

BY-LAWS OF NASDAQ FUTURES, INC.

ARTICLE I Definitions

When used in these By-Laws, unless the context otherwise requires, the terms set forth below shall have the following meanings:

"**Act**" or "**CEA**" means the Commodity Exchange Act, 7 U.S.C. §1 et seq., as amended from time to time.

"**Affiliate**" of, or a Person "**Affiliated**" with, another Person is a Person who, directly or indirectly, controls, is controlled by, or is under common control with, such other Person.

"**Applicable Law**" includes, but is not limited to, the Act, Commission Regulations, margin rules adopted by the Board of Governors of the Federal Reserve System (as amended from time to time) and, to the extent applicable, the Exchange Act and Commission Regulations.

"**Board**" or "**Board of Directors**" means the Board of Directors of the Exchange.

"**Business Conduct Committee Panel**" or "**BCC Panel**" shall refer to a panel as specified in Chapter VI of the Exchange Rules.

"**Commission**" means the Commodity Futures Trading Commission, and includes any successor agency or authority.

"**Commission Regulation**" means any rule, regulation, order, directive and any interpretation thereof adopted or amended from time to time by the Commission.

"**Exchange**" means NASDAQ Futures, Inc., a Delaware corporation.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended from time to time.

"**Exchange Rules**" or "**Rule of the Exchange**" means any rule, interpretation, stated policy, or instrument corresponding to any of the foregoing, in each case as adopted or amended from time to time by the Exchange.

"**Futures Participant**" means an organization that has been issued a permit in accordance with the By-Laws and Rules of the Exchange and authorized to access the exchange trading system.

"**Lawfully Available Funds**" means funds available for distributions and settlements of intercompany accounts, subject to any applicable regulatory requirements or limits on transfers and, with respect to the payment of dividends, subject to any limitations imposed by the General Corporation Law of the State of Delaware.

"**Person**" means any individual, corporation, partnership, joint venture, limited liability company, limited liability partnership, association, joint stock company, trust, unincorporated organization or other organization, whether or not a legal entity, and any governmental authority.

"**Public Director**" means an individual who has been found by the Board of Directors to have no material relationship with the Exchange. A "material relationship" is one that reasonably could affect the independent judgment or decision making of the director. A director shall be considered to have a "material relationship" with the Exchange if any of the following circumstances exist: (A) the director is an officer or employee of the Exchange or an officer or employee of its affiliate; ("Affiliate" shall include for purposes of defining a Public Director parents or subsidiaries of the Exchange or entities that share a common parent with the Exchange); (B) the director is a member of the Exchange, or an officer or director of a member ("Member" being defined according to Section 1a(24) of the Act and Commission Regulation 1.3(q)); (C) the director, or a firm with which the director is an officer, director or partner, receives more than \$ 100,000 in combined annual payments from the Exchange, or any Affiliate of the Exchange, for legal, accounting, or consulting services. Compensation for services as a director of the Exchange or as a director of an affiliate of the contract market does not count toward the \$100,000 payment limit, nor does deferred compensation for services prior to becoming a director, so long as such compensation is in no way contingent, conditioned, or revocable; and (D) any of the relationships herein apply to a member of the director's "immediate family," i.e., spouse, parents, children, and siblings. All of the disqualifying circumstances described herein are subject to a one-year look back. Public Directors may also serve as directors of the Exchange's Affiliates as defined herein if they otherwise meet the definition of Public Director.

"Staff Director of the Board" shall mean the member of the Board of Directors who is also the Chairman of the Board.

"Stockholder" means NASDAQ OMX PHLX LLC, a limited liability company, as the initial sole stockholder of the Exchange, and any other person who may be issued shares of capital stock of the Exchange or otherwise receive shares of capital stock of the Exchange.

ARTICLE II Offices

Section 2.1 Location

The address of the registered office of the Exchange in the State of Delaware and the name of the registered agent at such address shall be: The Corporation Trust Company, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801. The Exchange also may have offices at such other places both within and without the State of Delaware as the Board may from time to time designate or the business of the Exchange may require.

Section 2.2 Change of Location

In the manner permitted by law, the Board or the registered agent may change the address of the Exchange's registered office in the State of Delaware and the Board may make, revoke, or change the designation of the registered agent.

ARTICLE III Meetings of Stockholders

Section 3.1 Annual Meetings of Stockholders

The annual meeting of stockholders shall be held on a date that is no earlier than 45 days prior to, and no later than 30 days subsequent to, the anniversary of the prior year's annual meeting at 4:30 P.M., when a Board of Directors shall be elected and such other business as may properly be brought before the meeting shall be transacted. If the annual meeting shall not be called and held during any calendar year, any stockholder may call such meeting at any time thereafter.

Section 3.2 Meetings of Futures Participants

The Exchange shall not be required to hold meetings of Futures Participants as that term is defined in Exchange Rules.

Section 3.3 Special Meetings

Special meetings of stockholders of the Exchange may be called at any time by the holders of a majority of the voting power entitled to vote for the election of directors, by the Board acting pursuant to a resolution adopted by a majority of the directors then in office (provided that number of directors then in office constitutes at least one-third of the total number of directors), or by the Chairman of the Board, the Chief Executive Officer, the President or the Secretary.

Section 3.4 Voting

Each stockholder entitled to vote in accordance with the terms of the Certificate of Incorporation of the Exchange and these By-Laws may vote in person or by proxy, but no proxy shall be voted after three years from its date unless such proxy provides for a longer period. Directors shall be elected by a plurality of the votes cast; all other questions shall be decided by the affirmative vote of a majority of the shares present in person or represented by proxy at the meeting and entitled to vote thereon, except as otherwise provided by the Certificate of Incorporation or applicable law. Voting at meetings of stockholders need not be by written ballot.

Section 3.5 Quorum

Except as otherwise required by law, by the Certificate of Incorporation of the Exchange or by these By-Laws, the presence, in person or by proxy, of stockholders holding shares constituting a majority of the voting power of the outstanding shares of capital stock of the Exchange shall constitute a quorum at all meetings of the stockholders. In case a quorum shall not be present at any meeting, the holders of a majority in voting power of the shares entitled to vote thereat, present in person or by proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until the requisite amount of stock entitled to vote shall be present. At any such adjourned meeting at which the requisite amount of stock entitled to vote shall be represented, any business may be transacted that might have been transacted at the meeting as originally noticed.

Section 3.6 Notice of Meetings

Whenever stockholders are required or permitted to take any action at a meeting, a notice of the meeting shall be given that shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, the record date for determining the

stockholders entitled to vote at the meeting (if such date is different from the record date for stockholders entitled to notice 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 of the Exchange or these By-Laws, the notice of any meeting shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at the meeting as of the record date for determining the stockholders entitled to notice of the meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Exchange.

Section 3.7 Action Without Meeting

Unless otherwise provided by the Certificate of Incorporation of the Exchange, any action required or permitted to be taken at any annual or special meeting of stockholders may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing to the extent required by General Corporation Law of the State of Delaware.

ARTICLE IV Board of Directors

Section 4.1 General Powers

The property, business, and affairs of the Exchange shall be managed by, or under the direction of, the Board. The Board may exercise all such powers of the Exchange and have the authority to perform all such lawful acts as are permitted by the law, the Certificate of Incorporation, or these By-Laws. To the fullest extent permitted by applicable law, the Certificate of Incorporation, and these By-Laws, the Board may delegate any of its powers to a committee appointed pursuant to Article VI or to the Exchange staff.

Section 4.2 Number of Directors

The exact number of Directors shall be fixed from time to time by the stockholders of the Exchange. No decrease in the number of Directors shall shorten the term of any incumbent Director.

Section 4.3 Selection; Term

- (a) Whenever any director position becomes vacant, whether because of death, disqualification, removal, or resignation, the Board of Directors shall select for the directorship as provided in Section 4.4 to fill such vacancy.
- (b) Directors shall serve for a one year term.

Section 4.4 Qualifications

- (a) The Board of Directors shall consist of a number of Public Directors and commercial interest representatives, as defined by Commission Regulation 1.64, as determined by the Stockholder. The Board of Directors shall be comprised of persons from a variety of membership interests who will meaningfully represent the Exchange's diversity of interests, consistent with Commission Regulation 1.64(b)(3). If the numbers required by the foregoing classification of directors are not maintained at any time due to a vacancy or vacancies on the Board of Directors such requirements shall be suspended until the earlier of such time as the vacancy or vacancies is filled pursuant to the By-Laws or the election of directors at the next succeeding annual meeting of the Exchange and their qualification for office, except as otherwise required by Commission Regulations.
- (b) The President shall report to the Chairman of the Board and, in the absence or incapacity of the Chairman, shall perform all the duties of that office.
- (c) Fitness Standards. The Board shall designate from time to time appropriate fitness standards to qualify to serve as a director as the Board deems necessary or advisable or as required by Applicable Law (as defined below). No person may serve as a director, any review panel, any disciplinary committee, any arbitration panel or any oversight panel of the Exchange if the person:
 - (i) was found within the past three years by a final decision under Applicable Law to have committed a disciplinary offense;
 - (ii) entered into a settlement agreement within the past three years in which any of the findings or, in the absence of such findings, any of the acts charged, included a disciplinary offense;

- (iii) is currently suspended from trading or any trading market, is suspended or expelled from membership with any self-regulatory organization, is serving any sentence of probation or owes any portion of a fine imposed pursuant to either:
 - (A) a finding by final decision under Applicable Law that such person committed a disciplinary offense; or
 - (B) a settlement agreement in which any of the findings or, in absence of such findings, any of the acts charged, included a disciplinary offense;
 - (iv) is currently subject to an agreement with the CFTC or any other self-regulatory organization not to apply for registration with the CFTC or membership in any self-regulatory organization;
 - (v) is currently subject to or has had imposed on him or her within the past three years a CFTC registration revocation or suspension in any capacity for any reason, or has been convicted within the past three years of the felonies listed in section 8a(2)(D)(ii) through (iv) of the CEA;
 - (vi) is currently subject to a denial, suspension or disqualification from serving on the disciplinary committee, arbitration panel or governing board of any self-regulatory organization; or
 - (vii) is subject to a statutory disqualification pursuant to Section 8a (2) or 8a(3) of the CEA.
- (d) As a qualification to serve as a director, each director shall execute and deliver an instrument accepting such appointment and agreeing to be bound by the Certificate of Incorporation, By-Laws and any rule, interpretation, stated policy, or instrument corresponding to any of the foregoing, in each case as adopted or amended from time to time by the Exchange.

Section 4.5 Regulation

- (a) The Board may adopt such rules, regulations, and requirements for the conduct of the business and management of the Exchange, not inconsistent with law, the Certificate of Incorporation, or these By-Laws, as the Board may deem proper. A director shall, in the performance of such director's duties, be fully protected, to the fullest extent permitted by law, in relying in good faith upon the books of account or reports made to the Exchange by any of its officers, by an independent certified public accountant, by an appraiser selected with reasonable care by the Board or any committee of the Board or by any agent of the Exchange, or in relying in good faith upon other records of the Exchange.
- (b) In light of the unique nature of the Exchange and its operations, and in light of the Exchange's status as a self-regulatory organization, the Board, when evaluating any proposal, shall, to the fullest extent permitted by applicable law, take into account all factors that the Board deems relevant, including, without limitation, to the extent deemed relevant, the potential impact thereof on the integrity, continuity and stability of the Exchange and the other operations of the Exchange, on the ability to prevent fraudulent and manipulative acts and practices and on investors and the public.

Section 4.6 Meetings

- (a) An annual meeting of the Board shall be held for the purpose of organization, election of officers, and transaction of any other business. If such meeting is held promptly after and at the place specified for the annual meeting of the stockholders, no notice of the annual meeting of the Board need be given. Otherwise, such annual meeting shall be held at such time and place as may be specified in a notice given in accordance with Section 4.7.
- (b) Regular meetings of the Board may be held at such time and place, within or without the State of Delaware, as determined from time to time by the Board. After such determination has been made, notice shall be given in accordance with Section 4.7.
- (c) Special meetings of the Board may be called by the Chairman of the Board, by the Chief Executive Officer, by the President, or by at least one-third of the directors then in office. Notice of any special meeting of the Board shall be given to each director in accordance with Section 4.7.
- (d) Directors or members of any committee appointed by the Board may participate in a meeting of the Board or of such committee through the use of a conference telephone or other communications equipment by means of which all persons participating in the meeting may hear one another, and such participation in a meeting shall constitute presence in person at such meeting for all purposes. If all the participants are participating by telephone conference or other communications equipment, the meeting shall be deemed to be held at the principal place of business of the Exchange.
- (e) Any action required or permitted to be taken at a meeting of the Board or of a committee may be taken without a meeting if all directors or all members of such committee, as the case may be, consent thereto in accordance with applicable law.

Section 4.7 Notice of Meetings; Waiver of Notice

- (a) Notice of any meeting of the Board shall be deemed to be duly given to a director if: (i) mailed to the address last made known in writing to the Exchange by such director as the address to which such notices are to be sent, at least seven days before the day on which such meeting is to be held; (ii) sent to the director at such address by any form of electronic transmission, not later than the day before the day on which such meeting is to be held; or (iii) delivered to the director personally or orally, by telephone or otherwise, not later than the day before the day on which such meeting is to be held. Each notice shall state the time and place of the meeting.
- (b) Notice of any meeting of the Board need not be given to any director if waived by that director in writing or by electronic transmission whether before or after the holding of such meeting, or if such director is present at such meeting, subject to Section 9.6
- (c) Any meeting of the Board shall be a legal meeting without any prior notice if all directors then in office shall be present thereat, except when a director attends the meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened.

Section 4.8 Compensation of Board, Council, and Committee Members

The Board may provide for reasonable compensation of the Chairman of the Board, the directors and the members of other committees. The Board may also provide for reimbursement of reasonable expenses incurred by such persons in connection with the business of the Exchange.

ARTICLE V Officers, Agents and Employees

Section 5.1 Delegation of Duties of Officers

The Board may delegate the duties and powers of any officer of the Exchange to any other officer or to any director for a specified period of time and for any reason that the Board may deem sufficient.

Section 5.2 Resignation and Removal of Officers

- (a) Any officer may resign at any time upon notice of resignation to the Board, the Chief Executive Officer, the President, or the Secretary. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein. The acceptance of a resignation shall not be necessary to make the resignation effective.
- (b) Any officer of the Exchange may be removed, with or without cause, by the Board. Such removal shall be without prejudice to the contractual rights of the affected officer, if any, with the Exchange.

Section 5.3 Chairman of the Board

The Chairman of the Board shall preside at all meetings of the Board at which the Chairman is present. The Chairman shall exercise such other powers and perform such other duties as may be assigned to the Chairman from time to time by the Board.

Section 5.4 Chief Executive Officer

The Chief Executive Officer shall be the chief executive officer of the Exchange and shall have general supervision over the business and affairs of the Exchange. The Chief Executive Officer shall have all powers and duties usually incident to the office of the Chief Executive Officer, except as specifically limited by a resolution of the Board. The Chief Executive Officer shall exercise such other powers and perform such other duties as may be assigned to the Chief Executive Officer from time to time by the Board.

Section 5.5 President

The President shall have general supervision over the operations of the Exchange. The President shall have all powers and duties usually incident to the office of the President, except as specifically limited by a resolution of the Board. The President shall exercise such other powers and perform such other duties as may be assigned to the President from time to time by the Board.

Section 5.6 Vice President

The Board shall elect one or more Vice Presidents. In the absence or disability of the President or if the office of President becomes vacant, the Vice Presidents in the order determined by the Board, or if no such determination has been made, in the order of their seniority, shall perform the duties and exercise the powers of the President, subject to the right of the Board at any time to extend or restrict such powers and duties or to assign them to others. Any Vice President may have such additional

designations in such Vice President's title as the Board may determine. The Vice Presidents shall generally assist the President in such manner as the President shall direct. Each Vice President shall exercise such other powers and perform such other duties as may be assigned to such Vice President from time to time by the Board, the Chief Executive Officer or the President. The term "Vice President" used in this Section shall include the positions of Executive Vice President, Senior Vice President, and Vice President.

Section 5.7 Chief Regulatory Officer

The Chief Regulatory Officer shall have general supervision of the regulatory operations of the Exchange, including responsibility for overseeing the Exchange's surveillance, examination, and enforcement functions and for administering any regulatory services agreements with another self-regulatory organization to which the Exchange is a party. The Chief Regulatory Officer shall meet with the Regulatory Oversight Committee of the Exchange in executive session at regularly scheduled meetings of such committee, and at any time upon request of the Chief Regulatory Officer or any member of the Regulatory Oversight Committee.

Section 5.8 Secretary

The Secretary shall act as Secretary of all meetings of the Board at which the Secretary is present, shall record all the proceedings of all such meetings in a book to be kept for that purpose, shall have supervision over the giving and service of notices of the Exchange, and shall have supervision over the care and custody of the books and records of the Exchange. The Secretary shall be empowered to affix the Exchange's seal, if any, to documents, the execution of which on behalf of the Exchange under its seal is duly authorized, and when so affixed, may attest the same. The Secretary shall have all powers and duties usually incident to the office of Secretary, except as specifically limited by a resolution of the Board. The Secretary shall exercise such other powers and perform such other duties as may be assigned to the Secretary from time to time by the Board, the Chief Executive Officer or the President.

Section 5.9 Assistant Secretary

In the absence of the Secretary or in the event of the Secretary's inability or refusal to act, any Assistant Secretary, approved by the Board, shall exercise all powers and perform all duties of the Secretary. An Assistant Secretary shall also exercise such other powers and perform such other duties as may be assigned to such Assistant Secretary from time to time by the Board or the Secretary.

Section 5.10 Treasurer

The Treasurer shall have general supervision over the care and custody of the funds and over the receipts and disbursements of the Exchange and shall cause the funds of the Exchange to be deposited in the name of the Exchange in such banks or other depositories as the Board may designate. The Treasurer shall have supervision over the care and safekeeping of the securities of the Exchange. The Treasurer shall have all powers and duties usually incident to the office of Treasurer except as specifically limited by a resolution of the Board. The Treasurer shall exercise such other powers and perform such other duties as may be assigned to the Treasurer from time to time by the Board, the Chief Executive Officer or the President.

Section 5.11 Assistant Treasurer

In the absence of the Treasurer or in the event of the Treasurer's inability or refusal to act, any Assistant Treasurer, approved by the Board, shall exercise all powers and perform all duties of the Treasurer. An Assistant Treasurer shall also exercise such other powers and perform such other duties as may be assigned to such Assistant Treasurer from time to time by the Board or the Treasurer.

Section 5.12 Authority to Settle Intercompany Accounts

The Chief Financial Officer and Controller of Nasdaq, Inc. (the "Authorized Officers") are each hereby authorized to, and each is hereby expressly delegated the full power and authority of the Board with respect to settling the intercompany accounts between Nasdaq, Inc. and the Exchange, including, without limitation, causing the Exchange to (i) make or receive payments with respect to intercompany debts or receivables from Nasdaq, Inc. out of Lawfully Available Funds; (ii) make capital contributions to Nasdaq, Inc. out of Lawfully Available Funds; (iii) receive capital contributions from Nasdaq, Inc. out of Lawfully Available Funds or (iv) make or receive payments with respect to any other obligation between Nasdaq, Inc. and the Exchange out of Lawfully Available Funds; provided, however, that the Authorized Officers shall not have the authority to declare dividends on behalf of the Exchange.

ARTICLE VI Committees

Section 6.1 Committees

- (a) The Board may, by resolution or resolutions adopted by the Board, appoint one or more committees, each committee to consist of one or more of the directors or other persons. Except as herein provided, vacancies in membership of any committee shall be filled by the Board. The Board may designate one or more directors or other persons as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of any 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 qualified person to act at the meeting in the place of any such absent or disqualified member. Except as otherwise provided by the By-Laws, members of a committee shall hold office for such period as may be fixed by a resolution adopted by the Board. Any member of a committee may be removed from such committee only by the Board.
- (b) The Board may, by resolution or resolutions adopted by the Board, delegate to one or more committees that consist solely of one or more directors the power and authority to act on behalf of the Board in the management of the business and affairs of the Corporation to the extent permitted by law. A committee, to the extent permitted by law and provided in the resolution or resolutions creating such committee, may authorize the seal of the Corporation to be affixed to all papers that may require it.
- (c) Except as otherwise provided by applicable law, no committee shall have the power or authority of the Board in reference to (i) approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors) expressly required by Delaware law to be submitted to stockholders for approval, or (ii) adopting, amending, or repealing any By-Law of the Corporation.
- (d) Each committee may adopt its own rules of procedure and may meet at stated times or on such notice as such committee may determine. Each committee shall keep regular minutes of its proceedings and report the same to the Board when required.
- (e) Unless otherwise provided by these By-Laws, a majority of the members of a committee shall constitute a quorum for the transaction of business, and the vote of a majority of the members of such committee present at a meeting at which a quorum is present shall be an act of such committee.
- (f) Upon request of the Secretary of the Exchange, each prospective committee member who is not a director shall provide to the Secretary such information as is reasonably necessary to serve as the basis for a determination of the prospective committee member's classification. The Secretary of the Exchange shall certify to the Board each prospective committee member's classification. Such committee members shall update the information submitted under this subsection at least annually and upon request of the Secretary of the Exchange, and shall report immediately to the Secretary any change in such information.
- (g) The term of office of a committee member shall terminate immediately upon a determination by the Board, by a majority vote of the directors, (i) that the committee member no longer satisfies the classification for which the committee member was selected; and (ii) that the committee member's continued service as such would violate the compositional requirements of such committee set forth in these By-Laws. If the term of office of a committee member terminates under this Section, and the remaining term of office of such committee member at the time of termination is not more than six months, during the period of vacancy the relevant committee shall not be deemed to be in violation of the compositional requirements of such committee set forth in these By-Laws by virtue of such vacancy.

Section 6.2 Committees Composed Solely of Directors

- (a) The Board may appoint an Executive Committee, which shall, to the fullest extent permitted by Delaware law and other applicable law, have and be permitted to exercise all the powers and authority of the Board in the management of the business and affairs of the Exchange between meetings of the Board. The Executive Committee shall consist of the Chairman of the Board of Directors, two Public Directors and two other directors who the Board of Directors may authorize.
- (b) The Board may appoint a Finance Committee. The Finance Committee of the Exchange shall be an optional committee. If the Board of Directors appoints a Finance Committee it shall consist of the Chairman and two Public Directors. The Finance Committee shall examine the accounts of the Exchange. It shall prepare and present to the Board of Directors an estimate of the income of the Exchange for the succeeding calendar year and its recommendations as to the appropriations for

expenses for said period. It may at any time recommend additional appropriations or the increase or decrease of any appropriations made by the Board of Directors and shall make reports and recommendations to the Board of Directors as to the financial policy of the Exchange. The Finance Committee shall have such other powers and duties as may be delegated to it by the Board of Directors.

- (c) The Board shall appoint a Regulatory Oversight Committee. The Regulatory Oversight Committee shall consist of four Public Directors. The Regulatory Oversight Committee shall: (A) monitor the Exchange's regulatory program for sufficiency, effectiveness, and independence; (B) oversee all facets of the regulatory program, including trade practice and market surveillance; audits, examinations, and other regulatory responsibilities with respect to Futures Participants (insuring compliance with financial integrity, financial reporting, sales practice, recordkeeping, and other requirements); and the conduct of investigations; (C) provide oversight over the systems of internal controls established by management and the Board and the Exchange's legal and compliance process; (D) review the size and allocation of the regulatory budget and resources and the number, hiring and termination, and compensation of regulatory personnel; (E) supervise the Chief Regulatory Officer, who will report directly to the Regulatory Oversight Committee; (F) prepare an annual report assessing the Exchange's self-regulatory program for the Board of Directors and the Commission, which sets forth the regulatory program's expenses, describes its staffing and structure, catalogues disciplinary actions taken during the year, and reviews the performance of disciplinary committees and panels; (G) recommend changes that would ensure fair, vigorous, and effective regulation; and (H) review regulatory proposals and advise the Board as to whether and how such changes may impact regulation. The Regulatory Oversight Committee may select and engage its own advisor(s) to assist it in carrying out its duties.
- (d) The Board shall appoint a Nominating Committee. The Nominating Committee shall consist of at least fifty-one percent Public Directors and will be chaired by a Public Director. The Nominating Committee shall consist of the Chairman and two Public Directors. The Nominating Committee is responsible for (i) identifying individuals qualified to serve on the Board of Directors consistent with criteria established by the Board and any composition requirements established by the Commission; and (ii) administering a process for the nomination of individuals to the Board.

Section 6.3 Committees Not Composed Solely of Directors

- (a) The Board shall appoint a Business Conduct Committee which shall not be a committee of the Board. The Business Conduct Committee shall have jurisdiction to: (a) monitor compliance with the By-Laws and Rules of the Exchange or any interpretation thereof and the rules, regulations, resolutions and stated policies of the Board of Directors or any committee of the Exchange, by Futures Participants or persons associated with or employed by Futures Participants; (b) inquire into the business conduct and financial condition of Futures Participants or persons associated with or employed by Futures Participants and require detailed financial reports and such other operational reports as it may deem advisable of any Futures Participants; (c) authorize the initiation of any disciplinary action or proceeding brought by the Exchange and render a decision in any such action or proceeding; (d) conduct hearings and render decisions in summary disciplinary actions and proceedings; (e) suspend a Futures Participants upon its determination that there is a substantial question as to whether a financial emergency exists with respect to such Futures Participants; (f) prohibit trading by a Futures Participants which is excessive in view of its capital; and (g) impose appropriate sanctions of expulsion, suspension, fine, censure or any other fitting sanction where the Committee finds that a violation within the disciplinary jurisdiction of the Exchange has been committed.
- (b) With respect to the composition of the Business Conduct Committee, no person shall serve on that committee who is subject to any of the conditions specified in Commission Regulation 1.63(b) (1) through (6). Should any member of the Business Conduct Committee thus become ineligible to serve, the chairman of that committee shall remove such member and fill the resulting vacancy. In addition, when acting as a major disciplinary committee, pursuant to Commission Regulation 1.64, unless the case is related to decorum or attire, financial requirements or reporting or recordkeeping, and does not involve fraud, deceit or conversion, the Business Conduct Committee shall be comprised at least 50% of persons representing the interest of Futures Participants other than that of the subject of the disciplinary proceeding and, if the subject of the disciplinary action is a member of the Board of Directors or any major disciplinary committee, or whenever any of the rule violations involved pertain to manipulation or attempted manipulation of the price of a commodity, futures contract or option on a futures contract, or to conduct which directly results in financial harm to a non-Futures Participants, at least one person who is not a Futures Participants of the Exchange. The Business Conduct Committee shall not include any Exchange regulatory staff. At least one member of the Business Conduct Committee and of each BCC Panel shall be an individual who would qualify as a Public Director. No group or class of industry participants shall dominate or

exercise inappropriate influence on the Business Conduct Committee or any BCC Panel. No member of the BCC Panel that considers the authorization of charges or whether to accept a settlement or letter of consent in a disciplinary matter pursuant to Chapter VI of Exchange Rules shall be a member of the BCC Panel that conducts a hearing or summary proceeding in that matter. No BCC Panel shall include any member of the Business Conduct Committee that has a financial, personal or other direct interest in the matter under consideration.

- (c) No Person may serve on the Business Conduct Committee or any hearing panel or any other disciplinary committee, arbitration panel or oversight panel of the Exchange if such Person:
- (a) was found within the past three years by a final decision under Applicable Law to have committed a disciplinary offense;
 - (b) entered into a settlement agreement within the past three years in which any of the findings or, in the absence of such findings, any of the acts charged, included a disciplinary offense;
 - (c) is currently suspended from trading or any trading market, is suspended or expelled from membership with any self-regulatory organization, is serving any sentence of probation or owes any portion of a fine imposed pursuant to either:
 - (A) a finding by final decision under Applicable Law that such person committed a disciplinary offense; or
 - (B) a settlement agreement in which any of the findings or, in absence of such findings, any of the acts charged, included a disciplinary offense;
 - (d) is currently subject to an agreement with the Commission or any other self-regulatory organization not to apply for registration with the Commission or membership in any self-regulatory organization;
 - (e) is currently subject to or has had imposed on him or her within the past three years a Commission registration revocation or suspension in any capacity for any reason, or has been convicted within the past three years of the felonies listed in section 8a(2)(D)(ii) through (iv) of the Act;
 - (f) is currently subject to a denial, suspension or disqualification from serving on the disciplinary committee, arbitration panel or governing board of any self-regulatory organization; or
 - (g) is subject to a statutory disqualification pursuant to Section 8a(2) or 8a(3) of the Act.

Section 6.4 Exchange Committees; Special Committees of the Board

The Exchange may create such Exchange committees as it may from time to time deem necessary or advisable. Members of such committees may be members of the Board, Futures Participants or officers or employees of Futures Participants, or other individuals who are considered to be qualified, subject to regulatory requirements.

Section 6.5 Dividend Committee

The Exchange shall have a Dividend Committee comprised of the Staff Director of the Board or such other member as shall be designated by the Board. The Dividend Committee is hereby expressly delegated the full power and authority of the Board, to be exercised in the Dividend Committee's sole discretion, to declare and authorize the payment of dividends out of Lawfully Available Funds on the shares of capital stock of the Exchange. Without limiting the authority of the Dividend Committee with respect to the declaration and payment of dividends, the Dividend Committee is hereby expressly delegated the full power and authority of the Board to (i) determine the existence of Lawfully Available Funds for the declaration and payment of dividends; (ii) set the record and payment dates for the payment of dividends; (iii) retain legal or financial advisers in connection with any determination with respect to the declaration and payment of dividends; (iv) determine the amount and/or rate of any such dividends; (v) authorize the transfer and payment of funds and/or property of the Company in order for the payment of dividends; and (vi) take any other action necessary or advisable in connection with declaring and paying dividends on the shares of capital stock of the Exchange.

Section 6.6 Acting Without a Meeting

Committees may act without a meeting if all of its members consent in writing or by electronic transmission to the action in question. Such consent shall be in accordance with the provisions of Section 141(f) of the General Corporation Law of the State of Delaware (or any successor provision), whether or not the Standing Committee is a committee comprised solely of directors.

ARTICLE VII Indemnification; Conflicts; Disclosure and Voting

Section 7.1 Indemnification of Directors, Officers, Employees, and Agents

- (a) The Exchange shall indemnify, and hold harmless, to the fullest extent permitted by Delaware law as it presently exists or may thereafter be amended, any person (and the heirs, executors, and administrators of such person) who, by reason of the fact that he or she is or was a director, officer, or employee of the Exchange, or while a director or officer of the Exchange, is or was serving at the request of the Exchange as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, enterprise, or non-profit entity, including service with respect to employee benefit plans, is or was a party, or is threatened to be made a party to:
- (i) any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Exchange) against expenses (including attorneys' fees and disbursements), judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with any such action, suit, or proceeding; or
 - (ii) any threatened, pending, or completed action or suit by or in the right of the Exchange to procure a judgment in its favor against expenses (including attorneys' fees and disbursements) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit.
- (b) The Exchange shall advance expenses (including attorneys' fees and disbursements) reasonably and actually incurred in defending any action, suit, or proceeding in advance of its final disposition to persons described in subsection (a); provided, however, that the payment of expenses incurred by such person in advance of the final disposition of the matter shall be conditioned upon receipt of a written undertaking by that person to repay all amounts advanced if it should be ultimately determined that the person is not entitled to be indemnified under this Section or otherwise.
- (c) The Exchange may, in its discretion, indemnify and hold harmless, to the fullest extent permitted by Delaware law as it presently exists or may thereafter be amended, any person (and the heirs, executors, and administrators of such persons) who, by reason of the fact that he or she is or was an agent of the Exchange or is or was an agent of the Exchange who is or was serving at the request of the Exchange as a director, officer, employee, or agent of another corporation, partnership, trust, enterprise, or non-profit entity, including service with respect to employee benefit plans, was or is a party, or is threatened to be made a party to any action or proceeding described in subsection (a).
- (d) The Exchange may, in its discretion, pay the expenses (including attorneys' fees and disbursements) reasonably and actually incurred by an agent in defending any action, suit, or proceeding in advance of its final disposition; provided, however, that the payment of expenses incurred by such person in advance of the final disposition of the matter shall be conditioned upon receipt of a written undertaking by that person to repay all amounts advanced if it should be ultimately determined that the person is not entitled to be indemnified under this Section or otherwise.
- (e) Notwithstanding the foregoing or any other provision of these By-Laws, no advance shall be made by the Exchange to an agent or non-officer employee if a determination is reasonably and promptly made by the Board by a majority vote of those directors who have not been named parties to the action, even though less than a quorum, or, if there are no such directors or if such directors so direct, by independent legal counsel, that, based upon the facts known to the Board or such counsel at the time such determination is made: (1) The person seeking advancement of expenses (i) acted in bad faith, or (ii) did not act in a manner that he or she reasonably believed to be in or not opposed to the best interests of the Exchange; (2) with respect to any criminal proceeding, such person believed or had reasonable cause to believe that his or her conduct was unlawful; or (3) such person deliberately breached his or her duty to the Exchange.
- (f) The indemnification provided by this Section in a specific case shall not be deemed exclusive of any other rights to which a person seeking indemnification may be entitled, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of such person's heirs, executors, and administrators.
- (g) Notwithstanding the foregoing, but subject to subsection (j), the Exchange shall be required to indemnify any person identified in subsection (a) in connection with a proceeding (or part thereof) initiated by such person only if the initiation of such proceeding (or part thereof) by such person was authorized by the Board.

- (h) The Exchange's obligation, if any, to indemnify or advance expenses to any person who is or was serving at its request as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, enterprise, or non-profit entity shall be reduced by any amount such person may collect as indemnification or advancement from such other corporation, partnership, joint venture, trust, enterprise, or non-profit entity.
- (i) Any repeal or modification of the provisions of this Section shall not adversely affect any right or protection hereunder of any person respecting any act or omission occurring prior to the time of such repeal or modification.
- (j) If a claim for indemnification or advancement of expenses under this Article is not paid in full within 60 days after a written claim therefor by an indemnified person has been received by the Exchange, the indemnified person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim to the fullest extent permitted by law. In any such action, the Exchange shall have the burden of proving that the indemnified person is not entitled to the requested indemnification or advancement of expenses under Delaware law.
- (k) The Exchange shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the Exchange, or is or was serving at the request of the Exchange as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, enterprise, or non-profit entity against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Exchange would have the power to indemnify such person against such liability hereunder.

Section 7.2 Confidentiality and Conflicts of Interest

- (a) No member of the Board or any committee established by the Board or the Rules of the Exchange shall use or disclose any material non-public information, obtained in connection with such member's participation in the Board or such committee, for any purpose other than the performance of his or her official duties as a member of the Board or such committee.
- (b) No officer, employee or agent of the Exchange shall (i) trade in any commodity interest or security if such officer, employee or agent has access to material non-public information concerning such commodity interest or security or (ii) disclose to any other Person material nonpublic information obtained in connection with such employee's, officer's or agent's employment, if such employee, officer or agent could reasonably expect that such information may assist another Person in trading any commodity interest or security.
- (c) The Exchange enforcement staff may not include any Futures Participant, Related Party of a Futures Participant or individual whose interests conflict with the Exchange's enforcement duties. A member of the Exchange enforcement staff may not operate under the direction or control of any Person or Persons with trading privileges on the Exchange.
- (e) For purposes of this Rule, the terms "employee," "material information," "non-public information," "related commodity interest" and "commodity interest" shall have the meanings ascribed to them in Commission Regulation §1.59 and the term "security" shall have the meaning ascribed to it in Section 3(a)(10) of the Exchange Act.

Section 7.3 Conflicts of Interest - Named Party in Interest or Financial Interest in Significant Action

- (a) Named Party in Interest Conflict.

- (i) Prohibition. No member of the Board, the Business Conduct Committee, any BCC Panel or any other "disciplinary committee" or "oversight panel" (both as defined in Commission Regulation §1.69) of the Exchange shall knowingly participate in such body's deliberations or voting in any matter involving a named party in interest where such member (A) is a named party in interest, (B) is an employer, employee or fellow employee of a named party in interest, (C) has any other significant, ongoing business relationship with a named party in interest, excluding relationships limited to executing Futures or Options transactions opposite each other or to clearing Futures or Options transactions through the same Clearing Members or (D) has a family relationship with a named party in interest. For purposes of this clause (i), a "family relationship" exists between a named party in interest and a member if such party is the member's spouse, former spouse, parent, stepparent, child, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece or in-law.

- (ii) Disclosure. Prior to consideration of any matter involving a named party in interest, each member of the deliberating body who does not choose to abstain from deliberations and voting shall disclose to the Secretary, or his or her designee, whether such member has one of the relationships listed in clause (i) above with a named party in interest.
- (iii) Procedure and Determination. The General Counsel, or his or her designee, shall determine whether any member of the relevant deliberating body who does not choose to abstain from deliberations and voting is subject to a conflicts restriction under this paragraph (a). Such determination shall be based upon a review of the following information: (A) information provided by such member pursuant to clause (ii) above; and (B) any other source of information that is held by and reasonably available to the Exchange.

(b) Financial Interest in a Significant Action Conflict.

- (i) Prohibition. No member of the Board, the Business Conduct Committee, any BCC Panel or any other "disciplinary committee" or "oversight panel" (both as defined in Commission Regulation §1.69) of the Exchange shall participate in such body's deliberations and voting on any significant action if such 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 significant action under consideration, as determined pursuant to clause (iii) below. For purposes of this clause (i), the term "significant action" means (A) any action or rule change that addresses a specific Emergency or (B) any change in margin level that are designed to respond to extraordinary market conditions or that otherwise are likely to have a substantial effect on prices in any Contract.
- (ii) Disclosure. Prior to consideration of any significant action, each member of the deliberating body who does not choose to abstain from deliberations and voting shall disclose to the Secretary, or his or her designee, position information that is known to such member with respect to any particular month or months that are under consideration, and any other positions which the deliberating body reasonably expects could be affected by the significant action, as follows: (A) gross positions held at the Exchange in such member's personal accounts or "controlled accounts," as defined in Commission Regulation §1.3(j); (B) gross positions held at the Exchange in proprietary accounts, as defined in Commission Regulation §1.17(b)(3), at such member's affiliated firm; (C) gross positions held at the Exchange in accounts in which such member is a principal, as defined in Commission Regulation §3.1(a); (D) net positions held at the Exchange in Customer accounts, as defined in Commission Regulation §1.17(b)(2), at such member's affiliated firm; and (E) any other types of positions, whether maintained at the Exchange or elsewhere, held in such member's personal accounts or the proprietary accounts of such member's affiliated firm, that the Exchange reasonably expects could be affected by the significant action.
- (iii) Procedure and Determination. The General Counsel, or his or her designee, shall determine whether any member of the relevant deliberating body who does not choose to abstain from deliberations and voting is subject to a conflicts restriction under this paragraph (b). Such determination shall be based upon a review of the following information: (A) the most recent large trader reports and clearing records available to the Exchange; (B) information provided by such member pursuant to clause (ii) above; and (C) any other source of information that is held by and reasonably available to the Exchange taking into consideration the exigency of the significant action being contemplated; (D) Unless the deliberating body establishes a lower position level, a member thereof shall be subject to the prohibition set forth in clause (i) above if the review by the General Counsel, or his or her designee, identifies a position in such member's personal or controlled accounts or accounts in which such member is a principal as specified in subclauses (ii)(A), (C) and (E), in excess of an aggregate number of 10 lots of Futures and Options converted to Futures equivalents, taken together, or a position in the accounts of such member's affiliated firm as specified in subclauses (ii)(B), (D) and (E), in excess of an aggregate number of 100 lots of Futures and Options converted to Futures equivalents, taken together.
- (iv) Deliberation Exemption. Any member of the Board, the Business Conduct Committee, any BCC Panel or any other "disciplinary committee" or "oversight panel" (both as defined in Commission Regulation §1.69) of the

Exchange who would otherwise be required to abstain from deliberations and voting pursuant to clause (i) above may participate in deliberations, but not voting, if the deliberating body, after considering the factors specified below, determines that such participation would be consistent with the public interest; provided, however, that before reaching any such determination, the deliberating body shall fully consider the position information specified in clause (ii), above, which is the basis for such member's substantial financial interest in the significant action that is being contemplated. In making its determination, the deliberating body shall consider: (A) whether such member's participation in the deliberations is necessary to achieve a quorum; and (B) whether such member has unique or special expertise, knowledge or experience in the matter being considered.

(c) Documentation. The minutes of any meeting to which the conflicts determination procedures set forth in this Rule apply shall reflect the following information: (i) the names of all members of the relevant deliberating body who attended such meeting in person or who otherwise were present by electronic means; (ii) the name of any member of the relevant deliberating body who voluntarily recused himself or herself or was required to abstain from deliberations or voting on a matter and the reason for the recusal or abstention, if stated; (iii) information on the position information that was reviewed for each member of the relevant deliberating body; and (iv) any determination made in accordance with clause (iv) of paragraph (b) above.

ARTICLE VIII Capital Stock

Section 8.1 Certificates

The shares of the Exchange shall be represented by certificates, provided that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation.

Section 8.2 Signatures

Every holder of stock represented by certificates shall be entitled to have a certificate signed by or in the name of the corporation by the Chairman or Vice Chairman of the Board of Directors, if any, or the President or a Vice President, and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary, of the corporation certifying the number of shares owned by such holder in the corporation. Any or of all the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued by the Exchange with the same effect as if such person were such officer, transfer agent, or registrar at the date of issue.

Section 8.3 Stock Ledger

- (a) A record of all issued shares of capital stock of the Exchange, including all certificates for capital stock, if any, so issued by the Exchange, shall be kept by the Secretary or any other officer, employee, or agent designated by the Board. Such record shall show the name and address of the person, firm, or corporation in which the shares of capital stock are registered, the number of shares owned by such person, the date of each such shares were issued, the certificate number, if the shares are certificated, representing such shares so issued, and in the case of certificates which have been canceled, the date of cancellation thereof.
- (b) The Exchange shall be entitled to treat the holder of record of shares of capital stock as shown on the stock ledger as the owner thereof and as the person entitled to vote such shares and to receive notice of meetings, and for all other purposes. The Exchange shall not be bound to recognize any equitable or other claim to or interest in any share of capital stock on the part of any other person, whether or not the Exchange shall have express or other notice thereof, except as required by law.

Section 8.4 Transfers of Stock

- (a) The Board may make such rules and regulations as it may deem expedient, not inconsistent with law, the Certificate of Incorporation, or these By-Laws, concerning the issuance, transfer, and registration of certificates for shares of capital stock of the Exchange.
- (b) Transfers of capital stock shall be made on the books of the Exchange only upon delivery to the Exchange or its agent of: (i) a written direction of the registered holder named in the certificate or such holder's attorney lawfully constituted in

writing; (ii) the certificate for the shares of capital stock being transferred (if such shares are certificated); and (iii) a written assignment of the shares of capital stock evidenced thereby.

- (c) All of the authorized shares of Common Stock initially shall be issued and outstanding, and shall initially be held by NASDAQ OMX PHLX LLC. No stockholder may transfer or assign any shares of stock of the Exchange, in whole or in part, to any entity, unless such transfer or assignment shall be filed with and approved by the Commission under Section 19 of the Exchange Act and the rules promulgated thereunder.

Section 8.5 Cancellation

Each certificate for capital stock surrendered to the Exchange for exchange or transfer shall be canceled and no new certificate or certificates shall be issued in exchange for any existing certificate other than pursuant to Section 8.6 until such existing certificate shall have been canceled.

Section 8.6 Lost, Stolen, Destroyed, and Mutilated Certificates

In the event that any certificate for shares of capital stock of the Exchange shall be mutilated, the Exchange shall issue a new certificate in place of such mutilated certificate. In the event that any such certificate shall be lost, stolen, or destroyed, the Exchange may, in the discretion of the Board or a committee appointed thereby with power so to act, issue a new certificate for capital stock in the place of any such lost, stolen, or destroyed certificate. The applicant for any substituted certificate or certificates shall surrender any mutilated certificate or, in the case of any lost, stolen, or destroyed certificate, furnish satisfactory proof of such loss, theft, or destruction of such certificate and of the ownership thereof. The Board or such committee may, in its discretion, require the owner of a lost or destroyed certificate, or the owner's representatives, to furnish to the Exchange a bond with an acceptable surety or sureties and in such sum as will be sufficient to indemnify the Exchange against any claim that may be made against it on account of the lost, stolen, or destroyed certificate or the issuance of such new certificate. A new certificate may be issued without requiring a bond when, in the judgment of the Board, it is proper to do so.

Section 8.7 Fixing of Record Date

The Board may fix a record date in accordance with Delaware law. If no record date is set by the Board, then the record date shall be the date as provided in Section 213 of the General Corporation Law of the State of Delaware.

Section 8.8 Dividends

Subject to the provisions of the Certificate of Incorporation, the Board may, out of funds legally available therefor at any regular or special meeting, declare dividends upon stock of the Exchange as and when they deem appropriate. Notwithstanding the foregoing, dividends shall not be paid using regulatory funds.

ARTICLE IX Miscellaneous Provisions

Section 9.1 Rights and Privileges

- (a) Upon receipt of a permit, a person shall, except as otherwise set forth in the Rules of the Exchange or any resolution of the Board of Directors authorizing a specific class or series of permits, have all the rights and privileges and shall be under all the duties and obligations of a Futures Participant in accordance with these By-Laws and the Rules of the Exchange, and, if permitted in the Rules of the Exchange or any resolution of the Board of Directors authorizing a specific class or series of permits.
- (b) Notwithstanding anything to the contrary contained in these By-Laws or the Rules of the Exchange, the ability of a permit holder to exercise any right or privilege of a Member is subject to such holder's compliance with applicable registration, testing, capital, fitness, allocation, deposit, bonding or other rules, requirements or procedures of the Exchange as may be established from time to time relating to trading on the Exchange (in any particular security, capacity or otherwise), use of given services of, or facilities of or operated by, the Exchange, engaging in any particular line of business at the Exchange, maintaining employees or agents at the Exchange, and to the payment of applicable fees, dues and other charges.
- (c) A corporation to which a permit is issued under the provisions of this Section of these By-Laws shall be entitled to all the rights and privileges specified in the Exchange Rules, except as otherwise specifically provided in these By-Laws and the rules and regulations adopted pursuant hereto

Section 9.2 Use of Facilities of Exchange

The Exchange shall not be liable for any damages sustained by a Futures Participant growing out of the use or enjoyment by such person or organization of the facilities afforded by the Exchange to such person or organization for the conduct of their business.

Section 9.3 By-Laws and Rules Incorporated into Exchange Contracts

The provisions of these By-Laws and of the Rules adopted pursuant hereto shall be a part of the terms and conditions of all exchange contracts. All such contracts shall be subject to the exercise by the Board of Directors and the Standing Committees of the Exchange of the powers with respect thereto vested in them by these By-Laws and Rules adopted pursuant hereto.

Section 9.4 Corporate Seal

The seal of the Exchange shall be circular in form and shall bear, in addition to any other emblem or device approved by the Board, the name of the Exchange, the year of its incorporation, and the words "Corporate Seal" and "Delaware." The seal may be used by causing it to be affixed or impressed, or a facsimile thereof may be reproduced or otherwise used in such manner as the Board may determine.

Section 9.5 Fiscal Year

The fiscal year of the Exchange shall begin the 1st day of January in each year, or such other month as the Board may determine by resolution.

Section 9.6 Waiver of Notice

- (a) Whenever notice is required to be given by law, the Certificate of Incorporation or these By-Laws, a waiver thereof by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board, or members of a committee, need be specified in any waiver of notice.
- (b) Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

Section 9.7 Execution of Instruments, Contracts, etc.

- (a) All checks, drafts, bills of exchange, notes, or other obligations or orders for the payment of money shall be signed in the name of the Exchange by such officer or officers or person or persons as the Board, or a duly authorized committee thereof, may from time to time designate. Except as otherwise provided by law, the Board, any committee given specific authority in the premises by the Board, or any committee given authority to exercise generally the powers of the Board during intervals between meetings of the Board may authorize any officer, employee, or agent, in the name of and on behalf of the Exchange, to enter into or execute and deliver deeds, bonds, mortgages, contracts, and other obligations or instruments, and such authority may be general or confined to specific instances.
- (b) All applications, written instruments, and papers required by any department of the United States government or by any state, county, municipal, or other governmental authority may be executed in the name of the Exchange by any officer of the Exchange, or, to the extent designated for such purpose from time to time by the Board, by an employee or agent of the Exchange. Such designation may contain the power to substitute, in the discretion of the person named, one or more other persons.

ARTICLE X Amendments

Section 10.1 By Stockholders

These By-Laws may be altered, amended, or repealed, or new By-Laws may be adopted, at any meeting of the stockholders by the affirmative vote of the holders of a majority of voting power of the then outstanding stock entitled to vote, voting together as a single class.

Section 10.2 By Directors

To the extent permitted by the Certificate of Incorporation, these By-Laws may be altered, amended, or repealed, or new By-Laws may be adopted, at any regular or special meeting of the Board by a resolution adopted by a vote of a majority of the whole Board.

Section 10.3 Emergency By-Laws

The Board may adopt emergency By-Laws subject to repeal or change by action of the stockholders which shall, notwithstanding any different provision of law, the Certificate of Incorporation, or these By-Laws, be operative during any emergency resulting from any nuclear or atomic disaster, an attack on the United States or on a locality in which the Exchange conducts its business or customarily holds meetings of the Board, any catastrophe, or other emergency condition, as a result of which a quorum of the Board or a committee thereof cannot readily be convened for action. Such emergency By-Laws may make any provision that may be practicable and necessary under the circumstances of the emergency.

ARTICLE XI Exchange Authorities

Section 11.1 Rules

To promote and enforce just and equitable principles of trade and business, to maintain high standards of commercial honor and integrity among Futures Participants, to collaborate with governmental and other agencies in the promotion of fair practices and the elimination of fraud, and in general to carry out the purposes of the Exchange and of the Act, the Board is hereby authorized to adopt such Rules of the Exchange and such amendments thereto as it may, from time to time, deem necessary or appropriate, including, but not limited to, Rules for the required or voluntary arbitration of controversies between Futures Participants and between Futures Participants and customers or others. If any such Rules or amendments thereto are approved by the Commission or otherwise become effective as provided in the Act, they shall become effective Rules as of the date of Commission approval or effectiveness under the Act. The Board is hereby authorized, subject to the provisions of these By-Laws and the Act, to administer, enforce, and interpret any Rules adopted hereunder.

Section 11.2 Disciplinary Proceedings

- (a) The Board is authorized to establish procedures relating to disciplinary proceedings involving Futures Participants and their associated persons.
- (b) The Board is authorized to impose appropriate sanctions applicable to Futures Participants including censure, fine, suspension, or expulsion from the Exchange, suspension or bar from being associated with all Futures Participants, limitation of activities, functions, and operations of a Futures Participants, or any other fitting sanction, and to impose appropriate sanctions applicable to persons associated with Futures Participants, including censure, fine, suspension, or barring a person associated with a Futures Participants from being associated with all Futures Participants, limitation of activities, functions, and operations of a person associated with a Futures Participants, or any other fitting sanction, for:
 - (i) a breach by a Futures Participants or a person associated with a Futures Participants of any covenant with the Exchange or its Futures Participants;
 - (ii) violation by a Futures Participants or a person associated with a Futures Participants of any of the terms, conditions, covenants, and provisions of the By-Laws, the Rules, or the federal securities laws, including the rules and regulations adopted thereunder;
 - (iii) failure by a Futures Participants or person associated with a Futures Participants to: (A) submit a dispute for arbitration as may be required by the Rules; (B) appear or produce any document in the Futures Participants' or person's possession or control as directed pursuant to the Rules; (C) comply with an award of arbitrators properly rendered, where a timely motion to vacate or modify such award has not been made pursuant to applicable law or where such a motion has been denied; or (D) comply with a written and executed settlement agreement obtained in connection with an arbitration or mediation submitted for disposition; or
 - (iv) failure by a Futures Participants or person associated with a Futures Participants to adhere to any ruling, order, direction, or decision of or to pay any sanction, fine, or costs imposed by the Board or any entity to which the Board has delegated its powers.

Section 11.3 Qualifications to Obtain a Permit

- (a) The Board shall have authority to adopt rules and regulations applicable to applicants seeking to become Futures Participants and persons associated with applicants or Futures Participants, establishing specified and appropriate standards with respect to the training, experience, competence, financial responsibility, operational capability, and such other qualifications as the Board finds necessary or desirable.

- (b) Uniform standards for regulatory and other access issues, such as admission to membership shall be promulgated and applied on a consistent basis, and the Exchange shall institute safeguards to ensure fair and evenhanded access to all of its services and facilities.

Section 11.4 Fees, Dues, Assessments, and Other Charges

The Board of Directors shall have authority to fix and levy the amount of fees, dues, assessments, and other charges to be paid by Futures Participants and any other persons using any facility or system that the Exchange operates or controls; provided, however, that such fees, dues, assessments, and other charges shall be equitably allocated among Futures Participants and any other persons using any facility or system that the Exchange operates or controls.