceptable to the Exchange, a certification that the FLP shall/has acquire (d) the membership subject to all of the Rules of the Exchange and that the FLP is in compliance with the requirements of the Exchange's By-Laws and Rules.

(iii) Transfer of a membership pursuant to this Rule shall not relieve the transferor of any liability to the Exchange or its Members with respect to any claim arising out of an act or omission occurring prior to such transfer, and the membership will continue to be treated as the asset of the transferor for the purposes of satisfying any obligations to the Exchange and/or its Members arising out of the transferor's use of the membership prior to the transfer to the FLP, including, but not limited to, fines imposed with respect to conduct occurring prior to the transfer to the FLP.

(iv) If the transferor, managing general partner or any subsequent managing general partner exercises, in his own name, the floor trading privileges associated with said membership, the membership will be treated as the asset of the transferor, managing general partner or any subsequent managing general partner for the purposes of satisfying any obligations to the Exchange or its Members arising out of the transferor's, managing general partner's or subsequent managing general partner's use of the membership.

(v) A membership held in a FLP may not be used to confer member firm privileges.

(vi) Upon official notice to the Exchange that the FLP will be or has been revoked, the membership may:

- (a) Be transferred back to the transferor, if living;
- (b) Be transferred to the transferor's estate; or
- (c) Be sold in accordance with and subject to the provisions of Rule 2.52.

(C) A Member, Member Firm or other entity may transfer ownership of a membership by operation of law;

(D) A Member may transfer ownership of a membership as a result of a sale where the seller and purchaser

are members of the same family (a spouse, parent, child, sibling, grandparent, or grandchild).

(E) The transfer in ownership of a membership shall be effective upon the execution of an assignment of registration to the transferee on the membership records of the Exchange.

(F) A Member may retain ownership of his membership and transfer, via lease or ABC Agreement, those rights and obligations specifically provided for in the lease or ABC Agreement. The transfer of such rights and obligations shall be concurrent with the effective and/or termination date of the lease or ABC Agreement

(G) The Exchange shall treat the person in whose name a membership is registered on the membership records of the Exchange as the sole owner of the membership, notwithstanding the terms and conditions of an ABC Agreement, Trust Agreement or Family Limited Partnership Agreement pursuant to which the person holds such membership, and, except as otherwise provided in the By-Laws and Rules, shall not be bound to recognize any claim to, or interest in, such membership, by any other person or entity, whether or not the Exchange has notice of such purported claim or interest.

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2.51 Procedure for Transfer of Memberships

(A) If a Member desires to transfer ownership of a membership, the transferor shall deliver to the Membership Department notification of intention to transfer, executed by the transferor or its legal representative. The notice of intention to transfer shall include the seat identification number, the date on which the transfer is intended to become effective and the name of the proposed transferee. The Membership Department, upon receipt of a notice of intention to transfer a membership, shall promptly notify the membership of the Exchange, by posting for a period of ten (10) days the notice of intention to transfer.

(B) No Member may transfer ownership of a membership or lease to another the trading privileges associated therewith unless and until the following conditions have been met:

(i) All dues, assessments, fines, penalties and any other monies (including, but not limited to, booth fees, office rent and phone charges) due and payable to the Exchange shall have been paid:

(ii) All claims of Members that: (1) arise out of, or in connection with, the transaction of business on the Exchange, and (2) are filed with the Membership Department within ten (10) days after the Exchange gave the membership notice of intention to transfer have been settled or discharged.

(iii) The condition in subpart (ii) above shall not apply to claims of Member Firms who are the beneficial owners of the proposed transfer membership pursuant to an ABC Agreement.

(iv) Payment by the transferee to the Exchange of a transfer fee in an amount to be fixed, from time to time, by the Board; provided, however, that a Member who purchases a membership in order to transfer it to another Member or to Member-elect and files a notice of intention to transfer the membership to such other Member or to such Member-elect shall not be required to pay a transfer fee upon transfer to such other Member or Member-elect.

(C) A transfer of ownership of a membership may be effected, notwithstanding the provisions of Sections (A) and (B) hereof provided that:

(i) the transferor owns and holds more than one full membership in the Division of the transferred membership; provided, however, that the claim shall be less than the then current value of a membership; or

(ii) the transferor deposits with the Exchange a certified check, payable to the Exchange, in an amount equal to the amount of the claim, including a reasonable amount for costs and attorney fees, for liquidated claims or such amount as may be determined by the Exchange for unliquidated claims provided that such amount shall be no higher than the price at which a membership last sold or at which a membership was bid. The Exchange shall retain such deposit until the earlier of ten (10) days after receipt of a notice of intention to transfer or all claims filed within ten (10) days of posting such notice have been resolved, or until the transferor, as specified above, has deposited with the Exchange an amount equal to the total of all claims filed within ten (10) days notice of such notice.

(D) A Member and/or Member firm that is the subject of any disciplinary proceeding or investigation by the Exchange may transfer the ownership and/or rights and obligations granted pursuant to the lease or A-B-C Agreement notwithstanding the existence of the disciplinary action however:

(i) such Member and/or Member firm shall remain subject to Exchange jurisdiction and be personally liable

for any fines assessed in connection with the proceeding or investigation;

(ii) the Member and/or Member firm shall be deemed to have consented to the jurisdiction of the courts of the State of New York in New York County for the purpose of any action brought by the Exchange to enforce its rights against such Member and/or Member firm;

(iii) in the event that the lessee satisfied the financial requirements of Rule 2.23 by maintaining the required trading account equity such funds: (1) shall be frozen until the investigation is closed or proceeding concluded; (2) shall be paid to the Exchange in full or partial satisfaction of any fine; and (3) shall be released only upon written approval to the lessee's PCM from the Exchange's Audit Department.

(E) A transfer of the rights and obligations of membership back to a lessor upon the termination of a lease shall nonetheless result in continuing Exchange jurisdiction over the lessee with respect to any pending disciplinary investigation or proceedings involving the lessee, or any proceeding arising out of the lessee's acts or omissions during or relating to such proceeding. Lessors shall not be liable for, and shall not be responsible for the payment of disciplinary fines assessed against lessees. Such lessees shall have continuing personal liability for all disciplinary fines arising out of such investigations or proceedings.

(F) Notwithstanding Section (D), the lessee may receive all of the funds in his trading account at the time of the seat transfer, provided that he deposits in the Membership Department a certified check, or a check drawn on a Clearing Member's account, payable to the Exchange in the amount of \$50,000 for NYMEX Division lessees and \$25,000 for COMEX Division lessees.

(G) A membership that has been sold in accordance with Rule 2.52 may be transferred to the purchaser free from any claims notwithstanding that a claim may have been made under Section (B) hereof. The portion of the proceeds required in accordance with Subsection (C)(ii) of this Rule shall not be distributed until resolution of any claim as provided in Rule 2.68.

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2.52 Procedures for Purchase and Sale of Membership

(A) All purchases and sales of Class A memberships, except for purchases and sales pursuant to Rule 2.50(C)(vi), must be made through the Membership Department, which shall maintain a file of bids and offers for memberships. A person desiring to buy or to sell a membership shall submit a written bid or offer to the Membership Department.

(B) The cost of purchasing a Class A membership from the Exchange may be fixed by the Board from time to time.

(C) The proceeds of any sale of a membership shall be distributed as set forth in Rule 2.69B.

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2.53 Acquisition of Membership by Member Elect

(A) Every Member-elect shall cause a transfer of a membership to the Member-elect within forty-five (45) days after election to membership and, within such period, shall subscribe to the Bylaws and Rules thereby pledging to comply with the Bylaws and Rules and all subsequent amendments to the Bylaws and Rules.

(B) If a Member-elect does not comply with the requirements of subsection (A) of this Rule, his election shall be void unless the time for compliance is extended, for any reason, by the Membership Committee.

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2.54 Effect of Filing Notice of Intention to Transfer

A Member shall cease to have floor trading privileges on the effective date a notice of intention to transfer the ownership of his sole membership in either Exchange Division and/or the floor trading privileges associated with the lease of a sole membership.

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2.55 Payment for Memberships Purchased

Except for purchases and sales pursuant to Rule 2.50(C)(vi), the cost of all Class A memberships purchased shall be deposited by the purchaser with the Exchange, by certified check drawn on the account of the purchaser, by wire transfer in the name of the purchaser, or by check drawn on the account of a clearing member, within two (2) business days of the purchase of the membership. The Exchange shall pay

Class A Member, he or she may empanel the Chief Executive Officer, the President of the Exchange, Chairman of the Board, the Chairman of the Clearing House Committee and the President of the Clearing House. Such panel shall be duly authorized and, upon a unanimous vote of the panel, be empowered to suspend, or take any other action, as it deems appropriate to protect the Exchange. The panel may take such action regardless of whether the Class A Member has consented to a suspension. The Class A Member affected by action taken shall be notified and may request a hearing before the Board as provided in Rule 230A.(k). In the event of suspension, the Chief Executive Officer shall, promptly after a suspension, set the matter for hearing before the Board for final determination.

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2.67 Creditors of Insolvent Class A Members

(A) Unless the President of the Clearing House shall direct otherwise, all futures and options contracts traded on the Exchange, made with or carried for a Class A Member suspended under this Chapter shall be liquidated by the party carrying the contracts. Such liquidation shall take place in the open market. If such contracts cannot be liquidated due to the closing of the Exchange for any reason, then such contracts shall be liquidated on the next day on which the Exchange is open. The period within which such contracts must be liquidated shall not include any period during which the provisions of the Rules limiting price fluctuations would prevent such liquidations.

(B) Within 10 days of the announcement of suspension of a Class A Member, any Class A Member who has a claim against such suspended Class A Member shall deliver to the Membership Department a Notice of Claim that details all contracts liquidated under this Rule and the net debit or credit balance resulting therefrom and that details any other claims that such Class A Member may have against the suspended Class A Member.

(C) Failure to file a Notice of Claim within such period shall bar such Class A Member from participating in any proceeds that result from any sale of the membership of the suspended Class A Member.

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2.68 Establishment of Valid Claims

(A) The Membership Department shall furnish the suspended Class A Member and all Class A Members who have filed Notices of Claim as required by Rule 2.67 with copies of all Notices of Claim filed under Rule 2.67 and the sworn statement of the suspended Class A Member filed under Rule 2.63(B). The Membership Department shall also specify a date not more than 10 business days from the date on which such Notices of Claim are furnished to such Class A Members by which the suspended Class A Member or any claimant Class A Member may file an objection to any claim.

(B) If a suspended Class A member or any claimant Class A Member fails to file an objection to a claim before the date set by the Membership Department, then that Class A Member shall have waived all rights to object to such claim or claims.

(C) In the event that any claim is disputed, the validity of such claim shall be determined by arbitration in accordance with Chapter 5 of the Rules. The arbitration shall proceed as if the objecting Class A Member has filed a Demand for Arbitration. The objecting Class A Member shall pay the fee prescribed in Rule 5.37. The arbitrators shall determine whether and to what extent such claim is valid; and, in accordance therewith whether a claimant is entitled to participate in the proceeds of a sale of the Membership of such suspended Class A Member, pursuant to Rule 2.69B.

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2.69 Expelled Class A Member

All Class A Memberships held by a Class A Member who is expelled from the Exchange shall be sold and the proceeds paid and applied as provided in Rules 2.69A and 2.69B.

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2.69A Sale of Membership

(A) If within 10 business days from the date of the decision of the Arbitration Committee or from the last date established by the Membership Department for filing of objections to Notices of Claim, whichever is later, a Class A Member suspended under this Chapter does not pay all valid claims, then all Class A Memberships and all other collateral previously delivered or pledged to the Exchange (including, without limitation, Class A shares of CME Group) of the suspended Class A Member shall be sold in accordance with this Rule and the proceeds of the sale of such Class A Memberships shall be distributed in accordance with Rule 2.69B.

(B) When any Class A Membership is sold pursuant to this Rule, written notice of such sale stating the date and time of such sale shall be sent to the Class A Member and the other Class A Members 10 days prior to such sale.

(C) All sales should be made by the President or his designee on the floor of the Exchange to the highest bidder at open outcry but in no event less than the highest bid then posted at the Exchange for the transfer of a Class A Membership. Any Class A Member may purchase such Class A Memberships. Any Class A Memberships so purchased shall be free from and clear of any claims, liens or attachments. Such sale shall be final and binding and not subject to challenge. Payment for the purchase of such Memberships shall be made to the Exchange.

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2.69B Disposition of Proceeds

The proceeds of any sale of any Class A Membership and all other collateral previously delivered or pledged to the Exchange (including, without limitation, Class A shares of CME Group) pursuant to Rule 2.69A shall be paid and applied in the following order of priority:

(1) first, to the Exchange in full satisfaction of any amounts due to the Exchange including, but not limited to, booth fees, office rent, phone charges and outstanding balances (principal and accrued interest) on notes guaranteed pursuant to former Rule 2.56 ("Exchange Financed Class A Memberships");

(2) second, pro rata to the payment of such Class A Member's primary clearing member and secondary clearing members, if any, of all claims filed in accordance with the requirements of Rule 2.51 for losses arising from the clearance of trades executed by the guaranteed Class A Member;

(3) third, the remaining balance, if any, pro rata to other Class A Members on allowed claims arising out of transactions in Exchange futures and options contracts and/or any other Exchange business of such Class A Members, provided, that, no partner shall share in the proceeds of the sale of a Class A Membership of one of his partners until all claims of other Class A Members have been satisfied in full;

(4) fourth, the remaining balance, if any, to the payment of any claims made by entities or persons who have financed the purchase of the Class A Membership; provided, that, documentation regarding such purchase was filed with the Membership Department prior to such purchase; and

(5) fifth, the balance, if any, to the Class A Member whose Class A Membership was sold or to his legal representative, except that, notwithstanding any other provision of the Bylaws or the Rules, for purposes of this subsection (5) the term Class A Member shall not include lessees, but shall mean the beneficial owner of such Class A Membership.

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2.69C Reinstatement of Suspended Class A Member

(A) A Class A Member suspended under Rules 2.64, 2.65 or 2.66 may apply for reinstatement at any time prior to the sale of his Class A Membership.

(B) When a Class A Member applies for reinstatement, he shall deliver to the President or his designee a schedule of all of his creditors, a statement of the amounts owed, the nature of the settlement by which claims of a creditor were paid, and such other information as the President or his designee may request.

(C) Written notice of the time and place of the meeting of the Hearing Panel of the Board at which the application for reinstatement is to be considered shall be sent to the suspended Class A Member and to the other Class A Members not less than five days prior to the meeting.

(D) The vote of a majority of the panel is required to reinstate the suspended Class A Member. Where a Class A Member has failed, however, to give timely notice required by Rule 2.63, a vote of two-thirds of the entire Board is required to reinstate the suspended Class A Member.

(E) If a Class A Member suspended under this Chapter is not reinstated within one year from the date of his suspension, then such Class A Member may not be reinstated.

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2.70 Leases of Memberships' Trading Privileges

(A) A Member may lease a membership's trading privileges to another Member or to a Member-elect pursuant to an agreement in a form prescribed by the Exchange; provided that, memberships subject to outstanding seat financing agreements under former Rule 2.56 shall not be leased. A copy of the lease must be delivered to the Membership Department and to the lessee's PCM.

(B) Except as provided in Rules 2.60, a lease includes any transfer of a membership by a Member where the transferring Member: retains the ownership interest in the membership; retains a right to appreciation or depreciation (or both) in the value of the membership; and retains a right to reacquire the membership.

(C) Deleted.

(D) A Member who, with respect to his last or sole membership, has leased to another his trading privileges

("lessor") shall not be entitled to member rates for trades executed for his account. A Member who, with respect to his last or sole membership on the NYMEX Division, has leased to another his NYMEX trading privileges shall not be entitled to: (i) serve on the Board of Directors, except as otherwise provided for in the by-laws or charter, or (ii) receive any life insurance and/or disability insurance benefits bestowed upon NYMEX Members. A Member of either Division who, with respect to his last or sole membership, has leased to another his trading privileges ("lessor") shall not, while present on the respective Division(s) trading floor, be entitled to place orders, directly with any floor member or floor clerk, for the execution of any futures or options contracts (except that, if properly registered as a clerk, such person may transmit customer orders for execution).

(E) Notwithstanding anything to the contrary in Section (D), during the term of a lease of regular trading privileges on the NYMEX Division the lessee of those privileges ("lessee of regular trading privileges") shall be entitled to serve on the Board of Directors, receive any life insurance and/or disability insurance benefits bestowed upon NYMEX Division Members, and member rates for any trades executed for his account during any Regular Trading Hours trading session and any other trading session, as the Board may, from time to time, determine

(F) Section (F) applies only to COMEX Division lessees.

During the term of a lease of regular trading privileges on the COMEX Division the lessee of those privileges ("lessee of regular trading privileges") shall be entitled to receive member rates for any trades executed for his account during any Regular Trading Hours trading session, subject to all applicable surcharges as set forth in this Rule 2.70. The lessee of regular trading privileges shall not be entitled to receive any life insurance and/or disability insurance benefits bestowed upon Members, to vest and participate in any distributions from the Member Retention and Retirement Plan, or the right to vote that is set forth in the COMEX By-Laws.

In addition to the dues and assessments permitted under Section (I) of this Rule 2.70, the following fees shall be charged to the lessee of regular trading privileges on the COMEX Division:

(i) there shall be a surcharge of twelve and one-half cents (\$0.125) (twenty-five cents (\$0.25) per round-turn) on each futures contract and each option contract purchased or sold for the personal account of a lessee or for an account controlled by the lessee (customer type indicator CTI# 1).

(ii) there shall be a surcharge of fifty cents (\$0.50) (one dollar (\$1.00) per round-turn) on each futures contract and each option contract bought or sold by a lessee for the house account of the lessee's clearing member (CTI 2), for the account of another member present on the floor or an account controlled by such other member (CTI 3), or for the account of any other type of customer (CTI 4), provided that such surcharge shall not apply to contracts traded by a lessee who is one of no more than two bona fide employees of a member firm leasing memberships for the purpose of executing trades for the account of the member firm and/or its customers.

(G) Lessors and lessees may serve on Exchange committees to the extent allowed by the By-Laws and Rules and as determined by the Board of Directors.

(H) All lessors and lessees shall be subject to such dues and assessments as are from time-to-time determined by the Board of Directors.

(I) Lessees of regular trading privileges shall not be entitled to any other rights of membership not specifically set forth or addressed elsewhere in this Rule 2.70. The lessee's guarantor(s) shall have no right of indemnification against the lessor for any and all claims against the lessee which have been satisfied in accordance with the terms of the guarantee. The lessor shall neither be liable for nor shall the leased membership be used to satisfy any and all claims against the lessee which have not been satisfied by the lessee and/or the lessee's guarantor(s). Lessees shall have continuing personal liability for any claims which accrued during the term of the lease which were not satisfied by the lessee's guarantor(s); for the payment of disciplinary fines assessed against the lessee which were not otherwise satisfied; and for any other financial obligations to the Exchange and or its Members that were not otherwise satisfied.

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2.71 Terms of Lease Agreement

(A) A membership lease agreement must, and shall be deemed to, include the following minimum provisions:

(i) upon the death of the lessee, the expiration of the term stated in the agreement or any other event of termination, the agreement shall terminate and the parties shall immediately give written notice thereof to the Membership Department;

(ii) neither the lessor nor the lessee shall be permitted to sell or transfer the leased membership during the term of the lease agreement unless it is specifically provided otherwise in this agreement;

(iii) the agreement shall not be effective until the lessee is elected to membership;

(iv) the rights and obligations associated with the lease of a membership shall automatically be transferred back to the lessor from the lessee upon termination of the agreement or any event of termination notwithstanding any restrictions to such transfer pursuant to the terms of Rule 2.51;

(v) during the term of the lease, the lessor and lessee shall be entitled to only those rights of membership as are set forth in Rule 2.70;

(vi) any and all controversies arising out of, or in connection with the lease, its negotiation, interpretation or termination shall be arbitrated in accordance with the provisions of Chapter 5 of the Rules; and

(vii) Claims of the Exchange, its Members, and Member Firms that arise out of the transaction of business on the same Division as the leased membership that remain unsatisfied shall have no effect on the automatic transfer of the rights and obligations associated with the leased membership to the lessor from the lessee.

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2.72 Notices Required of Lessor and Lessees, and Duties of COMEX Division Lessors during Notice Period

(A) The lessor shall give to the Membership Department written notice of any proposed lease agreement or renewal thereof at least ten (10) business days prior to filing the initial lease agreement or any renewal thereof.

(B) A lessor or lessee of a membership who does not intend to renew the lease agreement shall give to the Membership Department and to the lessee or lessor (as appropriate) written notice of that fact at least ten (10) business days prior to the termination of the lease agreement.

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2.73 Lease of Sole Membership

(A) A membership actively being used for conferring purposes may not be leased at any time.

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2.73A Transfer Back of Certain Previously Transferred Last or Sole Memberships

A former Member who, prior to the effective date of this Rule, transferred on the records of the Exchange his last or sole membership to a current member, but can demonstrate to the satisfaction of the Exchange that he continuously retained beneficial ownership of such membership, shall be entitled to have such membership transferred back into his name on the books and records of the Exchange at anytime prior to December 31, 1996; provided that such former Member shall comply with all Exchange rules relating to applications for membership, presently meets all standards for membership and executes such forms and agreements as prescribed by the Exchange. Any former Member to whom a membership is transferred back pursuant to this rule may lease such membership immediately, notwithstanding the provisions of Rule 2.73(a). A member of the same family as a deceased former Member (a spouse, parent, child, sibling, grandparent, or grandchild) who holds the beneficial ownership of the membership previously held by the former member may transfer the membership into his name in accordance with the terms of this Rule.

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2.76 Transfer of Membership After Death

(A) If the agreement does not provide for the termination of the lease upon the lessor's death, the beneficial ownership of a membership of a deceased Member that is subject to a lease agreement shall be transferred to his or her estate, which shall assume the deceased Member's rights and obligations as lessor under the lease. No new leases or extensions of existing leases will be permitted after the member's death.

(B) No membership of a deceased Member may be carried on the Exchange for more than two years from the date of the Member's death. If, at the expiration of two years from the date of death, the membership of a deceased Member has not been sold or transferred in accordance with Rule 2.77, the Board of Directors shall order the membership of the deceased Member to be sold at the then prevailing bid, subject to the Rules for transfer of exchange memberships.

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2.77 Transfers Within Same Family Upon Death of a Member

(A) The membership of a deceased Member may be transferred to a member of the same family (a spouse, parent, child, sibling, grandparent or grandchild) within the period of time provided for in Rule 2.76, provided such transferee is a Member or Member-Elect. However, with respect to a membership financed under former Rule 2.56, no such transfer shall be effective unless and until the loan is repaid in accordance with Exchange Bylaws and Rules and Financing Agreement.

(B) If the family member to whom a transfer is sought is not eligible for election as a Member because he or she does not meet the minimum age requirement of Rule 2.00(A), the legal representative of the deceased Member, upon approval by the Exchange, shall retain the Membership in the name of the Estate of the deceased Member until such time as the family member to whom the transfer is ultimately sought meets the minimum age requirement of Rule 2.00(A).

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2.80 Membership Denial Procedures

(A) In the event that a subcommittee of the Membership Committee votes to disapprove an application for membership, the subcommittee shall issue a recommended decision for the consideration of the applicable Panel of the Membership Committee ("Membership Committee"), as described in Rule 3.31.

(B) The subcommittee shall communicate to the Compliance Department its recommendation for disapproval and the reasons therefor; thereafter, the subcommittee shall cooperate with the Compliance Department in providing it with the evidence in support of the recommendation for disapproval.

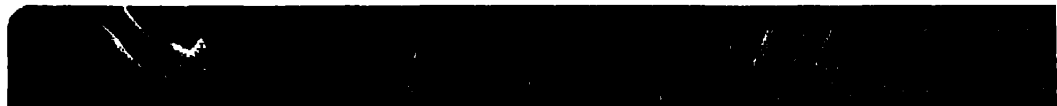
(C) Within ten (10) days after the subcommittee's recommendation for disapproval is communicated to the Membership Committee, the Compliance Department shall issue and serve on the applicant, in the manner set forth in Rule 8.04(A), a Notice of Recommendation for Membership Denial which shall set forth the acts, practices or conduct on which the recommendation is based and notify the applicant that (1) he is entitled to a hearing on his application; (2) he must request, in writing, such a hearing and file an answer to the Notice of Recommendation for Membership Denial with the Compliance Department within ten (10) days of the receipt of the Notice; (3) failure to file an answer and request for hearing on a timely basis will result in the application for Membership being withdrawn.

(D) The applicant's Answer shall state, with respect to each allegation in the Notice, whether he admits, denies, or lacks sufficient information on which to respond and any other information with respect to

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230A. General

The Board shall, subject to applicable provisions in the relevant corporate charter and bylaws:

- a. Be the governing body of the Exchange;
- b. Have charge and control of all property of the Exchange;
- c. Provide, acquire and maintain suitable Exchange quarters and facilities;
- d. [Reserved];
- e. [Reserved];
- f. Designate and authorize specific appointed officers to act on behalf of the Board to execute contracts within specified budgetary limits;
- g. Fix, determine and levy all membership dues, fees and assessments when necessary;
- h. Act in a judicial capacity in the conduct of hearings with respect to any charges proffered against members and, after such hearings, determine what disciplinary action, if any, should be taken by the Exchange with respect to those charges;
- i. Determine the commodities traded, the Division in which they shall be traded, the delivery months, hours of trading, the days of the contract month on which delivery may be made, and performance bond requirements;
- j. Make and amend the Rules of the Exchange; provided, the Board has also delegated such authority to make and amend the Rules of the Exchange to the Chairman and Vice Chairman of the Board and the Chief Executive Officer acting together; and
- k. Have power to act in emergencies. In the event that the Board or a hearing panel of the Board determines that an emergency situation exists in which the free and orderly market in a commodity is likely to be disrupted, or the financial integrity of the Exchange is threatened, or the normal functioning of the Exchange has been or is likely to be disrupted, it may, upon a majority vote of the members present or upon a majority vote of the members who respond to a poll, take such action as may in the Board's sole discretion appear necessary to prevent, correct or alleviate the emergency condition. Board members who abstain from voting on a Significant Action as defined in Rule 234A shall not be counted in determining whether such action was approved by a majority vote, but such members can be counted for the purpose of determining whether a quorum exists. Without limiting the foregoing, the Board may: (1) terminate trading, (2) limit trading to liquidation of contracts only, (3) order liquidation of all or a portion of a member's proprietary and/or customers' accounts, (4) order liquidation of positions of which the holder is unable or unwilling to make or take delivery, (5) confine trading to a specific price range, (6) modify the trading days or hours, (7) alter conditions of delivery, (8) fix the settlement price at which contracts are to be liquidated, and (9) require additional performance bonds to be deposited with the Clearing House. All Exchange contracts shall be subject to the Board's emergency powers and the specifications of each shall be deemed subject to this rule.

Whenever a hearing is scheduled to be held before a hearing panel of the Board ("Panel"), the Chairman of the Board shall appoint a director to serve as the Panel chairman, who shall conduct the hearing, and two additional directors to serve on the Panel. One of these directors shall be a non-member. A majority decision by the Panel shall be considered the action of the Board as a whole. Each Panel that conducts a hearing or proceeding shall consist of directors that possess sufficiently diverse interests so as to ensure fairness. No member of the Board may serve on a particular Panel if he has a personal, financial or other direct interest in the matter under consideration.

Any authority or discretion by these rules vested in the Chairman, Chief Executive Officer, President or other officer or delegated to any committee shall not be construed to deprive the Board of such authority or discretion and in the event of a conflict, the determination of the matter by the Board shall prevail.

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232A. Exchange Facilities

The Exchange shall provide trading facilities which shall be open for trading on such days and at such hours as the Exchange shall determine, except during emergency situations as provided by Exchange rules

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234A. Avoiding Conflicts of Interest in "Significant Actions"

234A.A. Definitions

For purposes of this rule:

1. "Significant Action" means (a) an Exchange action or rule change which addresses an "emergency" as defined in CFTC Regulation 40.1 (g); or (b) any change in Exchange performance bond levels that is designed to respond to extraordinary market conditions such as an actual or attempted corner, squeeze, congestion or undue concentration of positions, or that otherwise is likely to have a substantial effect on prices in any contract traded or cleared at the Exchange.
2. "Committee" means the Board or any body that is authorized to take a Significant Action.
3. "Member's Affiliated Firm" means a firm in which the member is a "principal," as defined in CFTC Regulation 3.1(a), or an employee.

234A.B. Review of Position Information

1. Prior to the consideration of any Significant Action, each member of the Committee must disclose to the appropriate Exchange staff the following position information to the extent known to him:

- a. Gross positions held at the Exchange in the member's personal accounts or "controlled accounts," as defined in CFTC Regulation 1.3(j);
- b. Gross positions held at the Exchange in proprietary accounts of the Member's Affiliated Firm;
- c. Gross positions held at the Exchange in accounts in which the member is a principal;
- d. Net positions held at the Exchange in customer accounts at the Member's Affiliated Firm; and
- e. Any other types of positions, at the Exchange or elsewhere, held in the member's personal accounts or the proprietary accounts of the Member's Affiliated Firm that could reasonably be expected to be affected by the Significant Action.

2. Exchange staff will independently determine what positions are held in each of the above categories based on a review of the most recent large trader reports and clearing records available to the Exchange and any other source of information that is held by and reasonably available to the Exchange, taking into consideration the exigency of the Significant Action.

3. The requirements of sections B.1. and B.2. apply only to members who participate in either the deliberations or voting on the Significant Action in question.

234A.C. Determination Whether Abstention Required

1. A member of a Committee must abstain from both the deliberations and voting by such Committee on any Significant Action if the member knowingly has a direct and substantial financial interest in the result of the vote based upon either Exchange or non-Exchange positions that could reasonably be expected to be affected by the action or is otherwise conflicted based on existing Exchange policy. Exchange staff will independently require a member of a Committee to abstain from both the deliberations and voting by such

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3.00 Rules of Order; Committee Composition

(A) The Business Conduct Committee shall be a Regular Committee and shall be divided into a Class A Member Business Conduct Committee Panel and a COMEX Division Business Conduct Committee Panel. Each Panel shall consist of a Chairman who is a Class A Member, ten additional Committee members and four alternates. The ten Committee members shall include at least three people who are neither Members of

the Exchange nor employed by a Member or Member Firm ("Public Committee Members"); the balance shall be Members or persons employed by Member Firms, balanced as equally as practicable among representatives of the categories: Floor Broker, Local, Trade and FCM (off-the-floor representative). The Class A Member Business Conduct Committee Panel shall be comprised of 70% Class A Members and 30% COMEX Division Members. The COMEX Division Business Conduct Committee Panel shall be comprised of 70% COMEX Division Members and 30% Class A Members. There shall be no restriction on the affiliations or categories of the alternates. The Committee members and alternates shall be appointed by the Chairman, subject to the approval of the Board.

(B) The Business Conduct Committee shall hold such meetings as, in the discretion of the Chairman of the Committee, are necessary to review matters pertaining to Exchange disciplinary actions, including but not limited to, Board policy and disciplinary precedents. Six Members of the Business Conduct Committee shall constitute a quorum for the purposes of exercising the powers of the Committee, provided that at least three of these six Members must be Public Committee Members.

(C) The Business Conduct Committee shall make a report to the Board at least twice a year. The report shall detail the activities of the Committee for the period covered by such report and shall describe all disciplinary actions taken by the Committee during such period.

(D) In the event that any committee: 1) succeeds to all or any part of the functions of a committee subject to specifically designated percentages of Class A Members and COMEX Division representation ("Established Committee"); or 2) is created with responsibility for functions that significantly impact the COMEX Division ("New Committee"); COMEX Division Members shall be represented on the committee, in the case of a committee succeeding to the functions of an Established Committee, to the same extent they are represented on an Established Committee and, in the case of a New Committee, in a ratio of seven Class A Members to three COMEX Division Members.

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3.01 Powers of Committees to Question Members

The Board of Directors and any Committee, when engaged in the examination of any subject over which it has jurisdiction, has the power to summon and examine any Member of the Exchange and any employee, officer or partner of a Member or Member Firm. The Board or any Committee may require such Member or other individual to submit a sworn statement of his information. Members and Member Firms shall comply with the foregoing provisions.

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3.02 Restrictions on Governing Board Members, Committee Members, Consultants, and Other Persons Who Possess Material, Non-Public Information

(A)(1) No member of the Board of Directors or any Committee of the Exchange or any Consultant shall use or disclose, for any purpose other than the performance of such person's official duties relating to the Board, Committee, or as a Consultant, material non-public information obtained as a result of such person's participation on the Board, Committee, or as a Consultant.

(2) No person shall trade for such person's own account, or for or on behalf of any other account, in any commodity interest, on the basis of any material, non-public information that such person knows was obtained in violation of Subsection (A)(1) of this rule from a governing board member, committee member, or consultant.

(B) The terms "material information" and "non-public information" shall have the same meaning as defined for those terms in Commission Regulation 1.59, as it may be in effect from time to time.

(C) Definitions:

(1) "Governing board member" means a member, or functional equivalent thereof, of the board of governors of a self-regulatory organization.

(2) "Committee member" means a member, or functional equivalent thereof, of any committee of a self-regulatory organization.

(3) "Consultant" means a person who serves in the capacity of a consultant for either the Board of Directors or the Exchange.

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3.03 Disqualification from Board and Committee Service

(A) No person shall serve on the Board of Directors or any Board level committee, the Clearing House Committee, or any committee or subcommittee or panel thereof that is authorized by a self-regulatory organization to issue disciplinary charges, to conduct disciplinary proceedings, to settle disciplinary charges, to impose disciplinary sanctions or to hear appeals thereof

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5.01 Scope of Rules

(A) Except as noted below, these Rules govern the resolution of all disputes, claims, grievances and controversies between Members, Members and employees of Members and between customers and Members and employees of Members.

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(B) For purposes of these Rules, the term "Members" shall include Class A Members, COMEX Division Members, Member Firms, COMEX Division Member Firms, Permit Holders, Floor Brokerage Billing Entities, Electronic Traders, Authorized Terminal Users who are also designated as Electronic Traders, Option Members, Aluminum Members and Eurotop Members. The term "employees of Members" shall include Authorized Terminal Users for NYMEX ACCESS®.

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5.02 Non-Waiver of Exchange Objects and Purposes

The submission of any matter to arbitration under these Rules shall in no way limit or preclude any right, action or determination by the Exchange which it would otherwise be authorized to adopt, administer or enforce.

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5.03 Legal Proceedings

No party shall, during the arbitration of any matter, prosecute or commence any suit, action or proceeding against any other party touching upon any of the matters referred to arbitration pursuant to these Rules.

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5.04 Required Submission

(A) Member Controversies

Members and Member Firms shall arbitrate any dispute, claim, grievance or controversy between or among Members or Member Firms (including Members or Member Firms that were Members at the time such dispute, claim, grievance or controversy arose) wholly or partially arising, directly or indirectly, out of, in connection with, or as a result of:

(1) Any transaction executed on the Exchange (including Exchange For Physicals transactions and deliveries against Exchange Contracts); and

(2) The business of such Member or Member Firm on the Exchange.

(B) Customer Controversies

Any dispute, claim, grievance or controversy between a customer and a Member or between a customer and an employee of a Member or Member Firm that wholly or partially arises, directly or indirectly, out of, in connection with or as a result of any transaction on or subject to the Rules of the Exchange shall be arbitrated under these Rules, as provided by an enforceable written agreement or, upon the demand of the customer. No Member or Member Firm shall enter into any agreement or understanding pursuant to which any customer who is not a Member as defined in Rule 5.01(B) above agrees, prior to the time a claim or controversy arises, to submit a claim or controversy for arbitration pursuant to this subsection (B) of Rule 5.04 unless such agreement or understanding is in accordance with the provisions of 17 C.F.R. 180.3, as from time to time amended, modified or interpreted by the Commission.

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5.05 Permissive Submissions

Any other dispute, claim, grievance, or controversy which involves (i) a Member or Member Firm or employee of a Member or Member Firm or customer of a Member and a Member or Member Firm; (ii) a Member or Member Firm that is a User of NYMEX ClearPort® Trading and a Non-Member User of NYMEX ClearPort® Trading; or (iii) or which only involves Non-Member Users of NYMEX ClearPort® Trading may be arbitrated under these Rules as provided by an enforceable Agreement to Arbitrate or Submission Agreement, but the Arbitrators shall have the right to decline the use of the Exchange's arbitration facilities in any dispute, claim, grievance or controversy, where, having due regard for the purposes of the Exchange, such dispute, claim, grievance or controversy is not a proper subject matter for arbitration under these Rules.

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5.06 Appointment of Panels

The Chairman of the Arbitration Committee shall appoint the individuals who shall serve as arbitrators, including the panel Chairman, to conduct the arbitration of any matter properly submitted under these Rules.

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5.07 Composition of Panels

(A) Member Controversies

Except as otherwise provided in the Rules, in all arbitration matters between or among Members or persons

employed by Members, a panel shall consist of no fewer than one (1) nor more than three (3) Arbitrators, all of whom shall be Members or persons employed by Members. If no request is made the matter will automatically be heard by an arbitration panel that shall consist of members or employees of members. (B) Customer Controversies

Except as otherwise provided in the Rules, in all arbitration matters involving customers, other than those asserting claims for less than \$2,500 subject to Rule 5.09, the Chairman of the Arbitration Committee, upon request of a customer, shall appoint an Arbitration Panel that shall consist of three (3) arbitrators, at least a majority of whom shall not be members of, or associated with a member of, any commodities exchange. [back to top](#)

5.08 Hearing Requirements - Waiver of Hearing

(A) Except as otherwise provided in these Rules, any dispute, claim, grievance or controversy shall require a hearing unless all parties waive such hearing in writing and request that the matter be resolved solely upon the pleadings and documentary evidence.

(B) Notwithstanding a written waiver of a hearing by the parties, a majority of the arbitrators may call for and conduct a hearing. [back to top](#)

5.09 Procedure for Claims Less Than \$2,500

Any dispute, claim, grievance or controversy involving a dollar amount not exceeding \$2,500 in the aggregate, exclusive of costs and interest, shall be decided entirely upon written submissions. The dispute, claim, grievance or controversy shall be submitted to a single arbitrator appointed by the Chairman of the Arbitration Committee. In all arbitration claims involving customers, upon the request of the customer, the arbitrator appointed to hear and decide the case shall not be a member of, or associated with a member of, any commodities exchange. Unless the arbitrator calls a hearing, the arbitrator shall decide the dispute solely upon the pleadings and evidence submitted by the parties. Any requests for a hearing must accompany the pleadings. [back to top](#)

5.10 Time Limitation Upon Submission

No dispute, claim, grievance or controversy shall be eligible for submission to arbitration under these Rules in any instance where two (2) years have elapsed from the occurrence or event giving rise to the act or the dispute, claim, grievance or controversy. [back to top](#)

5.11 Tolling of Time Limitation for the Institution of Legal Proceedings

Where permitted by applicable law, any limitation which would otherwise run or accrue for the institution of legal proceedings shall be tolled when all the parties shall have filed duly executed Statement of Claim and Answer upon the dispute, claim, grievance or controversy submitted to arbitration. The tolling shall continue for such period as the Exchange shall retain jurisdiction upon the matter submitted. [back to top](#)

5.12 Withdrawal and Dismissal of Proceedings

(A) A Statement of Claim may be withdrawn at any time prior to the filing of Respondent's Answer. Thereafter, the Statement of Claim may be withdrawn only upon the consent and mutual agreement of all parties submitted in writing to the Panel.

(B) At any time during the course of an arbitration, the arbitrators may dismiss the proceeding, with or without prejudice where cause exists, either upon their own initiative, or at the request of a party. [back to top](#)

5.13 Settlements

All settlements upon any matter shall be at the election of the parties. The arbitrators, upon the request of the parties, may set forth the terms of a mutually agreed settlement in an Award. [back to top](#)

5.14 Arbitrator Disclosure and Requests for Disqualification of Arbitrators

(A) Prior to the first hearing session, and throughout the arbitration proceeding, each arbitrator shall disclose to the Chairman of the Arbitration Committee ("Chairman") any direct or indirect financial or personal interest in the outcome of the arbitration and any existing or past professional, family or social relationships with any party, its counsel or any individual whom they have been told will be a witness, which are likely to affect such arbitrator's impartiality or might reasonably create an appearance of partiality or bias.

(B) The Chairman shall inform all parties of any such disclosures prior to the commencement of the first hearing session, and may, at the request of a party and for good cause shown, disqualify an arbitrator. In

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6.00 Exchange Business Day

The Exchange business day shall include the following trading sessions:

a regular trading hours (RTH) trading session and

an electronic trading session.

The trading day shall commence with the opening of trading on Globex®. The Globex® session for NYMEX and COMEX division products extends through RTH. The trading day will end at the close of the following session of RTH on the Exchange floor, or at the end of the Globex® trading session, whichever is later. No business will be conducted on Saturdays or Sundays with the exception of electronic trading sessions on Sunday evening for the purpose of commencing Monday's business day. The Exchange may be closed for one or more business days or trading sessions at any time by a vote of the Board.

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6.02 Hours for Trading

The Board shall establish the hours for trading in commodities on the Exchange for each trading session. All such trading shall take place within the prescribed hours.

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6.03 Call

There may be one or more calls each business day for the purchase and sale of each commodity futures and options contract in which trading is being conducted. Whether a call is to be conducted, and the time and duration of each such call may be determined by the Board. The Board may, from time to time, delegate to the President the authority to determine such time and duration.

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6.04 Closing Range and Close

(A) The closing range for all products trading on the Floor shall include all trades made within the last two minutes of the Regular Trading Hours trading session for all contracts and all bids higher than as well as offers lower than any trade made within such periods; provided that with respect to the final day of trading in energy futures contracts for delivery in the current delivery month, closing range shall mean the last half hour of trading in such contracts.

(B) All time or contingent orders commencing with the start of the closing range shall be considered as "market on close orders" and may be executed within the closing range.

(C) The "close" shall be the time for the end of each trading session for each Exchange commodity as determined from time-to-time by the Board of Directors.

(D) On expiration day for a spot month contract trading on GLOBEX®, trading in the spot month contract will cease at the close of Regular Trading Hours.

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6.05 Transactions, Bids, and Offers on the Trading Floor

(A) Except as otherwise specifically provided in the Bylaws and Rules, all purchases, sales, bids and offers for futures and options contracts:

(1) shall be executed openly and competitively by open outcry in the appropriate trading ring during the authorized hours of trading;

(2) shall, for light sweet crude oil, heating oil, New York Harbor unleaded gasoline, natural gas, platinum and palladium futures contracts, be understood to be for ten contracts where no quantity is specified, and, for all other futures contracts and all options contracts, be understood to be for one contract where no quantity is specified;

(3) shall be open to the first Member immediately accepting such bid or offer;

(4) shall be binding upon the first Member accepting such bid or offer or part of such bid or offer at the price named by the bidding or offering Member; and,

(5) shall be deemed withdrawn if not accepted immediately.

(B) Floor Members posting a bid or offer on display with the Exchange on the trading floor shall remain in the ring during the pendency of the posting or withdraw the bid or offer during their absence.

(C) No bid or offer for more than one contract on the trading floor may be limited to the acceptance of all or none of the contracts.

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8.00 Compliance Department

(A) All Class A Members, COMEX Division Members, Class A Member Firms, COMEX Division Member Firms, COMEX Division Option Members, COMEX Division Option Member Firms, COMEX Division Aluminum Members, Permit Holders, and Electronic Traders shall be subject to the jurisdiction of the Exchange for purposes of Chapter 8 of these Rules. For purposes of Chapter 8 of these Rules, except as stated otherwise in said rules or in these definitions, the following definitions shall apply: (i) the term "Member" shall include Class A Members, COMEX Division Members, COMEX Division Option Members, COMEX Division Aluminum Members, Permit Holders, Electronic Traders and Authorized Terminal Users who are also designated as Electronic Traders; (ii) the term "Member Firm" shall include Class A Member Firms, COMEX Division Member Firms, COMEX Division Option Member Firms, COMEX Division Aluminum Member Firms, NYMEX ACCESS® Trade Firms and other entities with electronic trading privileges; and (iii) the term "employees of Members" shall include Authorized Terminal Users and clerks. Use of the term Member, as set forth herein, shall not connote Membership privileges for purposes of the Delaware General Corporate Law or any other applicable law, nor shall the use of the term Member in the definitions or the rules connote any of the Membership privileges as are specifically set forth in the Bylaws of the Exchange. Notwithstanding the above, a User or User Agent as both terms are defined in Chapter 11 of an Alternative Electronic Trading System who is neither a Member nor a Member Firm shall not be subject to the jurisdiction of the Exchange for purposes of Chapter 8 of these Rules except as provided in Rule 8.99B (Summary Procedures for Denial of Access to Specified Alternative Electronic Trading System). For the purposes of this rule, the term "Alternative Electronic Trading System" shall mean any electronic trading system other than NYMEX ACCESS® on which NYMEX Division or COMEX Division products are traded, but not including GLOBEX®.

(B) The Compliance Department shall consist of employees of the Exchange. Such employees may not be Members or persons otherwise subject to the jurisdiction of Chapter 8 of these Rules. The Exchange may also hire persons (who shall not be members or persons otherwise subject to the jurisdiction of Chapter 8 of these Rules) to assist the Compliance Department in carrying out its functions.

(C) The Compliance Department shall conduct investigations of Rule violations and suspected Rule violations.

(D) During the investigation of a Rule violation by the Compliance Department, the involved Member, or Member Firm or employee of the foregoing shall be advised of the investigation and permitted to present to the Compliance Department any facts which tend to exculpate the Member, Member Firm or employee of the foregoing and any defenses such person or entity may have. Any interview shall be conducted at the time, place and in the manner designated by the Compliance Department. For the purpose of any interview conducted pursuant to this sub-section (D), a Member, Member Firm or employee of any of the foregoing must be informed, in writing prior to the interview that he may have counsel present at the interview. However, procedures governing the conduct of the interview including the limitation on adjournments granted to accommodate an interviewee's counsel schedule to reasonable periods of time, shall be determined by the Compliance Department. Any interview conducted by the Compliance Department may be tape recorded or transcribed stenographically at the election of the Compliance Department.

(E) The Compliance Department shall investigate the conduct and transactions of Members, Member Firms and employees of any of the foregoing and may examine the books and records of Members, Member Firms and employees of the foregoing Members, Member Firms and employees of any of the foregoing shall make their books and records available to the Compliance Department and shall respond to all inquiries of the Compliance Department at the time, place, and in the manner designated by the Compliance Department.

(F) The Compliance Department may issue warning letters to persons under investigation informing them that there may have been a rule violation and that such continued activity may result in more severe disciplinary sanctions. Such warning letter is not a penalty nor is it an indication that a finding of a rule violation has been made.

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8.01 Investigative Report

When an investigation is completed, the Compliance Department or the Audit Department shall prepare an Investigative Report to be submitted to the Business Conduct Committee or the Clearing House Committee, as appropriate. The Investigative Report shall be in writing and shall set forth the reason the investigation was initiated, the relevant facts, and the conclusions and recommendations of the Compliance Department or Audit Department.

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8.02 Business Conduct Committee

(A) Each Panel of the Business Conduct Committee shall have the power to direct the Compliance Department to investigate any suspected Rule violation within its jurisdiction.

(B) A Panel of the Business Conduct Committee shall meet at least monthly to review Investigative Reports. A member of a Panel of the Business Conduct Committee shall excuse himself from such review where he, or any person with whom he is affiliated, has a direct financial, personal or other interest in the matter under consideration.

(C) Each Panel of the Business Conduct Committee shall permit the Member, Member Firm or employee of any of the foregoing or any other person that is a subject of investigation (collectively, "Subjects") to present evidence on his or its behalf. Such presentation shall be conducted pursuant to the following procedures: the Investigative Report shall be provided by the Compliance Department to the Subject named in the report. The Subject may submit to the Panel a written statement together with any supporting documentation which is relevant to the investigation. Such statement shall be submitted to the Panel through the Compliance Department not later than 5 business days following service of the Investigative Report from the Compliance Department. Service on a Subject shall be complete when either personally delivered to the Subject named in the Investigative Report; or by first class or certified mail, or by use of a generally recognized overnight delivery service to the Subject at the last address filed with the Exchange. Filing with the Exchange shall be complete when either personally delivered to the offices of the Compliance Department or when actually received by the Compliance Department if sent by first class mail to the Exchange.

(D) The Compliance Department shall be present during the Panel's review of an Investigative Report, and shall respond to all inquiries of the Panel. Members, Member Firms or employees of any of the foregoing who have submitted a written response to the Panel in the manner set forth in Section (C) of this Rule, may, after the presentation of the Compliance Department's report and before deliberations of the Panel, personally appear before the Panel with the Compliance Department present, either with or without counsel, to make an oral presentation relevant to the Panel's review of the Investigative report, and may answer any questions posed by the Panel provided, however, that the presentation be limited to matters raised in the written response submitted pursuant to Section (C) of this Rule.

(E) If the Panel concludes that a reasonable basis exists for finding a Rule violation occurred, it shall direct the Compliance Department to advise the Member, Member Firm or employee of any of the foregoing of that fact and take any one of the following actions:

- (i) refer the matter to the Compliance Department with instructions for further action;
- (ii) issue a warning letter to the Member, Member Firm or employee of any of the foregoing; or
- (iii) direct the Compliance Department to issue a complaint

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8.03 Settlements

(A) When the Compliance Department concludes that a Rule violation has occurred, and at any time prior to the submission of an Investigative Report to the Business Conduct Committee, the Compliance Department may negotiate with the Respondent and enter into a written Offer of Settlement with the Respondent. The Respondent may agree, without admitting or denying a Rule violation, to an Offer of Settlement which may provide for a cease and desist order, a censure, an order directing restitution to any injured person, a fine of not more than \$10,000 for each Rule violation alleged, or any combination of such penalties. Any such settlement is subject to the approval of the Business Conduct Committee.

(B) Concurrent with the review and consideration of an Investigative Report, a Panel of the Business Conduct Committee may also approve Offers of Settlement which have been submitted by the Respondent and recommended by the Compliance Department ("Joint Offers of Settlement") or have been unilaterally submitted by the Respondent ("Unilateral Offers of Settlement"). However, prior to the Respondent's submission of a Unilateral Offer of Settlement, the Respondent shall be required to file a written copy of the Unilateral Offer of Settlement with the Compliance Department. Thereafter, the Compliance Department may submit a written response to a Panel of the Business Conduct Committee. The Business Conduct Committee Panel has the sole discretion to determine whether it will hear oral arguments. The Business

Conduct Committee Panel may either accept or reject both Joint and Unilateral Offers of Settlement. All Offers of Settlement approved by a Panel of the Business Conduct Committee under this section shall be accompanied by a written Complaint.

(C) Subsequent to a Panel of the Business Conduct Committee's consideration of an Investigative Report and directive that a written Complaint issue alleging such rule violations as the Committee determined a reasonable basis to believe existed (the "Complaint"), but prior to service of the Complaint on the Chairman of the Adjudication Committee or his designee, the Compliance Department may present a Joint Offer of Settlement to a Panel of the Business Conduct Committee. Alternatively, the Respondent may present a Unilateral Offer of Settlement to a Panel of the Business Conduct Committee. However, prior to the Respondent's submission of a Unilateral Offer of Settlement, the Respondent shall be required to file a written copy of the Unilateral Offer of Settlement with the Compliance Department. Thereafter, the Compliance Department may submit a written response to a Panel of the Business Conduct Committee. The Business Conduct Committee Panel has the sole discretion to determine whether it will hear oral arguments. The Business Conduct Committee Panel may either accept or reject both Joint and Unilateral Offers of Settlement. All Offers of Settlement approved by a Panel the Business Conduct Committee under this section shall be accompanied by a written Complaint, which sets forth the rules alleged to have been violated as determined by the Business Conduct Committee in its initial determination and directive to issue the Complaint.

(D) Any Offer of Settlement agreed to under Sub-Sections (B) or (C) of this Rule may provide for a cease and desist order, a censure, an order directing restitution to any injured person, a fine of not more than \$1,000,000, an expulsion or suspension from all or some rights and privileges of membership, the ability to hold a permit, electronic trading privileges, employment on the Exchange Floor, or employment for the purposes of entering orders on any NYMEX electronic trading platform or any combination of such penalties for each Rule violation alleged. Reasons for any deviation from the guideline minimum or maximum shall be included in the record of the proceedings or in the written decision where applicable.

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8.04 Complaint

(A) If a Panel of the Business Conduct Committee issues a complaint, the complaint shall be served either: (1) personally to the Respondent (as defined in paragraph (C) below) named in the complaint or, (2) by first class or certified mail to the Respondent named in the complaint or, (3) by use of a generally recognized overnight delivery service at the last address for the Respondent filed with the Exchange. Service of the complaint is complete when it is so mailed or delivered, as provided in Rule 8.02(C). The Compliance Department shall also file a copy of the Complaint with the Hearing Registrar (Legal Department).

(B) The Complaint shall (1) set forth the acts, practices or conduct in which the Respondent is alleged to have engaged; and, (2) state the Rules alleged to have been, or about to be, violated. (C) The term "Respondent" means a Member or Member Firm, as defined in Rule 8.00(A), or employee of any of the foregoing against which a complaint has been filed.

(D) The Compliance Department shall also notify the Respondent that the Respondent (1) is entitled to a hearing on the charges; (2) must request, in writing, a hearing and that failure to request a hearing within ten (10) business days after service of the complaint will operate as a waiver of a right to a hearing, unless good cause to the contrary is shown by the Respondent; (3) must file an answer to the complaint with the Compliance Department and the Hearing Registrar within ten (10) business days of service of the complaint; and (4) will have deemed to admit the allegations in the complaint if he does not so file an answer.

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8.05 Answer

The Respondent may file with the Hearing Registrar and the Compliance Department, a written answer and a request for a hearing within ten (10) business days of service of the complaint. Any charges not denied in the answer shall be deemed admitted. If no answer is filed within such period, unless good cause is shown, all the charges will be deemed to have been admitted.

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8.06 Reply

The Compliance Department may serve upon with the Respondent and file with the Hearing Registrar a written reply to any answer within five (5) days of the filing of the answer by the Respondent. Any reply is limited to matters set forth in the answer.

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8.07 Adjudication Committee

(A) The Complaint, any answer and a reply shall be filed with the Chairman of the Adjudication Committee not later than twenty (20) business days after the filing of the answer or reply with the Hearing Registrar.

(B) The Chairman of the Adjudication Committee shall assign the case to either a Class A Hearing Panel or

a COMEX Division Hearing Panel, as applicable, to hear and decide the matter. The Chairman shall alternate case assignments within the jurisdiction of the Class A Hearing Panels between the two Class A Hearing Panels and shall alternate case assignments within the jurisdiction of the COMEX Hearing Division Panels between the two COMEX Division Hearing Panels.

(C) The initial hearing shall be conducted on a date and at a time and place as the Chairman of the Hearing Panel decides on not less than ten (10) days' written notice to the Respondent.

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8.08 Settlement by the Adjudication Committee

(A) If the Respondent wishes to settle a matter at any time after the filing of the Complaint with the Chairman of the Adjudication Committee, the Respondent may submit a written settlement offer. The settlement offer will be directed to the NYMEX Division Hearing Panel or the COMEX Division Hearing Panel, as applicable, that has not been assigned the case to hear and decide. The Compliance Department may recommend to that Hearing Panel an approval or a rejection of any settlement offer. Such offer may provide for the issuance of a cease and desist order, a censure, an order directing restitution to any injured person, a fine not to exceed \$1,000,000 for each violation alleged to have been committed, an expulsion or suspension from all or some rights and privileges of membership, the ability to hold a permit, electronic trading privileges, employment on the Exchange Floor, or employment for the purposes of entering orders on any NYMEX electronic trading platform or any combination of such penalties.

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8.09 Hearing Panel

(A) The Chairman of the Adjudication Committee shall, in writing, notify the Respondent and the Compliance Department of the names of the persons on the Hearing Panel to which the case has been assigned pursuant to Rule 8.07(B) at least fifteen (15) days prior to the initial hearing date. The Respondent shall also be notified of the names of the persons on the Hearing Panel to which settlement offers are to be directed pursuant to Rule 8.08(A) at least fifteen days prior to the initial date for the consideration of a settlement offer in the matter.

(B) No person may serve on a Hearing Panel in a case in which such person has any direct financial, personal or other interest in the matter under consideration, or if such person has engaged previously in any disciplinary function under these Rules in connection with the matter before the Adjudication Committee, including service as a member of the Business Conduct Committee, or a subcommittee thereof; such person shall promptly make such interest known to the Chairman of the Committee.

(C) The Compliance Department and/or the Respondent may file with the Hearing Registrar a written challenge against any member of either Hearing Panel for cause. The merits of such challenge shall be decided by the Chairman of the Adjudication Committee in his sole discretion. Unless a party's written challenge is received by the Hearing Registrar within seven (7) business days after mailing of such notice by the Chairman of the Adjudication Committee, any right of challenge shall be waived.

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8.09A Pre-Hearing Procedures

(a) At least ten (10) calendar days before the scheduled start of the hearing, the Compliance Department and the Respondent respectively shall furnish each other with a list of witnesses they intend to call in the presentation of their cases at the hearing, and a list of all documents they intend to offer at the hearing. The Compliance Department and the Respondent shall make available any witness intended to be called for questioning prior to the hearing at a mutually agreeable date, if requested.

(B) The Compliance Department shall retain all rights of investigation under Rule 8.00(E) after completion of the Investigative Report and until the hearing is completed.

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8.10 Hearing Procedures

(A) The Hearing Panel may determine the procedures to be applied in any hearing before it; provided, however, that the following procedures shall apply in every case;

(i) The prosecution shall be conducted by the Compliance Department;

(ii) The Respondent may be represented by counsel or any other representative of his choice; either, personally or through such counsel or other representative, may present witnesses or other evidence; and, may cross-examine witnesses;

(iii) The formal rules of evidence shall not apply and the Hearing Panel shall have the discretion to accept or to reject any and all evidence.

(iv) A stenographic transcript of the proceedings shall be made;

(v) The Complaint, any Answer, any Reply, the stenographic transcript, any documentary evidence or other material presented to the Hearing Panel by either party shall constitute the record of the hearing;

(vi) The burden of proof shall be on the Compliance Department; and,

(vii) A finding of a Rule violation may be made on the weight of the evidence contained in the record of the proceeding.

(B) In advance of the hearing, the Respondent shall be entitled to examine all books, documents and other tangible evidence in possession or under the control of the Exchange that (i) are to be relied upon by the Compliance Department in prosecuting the matter; or, (ii) which are relevant to the charges. The Compliance Department shall make such material available to Respondent and Respondent's counsel for inspection within twenty days after the filing of an answer by Respondent pursuant to Rule 8.05.

(C) Any person within the jurisdiction of the Exchange who is called as a witness at any hearing shall appear at such hearing and give testimony or produce evidence.

(D) The Hearing Panel shall have the power to impose a penalty against any person who is within the jurisdiction of the Exchange and whose actions impede the progress of a hearing.

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8.11 Decision

(A) If the Hearing Panel finds that the Respondent did not commit any Rule violation, it shall render a written decision to that effect within forty-five (45) days after the later of the close of the hearing or last day on which any post-hearing memoranda were required to be filed by the Compliance Department or the Respondent, unless by virtue of the complexity of the case or other special circumstances, additional time is required for the preparation of the decision. The written decision of the Hearing Panel shall include: (i) a summary of the charges and the answer; (ii) a summary of the evidence produced at the hearing; and (iii) a statement of the findings and conclusions of the Hearing Panel with respect to each charge.

(B) If the Hearing Panel finds that the Respondent committed any Rule violation, it shall render a full written decision to that effect within forty-five (45) days after the later of the close of the hearing or last day on which any post-hearing memoranda were required to be filed by the Compliance Department or the Respondent, unless by virtue of the complexity of the case or other special circumstances, additional time is required for the preparation of the decision. The written decision of the Hearing Panel shall include: (i) a summary of the charges and the answer; (ii) a summary of the evidence produced at the hearing; (iii) a statement of the findings and conclusions of the Hearing Panel with respect to each charge including the specific Rule which the Respondent is found to have violated; and, (iv) an order stating the penalties imposed and the effective date of such penalty.

(C) Notwithstanding the provisions of subsections (A) and (B) above, the Hearing Panel may issue a written Summary Decision setting forth its determination of liability and penalties, if any, prior to the issuance of the written decision of the Hearing Panel required under subsections (A) and (B) above.

(D) Where the Respondent has admitted or has failed to deny any Rule violation charged in the complaint, the Hearing Panel shall impose a penalty for each violation. The Hearing Panel shall notify the Respondent of the penalty within forty-five (45) days after the filing of the admission of a Rule violation or after the failure to deny any Rule violation.

(E) Where the Respondent has submitted an answer denying the rule violations charged and has not requested a hearing or waived a hearing, the Hearing Panel shall make its decision based on such documents filed by the Compliance Department and the Respondent as required by the Hearing Panel. Such decision shall be made in accordance with the provisions of this Rule 8.11 § (A) or (B).

(F) Unless good cause is shown, where the Respondent fails to appear at a requested hearing at the time and place scheduled, he shall be deemed in default, and the proceeding shall be determined against such Respondent upon consideration of the Complaint and Notice of Hearing, the allegations of which shall be deemed to have been admitted.

(G) Within 15 days of the issuance of a written Decision finding a Respondent in Default, the Respondent may file with the Hearing Registrar and the Compliance Department a Motion to Vacate the Decision based upon a showing of good cause for his failure to appear at the hearing.

(H) The Compliance Department shall deliver to the Respondent and file with the Hearing Registrar within ten (10) days of the date of delivery of the Motion to Vacate, a written memorandum in response to the Motion.

(I) The Respondent may deliver to the Compliance Department and file with the Hearing Registrar, within (5) days of the delivery of the response of the Compliance Department, a written reply memoranda. Such memoranda must be limited to the matters contained in the response of the Compliance Department.

(J) In its discretion, the Hearing Panel may decide the Motion to Vacate on the basis of the documents

submitted by Respondent and the Compliance Department or may require the parties to make an oral presentation.

(K) If the Hearing Panel determines to order the imposition of a penalty, the penalties which may be imposed are any one or combination of the following: the issuance of a cease and desist order, a censure, an order directing restitution to any injured person, a fine of not more than \$1,000,000 for each Rule violation found to have been committed, an expulsion or a suspension from all or some rights and privileges of membership, the ability to hold a permit, Electronic Trading Privileges, employment on the Exchange Floor, or employment for the purposes of entering orders on NYMEX ACCESS®.

(L) Notice of Respondent's right of Appeal, pursuant to Exchange Rule 8.13, shall be incorporated into a Hearing Panel's full Decision and Order.

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8.12 Effective Date of Decisions

(A) Unless appealed, a decision of a Hearing Panel is the final decision of the Exchange and shall be effective fifteen (15) days after a copy of the written decision has been served upon the Respondent.

(B) Any fine imposed by a Hearing Panel shall be due and payable on the effective date of the decision or on such later date as the Hearing Panel specifies in the written decision.

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8.13 Appeals

A Respondent may appeal from a decision of a Hearing Panel by filing, within ten business (10) days after the full written decision is served upon the Respondent, by filing with the Hearing Registrar and the Compliance Department a written Notice of Appeal and request for the transcript of the proceedings. Within (10) business days of service of the transcript of the proceedings, a Respondent who has timely filed a Notice of Appeal, shall file with the Hearing Registrar and the Compliance Department a written Memorandum of Appeal specifying the grounds for the appeal. A failure to timely file either a Notice of Appeal or Memorandum of Appeal, shall operate as a waiver of all rights of appeal.

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8.14 Compliance Department

The Compliance Department shall serve upon the Respondent and file with the Hearing Registrar, within ten (10) business days of the date of filing of the Memorandum of Appeal, a written memorandum in response to the Memorandum of Appeal.

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8.15 Respondent's Reply

The Respondent may file with the Compliance Department and the Hearing Registrar, within five (5) business days of the service of the response of the Compliance Department, a written reply memoranda. Such memoranda must be limited to the matters contained in the response of the Compliance Department.

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8.16 Appeals Committee

In the event of an appeal, the Chairman of the Appeals Committee shall appoint an Appeal Panel consisting of three (3) disinterested members of the Appeals Committee to hear and decide the appeal. The Chairman of the Appeals Committee shall appoint one such person as the Chairman. No person who has participated in any prior stage of the disciplinary process in the proceeding is eligible to serve on an Appeal Panel for that proceeding. The panel appointed to hear an appeal from a decision of a COMEX Division Hearing Panel shall include at least one COMEX Division Member.

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8.17 Appeals Panel

(A) The Chairman of the Appeals Committee shall, in writing, notify the Respondent and the Compliance Department of the names of the members of the Appeals Panel at least fifteen (15) days prior to the initial hearing date.

(B) No person may serve on an Appeal Panel in a matter in which such person has a direct financial, personal or other interest in the matter under consideration, and shall promptly notify the Chairman of the Committee of such interest.

(C) The Compliance Department and/or the Respondent may file with the Hearing Registrar a written challenge against any member of the Appeal Panel for cause. The merits of such challenge shall be decided by the Chairman of the Appeals Committee in his sole discretion. Unless a party's written challenge is received by the Hearing Registrar within seven (7) business days after mailing of such notice by the Chairman of the Appeals Committee, any right of challenge shall be waived.

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**New York
Mercantile Exchange**
NYMEX/COMEX. Two divisions, one marketplace

MEMBERSHIP LEASE

COMEX MEMBERSHIP # _____

NYMEX MEMBERSHIP # _____

Agreement made this _____ day of _____, 20__, by and between

_____ and _____
(hereinafter referred to as "Lessor") (hereinafter referred to as "Lessee").

WHEREAS, Lessor is a Member in good standing of the New York Mercantile Exchange, Inc. ("NYMEX or Exchange"); and

WHEREAS, Lessee has been approved for Membership in NYMEX or has applied for such Membership; and

WHEREAS, Lessor desires to lease Membership to Lessee in accordance with the terms and conditions specified herein; and

WHEREAS, Lessee desires to lease Membership from Lessor and exercise the rights and privileges of Membership in accordance with the terms and conditions specified herein; and

WHEREAS, Lessee desires to provide for the payment of claims by the Exchange; and

WHEREAS, Lessee desires to provide for the payment of claims by persons with whom the Lessee may conduct business on the Exchange;

NOW THEREFORE, in consideration of the promises and the mutual covenants contained herein, the Lessor and Lessee hereby agree as follows:

1. **Lease:** Lessor hereby leases the Membership to Lessee and grants to Lessee the rights and privileges to use the Membership in accordance with and subject to the By-Laws and Rules of NYMEX. Lessee hereby accepts said lease and the rights, privileges and obligations pertaining thereto in accordance with and subject to the By-Laws and Rules of NYMEX.
2. **Term:** The term of this Agreement shall be for: one year or six months from the effective date of this agreement and may only be terminated in accordance with the terms and conditions herein.
3. **Effective Date:** The effective date of this Agreement shall be _____, the date on which the rights and privileges to use the Membership are transferred to the Lessee on the books and records of the Exchange.
4. **Rent:** Lessee shall pay Lessor rent for the rights, privileges and use of this Membership in such amounts and at such times as follows: _____

5. **Rules:** Lessee agrees to abide by and be bound by the By-Laws and Rules of the Exchange, as amended and in effect from time to time, and such By-Laws and Rules are hereby incorporated by reference into and made part of this Agreement. In the event that the By-Laws and Rules of the Exchange, as amended and in effect from time to time, conflict or are inconsistent with this Agreement, the Lease Agreement shall be controlled by such By-Laws and Rules. Lessor and Lessee shall be controlled by such By-Laws and Rules. Lessor and Lessee shall be bound by and comply with the Exchange's By-Laws and Rules.
6. **Ownership and Use:** The Lessor shall retain beneficial ownership of the Membership.
7. **Voting:** During the term of this agreement, all voting rights with respect to the Membership being leased hereby shall belong to and be exercised by the Lessor.
8. **Assignments:** Neither the Lessor nor the Lessee may assign, sublease or in any way transfer any rights, privileges or obligations under this Agreement. Any attempted assignment, sublease or transfer shall be null and void.
9. **Amendments:** This Agreement may not be amended without the prior approval of the Board of Directors.
10. **Financial Statements:** Lessor and Lessee shall each be responsible for providing the Exchange with any and all financial information required thereby. Lessee shall, at the Lessor's request, also provide copies of Lessee's financial statements to Lessor in the same manner and form and at such times as provided to the Exchange.
11. **Dues, Fees, Assessments, and Other Charges:** Lessor shall remain responsible for all NYMEX capital assessments which add to the value of the Membership. Lessor and Lessee shall be subject to such other NYMEX assessments, fees, dues, and other charges as are, from time-to-time, determined by the Board of Directors.
12. **Termination:** This Agreement shall terminate upon any of the following occurrences:
 - a) the expiration of the term stated in the agreement;
 - b) the Exchange's receipt of written mutual consent of the parties to terminate the Agreement on a date prior to the expiration date of the Agreement or any renewal thereof;
 - c) the death of the Lessee;
 - d) the sale of the Membership by the Lessor after 90 days written notice to the Exchange and the Lessee of intention to transfer;
 - e) the PCM's revocation of its guarantee of the Lessee; or
 - f) the suspension or expulsion of the Lessor or Lessee by NYMEX.

In the event of a termination of the Agreement in accordance with this paragraph, a written notice of such termination shall be submitted to the Membership in accordance with the By-Laws and Rules of the Exchange. Upon the termination of this Agreement, the rights and privileges shall automatically be transferred back to the Lessor in accordance with and subject to the By-Laws and Rules of the Exchange.

13. **Default:** The parties shall define, in the space provided hereunder, any events of default (including a failure to pay rent), the cure and/or termination subject to paragraph 12 of this Agreement.

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14. **Liability:**
a) Lessor shall have no liability for any obligation of the Lessee to others arising out of the transaction of business on the Exchange which is based upon claims accruing during the term of this Agreement; and
b) Lessee agrees to be solely liable for obligations to others arising out of the transaction of business on the Exchange which is based upon claims accruing during the term of this Agreement and to the Exchange arising out of or relating to Exchange disciplinary actions, which liability shall survive this Agreement in accordance with the Rules of the Exchange,
15. **Claims:** Claims of Members, Member Firms and Clearing Members that arise out of the transaction of business on the Exchange shall not encumber or impede the automatic transfer of the leased Membership to the Lessor from the Lessee.
16. **Other Rights of Membership:** The Lessor and Lessee shall be entitled to only those rights of Membership as are set forth in Rule 2.70.
17. **Arbitration:** Any and all controversies arising between the Lessor and the Lessee relating to this Agreement or the formation, breach or alleged breach thereof, shall be submitted to arbitration in accordance with the Rules.
18. **Governing Law:** This Agreement shall be governed by the Laws of the State of New York.
19. **Definition:** As used herein, the term "Rules" means the Charter, Certificate of Incorporation, By-Laws, Rules, Regulations, Resolutions, Decisions and Orders of NYMEX; any other terms defined in the Rules shall have the meanings therein.
20. **Renewal:** The term of this Agreement may be extended by mutual consent of the parties. In order to extend the term of the agreement, Lessor and Lessee shall submit written notice of their intention at least 10 business days prior to the date on which the new term of the Agreement is scheduled to begin. No renewal of the Agreement will be effective until approved by the Exchange's Vice President, Membership. Failure to submit a duly executed notice of intent to renew within the time prescribed will result in the imposition of a late fee in the amount of \$250 to be paid by the Lessee to the Exchange before such renewal will be made effective.
21. **Other Provisions:** _____

22. **Attorney-in-Fact:** The Lessor appoints the Exchange's Vice President of Member Services, or his/her designee, the Lessor's true and lawful attorney(s) for the Lessor and in the Lessor's name and stead to assign and transfer the trading rights of Lessor's NYMEX Membership referred to herein at such time as noted in the effective date of this Lease Agreement to the Lessee, as may be necessary or expedient, giving and granting unto said attorney(s) full power and authority to perform all and every act and thing whatsoever

requisite and necessary to be done in and about the premises, and fully to all intents and purposes, as the Lessor might or could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that the Lessor's said attorney or his/her substitute shall lawfully do or cause to be done by virtue hereof.

23. **Entire Agreement:** This Agreement constitutes the entire Agreement between the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

Name of Lessee (Print)

Name of Lessor (Print)

Lessee Signature

Lessor Signature

Member Firm / Non-Member Firm Affiliation

Member Firm / Non-Member Firm Affiliation

Business Office Address

Business Address

Business Office Phone e-mail

Booth Location Booth Phone Number

Business Phone e-mail

Home Address

Home Address

Home Phone e-mail

Home Phone e-mail

Cell Phone Alternate Phone

Cell Phone Alternate Phone

NOTE: All of the information requested above MUST be provided by both the Lessor and Lessee.

**THIRD AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
CME GROUP INC.**

CME Group Inc. (hereinafter referred to as the "Corporation"), which was originally incorporated in the State of Delaware on August 2, 2001 under the name Chicago Mercantile Exchange Holdings Inc., hereby certifies that this Third Amended and Restated Certificate of Incorporation was duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware. This Third Amended and Restated Certificate of Incorporation amends, restates and integrates the provisions of the Corporation's second amended and restated certificate of incorporation as hereby amended. The text of the second amended and restated certificate of incorporation as heretofore amended is hereby restated to read in its entirety as follows:

ARTICLE ONE: The name of the corporation is CME Group Inc.

ARTICLE TWO: The address of the corporation's registered office in the State of Delaware is 1209 Orange Street, City of Wilmington, County of New Castle, Delaware 19801. The name of the corporation's registered agent at such address is The Corporation Trust Company.

ARTICLE THREE: The purpose of the corporation shall be to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware, as set forth in Title 8 of the Delaware Code (the "DGCL").

ARTICLE FOUR: The total number of shares of all classes of capital stock that the corporation is authorized to issue is 1,010,003,138 shares, of which:

10,000,000 shares shall be shares of Preferred Stock, par value \$.01 per share (the "*Preferred Stock*"), including 140,000 authorized shares of Series A Junior Participating Preferred Stock (the "*Series A Junior Participating Preferred Stock*");

1,000,000,000 shares shall be shares of Class A Common Stock, par value \$.01 per share (the "*Class A Common Stock*");

625 shares shall be shares of Class B-1 Common Stock, par value \$.01 per share (the "*Class B-1 Common Stock*");

813 shares shall be shares of Class B-2 Common Stock, par value \$.01 per share (the "*Class B-2 Common Stock*");

1,287 shares shall be shares of Class B-3 Common Stock, par value \$.01 per share (the "*Class B-3 Common Stock*"); and

413 shares shall be shares of Class B-4 Common Stock, par value \$.01 per share (the "*Class B-4 Common Stock*").

The term "*Class B Common Stock*" shall mean, collectively, Class B-1 Common Stock, Class B-2 Common Stock, Class B-3 Common Stock and Class B-4 Common Stock. The term "*Common Stock*" shall mean, collectively, the Class A Common Stock and the Class B Common Stock. The designations, voting powers, optional or other special rights and the qualifications, limitations or restrictions thereof, of the above classes shall be as follows:

**DIVISION A
PREFERRED STOCK**

The rights, preferences and privileges and qualifications, limitations and restrictions granted to and imposed on the shares of Preferred Stock of the corporation shall be as set forth below in this Division A.

SECTION 8. NO REDEMPTION.

The shares of Series A Junior Participating Preferred Stock shall not be redeemable.

SECTION 9. AMENDMENT.

The Certificate of Incorporation of the corporation shall not be further amended in any manner which would materially alter or change the powers, preferences or special rights of the Series A Junior Participating Preferred Stock so as to affect them adversely without the affirmative vote of the holders of a majority or more of the outstanding shares of Series A Junior Participating Preferred Stock, voting separately as a class.

SECTION 10. FRACTIONAL SHARES.

Series A Junior Participating Preferred Stock may be issued in fractions of a share which shall entitle the holder, in proportion to such holders fractional shares, to exercise voting rights, receive dividends, participate in distributions and to have the benefit of all other rights of holders of Series A Junior Participating Preferred Stock.

* * * *

**DIVISION B
COMMON STOCK**

SUBDIVISION 1. GENERAL PROVISIONS

The rights, preferences and privileges, and qualifications, limitations and restrictions granted to and imposed on the classes of Common Stock shall be as set forth in this Division B.

SECTION 1. DEFINITIONS.

In addition to the terms defined elsewhere, the following terms shall have the respective meanings set forth below:

"Core Rights" shall mean:

- (1) the divisional product allocation rules applicable to each membership class as set forth in the rules of the Exchange;
- (2) the trading floor access rights and privileges granted to members of the Exchange;
- (3) the number of authorized and issued shares of any class of Class B Common Stock; or
- (4) the eligibility requirements for any Person to exercise any of the trading rights or privileges of members in the Exchange.

"Exchange" shall mean Chicago Mercantile Exchange Inc., a subsidiary of the corporation.

"Person" shall mean any individual, corporation, partnership, trust or other entity.

"CBOT" shall mean Board of Trade of the City of Chicago, Inc., a subsidiary of the corporation.

A *"Transfer"* (and the related term *"Transferred"*) shall mean any sale, pledge, gift, assignment or other transfer of any ownership in any share of Class B Common Stock.

SECTION 2. GENERAL.

Except as otherwise set forth in this Division B, the relative powers, preferences and participating, optional or other special rights, and the qualifications, limitations or restrictions of each class of Common Stock shall be identical in all respects.

SECTION 3. DIVIDENDS.

Subject to the rights of the holders of Preferred Stock, holders of Common Stock shall be entitled to receive such dividends and other distributions in cash, stock of any corporation or property of the corporation as may be declared thereon by the board of directors from time to time out of assets or funds of the corporation legally available therefore, and shall share equally on a per share basis in all such dividends and other distributions.

SECTION 4. VOTING RIGHTS.

Subject to the rights of holders of Class B Common Stock set forth in this Division B, at every meeting of the shareholders of the corporation in connection with the election of Equity Directors (as defined below) and all other matters submitted to a vote of shareholders, every holder of Common Stock shall be entitled to one vote in person or by proxy for each share of Common Stock registered in his or her name on the transfer books of the corporation. Except as otherwise required by law or by this Division B, the holders of each class of Common Stock shall vote together as a single class, subject to any right that may be conferred upon holders of Preferred Stock to vote together with holders of Common Stock on all matters submitted to a vote of shareholders of the corporation.

SECTION 5. LIQUIDATION RIGHTS.

Upon the liquidation, dissolution or winding up of the corporation, holders of Common Stock shall be entitled to receive any amounts available for distribution to holders of Common Stock after the payment of, or provision for, obligations of the corporation and any preferential amounts payable to holders of any outstanding shares of Preferred Stock.

SUBDIVISION 2. CLASS B COMMON STOCK

In addition to the rights, preferences and privileges, and qualifications, limitations and restrictions granted to and imposed on the shares of Class B Common Stock of the corporation as set forth in Subdivision 1 of this Division B, the rights, preferences and privileges, and qualifications, limitations and restrictions granted to and imposed on the shares of Class B Common Stock of the corporation shall be as set forth in this Subdivision 2 of this Division B.

SECTION 1. SPECIAL VOTING RIGHTS.

In addition to the voting rights set forth in Subdivision 1 of this Division B, the holders of shares of Class B Common Stock shall, subject to Paragraph (c) of this Section 1, have the following additional voting rights:

(a) **ELECTION OF CLASS B DIRECTORS.** Subject to and in accordance with Article Five, Holders of shares of Class B-1 Common Stock shall have the sole right to elect three directors to the corporation's board of directors (the "*Class B-1 Directors*"), and each holder of Class B-1 Common Stock shall have one vote per share in any such election. Holders of shares of Class B-2 Common Stock shall have the sole right to elect two directors to the corporation's board of directors (the "*Class B-2 Directors*"), and each holder of Class B-2 Common Stock shall have one vote per share in any such election. Holders of shares of Class B-3 Common Stock shall have the sole right to elect one director to the corporation's board of directors (the "*Class B-3 Director*") and together with the Class B-1 Directors and Class B-2 Directors, the "*Class B Directors*"), and each holder of Class B-3 Common Stock shall have one vote per share in any such election.

(b) **CORE RIGHTS.** Any change, amendment or modification of the Core Rights or of the terms of Section 3 of this Subdivision 2 shall be submitted to a vote of the holders of the Class B Common Stock for their consideration and approval. In any such vote, holders of Class B-1 Common Stock shall be entitled to six votes for each share of Class B-1 Common Stock held, holders of Class B-2 Common Stock shall be entitled to two votes for each share of Class B-2 Common Stock held, holders of Class B-3 Common Stock shall be entitled to one vote for each share of Class B-3 Common Stock held and holders of Class B-4

Common Stock shall be entitled to one-sixth of one vote for each share of Class B-4 Common Stock held. Any such change, amendment or modification must be approved by a majority of the aggregate votes cast by the holders of the Class B Common Stock present (in person or by proxy) and voting at the meeting of holders of Class B Common Stock called for the purpose of voting on the proposed change, amendment or modification; provided that holders of at least a majority of the aggregate number of votes entitled to vote on the matter shall be present, in person or by proxy, at such meeting. The absence of a quorum of the holders of Common Stock shall not effect the exercise by the holders of Class B Common Stock of the voting rights granted pursuant to this Paragraph (b).

(c) **LIMITATION ON VOTING RIGHTS.** Notwithstanding anything to the contrary contained in this Section 1 of this Subdivision 2, for so long as any Person or group of Persons acting in concert beneficially own (as defined below) 15% or more of the outstanding shares of any class of Class B Common Stock, then in any election of directors elected by that class or other exercise of voting rights with respect to Core Rights or with respect to the election or removal of directors elected by that class, such Person or group shall only be entitled to vote (or otherwise exercise voting rights with respect to) a number of shares of that class of Class B Common Stock that constitutes a percentage of the total number of shares of that class of Class B Common Stock then outstanding which is less than or equal to such Person or group's Entitled Voting Percentage (as defined below). For the purposes hereof, a Person or group's "Entitled Voting Percentage" at any time shall mean the percentage of the then outstanding shares of Class A Common Stock in the aggregate, beneficially owned by such Person or group at such time. For purposes of this Paragraph (c), a "beneficial owner" of Common Stock includes any Person or group of Persons who, directly or indirectly, including through any contract, arrangement, understanding, relationship or otherwise, written or oral, formal or informal, control the voting power (which includes the power to vote or to direct the voting) of such Common Stock.

SECTION 2. LIMITATION ON OWNERSHIP AND TRANSFER RESTRICTIONS.

(a) Shares of Class B Common Stock may not be Transferred at any time except as follows and subject to the following limitations:

(i) No person may own a share of Class B-1 Common Stock unless that person is recognized on the books and records of the Exchange as the owner of a CME Division membership ("*CME Membership*") in the Exchange as governed by the rules of the Exchange; provided that each holder shall not be permitted to own more than one share of Class B-1 Common Stock for each CME Membership;

(ii) No person may own a share of Class B-2 Common Stock unless that person is recognized on the books and records of the Exchange as the owner of an International Monetary Market Division membership ("*IMM Membership*") in the Exchange as governed by the rules of the Exchange; provided that each holder shall not be permitted to own more than one share of Class B-2 Common Stock for each IMM Membership;

(iii) No person may own a share of Class B-3 Common Stock unless that person is recognized on the books and records of the Exchange as the owner of an Index and Option Market Division membership ("*IOM Membership*") in the Exchange as governed by the rules of the Exchange; provided that each holder shall not be permitted to own more than one share of Class B-3 Common Stock for each IOM Membership;

(iv) No person may own a share of Class B-4 Common Stock unless that person is recognized on the books and records of the Exchange as an owner of a Growth and Emerging Markets Division membership ("*GEM Membership*") as governed by the rules of the Exchange; provided that each holder shall not be permitted to own more than one share of Class B-4 Common Stock for each GEM Membership;

(b) No share of Class B-1 Common Stock may be Transferred other than in connection with the Transfer of a CME Membership made in accordance with the rules of the Exchange; provided that no more than one share of Class B-1 Common Stock may be Transferred with a CME Membership;

(c) No share of Class B-2 Common Stock may be Transferred other than in connection with the Transfer of an IMM Membership made in accordance with the rules of the Exchange; provided that no more than one share of Class B-2 Common Stock may be Transferred with an IMM Membership;

(d) No share of Class B-3 Common Stock may be Transferred other than in connection with the Transfer of an IOM Membership made in accordance with the rules of the Exchange; provided that no more than one share of Class B-3 Common Stock may be Transferred with an IOM Membership;

(e) No share of Class B-4 Common Stock may be Transferred other than in connection with the Transfer of a GEM Membership made in accordance with the rules of the Exchange; provided that no more than one share of Class B-4 Common Stock may be Transferred with a GEM Membership;

(f) Every certificate for shares of Class B-1 Common Stock, Class B-2 Common Stock, Class B-3 Common Stock and Class B-4 Common Stock shall bear a legend on its face reading as follows:

"The shares of Common Stock represented by this certificate may not be Transferred to any person in connection with a Transfer that does not meet the rules of the Exchange or the terms of the Certificate of Incorporation of this corporation until the transfer restrictions applicable to the shares represented by this certificate expire, and no person who receives the shares represented by this certificate in connection with a Transfer that does not satisfy the rules of the Exchange or the terms of the Certificate of Incorporation of this corporation prior to such time is entitled to own or to be registered as the record holder of the shares of Common Stock represented by this certificate. Each holder of this certificate, by accepting the certificate, accepts and agrees to all of the foregoing."

(g) Except as permitted by this Section 2 of this Subdivision 2, any proposed Transfer of shares of Class B-1 Common Stock, Class B-2 Common Stock, Class B-3 Common Stock or Class B-4 Common Stock shall be void.

SECTION 3. COMMITMENT TO MAINTAIN FLOOR TRADING.

The corporation shall cause the Exchange, (i) as long as an open outcry market is liquid (as defined below), to maintain for such open outcry market a facility for conducting business, for the dissemination of price information, for clearing and delivery and (ii) to provide reasonable financial support (consistent with the calendar year 1999 budget levels established by Chicago Mercantile Exchange, an Illinois not-for-profit corporation, the predecessor of the Exchange) for technology, marketing and research for open outcry markets. If an open outcry market is not liquid, as determined by the board of directors, the board may determine, in its sole discretion, whether such obligations will continue, and for how long, in respect of such market. For purposes of this Section, an open outcry market will be deemed "liquid" if it meets any of the following tests on a quarterly basis:

(a) if a comparable exchange-traded product exists, including electronic trading at the Exchange, the Exchange's open outcry market has maintained at least 30% of the average daily volume of such comparable product (including, for calculation purposes, volume from exchange-for-physical transactions in such open outcry market); or

(b) if a comparable exchange-traded product exists and the product trades exclusively by open outcry at the Exchange, the Exchange's open outcry market has maintained at least 30% of the open interest of such comparable product; or

(c) if no comparable exchange-traded product exists, the open outcry market has maintained at least 40% of the average quarterly volume in that market during 1999 at Chicago Mercantile Exchange, an Illinois not-for-profit corporation, the predecessor of the Exchange (including, for calculation purposes, volume from exchange-for-physical transactions in such open outcry market); or

(d) if no comparable exchange-traded product exists and the product trades exclusively by open outcry, the open outcry market has maintained at least 40% of the average open interest in that market during 1999 at Chicago Mercantile Exchange, an Illinois not-for-profit corporation, the predecessor of the Exchange.

ARTICLE FIVE:

(A) Subject to Article Four, Division B, Subdivision 2, Section 1(a) of this Certificate of Incorporation and Article X of the bylaws of the corporation, the number of directors that shall constitute the whole board of directors of the corporation shall be fixed exclusively by one or more resolutions adopted by the board of directors of the corporation, which number shall be no more than 33. As of the time of acceptance by the Delaware Secretary of State of the filing of this Third Amended and Restated Certificate of Incorporation (the "Effective Time"), the board of directors of the corporation shall consist of 33 members, including 27 directors that are not Class B Directors (the "Equity Directors"), three Class B-1 Directors, two Class B-2 Directors and one Class B-3 Director. Until the annual meeting of shareholders to be held in 2012 (the "2012 Annual Meeting"), at least ten Equity Directors shall be CBOT Directors. During the period from the Effective Time to the first business day prior to the 2012 Annual Meeting (i) it shall be a qualification for any director to be nominated or elected by the board of directors to replace any CME Director (whose term is expiring or has expired or who shall have been removed or become disqualified or who shall have resigned, retired, died or otherwise shall fail to continue to serve as a director of the corporation) that such replacement director shall have been designated by the CME Nominating Representatives and (ii) it shall be a qualification for any director to be nominated or elected by the board of directors to replace any CBOT Director (whose term is expiring or has expired or who shall have been removed or become disqualified or who shall have resigned, retired, died or otherwise shall fail to continue to serve as a director of the corporation) that such replacement director shall have been designated by the CBOT Nominating Representatives. For purposes of this Certificate of Incorporation, the terms "CME Director," "CME Nominating Representatives," "CBOT Director" and "CBOT Nominating Representatives" shall have the respective meanings set forth in the corporation's bylaws as in effect at the Effective Time.

(B) The board of directors of the corporation shall be divided into three classes, designated Class I, Class II and Class III. Each class of directors shall consist, as nearly as may be possible, of one-third of the total number of directors constituting the entire board of directors of the corporation. At the first annual meeting of shareholders following the Effective Time, the term of office of the Class II directors shall expire. At the second annual meeting of shareholders following the Effective Time, the term of office of the Class III directors shall expire. At the third annual meeting of shareholders following the Effective Time, the term of office of the Class I directors shall expire.

(C) At each annual meeting of shareholders, successors to the class of directors whose terms expire at that annual meeting shall be elected for a three-year term.

(D) A director shall hold office until the annual meeting of shareholders for the year in which his or her term expires and until his or her successor shall be elected and shall qualify, subject, however, to prior death, resignation, retirement, disqualification or removal from office.

(E) Subject to the provisions of Article X of the bylaws of the corporation during the Transition Period (as such term is defined in the bylaws in effect as of the Effective Time) and Paragraph (A) of this Article Five, any vacancy on the board of directors of the corporation may be filled by a majority of the board of directors then in office and any director elected to fill such a vacancy shall have the same remaining term as that of his or her predecessor; PROVIDED, HOWEVER, that any vacancy occurring with respect to a Class B-1 Director, a Class B-2 Director or a Class B-3 Director shall be filled from the candidates who lost for such position from the most recent election, with the candidates being selected to fill such vacancy in the order of the aggregate number of votes received in such previous election.

(F) No person shall be eligible for election as a Class B-1 Director, a Class B-2 Director or a Class B-3 Director unless he or she shall own, or be recognized as the owner for the purposes of the Exchange of, at least one share of the class of Class B Common Stock entitled to elect such director.

ARTICLE FOURTEEN: Special meetings of the shareholders, for any purpose or purposes, unless otherwise prescribed by statute or by this Certificate of Incorporation, may be called by the Chairman of the Board, in his discretion, and shall be called by the Chairman of the Board or the Secretary at the request in writing of a majority of the directors then holding office. Any such written request shall state the purpose or purposes of the proposed meeting.

ARTICLE FIFTEEN: The corporation shall, and shall cause each of the Exchange and CBOT and their respective successors and successors-in-interest to, (i) grant to each holder of a CME Membership and each holder of a Series B-1 membership in CBOT all trading rights and privileges for all new products first made available after the effective time of the merger of CBOT Holdings, Inc. with and into the corporation, pursuant to that certain Agreement and Plan of Merger, dated as of October 17, 2006, as amended, among the corporation, CBOT Holdings, Inc. and the CBOT (the "Merger Effective Time") and traded on the open outcry exchange system of the Exchange or CBOT or any electronic trading system maintained by the Exchange or CBOT or any of their respective successors or successors-in-interest; (ii) prohibit the Exchange and any of its successors or successors-in-interest from trading products that, as of the Merger Effective Time, were traded on CBOT's open outcry exchange system or any electronic trading system maintained by CBOT; and (iii) prohibit CBOT and any of its successors or successors-in-interest from trading products that, as of the Merger Effective Time, were traded on the Exchange's open outcry exchange system or any electronic trading system maintained by the Exchange. The board of directors of the corporation shall, and shall cause the Exchange and CBOT to, enforce these requirements. Other members of CBOT shall have such trading rights and privileges for new products first made available after the Merger Effective Time and traded on the open outcry exchange system of the Exchange or CBOT or any electronic trading system maintained by the Exchange or CBOT or any of their respective successors or successors-in-interests as determined by the board of directors of the corporation in its sole discretion.

* * * *

**FIFTH AMENDED AND RESTATED BYLAWS
OF
CME GROUP INC.**

ARTICLE I

Shareholders' Meetings

Section 1.1 Annual Meetings. (a) The annual meetings of shareholders shall be held on such date, at such time and at such place, either within or without the state of Delaware, as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting. Subject to paragraph (b) of this Section 1.1, any other proper business may be transacted at an annual meeting.

(b) At the annual meetings the shareholders shall elect the Board of Directors, and transact such other business as may properly be brought before the meeting. For such business to be properly brought before the meeting, it must be: (i) authorized by the Board of Directors and specified in the notice, or a supplemental notice, of the meeting, (ii) otherwise brought before the meeting by or at the direction of the Board of Directors or the chairman of the meeting, or (iii) otherwise properly brought before the meeting by a shareholder. For business to be properly brought before an annual meeting by a shareholder, the shareholder must have given written notice thereof to the Secretary, delivered or mailed to and received at the principal executive offices of the Corporation (x) not less than 90 days nor more than 120 days prior to the meeting, or (y) if less than 100 days notice of the meeting or prior public disclosure of the date of the meeting is given or made to shareholders, not later than the close of business on the tenth day following the day on which the notice of the meeting was mailed or, if earlier, the day on which such public disclosure was made. A shareholder's notice to the Secretary shall set forth as to each item of business the shareholder proposes to bring before the meeting (1) a brief description of such item and the reasons for conducting such business at the meeting and a representation that the shareholder intends to appear in person or by proxy at the meeting to introduce the business specified in the notice, (2) the name and address, as they appear on the Corporation's records, of the shareholder proposing such business, (3) the class, and series if any, and number of shares of stock of the Corporation which are beneficially owned by the shareholder (for purposes of the regulations under Sections 13 and 14 of the Securities Exchange Act of 1934, as amended (the "Exchange Act")), and (4) any material interest of the shareholder in such business. No business shall be conducted at any annual meeting except in accordance with the procedures set forth in this paragraph (b). The chairman of the meeting at which any business is proposed by a shareholder shall, if the facts warrant, determine and declare to the meeting that such business was not properly brought before the meeting in accordance with the provisions of this paragraph (b), and, in such event, the business not properly before the meeting shall not be transacted.

Section 1.2 Special Meetings. Special meetings of shareholders for any purpose or purposes may be called at any time only by the Chairman of the Board or by a majority of the total number of authorized Directors. The business transacted at a special meeting of shareholders shall be limited to the purpose or purposes for which such meeting is called.

Section 1.3 Notice of Meetings. A written notice of each annual or special meeting of shareholders shall be given stating the place, date and time of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise provided by law, the Certificate of Incorporation or these Bylaws, such notice of meeting shall be given not less than 10 nor more than 60 days before the date of the meeting to each shareholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be given when deposited in the mail, postage prepaid, directed to the shareholder at such shareholder's address as

ARTICLE II
Board of Directors

Section 2.1 Number; Qualifications. The Board of Directors shall consist of the number of Directors as provided in the Certificate of Incorporation, and no person shall serve as a Director unless he or she meets the requirements, if any, provided in the Certificate of Incorporation for service on the Board of Directors.

Section 2.2 Election; Resignation; Vacancies. (a) Subject to the provisions of the Certificate of Incorporation and the provisions of Article X, at each annual meeting of shareholders, the shareholders shall elect, pursuant to the terms of the Certificate of Incorporation, the successors to the Directors whose terms expire at that meeting, and each Director shall hold office until the annual meeting at which such Director's term expires and the election and qualification of his or her successor, or until his or her earlier death, resignation or removal. Any Director may resign at any time by giving written notice to the Chairman of the Board, if any, the Chief Executive Officer or the Secretary. Unless otherwise stated in a notice of resignation, it shall take effect when received by the officer to whom it is directed, without any need for its acceptance.

(b) Subject to the provisions of Article X, only persons who are nominated in accordance with the following procedures shall be eligible for election as Equity Directors (as defined in the Certificate of Incorporation). Subject to the provisions of Article X, nominations of persons for election as Equity Directors may be made at any annual meeting of shareholders, or at any special meeting of shareholders called for the purpose of electing Directors, (i) by or at the direction of the Board of Directors (or any duly authorized committee thereof) or (ii) by any shareholder of the Corporation (A) who is a shareholder of record on the date of the giving of the notice provided for in this Section 2.2(b) and on the record date for the determination of shareholders entitled to vote at such meeting and (B) who complies with the notice procedures set forth in this Section 2.2(b).

In addition to any other applicable requirements, for a nomination to be made by a shareholder, such shareholder must have given timely notice thereof in proper written form to the Secretary of the Corporation.

To be timely, a shareholder's notice to the Secretary must be delivered or mailed to and received at the principal executive offices of the Corporation (x) not less than 90 days nor more than 120 days prior to the meeting, or (y) if less than 100 days notice of the meeting or prior public disclosure of the date of the meeting is given or made to shareholders, not later than the close of business on the tenth day following the day on which notice of the meeting was made, or if earlier, the day on which such public disclosure was made.

To be in proper written form, a shareholder's notice to the Secretary must set forth (1) as to each person whom the shareholder proposes to nominate for election as a Director (A) the name, age, business address and residence address of the person, (B) the principal occupation or employment of the person, (C) the class and series, if any, and number of shares of stock of the Corporation which are beneficially owned by the person (for purposes of the regulations under Sections 13 and 14 of the Exchange Act) and (D) any other information relating to the person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors pursuant to Section 14 of the Exchange Act, and the rules and regulations promulgated thereunder; and (2) as to the shareholder giving the notice (i) the name and address, as they appear in the Corporation's records, of the shareholder proposing such nomination, (ii) the class and series, if any, and number of shares of stock of the Corporation which are beneficially owned by the shareholder (for purposes of the regulations under Sections 13 and 14 of the Exchange Act), (iii) a description of all arrangements or understandings between the shareholder and each proposed nominee and any other person or persons (including their names) pursuant to which the nomination(s) are to be made by the shareholder, (iv) a representation that the shareholder intends to appear in person or by proxy at the meeting to nominate the persons named in its notice and (v) any other information relating to the shareholder that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for

Section 2.12 Presumption of Assent. Unless otherwise provided by the laws of the State of Delaware, a Director who is present at a meeting of the Board of Directors or of a committee thereof at which action is taken on any matter shall be presumed to have assented to the action taken unless his or her dissent shall be entered in the minutes of such meeting or unless he or she shall file his or her written dissent to such action with the person acting as secretary of such meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary immediately after the adjournment of such meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

ARTICLE III

Committees of the Board of Directors

Section 3.1 Committees. Subject to the provisions of Article X, the Board of Directors shall have an Executive Committee, an Audit Committee, a Compensation Committee, a Nominating Committee and any additional committees it may designate from time to time by resolution passed by a majority of the whole Board of Directors, with each committee to consist of one or more of the Directors of the Corporation.

Section 3.2 Executive Committee. Subject to the provisions of Article X, the Executive Committee shall consist of such number of Directors as may be elected from time to time by the Board. Whenever the Board is not in session, and subject to the provisions of applicable law, the Certificate of Incorporation or these Bylaws, the Executive Committee shall have and exercise the authority of the Board in the management of the Corporation. A majority of the Executive Committee shall constitute a quorum necessary to transact business.

Section 3.3 Audit Committee. The Audit Committee shall consist of such number of Directors (none of whom shall be an employee of the Corporation) as may be elected from time to time by the Board. The Board of Directors shall adopt a charter setting forth the responsibilities of the Audit Committee. A majority of the Audit Committee shall constitute a quorum necessary to transact business.

Section 3.4 Compensation Committee. The Compensation Committee shall consist of such number of Directors (none of whom shall be an employee of the Corporation) as may be elected from time to time by the Board. The Compensation Committee shall oversee the compensation and benefits of the employees and management of the Corporation. A majority of the Compensation Committee shall constitute a quorum necessary to transact business.

Section 3.5 Nominating Committee. Subject to the provisions of Article X, the Nominating Committee shall consist of such number of Directors (none of whom shall be an employee of the Corporation) as may be determined from time to time by the Board. Subject to the provisions of Article X, the Committee shall review the qualifications of potential candidates for the Equity Directors and shall propose nominees for the Equity Directors who are nominated by the Board. Subject to the provisions of Article X, in making their nominations, the Nominating Committee and the Board of Directors shall take into consideration that (i) the Board of Directors shall have meaningful representation of a diversity of interests, including floor brokers, floor traders, futures commission merchants, producers, consumers, processors, distributors and merchandisers of commodities traded on Chicago Mercantile Exchange Inc. (the "Exchange"), Board of Trade of the City of Chicago, Inc. (the "CBOT") or any other exchange or market designated by the Commodity Futures Trading Commission as a contract market and owned and operated by the Corporation (the "Contract Markets"), participants in a variety of pits or principal groups of commodities traded on the Exchange, the CBOT or any Contract Market, and other market users or participants; (ii) at least 10% of the members of Board of Directors shall be composed of persons representing farmers, producers, merchants or exporters of principal commodities traded on the Exchange, the CBOT or any Contract Market; and (iii) at least 20% of the members of the Board of Directors shall be composed of persons who do not possess trading privileges on the Exchange, the CBOT or any Contract Market, are not salaried employees of the Corporation and are not officers, principals or employees who are involved in operating the futures exchange related business of a firm entitled to members' rates on the Exchange, the CBOT

or any Contract Market. Notwithstanding the foregoing, the Nominating Committee shall include the Chief Executive Officer of the Corporation as a nominee for an Equity Director at any annual meeting of shareholders at which his or her term is scheduled to expire; provided, that if such term expiration occurs during the Transition Period, the Chief Executive Officer shall be nominated as a CMB Director. Subject to the provisions of Article X, a majority of the Nominating Committee shall constitute a quorum necessary to transact business.

Section 3.6 Committee Governance. Subject to the provisions of Article X, the Board may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Subject to the provisions of Article X, in the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. Subject to the provisions of law and subject to the provisions of Article X, any such committee, to the extent provided in the resolution of the Board or in these Bylaws, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when required. Each committee may adopt rules for its governance not inconsistent with the provisions of these Bylaws.

ARTICLE IV

Class B Nominating Committees

Section 4.1 Class B Nominating Committees. The holders of shares of Class B-1 Common Stock; Class B-2 Common Stock; and Class B-3 Common Stock, shall each elect a nominating committee for their respective class (each, a "Class B Nominating Committee"). Each Class B Nominating Committee shall be composed of five members.

Section 4.2 Election. Each Class B Nominating Committee shall nominate, by letter directed to the Chairman of the Board not later than 90 days prior to an annual meeting, candidates for election to such Committee at such annual meeting. Each Class B Nominating Committee shall nominate up to 10 candidates. Such nominations shall include, as part of or in addition to such candidates, (i) any candidate who is nominated by the holders of at least 100 shares of Class B-1 Common Stock, in the case of the Class B Nominating Committee representing such class, (ii) any candidate who is nominated by the holders of at least 100 shares of Class B-2 Common Stock, in the case of the Class B Nominating Committee representing such class, and (iii) any candidate who is nominated by the holders of at least 150 shares of Class B-3 Common Stock, in the case of the Class B Nominating Committee representing such class; provided, however, in the case of any such nominations, the nomination is submitted in writing and accompanied by a description of the proposed nominee's qualifications and other relevant biographical information and evidence of the consent of the proposed nominee. The five nominees receiving the greatest number of votes for a particular Class B Nominating Committee shall be elected to such Committee. In the event of a vacancy, howsoever occurring, in a committee position, the candidate in the most recent election for such position who received the next highest number of votes to the last person currently serving shall be named to fill such vacancy.

Section 4.3 Director Nominations. Each Class B Nominating Committee shall be responsible for assessing the qualifications of candidates to serve as Directors to be elected by the particular class. Not less than 90 days but not more than 120 days prior to an annual meeting of shareholders at which a Class B-1 Director, a Class B-2 Director or a Class B-3 Director is to be elected, the applicable Class B Nominating Committee(s) shall select nominees for election to such directorship. Such Class B Nominating Committee(s) shall select, subject to the provisions of the Certificate of Incorporation, up to two nominees for each directorship to be filled by the applicable class of Class B Common Stock at such meeting. In addition to such nominee(s), the nominations in the proxy statement mailed to shareholders in conjunction with the annual meeting of shareholders shall include, as part of or in addition to such nominee(s), (i) any nominee who is nominated by the holders of at least 100 shares of Class B-1 Common Stock, in the case of the Class B Nominating Committee representing such class,

Section 8.6 Amendment or Repeal. Any repeal or modification of the foregoing provisions of this Article VIII shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification.

ARTICLE IX

General

Section 9.1 Form of Records. Any records maintained by the Corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept on, or be in the form of, magnetic tape, diskette, photographs, microphotographs, or any other information storage device, provided that the records so kept can be converted into clearly legible form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect the same.

Section 9.2 Execution of Corporate Contracts and Instruments. The Board of Directors, except as otherwise provided in these Bylaws, may authorize any officer or officers, or agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the Corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

Section 9.3 Severability. If any provision of these Bylaws shall be held to be invalid, illegal, unenforceable or in conflict with the provisions of the Corporation's Certificate of Incorporation, then such provision shall nonetheless be enforced to the maximum extent possible consistent with such holding and the remaining provisions of these Bylaws (including without limitation, all portions of any Section of these Bylaws containing any such provision held to be invalid, illegal, unenforceable or in conflict with the Certificate of Incorporation, that are not themselves invalid, illegal, unenforceable or in conflict with the Certificate of Incorporation) shall remain in full force and effect.

Section 9.4 Construction; Definitions. Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the General Corporation Law of Delaware shall govern the construction of these Bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both a corporation and a natural person.

Section 9.5 Dividends. The Board of Directors, subject to any restrictions contained in the General Corporation Law of Delaware or the Certificate of Incorporation, may declare and pay dividends upon the shares of its capital stock. Dividends may be paid only in cash or in property. The Board of Directors may set apart out of any of the funds of the Corporation available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve. Such purposes shall include, but not be limited to, equalizing dividends, repairing or maintaining any property of the Corporation, and meeting contingencies.

ARTICLE X

Transition Period Matters

Section 10.1 General. The provisions of this Article X are intended to reflect certain transitional matters set forth in that certain Agreement and Plan of Merger, dated as of October 17, 2006, as amended (the "Merger Agreement"), among the Corporation, CBOT Holdings, Inc., a Delaware corporation, and the CBOT.

Section 10.2 Transition Period Directors.

(a) Until the annual meeting of shareholders to be held in 2012 (the "2012 Annual Meeting"), at least ten Equity Directors shall be CBOT Directors.

classification and removal of directors and filling of vacancies and the CME/CBOT product trading requirements, during the period ending with the annual meeting of stockholders to be held in 2012. The current certificate of incorporation of CME Group requires only the approval of (i) a majority of the CME Directors and (ii) a majority of the CBOT Directors to amend such provisions during the period ending with the annual meeting of stockholders to be held in 2012.

- *Nominating Committee.* The CME Group Amended Bylaws provide that the nominating committee of the CME Group board of directors, in making its nominations for the board of directors, shall take into consideration, among other things, that the board of directors shall have meaningful representation of the constituents of CME, CBOT and any other exchange or market designated by the CFTC as a contract market and owned and operated by CME Group. The current certificate of incorporation of CME Group provides that such considerations shall be limited to the constituents of CME and CBOT only.
- *CME Group Amended Bylaws.* The CME Group Amended Bylaws require the approval of a majority of the directors then in office, which includes a majority of the CME Directors and a majority of the CBOT Directors, to alter or amend or adopt any provision inconsistent with, or repeal, the articles of the bylaws regarding the board of directors, board committees and board and executive officers and the provisions regarding the governance arrangements during the period ending with the annual meeting of stockholders to be held in 2012. The current bylaws of CME Group require only the approval of (i) a majority of the CME Directors and (ii) a majority of the CBOT Directors to amend such provisions during the period ending with the annual meeting of stockholders to be held in 2012.

CME Group Board of Directors after Completion of the Merger

Upon the completion of the merger, the certificate of incorporation and bylaws of CME Group will provide for a board of directors composed of 33 members. The 33 members of the CME Group board of directors will initially consist of the 30 directors of CME Group as of immediately prior to the merger and three NYMEX Directors. At least two of the NYMEX Directors must be independent directors. Currently, the holders of CME Group Class B-1, Class B-2 and Class B-3 common stock have the right to elect six directors to CME Group's board of directors. Following the merger, the holders of CME Group Class B-1, Class B-2 and Class B-3 common stock will continue to have the right to elect six directors. The remaining 27 directors will be elected by holders of CME Group Class A and Class B common stock voting together as a single class.

Stock Exchange Listing

Listing of CME Group Class A Common Stock

It is a condition to the merger that the shares of CME Group Class A common stock issuable in connection with the merger, subject to official notice of issuance, be authorized for listing on Nasdaq.

Delisting of NYMEX Holdings Common Stock

If the merger is completed, NYMEX Holdings common stock will be delisted from the NYSE and deregistered under the Exchange Act.

Material Contracts Between the Parties

In April 2006, CME entered into a technology services agreement with NYMEX pursuant to which CME became the exclusive electronic trading service provider for NYMEX's energy futures and options contracts and for metals products listed on COMEX. The agreement has a ten-year term from the launch date with rolling three-year extensions unless either party elects not to renew the agreement upon written notice prior to the beginning of the applicable renewal term. For CME's services, it receives a minimum annual payment or per trade fees on CME Globex based on average daily volume, whichever is greater. During the term of the

**SECOND AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
NEW YORK MERCANTILE EXCHANGE, INC.**

New York Mercantile Exchange, Inc. (hereinafter referred to as the "*Corporation*"), which was originally incorporated in the State of Delaware on May 11, 2000, hereby certifies that this Second Amended and Restated Certificate of Incorporation was duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware. This Second Amended and Restated Certificate of Incorporation amends, restates and integrates the provisions of the Corporation's amended and restated certificate of incorporation as hereby amended. The text of the amended and restated certificate of incorporation as heretofore amended is hereby restated to read in its entirety as follows:

ARTICLE I

NAME

The name of the corporation is New York Mercantile Exchange, Inc.

ARTICLE II

REGISTERED AGENT

The address of the registered office of the Corporation in the State of Delaware is 1209 Orange Street, City of Wilmington, County of New Castle, Delaware 19801. The name of the registered agent of the Corporation at such address is The Corporation Trust Company.

ARTICLE III

CORPORATE PURPOSES

The nature of the business or purposes to be conducted or promoted by the Corporation are to engage in any lawful act or activity for which corporations may be organized under the Delaware General Corporation Law (as amended from time to time, the "*DGCL*").

ARTICLE IV

MEMBERSHIP

A. *General.*

The Corporation shall have no authority to issue capital stock. The terms and conditions of membership in the Corporation shall be as provided in or pursuant to this Certificate of Incorporation, the Bylaws of the Corporation (the "*Bylaws*") and the Rules and Regulations of the Corporation as in effect from time to time (the "*Rules*").

B. *Classes and Series of Membership.*

The membership interests that the Corporation shall have authority to issue shall consist of not more than 816 Class A Memberships (the "*Class A Memberships*" and the owners thereof, the "*Class A Members*") and one Class B Membership (the "*Class B Membership*" and the owner thereof, the "*Class B Member*"). The terms,

conditions, preferences and rights of the Class A Memberships and the Class B Membership shall be as set forth in this Certificate of Incorporation, the Bylaws and the Rules. The Class A Members shall not have the right to vote on any matter, except as and to the extent provided in Article IX of this Certificate of Incorporation. The Class A Members shall have no interest in the profits of the Corporation and shall have no right to receive any dividend or other distribution (including upon liquidation, dissolution, winding-up or otherwise) to be declared, paid or distributed by the Corporation or the right to receive any consideration upon the merger or consolidation of the Corporation, which rights shall be vested solely in the Class B Member. Except to the extent (if any) required by law and Article IX of this Certificate of Incorporation, the Class B Member shall have the exclusive right to vote on any matter to be voted on by the members of the Corporation. The Class B Member shall have the exclusive right to receive any dividend or other distribution (including upon liquidation, dissolution, winding-up or otherwise) to be declared, paid or distributed by the Corporation or any consideration upon the merger or consolidation of the Corporation. The Class B Membership initially shall be held by CMEG NYMEX Holdings Inc., a Delaware corporation. The Board of Directors of the Corporation shall have the authority to create additional classes of memberships with such rights and limitations as the Board of Directors determines. Each Class A Member shall be entitled to one vote for each Class A Membership on any matter on which such Class A Member is entitled to vote. Each Class B Member shall have one vote on any matter on which such Class B Member is entitled to vote.

C. *Class A Member Trading Rights.*

Holders of Class A Memberships who meet the applicable membership and eligibility requirements set forth in this Certificate of Incorporation, the Bylaws and the Rules shall have (i) the rights to trade on the open outcry and electronic facilities of the Corporation (and owners thereof shall have the right to lease such rights) in each case in compliance with this Certificate of Incorporation, the Bylaws and the Rules and (ii) the other rights set forth in this Section (C) of this Article IV of this Certificate of Incorporation.

1. *Clearing Members.*

In addition to any Rules or other qualifications set forth by the Corporation, a Member Firm, as so designated pursuant to the Rules, shall hold not fewer than two (2) Class A Memberships in order to qualify (a) as a Clearing Member, as such term is defined in the Rules, and (b) for member rates.

2. *Transaction Fees.*

The transaction fee for Class A Members trading futures and options products that were traded on the Corporation's open outcry trading system and/or electronic trading system as of July 18, 2008 for their accounts, whether utilizing the open outcry trading system or the electronic trading system, shall be lower than the transaction fees charged to any participant who is not a holder of a Class A Membership for the same product; provided, however, that the foregoing shall not prohibit the Board of Directors of the Corporation from establishing transaction fees on a non-permanent basis in connection with a market maker program or other programs designed to build market liquidity. This fee differential shall be maintained for so long as either Chicago Mercantile Exchange Inc. or Board of Trade of the City of Chicago, Inc. maintains a comparable fee differential.

Each Member Firm, as so designated pursuant to the Rules, shall receive member rates on trades for any account wholly-owned by such Member Firm independent of the identity of the individual that executes the relevant trade.

Each Individual Member, as so designated pursuant to the Rules, shall receive member rates for trades on any account wholly owned by such Individual Member, or any account jointly owned if all owners of such account are holders of Class A Memberships; provided that a holder of a Class A Membership executes the relevant trade. Additionally, for each Class A Membership owned or leased by an Individual Member, such member shall receive member rates for products traded electronically in such account for no more than three (3) individuals (in addition to the owner) to whom such owner or for no more than one (1) individual (in addition to the lessee) to whom such lessee assigns power of attorney rights pursuant to the Rules.

3. Open Outcry Facility.

The Corporation shall maintain facilities for an open outcry market for the trading (the "*Trading Floor*") of futures and options contracts traded on the Trading Floor as of July 18, 2008 (the "*Current Products*") until December 31, 2012. Following December 31, 2012, at any time following the end of the first full fiscal quarter as to which the Trading Floor does not satisfy the financial tests set forth below for such quarter (the "*Quarterly Financial Tests*"), the Corporation shall have the right to close the Trading Floor. Prior to closing the Trading Floor, the Corporation shall have the right to close any individual trading ring and terminate open outcry trading of any Current Products traded in such trading ring, if the Trading Floor would have satisfied the Quarterly Financial Tests for the immediately preceding fiscal quarter, on a pro forma basis, assuming that such trading ring was closed as of the first day of the testing period. The Corporation shall measure the Quarterly Financial Tests within sixty (60) days following each full fiscal quarter. The Corporation shall give the Class A Members at least thirty (30) days' notice of the closing of the Trading Floor or any trading ring.

In the event that the Trading Floor does not satisfy both of the tests set forth below at the end of any fiscal quarter, it will be deemed to have failed the Quarterly Financial Tests for that fiscal quarter.

(a) Revenue

The Revenue from the Trading Floor generated during the fiscal quarter for which the financial test is being measured and the immediately preceding quarter must exceed 50% of the Revenue from the Trading Floor for fiscal 2007 divided by two (2).

(b) Profitability

The Trading Floor After-Tax Profit Margin for the fiscal quarter for which the financial test is being measured and the immediately preceding quarter must equal or exceed 50% of the CME Group Inc. After-Tax Profit Margin for that same period.

For purposes of this calculation:

"Revenue from the Trading Floor" means the transaction fees, clearing fees (if separately charged), and other direct ancillary fees (e.g. booth rental) generated from open outcry trading on the Trading Floor.

"Trading Floor Expenses" means the direct expenses incurred to operate the Trading Floor, including but not limited to facility costs including rent (or implied rent), utilities, taxes, security, insurance, telecommunications costs, amenities; trading expenses including market surveillance for Trading Floor trades, license fees, market maker fees, data vendor fees, and all computer software and hardware costs (including maintenance fees); depreciation on capital expenditures at the Trading Floor; staff and direct management of the staff for the Trading Floor; and all applicable city, state and federal taxes associated with the income or revenue generated from the Trading Floor.

"Trading Floor After-Tax Profit Margin" means the percentage derived by dividing (1) Revenue from the Trading Floor net of Trading Floor Expenses by (2) Revenue from the Trading Floor for the applicable period.

"CME Group Inc. After-Tax Profit Margin" means the percentage derived by (1) multiplying (x) CME Group Inc.'s consolidated operating income for the applicable period by (y) the difference between 1 (one) and CME Group Inc.'s effective corporate tax rate and (2) dividing that amount by CME Group Inc.'s consolidated total revenues for the applicable period. The amounts shall be obtained or derived from the financial statements included in the applicable quarterly or annual reports filed by CME Group Inc. with the Securities and Exchange Commission.

The Trading Floor shall be the exclusive venue for the open outcry trading for Current Products for so long as such products are traded on the Trading Floor. The Corporation is under no obligation to provide a backup or alternative facility for open outcry trading if the Trading Floor is rendered inoperable for any

reason. In the event that the Trading Floor is rendered inoperable for any reason, the electronic trading platform, if any, on which any Current Product then is traded shall serve as the venue for trading such Current Product.

4. Moratorium on the Relocation of Current Products.

In the event that open outcry trading of any Current Product is terminated subject to Section (C)(3) of this Article IV, the Corporation will not, nor will it cause any subsidiary to, commence open outcry trading of such Current Product in the City of Chicago for a period of 540 days following such closure (the "540-Day Moratorium"). Notwithstanding the foregoing, open outcry trading of a Current Product may commence in the City of Chicago during the 540-Day Moratorium if the Board of Directors of the Corporation approves such action and within fifteen (15) days after given written notice of such action in reasonable detail to the holders of Class A Memberships and

(1) the owners of Class A Memberships entitled to cast 10% of the total number of votes entitled to be cast at a special meeting to approve the removal of the 540-Day Moratorium for such Current Product do not make written demand for a special meeting that complies with the requirements set forth below; or

(2) the owners of Class A Memberships entitled to cast 10% of the total number of votes entitled to be cast at a special meeting do make written demand for a special meeting that complies with the applicable requirements listed below and at such special meeting a majority of the voting power of the outstanding Class A Memberships approves the removal of such 540-Day Moratorium.

Any notice sent by the Corporation to Class A Members in connection with a special meeting under this Section 4 of this Article III shall be accompanied by a response form through which a Class A Member may request a special meeting and the 10% threshold shall be deemed met if such forms, by themselves or collectively with one or more other written demands or petitions (which may be delivered by fax or electronically to the Secretary of the Corporation), reflect that the owners of at least 10% of the Class A Memberships are requesting a special meeting to vote on the approval of the commencement of open outcry trading in the City of Chicago of a Current Product subject to the 540-Day Moratorium. Within three (3) business days after any Class A Member so requests such a special meeting, the Secretary of the Corporation shall confirm (by fax or electronically, in addition to regular mail), to each Class A Member submitting a response form, written demand or petition, receipt of such Class A Member's request and whether the 10% threshold has, or has not, at that time been met. The written demand may also specify the date of such special meeting (in which case such meeting date shall be a business day which is not less than thirty (30) nor more than sixty (60) days from the date of such written demand).

5. Location of Open Outcry Trading Facility.

The Corporation shall maintain the Trading Floor at its existing location for so long as the Occupancy Agreement, dated as of May 18, 1995, among The City of New York, New York State Urban Development Corporation, New York City Economic Development Corporation, Battery Park City Authority and the Corporation, including its wholly-owned subsidiary, Commodity Exchange, Inc., remains in effect, and thereafter, at another location in the Borough of Manhattan.

ARTICLE V
MANAGEMENT OF AFFAIRS

The following provisions are inserted for the management of the business and the conduct of the affairs of the Corporation, and for further definition, limitation and regulation of the powers of the Corporation and of its directors and members:

A. General.

In accordance with Sections 141(a) and 141(j) of the DGCL, the business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors of the Corporation; such power to include, without limitation, to (i) adopt, from time to time, Rules relating to criteria for eligibility for membership and procedures for becoming a member and any requirements or procedures for the acquisition or transfer of a membership as it may determine; and (ii) establish the Rules applicable to Class A Members, including, without limitation, relating to fees, financial standards and obligations for dues, assessments and fines, subject in each case to Section (C) of Article IV of this Certificate of Incorporation. In addition to the powers and authority expressly conferred upon them by statute or by this Certificate of Incorporation or the Bylaws, the directors are hereby empowered to exercise all powers and do all acts and things as may be exercised or done by the Corporation, subject, nevertheless, to the provisions of the DGCL, this Certificate of Incorporation and any Bylaws; provided, however, that no Bylaws hereafter adopted by the Class B Member shall invalidate any prior act of the directors which would have been valid if such Bylaws had not been adopted.

B. Action by Written Consent.

The Class A Members shall not have the right to take action by written consent in lieu of a meeting and shall have no right to initiate any proposal, at or for any meeting of members.

The Class B Member shall have the right to effect by consent in writing any action which would require the approval of the Class B Member at a duly called annual or special meeting of the Class B Member.

ARTICLE VI
BOARD OF DIRECTORS

The number of directors of the Corporation shall be as from time to time fixed by, the Board of Directors of the Corporation. Election of directors need not be by written ballot unless the Bylaws so provide.

ARTICLE VII
AMENDMENT OF BYLAWS AND RULES

The Board of Directors of the Corporation is expressly empowered to adopt, amend or repeal the Bylaws. The Class B Member shall also have power to adopt, amend or repeal the Bylaws. The only member of the Corporation with any power to adopt, amend or repeal the Bylaws shall be the Class B Member, and no other member of, or class or series of membership in, the Corporation shall have any such power. No member of, or class or series of membership in, the Corporation shall have any power to adopt, amend or repeal the Rules.

ARTICLE VIII
LIMITATION OF LIABILITY; INDEMNIFICATION

No director shall be personally liable to the Corporation or any of its members for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its members, (ii) for acts or omissions not in good faith or which involve intentional misconduct

**AMENDED AND RESTATED BYLAWS
OF
NEW YORK MERCANTILE EXCHANGE, INC.**

Capitalized terms used but not otherwise defined herein (including the Rules) shall have the meaning given to such terms in the Certificate of Incorporation of the Corporation.

ARTICLE I—RULES AND REGULATIONS

Section 1. *Incorporation of Rules and Regulations.*

The affairs and operations of the Corporation, in addition to being governed by the Delaware General Corporation Law (the “DGCL”), the Certificate of Incorporation and these Bylaws, shall also be governed by the Rules. Where there exists any inconsistency between the Rules and the DGCL, the Certificate of Incorporation or these Bylaws, the DGCL, the Certificate of Incorporation or these Bylaws shall govern to the extent of the inconsistency.

Applicants for Class A Membership and any person or entity holding any Class A Membership in the Corporation shall be required to sign a written agreement to observe and be bound by the Certificate of Incorporation, these Bylaws and the Rules, as each may be amended from time to time. In addition, the Board of Directors may adopt interpretations of the Certificate of Incorporation, these Bylaws and the Rules (“*Interpretations*”), which shall be incorporated into and deemed to be Rules.

ARTICLE II—MEMBERSHIP

Section 1. *Terms and Conditions.*

The terms and conditions of membership in the Corporation, including, without limitation, the rights and obligations of members, member firms and delegates, in addition to being governed by the DGCL, the Certificate of Incorporation and these Bylaws, shall also be governed by the Rules. Without limiting the foregoing, requirements with respect to, and restrictions and limitations on, the ownership, use, purchase, sale, transfer or other disposition of any membership or interest therein, or any other interest of or relating to the Corporation or membership therein, including the payment of proceeds from the sale, transfer or other disposition of any membership or interest therein, shall be as provided herein, in the Certificate of Incorporation and in the Rules, or as otherwise provided in accordance with applicable law.

Section 2. *Voting Rights.*

Members shall have such voting rights as are specified in the Certificate of Incorporation. To the extent authorized by the Certificate of Incorporation, the Board of Directors shall be entitled to fix a record date for purposes of determining the members entitled to vote on any matter.

Section 3. *Annual and Special Meetings.*

The annual meetings of the Class B Member shall be held on such date, at such time and at such place, either within or without the state of Delaware, as shall be designated from time to time by the Board of Directors of the Corporation and stated in the notice of the meeting.

At the annual meetings the Class B Member shall elect the Board of Directors of the Corporation and transact such other business as may properly be brought before the meeting. For such business to be properly brought before the meeting, it must be: (i) authorized by the Board of Directors of the Corporation and specified

in the notice, or a supplemental notice, of the meeting, (ii) otherwise brought before the meeting by or at the direction of the Board of Directors or the chairman of the meeting, or (iii) otherwise properly brought before the meeting by the Class B Member. No other business may be brought before or conducted at the meeting.

Special meetings of Class A Members or the Class B Member may be called by the Board of Directors of the Corporation or by the Chairman of the Board of Directors of the Corporation in their discretion and shall be held on such date, at such time and at such place, either within or without the state of Delaware, as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting. The business transacted at a special meeting of the Class B Member shall be limited to the purpose or purposes for which such meeting is called. Special meetings of Class A Members may also be called by the Board of Directors of the Corporation or by the Chairman of the Board of Directors of the Corporation upon the demand of the Class A Members pursuant to Section (C) of Article IV or Article IX of the Certificate of Incorporation. The business transacted at a special meeting of the Class A Members shall be limited to the purpose or purposes for which such meeting is called.

Section 4. *Notice of Meetings.*

Except as provided under Section (C) of Article IV of the Certificate of Incorporation, written notice of the place, date, and time of all meetings of the Class A Members or the Class B Member shall be given, not less than ten (10) nor more than sixty (60) days before the date on which the meeting is to be held, to each member entitled to vote at such meeting, except as otherwise provided herein or required by law (meaning, here and hereinafter, as required from time to time by the DGCL or the Certificate of Incorporation). The notice of any special meeting of members shall also state the purpose or purposes for which such meeting is called.

When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place, if any, thereof, and the means of remote communications, if any, by which members and proxy holders may be deemed to be present in person and vote at such adjourned meeting is announced at the meeting at which the adjournment is taken; provided, however, that if the date of any adjourned meeting is more than thirty (30) days after the date for which the meeting was originally noticed, or if a new record date is fixed for the adjourned meeting, notice of the place, if any, date, and time of the adjourned meeting and the means of remote communications, if any, by which members and proxy holders may be deemed to be present in person and vote at such adjourned meeting shall be given in conformity herewith. At any adjourned meeting, any business may be transacted which might have been transacted at the original meeting without regard to the presence of a quorum at such adjournment.

Section 5. *Quorum.*

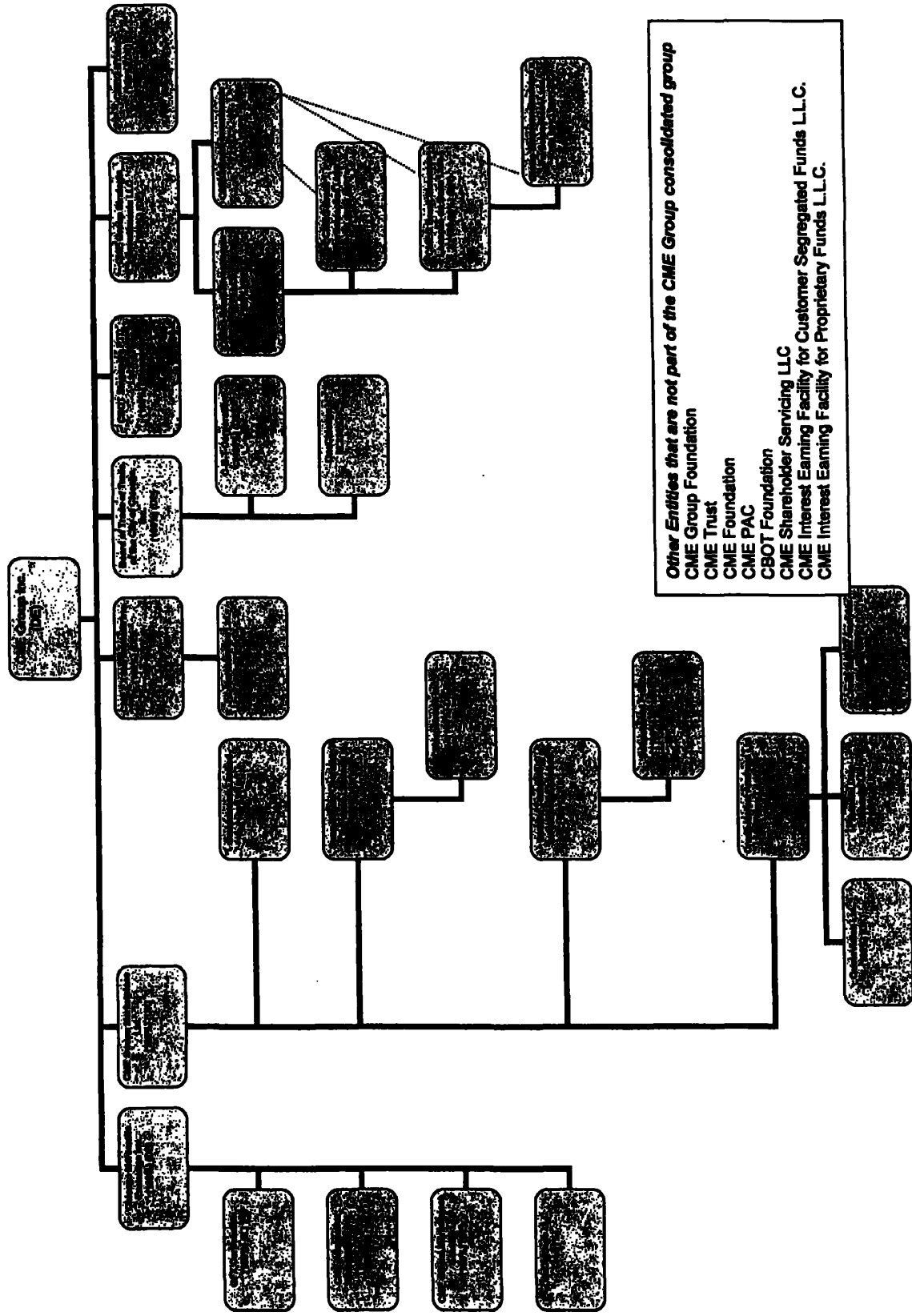
The presence of the holder of the Class B Membership, in person or by proxy, shall constitute a quorum with respect to any matter on which the Class B Member is entitled to vote pursuant to the Certificate of Incorporation, or any meeting called to vote on such matters.

With respect to any matter on which the Class A Members are entitled to vote pursuant to the Certificate of Incorporation, or any meeting called to vote on such matters, the presence of owners of Class A Memberships, in person or by proxy, representing one-third of the votes entitled to be cast on such matters, shall constitute a quorum. If a quorum shall fail to attend any meeting, the chairman of the meeting or, in his or her absence, the Chairman of the Board of Directors of the Corporation or the President may adjourn the meeting to another place, if any, date or time.

Section 6. *Organization.*

Such person as the Board of Directors of the Corporation may have designated or, in the absence of such a person, the Chairman of the Board of Directors of the Corporation or, in his or her absence, such person as may be chosen by the Class B Member, shall call to order any meeting of the members of the Corporation and act as chairman of the meeting. In the absence of the Secretary of the Corporation, the secretary of the meeting shall be such person as the chairman of the meeting appoints.

Organizational Chart



[End of Exhibits]



"Zweibel, Patricia M"
<Patricia.Zweibel@skadden.com>

12/09/2008 03:23 PM

To JBlume@fec.gov
cc "Noble, Lawrence M (WAS)"
<Lawrence.Noble@skadden.com>

bcc

Subject RE: CME Group Conversations, 12-8-08 and 12-9-08

FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2008 DEC -9 P 3:27

Dear Mr. Blume,

Thank you for the email and the phone calls. We agree that the statements in your 12/9/08 255 pm email, attached below, are accurate.

Please call if you have further questions.

Thank you,

Patricia M. Zweibel (admitted to practice in Maryland only)

Skadden

From: JBlume@fec.gov [mailto:JBlume@fec.gov]
Sent: Tuesday, December 09, 2008 2:55 PM
To: Zweibel, Patricia M (WAS)
Subject: CME Group Conversations, 12-8-08 and 12-9-08

Hi, Ms. Zweibel. Based on discussions I and Mr. Knop have had with you yesterday and today about the Advisory Opinion Request of CME Group, I have prepared a brief summary of our office's understanding of certain factual matters. Would you mind reviewing this brief summary below and then indicating to me whether it is accurate?

1. In the statement at the top of page 5 of the Advisory Opinion Request that "[a]ll such persons must be members of one of the subsidiary membership exchanges," the phrase "all such persons" refers not to all directors on CME Group's Board of Directors, but only to floor brokers, floor traders and futures commission merchants who may be included on the Board for diversity purposes.

A: Correct.

2. The Board of Directors of CME Group is also the Board of Directors of CME, CBOT, and NYMEX.

A: Correct.

Thanks very much.

Joshua Blume
Attorney
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463
(202) 694-1533

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Further information about the firm, a list of the Partners and their professional qualifications will be provided upon request.
