

Exhibit M-3.Amendment

NASDAQ OMX Futures Exchange – Rules

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Chapter I Definitions and Governance of the Exchange

Section 1 Definitions

Unless otherwise specifically provided in the By-Laws or Rules of the Exchange or the context otherwise requires, the terms defined herein shall for all purposes of the By-Laws and Rules of the Exchange, have the meanings therein specified.

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

Affiliate. The term "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.

Authorized Customer. The term "Authorized Customer" shall mean a Person or entity that may access the Trading System directly as provided in Chapter V, Section 4.

Authorized Risk Officer. The term "Authorized Risk Officer" means an authorized employee or agent of a Clearing Futures Participant who is authorized to set or change pre-trade risk management parameters.

Authorized Trader. The term "Authorized Trader" means an authorized employee or agent of a Futures Participant who is authorized by that Futures Participant and the Exchange to submit Orders into the Trading System. Only a natural person can be an Authorized Trader. An Authorized Trader is considered a person associated with a Futures Participant for purposes of the By-Laws and Rules.

Automated System. The term "Automated System" means a system that automates the generation and routing of Orders for a Futures Participant(s). This shall include Automated Order-Routing Systems described in Chapter V, Section 15.

Block Trade. The term "Block Trade" shall mean transactions entered into by a Futures Participant which are outside the Trading System, at prices mutually agreed, provided all of the conditions of Chapter IV, Section 11 are satisfied and to the extent permitted by the rules governing the applicable Contract.

Board of Directors. The term "Board of Directors" or "Board" means the Board of Directors of the Exchange.

Bunched Order. The term "Bunched Order" means a single Order for two or more Customer Accounts entered into the Trading System pursuant to Chapter V, Section 12.

Business Day. The term "business day" means any day the Exchange shall be regularly open for business in any Contract.

By-Laws. The term "By-Laws" means the By-Laws of the Exchange, as from time to time amended.

Certificate. The term "Certificate" means the Certificate of Incorporation of the Exchange, as from time to time amended.

Clearing Account Number. The term "Clearing Account Number" means the unique identification code assigned by the Clearing Corporation which identifies a particular Clearing Futures Participant and an account maintained by that Clearing Futures Participant with the Clearing Corporation.

Clearing Account Type Indicator. The term "Clearing Account Type Indicator" means one of three indicators, "C," "F," or "M", assigned by a Futures Participant to an Order by a Futures Participant which designates the applicable clearing account type for any transaction as defined by Article VI, Section 3 of the by-laws of the Clearing Corporation.

Clearing Corporation. The term "Clearing Corporation" means The Options Clearing Corporation.

Clearing Futures Participant. The term "Clearing Futures Participant" means a Futures Participant that is also a member of The Options Clearing Corporation with the ability to clear Contracts on behalf of itself, its Customers, and Non-Clearing Futures Participants.

Contract. The term "Contract" means a Future or Option on a Future.

Commission. The term "Commission" means the Commodity Futures Trading Commission.

Commission Regulation. The term "Commission Regulation" means any Rule, regulation or order of the Commission or any interpretation thereof by the Commission.

Commodity. The term "Commodity" shall mean any and all goods, articles, services, rights and interests in which contracts for future delivery are presently or in the future dealt in, on or subject to the Rules.

CTI Code. The term "Customer Type Indicator Code" or "CTI Code" refers to certain codes assigned by a Futures Participant to an Order which represent transaction types as follows: CTI code 1 shall be used for transactions initiated and executed by an individual for its own account, for an account it controls, or for an account in which it has ownership or financial interest. CTI code 2 shall be used for transactions executed for the proprietary account of an individual. CTI code 3 shall be used for transactions where an individual executes for the personal account of another individual, for an account the other individual controls or for an account in which the other individual has ownership or financial interest. CTI code 4 shall be used for any transaction

not meeting the definition of CTI 1, 2 or 3. These should be non-Futures Participant Customer transactions.

Customer. The term "Customer" has the meaning attributed to it by Commission Regulation 1.3(k).

Customer Account. The term "Customer Account" means an account carried by a Futures Participant on behalf of a Customer, which may be another Futures Participant.

Customer Order. The term "Customer Order" means an Order submitted on behalf of a Customer Account.

Daily Settlement Price. The term "Daily Settlement Price" means the price at which a Contract settles at the conclusion of any Trading Day.

Discretionary Order. The term "Discretionary Order" means an Order for a Customer Account for which the Futures Participant has discretion as to the Contract, the price, or the amount purchased or sold.

Exchange. The term "Exchange" means NASDAQ Futures, Inc. or "NFX" and when used with reference to the administration of any By-Law or Rule of the Exchange, means either the Board of Directors or the officer, employee, agent or committee to whom appropriate authority to administer such provision has been delegated by the Board.

Executive Representative. The term "Executive Representative" means a designated executive representative of a Futures Participant who shall represent and act for the Futures Participant in all the affairs of the Exchange; provided, however, that other representatives of a Futures Participant may also serve on the Exchange Board or committees of the Exchange or otherwise take part in the affairs of the Exchange.

Final Settlement Price. The term "Final Settlement Price" means the price at which a Contract settles at the conclusion of the Last Trading Day for that Contract.

Future. The term "Future" means any contract for the purchase or sale of any commodity for future delivery from time to time traded on or subject to the Rules of the Exchange.

Futures Participant. The term "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's Trading System.

Futures Participant Exchange Account. The term "Futures Participant Exchange Account" means a unique account(s) assigned to a Futures Participant by the Exchange.

Last Trading Day. The term "Last Trading Day" means the day specified by the Exchange for the conclusion of trading for the Contract.

Market Data. The term "Market Data" means any and all price, quantity, and time data from any and all bids and offers submitted to, and trades executed by or through the Trading System any data derived from the foregoing, the format and presentation of any such data or

information, and the transmissions of such data or information to Futures Participants, any party that has entered into an agreement with the Exchange to distribute the above-described data or information or any other Person.

Market Maker. The term "Market Maker" means a Futures Participant approved by the Exchange to undertake obligations to facilitate an orderly and liquid market for one or more Contracts.

NASDAQ Best Bid and Offer. The term "NASDAQ Best Bid and Offer" or "BBO" means for each Contract then listed and trading on the Exchange, the current disseminated highest bid and lowest offer in the Order Book excluding those Orders that at the time of receipt are matchable and are due execution.

Non-Clearing Futures Participant. The term "Non-Clearing Futures Participant" means a Futures Participant that is not a Clearing Futures Participant.

Order. The term "Order" means any bid or offer or Market Order, Limit Order, Cancel Order, Cancel Replace Order, Day Order, Good -`Till-Canceled Order, One-cancels-the-other Order, Wait Order or Contingency Order (including any All or None Order, Fill or Kill Order, Immediate or Cancel Order, Minimum Quantity Order and Post-Only Order) which shall have the respective meanings set forth in Chapter IV, Section 3, as well as any other types of Orders that may be approved by the Exchange from time to time.

Order Book. The term "Order Book" means all open Orders in the Trading System for a particular Contract.

Origin Code. The term "Origin Code" means a code which signifies whether funds are segregated or non-segregated. An Origin Code of "1" shall indicate segregated funds and an Origin Code of "2" shall indicate non-segregated funds as required pursuant to Section 4d(a)(2) of the Act.

Person. The term "Person" means any natural person, association, partnership, limited liability company, joint venture, trust or corporation.

Public Customer Order. The term "Public Customer Order" means an Order marked with a CTI Code of 4 and an Origin Type of 1, as described in Chapter IV, Section 4, which shall be given the priority described in Chapter IV, Section 4.

Public Director. The term "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" includes 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, (as defined herein), 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 affiliate as defined herein if they otherwise meet the definition of public.

Regulatory Services Provider. The term "Regulatory Services Provider" means a third party with whom the Exchange has entered into an agreement to provide certain surveillance, investigative and regulatory functions.

Rule of the Clearing Corporation. The term "Rule of the Clearing Corporation" means any provision of the Certificate of Incorporation or the By-Laws, or any Rule, regulation, interpretation, stated policy, or instrument corresponding thereto, as adopted or amended by the Clearing Corporation.

Rule or Rule of the Exchange. The term "Rule or Rule of the Exchange" means any Rule, regulation, interpretation, stated policy, or instrument corresponding thereto, as adopted or amended by the Exchange.

Self-Regulatory Organization The term "Self-Regulatory Organization" shall have the meaning ascribed to it in the Securities Exchange Act of 1934 and, in addition, shall include any contract market, commodity clearing organization and registered futures association.

Trader ID. The term "Trader ID" means a unique personal identification code issued by the Exchange and entered into the Trading System to identify the Authorized Trader, Authorized Customer or Automated System submitting an Order.

Trading Day. The term "Trading Day" means a day that the Exchange is open for trading in a particular Contract.

Trading Hours. The term "Trading Hours" shall mean the hours during which trading in any Contract may be regularly conducted.

Trading System. The term "Trading System" means the electronic trading system maintained by the Exchange for the receipt, entry, cancellation, storage, display, matching, and reporting of Orders.

For all purposes of the Rules, unless otherwise expressly provided:

- (1) any time period which expires on a day which is not a Trading Day will expire on the preceding Trading Day;
- (2) all references to the Act or the Commission's regulations or Rules of the Exchange or Rules of the Clearing Corporation include such provisions as amended, modified, supplemented, restated, or replaced from time to time;

(3) all references to the Commission include any successor to the Commission;

(4) as permitted by the context any reference in the singular includes the plural and vice versa.

Section 2 Applicability of Definitions in the Act and Commission Regulations

(a) Unless otherwise specifically provided in the Rules of the Exchange or the context otherwise requires, any term used in the Rules of the Exchange and which is defined in the Act or Commission Regulations shall have the meaning ascribed to it therein.

(b) The headings to the By-Laws and Rules of the Exchange have been inserted for convenience only and shall not affect the meaning of the language contained therein.

Section 3 Emergency Action

(a) Definition. The term "emergency" means any occurrence or circumstance listed in Commission Regulation 40.1(h) which the Emergency Committee or, with respect to physical emergencies, any officer of the Exchange, determines requires immediate action and threatens or may threaten such things as fair and orderly trading in, or the liquidation of or delivery pursuant to, any commodity interest, including but not limited to the following:

(1) Any manipulative activity or attempted manipulative activity;

(2) Any actual, attempted or threatened corner, squeeze, congestion or undue concentration of positions;

(3) Any circumstances which may materially affect the performance of commodity interests, including failure of the payment system;

(4) Any action taken by the United States or any foreign government or any state or local governmental 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;

(5) Any circumstances which may have a severe, adverse effect upon the physical functions of a contract market including, for example, fire or other casualty; bomb threats; substantial inclement weather; power failures; communications breakdowns; computer system breakdowns; screen-based trading system breakdowns; malfunctions of plumbing, heating, ventilation and air conditioning systems; and transportation breakdowns;

(6) The bankruptcy or insolvency of any Futures Participant or the imposition of any injunction or other restraint by any government agency, court or arbitrator upon a Futures Participant which may affect the ability of that Futures Participant to perform on its contracts;

(7) Any circumstance in which it appears that a Futures Participant or any other person has failed to perform its contracts, is insolvent, or is in such financial or operational condition or is conducting business in such a manner that such person cannot be permitted to continue in business without jeopardizing the safety of Customers' funds, Futures Participants of the Exchange, the Exchange or the Clearing Corporation; and

(8) Any other unusual, unforeseeable and adverse circumstance with respect to which it is not practicable to submit, in a timely fashion, a Rule of the Exchange to the Commission for prior review.

(b) Physical Emergency. The term "physical emergency" means an emergency which may have a severe, adverse effect upon the physical functions of the Exchange including, for example, fire or other casualty, bomb threats, substantial inclement weather, power failures, communications breakdowns, computer system breakdowns, screen-based trading system breakdowns, malfunctions of plumbing, heating, ventilation and air conditioning systems; and transportation breakdowns.

(c) Emergency Committee. The Board of Directors shall establish an Emergency Committee ("Committee"), which shall be authorized to determine the existence of an emergency. Any member of the Committee may request the Committee to determine whether an emergency condition exists.

(d) When the Committee determines that an emergency exists, the Committee may take immediate emergency action or place into immediate effect a temporary emergency rule. Any such action or rule may provide for, or may authorize the Exchange to undertake actions necessary or appropriate to respond to the Emergency, including taking such market actions as may be directed by the Commission and also including such actions as:

- (i) limiting trading to liquidation only, in whole or in part;
- (ii) extending or shortening the expiration date for trading in contracts;
- (iii) extending the time of delivery;
- (iv) changing delivery points and/or the means of delivery;
- (v) ordering the liquidation of contracts, the fixing of a settlement price or the reduction in positions;
- (vi) ordering the transfer of contracts and the money, securities, and property securing such contracts, held on behalf of Customers by a Futures Participant to another Futures Participant, or other Futures Participants, willing to assume such contracts or obligated to do so;
- (vii) extending, limiting or changing hours of trading;
- (viii) suspending or curtailing trading in any contract;
- (ix) requiring market participants in any contract to meet special margin requirements; or
- (x) modifying or suspending any provision of the By-Laws or Rules of the Exchange.

Such actions may be carried out through the Exchange's agreements with its third-party providers of clearing or regulatory services, if applicable. In situations where a contract is

fungible with a contract on another platform, emergency action to liquidate or transfer open interest must be as directed, or agreed to, by the Commission or the Commission's staff.

(e) Physical Emergency. If, in the judgment of any officer of the Exchange the physical functions of the Exchange are, or are threatened to be, severely and adversely affected by a physical emergency such Person may take any action that he or she may deem necessary or appropriate to respond to such physical emergency, including closing the Exchange, delaying the opening of trading in one or more Contracts or suspending trading in or extending trading hours for one or more Contracts. In the event that any action has been taken pursuant to the immediately preceding sentence, any Person who is authorized to take such action may order the removal of any restriction previously imposed pursuant to such sentence, upon a determination by such Person that the physical emergency that gave rise to such restriction has sufficiently abated to permit the physical functions of the Exchange to continue in an orderly manner.

(f) Modification and Recording. The Exchange will promptly notify the Commission of any action taken, or proposed to be taken, pursuant to this Rule in accordance with Commission Regulations § 40.6 and 40.7, explaining how conflicts of interest were minimized, including the extent to which the Exchange considered the effect of its emergency action on the underlying markets and on markets that are linked or referenced to the Exchange's market and similar markets on other trading venues. The decision-making process with respect to, and the reasons for, any such action will be recorded in writing. Rules or rule amendments implemented pursuant to this Rule shall, if practicable, be filed with the Commission prior to implementation or, if not practicable, be filed with the Commission at the earliest possible time after implementation, but in no event more than twenty-four hours after implementation. The Committee shall prepare a report of an emergency action taken pursuant to this Rule and submit it to the Board of Directors at the Board's next regular meeting.

(g) Conflicts of Interest. The conflict of interest provisions set forth in the By-Laws shall apply to the taking of any action under this Rule.

Section 4 Regulatory Services Agreement with NFA

The Exchange has contracted with NFA to provide certain regulatory services to the Exchange pursuant to a Regulatory Services Agreement. In accordance with that Agreement, NFA may perform certain surveillance, investigative, and regulatory functions under the Rules of the Exchange. The Exchange may provide information to and receive information from NFA in connection with the performance by NFA of those functions.

Section 5 Regulatory Services Provided by The Options Clearing Corporation

The Exchange has contracted with The Options Clearing Corporation ("OCC") to provide certain regulatory services to the Exchange pursuant to a Regulatory Services Agreement. In accordance with that Agreement, OCC may perform for the Exchange certain financial surveillance functions and functions related to the protection of Customers. The Exchange may provide information to and receive information from OCC in connection with the performance by OCC of those functions.

Section 6 Communications Regarding Regulatory Matters

Futures Participants shall not discuss with Exchange directors or non-regulatory personnel issues, questions, concerns, or complaints about regulatory matters, except to the extent permitted by the Rules of the Exchange.

Section 7 Disclosure and Trading by Exchange Employees, Consultants, Directors and Committee Members

(a) Disclosure of Information.

(i) Employees. An employee of the Exchange shall not disclose to any other person any material, non-public information which such employee obtains as a result of his or her employment at the Exchange if such employee has or should have a reasonable expectation that such information disclosed may assist another person in trading any commodity interest; however, such provision does not prohibit disclosures made in the course of an employee's duties or disclosure made to another self-regulatory organization, linked exchange, court of competent jurisdiction or representative of any agency or department of the federal or state government acting in his or her official capacity.

(ii) Directors and Committee Members. No member of the Exchange's Board of Directors or any standing committee shall use or disclose, for any purpose other than the performance of such person's official duties as a Director or member of a standing committee, material, non-public information obtained as a result of such person's participation on any committee or governing board of the Exchange.

(b) Transactions by Futures Participants. No Futures Participant shall effect a transaction in a commodity interest for an account in which an employee of the Exchange or any affiliate of the Exchange is directly or indirectly interested, or any other commodity interest traded on or cleared by another contract market, linked exchange or clearing organization where such employee has access to material non-public information concerning such commodity interest.

(c) Employee Transactions. No employee of the Exchange or any affiliate of the Exchange may purchase or sell for his own account or for the account of others any commodity interest where the employee has access to material nonpublic information concerning such commodity interest.

(d) For purposes of this Rule the term "employee" shall include any consultant hired by the Exchange.

• • • **Commentary:** -----

.01 With respect to the above-referenced Rule the Exchange has determined that the terms "material non-public information" and "commodity interest" shall be defined pursuant to CFTC regulation 1.59(a).

Section 8 Voting By Board of Directors and Certain Committees

(a) Definitions. For purposes of this Rule:

(1) Committee shall refer to any of the following:

(i) Committee of the Board of Directors as defined in Article IV of the By-Laws;

(ii) BCC Panel appointed pursuant to Chapter VI; or

(iv) Any other person or committee of persons, or any subcommittee thereof, that is authorized by the Exchange to issue disciplinary charges, to conduct disciplinary proceedings, to settle disciplinary charges, to impose disciplinary sanctions, or to hear appeals thereof in cases involving any violations of Exchange Rules, except those cases where the person or committee is authorized summarily to impose minor penalties for violating Rules regarding decorum, attire, the timely submission of accurate records for clearing or verifying each day's transactions or similar activities.

(2) Family relationship shall mean a person's spouse, former spouse, parent, stepparent, child, stepchild, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece or in-law.

(3) Governing Board shall refer to either of the following:

(i) Board of Directors

(ii) Executive Committee

(iii) or any subcommittee of the Board of Directors or the Executive Committee

(4) Member's affiliate firm shall mean a firm in which the member is a "principal," as defined in Commission Regulation Section 3.1(a) or an employee.

(5) Named party in interest shall mean a person or entity that is identified by name as a subject of any matter being considered by the Board or Committee.

(6) Significant Action shall mean any actions or rule changes which address an "emergency" as defined in Commission Regulation 40.1(h) (exclusive of physical emergencies), and any changes in margin levels that are designed to respond to extraordinary market conditions or are likely to have a substantial effect on prices in any contract traded at the Exchange.

(b) Relationship with named party in interest.

(1) Nature of relationship. A member of a Governing Board or Committee must abstain from such body's deliberations and voting on any matter involving a named party in interest where such member:

(i) is a named party in interest;

(ii) is an employer, employee, or fellow employee of a named party in interest;

(iii) is associated with a named party in interest through a “broker association” as defined in Commission Regulation on 156.1;

(iv) has any other significant, ongoing business relationship with a named party in interest; or

(v) has a family relationship with a named party in interest.

(2) Disclosure of relationship. Prior to the consideration of any matter involving a named party in interest, each member of a Governing Board or Committee must disclose to the Exchange's Corporate Secretary whether he or she has one of the relationships listed in section (b)(1) above with a named party in interest.

(3) Procedure for determination. The Exchange's Secretary shall review items for consideration by the Governing Board or Committee for purposes of determining whether any such member thereof is subject to a conflict restriction in any matter involving a named party in interest. Such determinations shall be based upon information provided by the member pursuant to paragraph (b)(2) above and any other information held by and reasonably available to the Exchange's Secretary.

(c) Financial interest in a significant action.

(1) Nature of relationship. A member of any Governing Board or Committee must abstain from such body's deliberations and voting on any significant action if the member knowingly has a direct and substantial financial interest in the result of the vote based upon either position at the Exchange or other exchange positions that could reasonably be expected to be affected by the action.

(2) Disclosure of interest. Prior to the consideration of any significant action, each member of any Governing Board or Committee must disclose to the Exchange's Secretary information that is known to him or her or any other information that would present a conflict. This requirement does not apply to members who choose to abstain from deliberations and voting on the subject of the significant action.

(d) Documentation of determination. The Governing Board or Committee must reflect in its minutes or otherwise document that the conflicts determination procedures required by this Rule have been followed. Such records must also include:

(i) the names of all members who attended the meeting in person or who otherwise were present by electronic means;

(ii) the name of any member who voluntarily recused himself or herself or was required to abstain from deliberations and/or voting on a matter and the reason for the recusal or abstention, if stated; and information on the position information that was reviewed for each member.

Section 9 Indemnification of Directors, Officers, Employees, and Agents

(a) The Corporation 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 Corporation, or is or was a Director, officer, or employee of the Corporation who is or was serving at the request of the Corporation 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 Corporation) 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 Corporation 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 Corporation 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 Corporation 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 Corporation or is or was an agent of the Corporation who is or was serving at the request of the Corporation 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 Corporation 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 Corporation 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 Corporation; (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 Corporation.

(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 Corporation 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 Corporation'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 Corporation, 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. In any such action, the Corporation 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 Corporation 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 Corporation, or is or was serving at the request of the Corporation 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 Corporation would have the power to indemnify such person against such liability hereunder.

Section 1 Chapter II Membership Rules

Qualification and Participation of Futures Participants

(a) Only a Futures Participant may transact business on the Exchange. A prospective Futures Participant must:

- i. complete a Futures Participant Application in the form prescribed by the Exchange;
- ii. provide such other information as required by the Exchange.

(b) Notwithstanding the provisions of Section 2 of this Chapter, the Exchange requires compliance with the following:

- (i) A Futures Participant must be actively engaged in a futures business in the United States.
- (ii) A Futures Participant must be a member of NFA or another designated contract market.
- (iii) Participation in the Exchange as a Futures Participant requires a permit. The issuance by the Exchange of such permit shall be conditioned upon the Futures Participant's initial and continuing compliance with the following requirements:
 - (1) execution of applicable agreements with the Exchange, including but not limited to an agreement to abide by the Certificate, By-Laws and Rules of the Exchange, as they may be amended from time to time;
 - (2) maintenance of a clearing account with a Clearing Futures Participant, or maintenance of a clearing account directly with The Options Clearing Corporation; notwithstanding the foregoing, Futures Commission Merchants, as defined in Commission Regulation §1.3(p), must maintain a clearing account directly with The Options Clearing Corporation.

In addition the following requirements apply:

- (a) No Futures Participant shall submit an Order to the Trading System or accept the transfer of a Contract unless the Futures Participant is either a Clearing Futures Participant or a Non-Clearing Futures Participant guaranteed by a Clearing Futures Participant for that Contract.
- (b) The Clearing Futures Participant must designate at least two Authorized Risk Officers who shall set and adjust pre-trade risk parameters for a Futures Participant, Authorized Trader or Authorized Customer as provided in Chapter IV, Section 5. The Exchange will not issue an active Trader ID if an Authorized Risk Officer has not set pre-trade risk parameters.
- (c) A Clearing Futures Participant is authorized by the Exchange to clear, carry, and guarantee specified Contracts for itself, its Customers, and Non-Clearing Futures Participants. To become a Clearing Futures Participant, a Futures Participant must (1) apply to the Clearing Corporation and the Exchange, (2) satisfy the criteria established by the Clearing Corporation and the Exchange for Clearing Futures Participants, and

- (3) submit to the Exchange confirmation from the Clearing Corporation that the Futures Participant is a member of the Clearing Corporation.
- (d) To maintain its Clearing Futures Participant designation, the Clearing Futures Participant must at all times continue to satisfy all criteria established by the Clearing Corporation and the Exchange for designation as a Clearing Futures Participant for specified Contracts.
- (e) A Clearing Futures Participant must provide the Exchange with a copy of each written agreement guaranteeing the performance of the Non-Clearing Futures Participant with respect to a Contract (referred to as a "Guarantee"). For purposes of this Rule, a Guarantee (1) guarantees and indemnifies the performance of the Contracts governed by the Guarantee; (2) remains in effect until terminated pursuant to paragraph (e) notwithstanding any change to the Rules, the terms of any Contract, or the composition of any partnership (including, but not limited to, the death, retirement, admission or withdrawal of a partner); (3) applies to defaults by the Non-Clearing Futures Participant on any obligation related to a Contract or other claims governed by the Guarantee; and (4) supplements, but does not substitute, any other agreement whereby the Clearing Futures Participant guarantees or indemnifies the Non-Clearing Futures Participant.
- (f) To terminate a Guarantee, either party to the Guarantee (the Clearing Futures Participant or Non-Clearing Futures Participant) must immediately notify the Exchange of the termination of the Guarantee using the form, providing the information, and following the procedures established by the Exchange. A Guarantee remains in effect until the Exchange authorizes its termination and notifies both parties. The Clearing Futures Participant remains bound by the Guarantee for all Contracts governed by the Guarantee entered into by the Non-Clearing Futures Participant before termination of the Guarantee, but is not bound for any Contract made by, or transferred to, the Non-Clearing Futures Participant after termination of the Guarantee.
- (g) If a dispute arises between the Clearing Futures Participant and the Non-Clearing Futures Participant concerning whether a Contract was entered into or transferred before or after the termination of a Guarantee: (1) the Clearing Futures Participant has the burden to demonstrate that the Non-Clearing Futures Participant entered into the Contract after termination of the Guarantee and (2) the Exchange may, within its discretion, provide the Clearing Futures Participant and Non-Clearing Futures Participant with information regarding the time at which the Non-Clearing Futures Participant entered into or transferred a Contract.
- (3) compliance with the Certificate, By-Laws and Rules of the Exchange as well as operating procedures of the Exchange and the Commission in the use of the Trading System;
- (4) maintenance of the physical security of the equipment located on the premises of the Futures Participant to prevent the improper use of or access to the Exchange's Trading System, including unauthorized entry of information into the Exchange's Trading System;

- (5) acceptance and settlement of each trade that the Exchange identifies as having been effected by such Futures Participant, or if settlement is to be made through another Clearing Futures Participant, guarantee of the acceptance and settlement of such identified Exchange trade by the Clearing Futures Participant on the regularly scheduled settlement date; and
- (6) input of accurate information into the Trading System, including, but not limited to, whether the Futures Participant acted in a principal or agent capacity.
- (iv) Futures Participants are required to maintain a current list of all Authorized Traders (including Trader ID's assigned to an Automated Trading System) of the Futures Participant as well as Authorized Risk Officers with the Exchange's Membership Department. The Exchange's Membership Department must be immediately notified of the addition, termination or resignation of an Authorized Trader or Authorized Risk Officer.
- (v) A Futures Participant shall be issued a permit by the Exchange upon notice of approval of its application as a Futures Participant by the Exchange.
- (vi) Each Futures Participant shall be under a continuing obligation to inform the Exchange of noncompliance with any of the requirements set forth above.
- (vii) If a Futures Participant has actual or constructive notice of a violation of Exchange By-Laws, Rules, or the Commodity Exchange Act ("Act") in connection with the use of the Exchange's markets by a non-Futures Participant Customer of the Futures Participant and the Futures Participant fails to take appropriate action, the Futures Participant may be found to have committed an act detrimental to the interest or welfare of the Exchange.
- (viii) A Futures Participant shall assist the Exchange in any investigation into potential violations of the Rules of the Exchange or the Act which occur through or with respect to access to the Exchange's Trading System under the Authorized Trader's Trader ID which is associated with a Futures Participant. Such assistance must be timely and include, but not be limited to, requiring any non-Futures Participant Customer to produce documents, to answer questions from the Exchange, and/or to appear in connection with an investigation.
- (ix) The Exchange may impose upon any Futures Participant such temporary restrictions upon the automated entry or updating of Orders as the Exchange may determine to be necessary to protect the integrity of the Exchange's Trading System. For example, such temporary restrictions may be necessary to address a Trading System problem at a particular Futures Participant or at the Exchange, or an unexpected period of extremely high message traffic. The scope of any such restrictions shall be communicated to the affected Futures Participant in writing.

Section 2 Application Procedures

- (a) Every applicant shall file an application in writing with the staff of the Exchange in such form as the Exchange may prescribe, and shall submit such information as the Exchange may direct. The Exchange may determine an applicant fails to meet such qualifications as the Exchange may from time to time determine are in the best interests of the Exchange and for such cause as the Exchange reasonably may decide.

(b) The Exchange will notify applicants of acceptance or denial within 30 business days of their application. Absent a showing of good cause, an application filed pursuant to this Rule shall lapse after a 90 calendar day period if an applicant fails to provide the requisite documentation provided for in this Rule or any subsequent written request for information or documents pursuant to this Rule within such time period agreed to by the Membership Department. If such time period elapses, an applicant shall be required to file a new application pursuant to this Rule.

Section 3 Denials and Condition of Membership

(a) If the Exchange determines that the applicant not be admitted as a Futures Participant , the applicant shall be notified in writing of the reasons therefor and may, within fifteen (15) days of the receipt thereof, file a request with the Executive Committee for its consideration of his application, together with a written statement in such form as the Executive Committee may prescribe setting forth his opinion as to why the Exchange's decision is in error or insufficient to preclude his admission.

(b) If the applicant files a request with the Executive Committee the Executive Committee shall review and act upon the application. If the Executive Committee votes favorably upon the applicant, the applicant shall be sent written notice thereof and the applicant's admission shall become effective upon the issuance of a permit in accordance with the By-Laws and Rules of the Exchange, subject to all other requirements as set forth in the By-Laws and Rules of the Exchange.

(c) If the Executive Committee votes unfavorably upon the applicant, the applicant shall be notified in writing of the specific grounds for denial and shall have a right to a hearing before the Executive Committee thereon by filing with the Exchange's designated department a written request therefor within ten (10) days after the serving of such notice. The applicant shall be entitled to appear personally at such hearing. The Exchange shall also be represented at the hearing. The Exchange staff shall identify the specific facts put into issue by the application, and with respect to those facts only, both the applicant and the Exchange staff may produce witnesses and other evidence relevant to the grounds for disapproval of the application and they may examine and cross-examine any witnesses so produced. The applicant shall have the right to be represented by legal counsel or any other representative of his choosing before the Executive Committee.

(d) If the applicant does not timely file a written request (1) with the Executive Committee for its consideration of his application or (2) with the Exchange's designated department for a hearing, the Exchange staff shall take appropriate action with respect to the application and shall notify the applicant of such action, which action shall be the final action of the Exchange upon the serving of such notice.

(e) The Exchange shall make a record of any proceedings conducted under this Rule. The record need not be transcribed unless a transcript is requested by the Commission staff or the applicant, or the decision of the Executive Committee is reviewed by the Board of Directors or the Commission. If an applicant requests a transcript or applies for and is granted review of his membership denial by the Board of Directors or the Commission, the cost of transcribing the record of the hearing shall be borne by the applicant.

(f) In the event of a favorable vote by the Executive Committee, the applicant shall be sent written notice thereof and his admission as a Futures Participant shall become effective.

(g) In the event of a second unfavorable vote by the Executive Committee, the applicant shall be sent written notice of such determination which notice shall specify the grounds therefor. This decision of the Executive Committee shall become the final decision of the Exchange ten (10) days after notice is served on the applicant unless within that time the applicant petitions the Board of Directors for review of the Executive Committee's decision.

(h) If the applicant petitions the Board of Directors for review of the Executive Committee's decision, such petition shall consist of a copy of the record of the hearing before the Executive Committee and a written statement setting forth his opinion as to why the Executive Committee's decision is in error or insufficient to preclude his admission as a Futures Participant. After service upon it of such petition, the Board may, on its own motion, decide to review the matter. Should the Board decide to review the matter, such review shall be conducted solely on the record of the hearing before the Executive Committee and the Board shall thereafter issue a decision by vote of a majority of its members either affirming or reversing the decision of the Executive Committee which shall be a final decision of the Exchange. If the Board takes no action on a petition for review of a decision of the Executive Committee for ninety (90) days after service upon it of such a petition, the decision of the Executive Committee shall become a final decision of the Exchange.

(i) An applicant must deposit with the Exchange in full all fees prior to consideration of its application.

(j) Any notice required under these rules may be served upon an applicant or Futures Participant either personally or by deposit in the United States mail, postage prepaid via registered or certified mail or by courier service addressed to the applicant or Futures Participant at the address as it appears on the books and records of the Exchange. Unless otherwise stated herein, all documents required to be filed with the Exchange must be filed and received by the office of the Secretary on or before the day prescribed therefor.

(k) The Exchange shall provide written notice, as prescribed by the Commission, to the applicant and the Commission within thirty (30) days after any Exchange action denying approval of an application becomes the final decision of the Exchange.

Section 4 Fitness of Futures Participants

The Exchange may deny a permit to any applicant or Futures Participant if the Exchange determines that any of the circumstances contained in Sections 8a(2), (3), (4) and (11) of the Act exists with respect to such applicant or Futures Participant or any person associated with such applicant or Futures Participant. For the purpose of this Rule, the term "person associated with" when applied to any person shall mean, as applicable, any general partner, officer, or director of such person, any holder or beneficial owner of ten percent or more of the outstanding shares of any class of stock of such person, any person who has contributed ten percent or more of the capital of such person or any person directly or indirectly controlling such person.

Section 5 Approval and Termination of Permits

(a) No applicant shall be approved as Futures Participant unless the application is approved by the Exchange or the Executive Committee pursuant to the procedures set forth in Sections 2 and 3.

(b) Every Futures Participant approved by the Exchange must continue to meet the qualifications contained in the By-Laws and Rules of the Exchange.

(c) Each approved Futures Participant shall be assigned a Futures Participant Exchange Account by the Membership Department.

(d) A Futures Participant may terminate a permit by giving written notice stating the desired date of such termination to the Exchange.

Section 6 Executive Representative

Each Futures Participant shall appoint and certify to the Membership Department one Executive Representative who shall represent and act for the Futures Participant in all the affairs of the Exchange; provided, however, that other representatives of the Futures Participant may also serve on the Exchange Board or Exchange committees or otherwise take part in the affairs of the Exchange. A Futures Participant may change its Executive Representative or appoint a substitute for its Executive Representative upon giving notice thereof to the Membership Department via electronic process or such other process as the Exchange may prescribe. An Executive Representative of the Exchange shall be authorized to act on behalf of the Futures Participant. Each Executive Representative shall maintain an Internet electronic mail account for communication with the Exchange and shall update contact information as prescribed by the Exchange. Each Futures Participant shall review and, if necessary, update its Executive Representative designation and contact information in the manner prescribed by the Exchange.

Section 7 Exchange's Costs of Defending Legal Proceedings

Any Futures Participant or person associated with any of the foregoing who fails to prevail in a lawsuit or other legal proceeding instituted by such person or entity against the Exchange or any of its board members, officers, committee members, employees, or agents, and related to the business of the Exchange, shall pay to the Exchange all reasonable expenses, including attorneys' fees, incurred by the Exchange in the defense of such proceeding, but only in the event that such expenses exceed \$50,000.00. This provision shall not apply to disciplinary actions by the Exchange, to administrative appeals of Exchange actions or in any specific instance where the Board has granted a waiver of this provision

Section 8 Limitation of Exchange Liability and Reimbursement of Certain Expenses

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

(b) The cost to the Exchange of producing, pursuant to court order or other legal process, records relating to the business or affairs of a Futures Participant may, in the discretion of the Exchange, be required to be paid to the Exchange by such Futures Participant, whether such production is required at the instance of such Futures Participant or at the instance of any other party.

(c) In the event any action or proceeding is brought to impose liability on the Exchange for an alleged failure on its part to prevent or to require action by a Futures Participant, said Futures Participant may, in the discretion of the Exchange, be required to reimburse the Exchange for:

(1) all expenses and counsel fees incurred by the Exchange in connection with said action or proceeding, (2) the recovery, if any, adjudged against the Exchange upon a final determination that the Exchange was liable for the damage sustained, and (3) any payment made by the Exchange with the approval of the Futures Participant in connection with any settlement of any such action or proceeding; provided, however, that no Futures Participant shall be required to reimburse the Exchange for any fine or any other civil penalty imposed on the Exchange by the Commission or any other governmental entity for a violation by the Exchange of any provision of the Act or of any Commission Regulation, or where indemnification would otherwise be prohibited by law.

Section 9 Dues, Fees and Charges

(a) The Board of Directors may fix and impose participation fees, transactions fees, and other fees, dues and charges to be paid by Futures Participants for applications, approvals, use of Exchange facilities or other services or privileges granted, and such assessments, fees, dues and charges may be imposed in different amounts or proportions for different classes of Futures Participants. All such assessments, fees, dues and charges shall be payable under such terms and conditions as the Board may prescribe.

(b) Each Futures Participant, and all applicants for a permit as such shall be required to provide a clearing account number for an account at the Clearing Corporation for purposes of permitting the Exchange to debit any undisputed or final fees, fines, charges and/or other monetary sanctions or other monies due and owing to the Exchange pursuant to this Rule. In the event that a Futures Participant successfully disputes a fee, fine or charge that has been debited, the Exchange would either reflect a credit in a future invoice or refund the amount in the form of a check.

(c) The Board of Directors may fix and impose a charge upon each Futures Participant measured by the number of transactions or contracts effected by such Futures Participant through the facilities of the Exchange. In fixing the amount of such charge, the Board may establish different rates for transactions or contracts involving different commodity interests or for transactions or contracts effected for non-Futures Participants, or for various classes of Futures Participant, or may omit such charge for any class or classes of Futures Participant. Such charges shall be payable under such terms and conditions as the Board may prescribe.

Section 10 Failure to Pay

A Futures Participant that does not pay any fees, assessments, charges, fines or other amounts due to the Exchange within thirty (30) days after they have become due and payable shall be reported to the Board or its delegate which may, after giving reasonable notice to the Futures Participant of such arrearages, suspend the Futures Participant until payment is made or terminate the Futures Participant's participation on the Exchange. A person associated with a Futures Participant who fails to pay any fine or other amounts due to the Exchange within thirty (30) days after such amount has become due and payable and after reasonable notice of such arrearages, may be suspended until payment is made.

Section 11 Notice of Changes

(a) Each Futures Participant, as applicable, shall give prompt written notice to the Exchange on such form as may be required by the Exchange: (1) of the death, termination, resignation or any

change in status of a Executive Representative, Authorized Trader or Authorized Risk Officer of the Futures Participant; (2) of the sale of substantially all of the assets, merger, consolidation, liquidation, or dissolution of the Futures Participant; and (3) of any material change in the ownership interests of the Futures Participant.

(b) Any Futures Participant that files an application for registration with the Commission to become a futures commission merchant, introducing broker or floor broker shall concurrently deliver a copy of such application to the Exchange, and shall promptly notify the Exchange of any action taken by the Commission with respect to such application.

Section 12 Addresses

Every Futures Participant shall register with the Exchange's Membership Department an address and subsequent changes thereof where notices may be served.

Section 13 Notices to Futures Participants, Executive Representatives Authorized Traders or Authorized Risk Officers

(a) Futures Participants shall provide any required notice to the Exchange in the manner set forth in these Rules, or in other Exchange regulatory or operational orders or procedures, as applicable.

(b) Except as may be otherwise expressly provided in the Rules, the Exchange may provide any notice to a Futures Participant, Executive Representative, Authorized Trader or Authorized Risk Officer by:

- (1) handing a copy to the Futures Participant, Executive Representative, Authorized Trader or Authorized Risk Officer,
- (2) mailing a copy to the Futures Participant, Executive Representative, Authorized Trader or Authorized Risk Officer to the address supplied to the Exchange by the Futures Participant, Executive Representative, Authorized Trader or Authorized Risk Officer for notice, or
- (3) transmitting electronically a copy to the Futures Participant, Executive Representative, Authorized Trader or Authorized Risk Officer (including, through a facsimile or electronic-mail transmission) to the address supplied to the Exchange by the Futures Participant, Executive Representative, Authorized Trader or Authorized Risk Officer for notice, or
- (4) posting the notice on the Exchange's website.

Chapter III Obligations of Futures Participants and Authorized Traders

Section 1 Books and Records

(a) Each Futures Participant shall prepare and keep current all books, ledgers and other similar records required to be kept pursuant to the Act and Commission Regulations and the Rules of the Exchange and shall prepare and keep current such other books and records and adopt such forms as the Exchange may from time to time prescribe. Such books and records shall include, without limitation, records of the activity, positions and transactions of each Futures Participant and Clearing Futures Participant in the underlying commodity or reference market and related

derivatives markets in relation to a Contract. Such books and records shall be made available to the Exchange upon request in a form and manner prescribed by the Exchange and within the time frame designated by the Exchange.

(b) With respect to each Order, bid, offer or other message transmitted to the Trading System by an Authorized Trader of a Futures Participant, the Futures Participant shall keep a record of which Authorized Trader of the Futures Participant caused that Order, bid, offer or other message to be transmitted to the Trading System.

(c) If a Contract listed on the Exchange is settled by reference to the price of a contract or commodity traded in another venue, including a price or index derived from prices on another designated contract market, Authorized Traders shall make available to the Exchange upon request in a form and manner prescribed by the Exchange and within the time frame designated by the Exchange information and their books and records regarding their activities in the reference market.

(d) Each Futures Participant shall keep all books and records required to be kept pursuant to the Rules of the Exchange for a period of five years from the date on which they are first prepared, unless otherwise provided in the By-Laws and Rules of the Exchange or required by law. Such books and records shall be readily accessible during the first two years of such period as they are required to be maintained. Reproductions of any such records may be substituted in a manner consistent with Commission Regulations.

(e) During such period as they are required to be maintained by the Futures Participant, all such books and records shall be made available for inspection by, and copies shall be delivered to, the Exchange or its authorized representatives upon request.

Section 2 Financial Requirements

(a) Each Futures Participant which is a futures commission merchant or an introducing broker shall comply with the requirements prescribed in Commission Regulations 1.10, 1.11, 1.12, 1.17 and 1.18 and with the additional requirements of this Rule.

(b) Each Futures Participant which is not subject to the requirements prescribed in Commission Regulations 1.10, 1.12, 1.17 and 1.18 shall at the time of application for a permit, and upon admission or approval as a Futures Participant have net liquid assets in the amount of \$100,000 or more.

(c) Each Futures Participant shall file with the Exchange two signed copies of any proposed subordination agreement at least ten (10) days prior to the proposed effective date of the agreement or at such other time as the Exchange for good cause shall accept such filing. Any proposed subordination agreement shall comply with the requirements of Commission Regulation 1.17 applicable to such agreements. No proposed agreement shall become effective unless and until the Exchange has found the agreement acceptable. This provision shall apply to Futures Participants for whom the Exchange is their designated self-regulatory organization ("DSRO").

(d) Each Futures Participant shall file with the Exchange a copy of any notice required to be filed with the Commission pursuant to Commission Regulations 1.12 and 1.17 concurrently with the same being filed with the Commission.

(e) The Exchange may at any time or from time to time, with respect to a particular Futures Participant or all Futures Participant or a new Futures Participant, prescribe net capital or net worth requirements greater than or in addition to those prescribed under this Rule, including more stringent treatment of items in computing net capital or net worth.

(f) For the purposes of this Rule, the term "net liquid assets" shall mean current assets less current liabilities.

(g) In addition to the minimum financial requirements that a Futures Participant or Clearing Futures Participant that is registered with the NFA as a futures commission merchant or introducing broker must satisfy, each Futures Participant and Clearing Futures Participant shall be required to satisfy such minimum financial requirements, and comply with such obligations related thereto, as may be established from time to time by the Exchange.

(i) Each Futures Participant and Clearing Futures Participant must notify the Exchange's Regulatory Department, or his or her designee, immediately upon becoming aware that it fails to satisfy the minimum financial requirements applicable to it.

(ii) Unless and until a Futures Participant or Clearing Futures Participant, as the case may be, is able to demonstrate to the Exchange that it is in compliance with the minimum financial requirements applicable to it, such Futures Participant or Clearing Futures Participant may not engage in any transactions subject to the Rules of the Exchange, except for the purpose of closing open positions.

(h) Notwithstanding the above provisions, each Futures Participant that is Futures Commission Merchant or Introducing Broker shall, in a form and manner prescribed by the Exchange, concurrently file with the Exchange a copy of all Form 1-FR-FCM, Form 1, 1FR-IB or FOCUS Report Part II, Part IIA or Part II CSE and Part III submissions (including any attachments or related submissions), and applicable, made by the Futures Participant.

(i) Each Futures Participant that is a Futures Commission Merchant shall, in a form and manner prescribed by the Exchange, concurrently file with the Exchange a copy of any daily Statement of Segregation Requirements and Funds in Segregation for Customers Trading on U.S. Commodity Exchanges filed with the Commission pursuant to Commission Regulation §1.32.

(ii) Each Futures Participant that is a Futures Commission Merchant shall, in a form and manner prescribed by the Exchange, concurrently file with the Exchange a copy of any daily net capital filings submitted by the Futures Participant to its Designated Self-Regulatory Organization.

(iii) Each Futures Participant that is a Futures Commission Merchant and (i) is not a Clearing Futures Participant or (ii) is a Clearing Futures Participant that utilizes another Clearing Futures Participant for purposes of clearing Contracts shall, in a form and manner prescribed by the Exchange, provide a report to the Exchange on a daily basis which sets forth the positions, if any, in Contracts of the Futures Participant's customers held by any Clearing Futures Participant in the customer range at the Clearing Futures Participant.

(iv) Each Futures Participant that is Futures Commission Merchant shall, in a form and manner prescribed by the Exchange, concurrently file with the Exchange a copy of any notice that is filed with the Commission pursuant to Commission Regulation §1.32.

Section 3 Audit and Financial Filings

(a) Each Futures Participant which is a futures commission merchant or an introducing broker shall prepare and file with the Exchange periodic financial reports in accordance with the requirements prescribed in Commission Regulation 1.10. Each such Futures Participant shall file with the Exchange a copy of any other financial or operational reports required by the Commission concurrently with the same being filed with the Commission.

(b) Each Futures Participant which is not a futures commission merchant or an introducing broker shall file with the Exchange a copy of its annual financial statement promptly after the same is completed, but in no event later than thirty (30) days after the end of the reporting period, and a copy of any other financial or operational report required by the Commission concurrently with the same being filed with the Commission.

(c) The Exchange may at any time or from time to time require any Futures Participant to—

(1) file financial and operational reports in a form and for a time period prescribed by the Exchange, and

(2) cause an audit to be made by an independent public accountant of its accounts in accordance with Commission requirements and the requirements of the Exchange.

(d) Unless a specific temporary extension of time has been granted, there shall be imposed upon any Futures Participant required to file reports pursuant to this Rule, a fee of \$100 for each week or part thereof that such report is not filed within the prescribed time, provided that the imposition of such fee shall not preclude the Exchange from taking any other action that it may deem necessary or appropriate. Requests for such extension of time must be submitted to the Exchange in writing no later than the day before the due date of such report.

(e) A copy of any audit or financial or operational report required pursuant to this Rule and all related statements, schedules, work papers and memoranda must be retained in accordance with the provisions of Section 1.

Section 4 Segregation and Secured Requirements

(A) All Futures Participants must comply with the requirements set forth in CFTC Regulations 1.20 through 1.30, 1.32, and 30.7. This includes, but is not limited to, the following:

(1) Maintaining sufficient funds in segregation or set aside in separate accounts;

(2) Computing, recording and reporting completely and accurately the balances in the:

(a) Statement of Segregation Requirements and Funds in Segregation; and

(b) Statement of Secured Amounts and Funds Held in Separate Accounts;

(3) Obtaining satisfactory segregation and separate account acknowledgement letters and identifying segregated and separate accounts as such; and

(4) Preparing complete and materially accurate daily segregation and secured amount computations in a timely manner.

(B) Exchange staff may prescribe additional segregation and secured amount requirements.

(C) All Futures Participants must provide written notice to the Exchange's Regulatory Service Provider of a failure to maintain sufficient funds in segregation or set aside in separate accounts. The Exchange's Regulatory Service Provider must receive immediate written notification when a clearing member knows or should know of such a failure.

Section 5 Authority of the Exchange to Impose Restrictions

Whenever a Futures Participant is subject to the early warning requirements set forth in Commission Regulation § 1.12 or, if applicable, Exchange Act Regulation § 17a-11, the Exchange may impose such conditions or restrictions on the business and operations of such Futures Participant, as the case may be, as the Exchange may deem necessary to protect the best interest of the marketplace, including, without limitation, for the protection of Customers, other Futures Participant, other Clearing Futures Participants or the Exchange pursuant to Chapter I, Section 3.

Customer Protection Rules

Section 6 Registration

(a) No Futures Participant of the Exchange (including any Person that is affiliated with such Futures Participant), may solicit or accept from any other Person an Order for the purchase or sale of a Contract, unless such Futures Participant, or its respective affiliated Person, as the case may be, is registered in any required capacity in accordance with Applicable Law.

(b) Any Futures Participant that is required to be registered as a futures commission merchant, an introducing broker, a broker or a dealer shall comply with the provisions of Commission Regulations §155.3, §155.4 or §41.42(a) or Exchange Act Regulation § 15c3-3, as applicable.

Section 7 Treatment of Customer Funds and Securities

Any Futures Participant that is required to be registered with any self-regulatory association shall comply with the provisions of Applicable Law relating to the treatment of Customer funds and the maintenance of books and records with respect thereto. A Futures Participant that violates any of the Commission Regulations or Exchange Act Regulations noted in Section 6 shall be deemed to have violated this Rule.

Section 8 Confirmations

Any Futures Participant that enters into a trade on behalf of a Customer shall promptly furnish, or cause to be furnished, to such Customer, no later than the Business Day immediately following the day on which such trade is entered into, a written confirmation of such trade in such form as the Exchange may from time to time prescribe, indicating the Contract bought or sold, the price, quantity, time of execution and such other information as the Exchange may require.

Section 9 Customer Statements

Each Futures Participant that enters into trades on behalf of Customers shall furnish, or cause to be furnished, as soon as practicable after the end of each month, a monthly statement of account to each of its Customers in accordance with applicable Commission Regulations or Exchange Act Regulations.

Section 10 Discretionary Accounts

(a) No Futures Participant or Authorized Trader which is a futures commission merchant or an introducing broker or an associated person thereof may directly or indirectly effect a transaction in a commodity interest for the account of any customer unless, prior to the transaction being effected, the customer or person designated by the customer (by use of a power of attorney or other authorization) to control the account:

- (1) specifically authorized the Futures Participant or associated person thereof to effect the transaction (a transaction is "specifically authorized" if the customer or person designated by the customer to control the account specifies:
 - (i) the precise commodity interest to be purchased or sold and
 - (ii) the exact amount of the commodity interest to be purchased or sold, or
- (2) authorized (by use of a power of attorney or other written authorization) the Futures Participant or associated person thereof to effect transactions in commodity interests for the account without the customer's specific authorization. Where discretionary trading has been authorized pursuant to this subparagraph (a)(2) with respect to an option customer account, the following additional requirements shall be complied with by a Futures Participant which is a futures commission merchant or an introducing broker:
 - (i) the Futures Participant or associated person thereof must ensure that the option customer is provided with an explanation of the nature and risks of the strategy or strategies to be used in connection with the option customer's account;
 - (ii) an officer, general partner, sole proprietor, or branch office manager of the Futures Participant (other than an individual authorized to exercise discretion in trading the account) must approve, in writing, the discretionary authority prior to any trading for the account involved;
 - (iii) the Futures Participant or associated person thereof must identify as discretionary each order for a discretionary account on the order at time of entry and an officer, general partner, sole proprietor or branch office manager of the Futures Participant (other than an individual authorized to exercise discretion in trading the account) must approve, initial and date all orders for a discretionary account; and
 - (iv) the Futures Participant must frequently review discretionary accounts; provided, however, that the provisions of subparagraphs (a)(2)(i)-(iv) shall not apply to any customer account:
 - (A) of a commodity pool, the operator of which is registered with the Commission as a commodity pool operator;

(B) where the person who has discretionary authority is the spouse, parent or child of the option customer; or

(C) which is an omnibus account of another futures commission merchant.

(b) All authorizations made pursuant to subparagraph (a)(2) must precisely define the terms of the discretionary power or authority.

Section 11 Transfer of Accounts

Upon written request from a Customer of his intention to transfer his account(s) from one Futures Participant to another, both Futures Participants shall expedite the transfer, provided that the transfer does not result in a change of ownership, in which case the transfer shall not be effected.

Section 12 Adjustment of a Customer Order

(a) No Futures Participant or Authorized Trader shall make any adjustment of a Customer's Order after the execution of such Order except to correct an error. Any loss resulting from an error or mishandling of an Order for a Customer must be borne by the Futures Participant which made the error, and any profits resulting from the error or mishandling of an Order shall ensure to the benefit of the Customer.

(b) Each Futures Participant shall maintain a separate file of adjustments, transfers and liquidations that were made pursuant to this Rule which shall be kept in accordance with the provisions of Section 1.

Section 13 Risk Disclosure Statement

Prior to opening an account for any Customer, a Futures Participant or Clearing Futures Participant that is registered with the Commission as a futures commission merchant or introducing broker must provide such Customer with (a) a written disclosure statement in the form approved by the Exchange for purposes of Commission Regulation §1.55, (b) the Uniform Electronic Trading and Order Routing System Disclosure Statement required by NFA (or similar disclosure statement required by a foreign Governmental Authority to which such Member is subject), and (c) any other disclosure statement from time to time required by the Exchange.

Section 14 Fraudulent or Misleading Communications

No Futures Participant shall make any fraudulent or misleading communications relating to the purchase or sale of any Contract.

Section 15 Responsibility for Customer Orders

(a) Futures Participant handling Orders for Customers shall exercise due diligence in the handling and execution of such Orders. Failure to act with due diligence shall constitute negligence. Futures Participants are prohibited from directly or indirectly guaranteeing the execution of an Order or any of its terms such as the quantity or price; provided that this sentence shall not be construed to prevent a Futures Participant from assuming or sharing in any losses resulting from an error or the mishandling of an Order.

(b) No Futures Participant shall adjust the price at which an Order was executed, nor shall it be held responsible for executing or failing to execute an Order unless such Futures Participant, as the case may be, was negligent or is settling a bona fide dispute regarding negligence, or as

otherwise permitted by the policies and procedures referred to in Chapter V, Section 5 (Transaction Nullifications or Modifications).

Reporting

Section 16 Reportable Positions

Each Futures Participant required to file any report, statement, form, or other information with the Commission pursuant to Commission regulations Part 15, 17, 18 or 20 concerning any Contract(s) must simultaneously file a copy thereof with the Exchange. Each Futures Participant must submit the report, statement, form, or other information to the Exchange in the form and manner designated by the Exchange.

• • • Interpretations and Policies: -----

.01 Large Trader Reports. Each Futures Participant shall submit to the Exchange daily reports of all Large Trader Reporting Levels as set forth by the Exchange. Positions at or above the reportable level in a particular expiration month of a futures contract trigger reportable status. For a person in reportable status in a particular contract, all positions, regardless of size, in any futures contract month must be reported.

Additionally, the daily Large Trader Reporting submission to the Exchange must include for each reportable account the EFRP volume bought and sold in the reportable instrument, by contract month.

Failure by an omnibus account or foreign broker to submit required information may result in a disciplinary proceeding and result in limitations, conditions or denial of access of such omnibus account or foreign broker to any Exchange market. Notwithstanding the above, Clearing Futures Participants carrying such accounts remain responsible for obtaining and providing to the Exchange information regarding the ownership and control of positions in circumstances where an omnibus account or foreign broker has failed to provide the information to the Exchange.

All large trader reports shall be submitted in a form acceptable to the Exchange, which may require that more than one large trader report be submitted daily.

Clearing Futures Participants, omnibus accounts and foreign brokers must provide the Exchange with the required CFTC Form 102A, 102B and/or Form 102S ("Identification of Special Accounts") accurately identifying the owners, controllers, controlled accounts and any additional information required for each reportable account within three Business Days of the first day that the account in question becomes reportable. Notwithstanding the three Business Day requirement, on the first day that an account becomes reportable, Clearing Futures Participants, omnibus accounts and foreign brokers must, at the direction of the Exchange, submit the following information: account type, reportable account number and names and addresses of the owners and controllers of the account.

Any material changes to the information previously provided to the Exchange will require the submission of a revised form within three Business Days of such changes becoming effective. Additionally, in the absence of any material changes, the Exchange may require the submission of a new form on a biennial basis for the maintenance of accurate records.

Section 17 Daily Trading Information

Each Futures Participant must file with the Exchange a report or reports concerning the Proprietary Account, Customer Accounts, or portions thereof of the Futures Participant as the Exchange may require to facilitate the Exchange's compliance with Commission regulation Part 16 or which the Exchange may otherwise deem necessary or appropriate.

Section 18 Open Interest Reporting

Clearing Futures Participants are required to accurately report open interest on a daily basis to The Options Clearing Corporation ("OCC") in the form required by OCC and pursuant to OCC Rules.

Section 19 Exchange Access to Position Information

(a) Without limiting any provision of these Rules, the Exchange shall have the authority to obtain from any Futures Participant information with respect to positions of such Futures Participant or any Customer of such Futures Participant. This authority shall include the authority to obtain information concerning positions maintained at other firms, and it shall be the obligation of a Futures Participant receiving such an inquiry to obtain such information from its Customer. In the event a Futures Participant fails to provide the requested information the Exchange, in addition to any other remedy provided in these Rules, may order that the Futures Participant liquidate the positions which are related to the inquiry.

(b) Any Futures Participant which owns, controls or carries for any Customer a 'reportable position' (as such term is used in Chapter III, Section 16) in any Contract that is cash settled by reference to the price of a contract or commodity traded in another venue, including another designated contract market, shall submit to the Exchange or its Regulatory Services Provider such position information which such Futures Participant or its Customer owns or controls in the reference contract or commodity on such other venue, in such form and manner as may be specified by the Exchange.

Section 20 Compliance with Commission Regulations

Any Futures Participant subject to Commission Regulation 1.10, 1.11, 1.12, 1.1.7, 1.18, 1.20, 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, 1.27, 1.28, 1.29, 1.30, 1.31, 1.32 or 1.36 that violates Commission Regulation 1.10, 1.11, 1.12, 1.17, 1.18, 1.20, 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, 1.27, 1.28, 1.29, 1.30, 1.31, 1.32 or 1.36 respectively, shall be deemed to have violated this Rule.

Business Conduct

Section 20 Disciplinary Action By Other Organizations

A Futures Participant shall immediately notify the Exchange in writing of any disciplinary action, including the basis therefor, taken against the Futures Participant or any person

associated with such Futures Participant by the Commission or by another self-regulatory organization.

Section 21 Just and Equitable Principles of Trade

A Futures Participant or Authorized Trader or person associated with or employed by a Futures Participant shall not engage in conduct inconsistent with just and equitable principles of trade.

Section 22 Information Requests

Each Futures Participant or Authorized Trader shall timely furnish such information as may from time to time be requested by the Board, any committee of the Board or the Exchange, or any employee of the Exchange, acting in the course of its, their, his or her duties.

Section 23 Information Sharing Agreements

The Exchange shall have the ability and authority to obtain any necessary information to perform any function described in Section 5 of the Commodity Exchange Act, including the capacity to carry out such international information-sharing agreements as the Commission may require.

Section 24 General Trading Standards and Prohibited Practices

(a) No Futures Participant may accept a Customer Order for submission to the Trading System unless the Futures Participant has provided the Customer with the Uniform Electronic Trading and Order Routing Systems Disclosure Statement or any successor disclosure published by the National Futures Association.

(b) No Futures Participant shall disclose the existence or terms of an Order not yet disseminated by the Exchange, except to representatives of the Exchange or Commission or otherwise for the sole, necessary, and appropriate purpose of executing the Order.

(c) No Futures Participant shall aggregate two or more Customer Orders, allocate trades, or provide for average price transactions among Customer Accounts except that average price transactions for an individual Customer are permissible as provided for Chapter V, Section 10.

(d) No Futures Participant shall knowingly submit to the Trading System or an Order for any Contract for the account of that Futures Participant or any account in which that Futures Participant has an interest while holding an Order of another Person for the same Contract on the same side of the market that is executable at the then current market price or at the price at which the Order is executable for the account of the Futures Participant or an account in which that Futures Participant has an interest.

(e) No Futures Participant shall exercise discretion and submit an Order to or through the Trading System for an account of another Person without the prior specific consent of that Person.

(f) No Futures Participant shall accept or submit any Order to or through the Trading System for an employee, agent, or other Person acting on behalf of another Futures Participant, or its associated Authorized Traders without the prior written consent of that other Futures Participant, which is filed with the Exchange. If an Order for another Futures Participant results in a transaction, then the Futures Participant through which the Order is submitted to the Trading System must promptly send a duplicate confirmation of the transaction to the Person providing the prior written consent of the other Futures Participant.

(g) Futures Participants and Authorized Traders shall not:

- (1) Engage in practices that may cause degradation of the Exchange's services or facilities, or that may cause a disorderly market, including but not limited to, unwarranted use of cancelling and resubmitting Orders;
- (2) Engage in pre-arranged transactions other than transactions executed in compliance with Chapter IV, Sections 11 (Block Trades) and 12 (Exchange for Related Positions) and Chapter V, Section 11 (Pre- Negotiated Business and Cross Transactions); or
- (3) Engage in acts, practices, or conduct contrary to the purposes of the Exchange or likely to bring the Exchange into disrepute. These prohibited practices include, but are not limited to:
 - (i) effecting a transaction in, or inducing the purchase or sale of, any Contract through any manipulative, deceptive, or fraudulent device or contrivance;
 - (ii) engaging in price manipulation or cornering of the market;
 - (iii) engaging in wash transactions (or other activities that may or may not involve the making of a Contract) that creates a misleading appearance of activity occurring on the Trading System and/or causes the reporting of a misleading price level;
 - (iv) engaging in accommodation transactions, by which one party enters into a Contract with another party knowing or having reason to know that such transaction was an attempt to conceal a trading abuse;
 - (v) engaging in "front-running" or "trading-ahead," where a party knowingly places an Order or executes a trade for a Contract while in possession of material nonpublic information concerning an imminent Block Trade or Customer Order;
 - (vi) engaging in "cherry picking," where a party assigns a trade for a Customer to the account of another Customer or party (for any reason, even if only temporarily, where the situation is not remedied) and the trade assigned to the other Customer or party is at a superior price than the trade price received by the Customer;
 - (vii) withdrawing, withholding, disclosing, or taking advantage of a Customer Order in whole or in part for the benefit of any other Person;
 - (viii) engaging in compensation trades, where one or more parties executes non-competitive trades to transfer money between accounts; and
 - (ix) engaging in conduct or practices detrimental to the best interests of the Exchange.
 - (x) engaging in any other manipulative or disruptive trade practices prohibited by the Commodity Exchange Act, as amended, or Commission regulations, including but not limited to, "spoofing," "improper cross trading," "money passes," and trading against a Customer Order

Section 25 Adherence to Law

No Futures Participant Trading Privilege Holder (including its Related Parties) shall engage in conduct in violation of Applicable Law, the Rules of the Exchange, the Rules of the Clearing Corporation (insofar as the Rules of the Clearing Corporation relate to the reporting or clearance of any transaction in Contracts) or any agreement with the Exchange.

Section 26 Sales Practice Rules

Without limiting the generality of Section 25, each Futures Participant (including its related parties) shall comply with any and all sales practice rules (including those relating to bunched Orders, opening and approval of accounts, suitability, use of discretion, supervision of accounts, risk disclosure document delivery, communications, monthly statements and confirmations, registration, qualification and continuing education, Customer complaints, prohibition against guarantees and profit sharing and money laundering) from time to time promulgated by the National Futures Association or rules which are hereby incorporated by reference.

Section 27 Prohibition of Misstatements

It shall be an offense to make any misstatement of a material fact to the Exchange, including the Board, any committee thereof or any director, officer or employee of the Exchange.

Section 28 Use of Trading Privileges

Neither a Futures Participant nor any of its Related Parties may access the Exchange in any way which could be expected to bring disrepute upon such Futures Participant or the Exchange.

Section 29 Supervision

Each Futures Participant shall be responsible for establishing, maintaining and administering reasonable supervisory procedures to ensure that its Related Parties and Customers comply with Applicable Law, the Rules of the Exchange and the Rules of the Clearing Corporation. A Futures Participant may be held accountable for the actions of its Authorized Traders.

Chapter IV Trading System

Section 1 Listed Contracts

The Exchange shall determine which Contracts are available for trading subject to the Rules of the Exchange from time to time, and approve Rules containing the specifications for such Contracts; provided that certifications or applications with respect to such Rules shall be submitted to the Commission as required by the Act and the Commission Regulations thereunder.

Section 2 Trading Days and Hours

(a) Except as provided in Chapter V, Sections 17 and 20 in this Chapter, the Exchange shall determine and post on its website the days on which the Exchange is open for business, the opening and closing hours of the market, and the opening and closing trading times for each Contract. The Exchange shall from time to time determine the Exchange's Business Days and Trading Hours. The Exchange's Trading Hours shall include any regular and extended Trading Hours under the rules governing the relevant Contract. Except to the extent expressly permitted by the Rules of the Exchange, no Futures Participant shall make any bid or offer for, or engage in any transaction in, any Contract before or after such Trading Hours. Block and exchange for

related position ("EFRP") transactions are permitted outside of Trading Hours pursuant to Chapter IV, Sections 11 and 12.

(b) The Exchange may modify its regular Business Days and Trading Hours to close or to have shortened Trading Hours in connection with a holiday or a period of mourning.

(c) The Exchange may from time to time adopt procedures for the opening or closing of trading in any Contract.

Section 3 Acceptable Orders

Orders entered into the Trading System for display and/or execution, as appropriate, are executable against marketable contra-side Orders in the Trading System.

(a) Types of Orders accepted by the Trading System as follows:

(i) Market Order. A "Market Order" is an Order to buy or sell a stated number of Contracts at the best price available on the Exchange. Futures Participants can designate that their Market Orders be cancelled if the Order(s) remains unexecuted after a period of time, not to exceed 30 seconds, to be determined by the Exchange.

(ii) Limit Order. A "Limit Order" is an Order to buy or sell a stated number of Contracts at a specified price, or at a better price.

(iii) Day Order. A "Day Order" is an Order for any Contract that, unless executed, remains as an executable Order in the Trading System until the end of the Trading Hours for such Contract on which it is entered.

(iv) Good-`Till-Canceled Order. A "Good-`Till-Canceled Order" is an Order that, unless executed, remains in the Trading System until it is withdrawn by the Futures Participant (including its Authorized Traders) who placed it or the expiration date of the Contract to which it relates, whichever occurs first.

(v) One-Cancels-the-Other Order. A "one-cancels-the-other Order" shall mean an Order entered by a Futures Participant that consists of a buy Order and a sell Order treated as a unit; the full execution of one of the Orders causes the other to be canceled.

(vi) Wait Order. A "Wait Order" is an Order that upon entry into the Trading System is held for a period of time as defined in Chapter V, Section 11(d) without processing for potential display and/or execution. The Order is thereafter processed for potential display and/or execution in accordance with all Order entry instructions as determined by the entering party. Wait Orders may not have a designation of Good-`Till-Cancelled.

(vii) Contingency Orders. A "Contingency Order" is an Order that is contingent upon a condition being satisfied while the Order remains in the Trading System, and may be one of the following Order types:

- (i) All or None Order. An "All or None Order" is an Order which is to be executed in its entirety at its limit price or better. All or None Orders are treated as having a time-in-force designation of Immediate or Cancel.
- (ii) Fill or Kill Order. A "Fill or Kill Order" is an Order which is automatically cancelled unless executed in its entirety upon its receipt.
- (iii) Immediate or Cancel Order. An "Immediate or Cancel Order" is a Market Order or Limit Order which is automatically cancelled unless executed in whole or in part upon its receipt.
- (iv) Minimum Quantity Order. A "Minimum Quantity Order" is an Order which is automatically cancelled unless a specified minimum quantity of Contracts could be executed.
- (v) Post-Only Order. A "Post-Only Order" is an Order that will not remove liquidity from the System. Post-Only Orders are to be ranked and executed on the Exchange or cancelled, as appropriate. Post-Only Orders are evaluated at the time of entry with respect to locking or crossing other Orders. If a Post-Only Order would lock or cross an Order on the Exchange, the Post-Only Order will be re-priced to one minimum price increment below the current low offer (for bids) or above the current best bid (for offers). If the NASDAQ Best Offer is one minimum price increment greater than zero, a Post Only Order to buy would be rejected. Participants may choose to have their Post-Only Orders returned whenever the Order would be placed on the book at a price other than its limit price. Post-Only Orders may not be Wait Orders. Post-Only Orders may not have a designation of Good-`Till-Cancelled or Immediate or Cancel.

Section 4 Execution of Orders

(a) General. The Exchange shall designate for each Contract one of the following Order execution algorithms which shall apply to the execution of Orders by the Trading System:

- (i) Price-Time Priority Order execution algorithm. The Trading System shall execute Orders within the Trading System in price and time priority, meaning the Trading System will execute all Orders at the best price level within the Trading System before executing Orders at the next best price. Within each price level, if there are two or more Orders at the best price, an Order will be executed in the sequence in which it was received by the Trading System.
- (ii) Size Pro-Rata Priority Order execution algorithm. The Trading System shall execute Orders within the Trading System in price priority, meaning the Trading System will execute all Orders at the best price level within the Trading System before executing Orders at the next best price. Within each price level, if there are two or more Orders at the best price, an Order will be executed based on the size of each Futures Participant's Order as a percentage of the total size of all Orders resting at that price.

(a) Public Customer Priority: the highest bid and lowest offer shall have priority except that within a given price level Public Customer Orders shall have priority over non-Public Customer Orders. If there are two or more Public Customer Orders for the same Contract

at the same price, an Order will be executed in the sequence in which it was received by the Trading System, regardless of size.

(b) Market Maker Priority: After all Public Customer Orders have been fully executed, Market Makers Orders shall have priority over all other Orders at the same price. If there are two or more Market Maker Orders for the same Contract at the same price, an Order will be executed based on the Size Pro-Rata Priority Order execution algorithm.

(b) Cancel Replace Orders. Any Order that has been entered into the Exchange's Trading System may be modified or cancelled while on the Order Book. Only if the volume is reduced for an Order held in the Order Book will it retain its position in the time-priority queue, otherwise an Order is treated as a new Order for purposes of the time-priority queue.

(c) Decrementation. Upon execution, an Order shall be reduced by an amount equal to the size of that execution.

(d) Anonymity. The transaction reports produced by the Trading System will indicate the details of the transactions but shall not reveal contra party identities. A Futures Participant's identity will only be revealed by the Exchange in the following circumstances:

(i) when the Futures Participant's Clearing Futures Participant determines not to guarantee the settlement of the Future Participant's trades;

(ii) for regulatory purposes or to comply with an order of an arbitrator or court; and

(iii) if both Futures Participants to the transaction consent.

Section 5 Pre-Trade Risk Parameters

(a) The Authorized Risk Officer designated by the Clearing Futures Participant shall initially set and thereafter adjust, as appropriate, pre-trade risk parameters to a level that is appropriate for the trading activity of a Futures Participant, Authorized Trader or Authorized Customer for which the Clearing Futures Participant is the designated Clearing Futures Participant. The Authorized Risk Officer shall set and adjust pre-trade risk parameters by requesting settings in a form designated by the Exchange. Futures Participants should employ other necessary pre-trade risk controls in their order management systems. The Exchange will not issue an active Trader ID if an Authorized Risk Officer has not set pre-trade risk parameters for a specific Futures Participant, Authorized Trader or Authorized Customer.

(b) When pre-trade risk parameters have been met or exceeded, the Exchange's Trading System will reject all new Orders and remove all open Orders for the Futures Participant, Authorized Trader or Authorized Customer until the Authorized Risk Officer adjusts the pre-trade risk Parameters by sending such request to the Exchange in a form designated by the Exchange.

Section 6 Order Price Protection

Order Price Protection ("OPP") is a feature of the Trading System that prevents certain Orders at prices outside of pre-set standard limits from being accepted by the Trading System. OPP applies to all Limit Orders but does not apply to Market Orders.

(a) OPP is operational each Trading Day after the opening until the close of trading, except during trading halts. The Exchange may also temporarily deactivate OPP from time to time on an intraday basis at its discretion if it determines that volatility warrants deactivation. Futures Participants will be notified of intraday OPP deactivation due to volatility and any subsequent intraday reactivation by the Exchange through the issuance of Trading System status messages.

(b) The Exchange shall limit Orders that are accepted as follows:

(i) If the BBO on the contra-side of an incoming Order is greater than \$1.00, Orders with a limit more than 50% through such contra-side BBO will be rejected.

(ii) If the BBO on contra-side of an incoming Order is less than or equal to \$1.00, Orders with a limit more than 100% through such contra-side BBO will be rejected.

Section 7 Self-Match Prevention

Futures Participants may elect that Orders not be executed against Orders entered on the opposite side of the market by affiliated Futures Participants. In such a case, the Trading System will cancel the oldest of the Orders back to the entering party prior to execution. Self-Match Prevention is optional for Futures Participants.

Section 8 Order Spread Protection

Futures Participants may elect to have Orders rejected by the Trading System if the BBO is wider than a preset threshold at the time the Order is received by the Trading System. This feature applies to all Market Orders, but is optional for Limit Orders.

Section 9 Acceptable Trade Range

(A) The Trading System will calculate an Acceptable Trade Range, which for purposes of this Rule is a limit to the range of prices at which an Order will be permitted to execute for each Contract, as designated by the Exchange for a Contract. The Acceptable Trade Range is calculated by taking the reference price, plus or minus a value to be determined by the Exchange (i.e., the reference price - (x) for sell Orders and the reference price + (x) for buy Orders). Upon receipt of a new Order, the reference price is the NASDAQ BBO or the last price at which the Order is posted whichever is higher for a buy Order or lower for a sell Order.

(B) If an Order reaches the outer limit of the Acceptable Trade Range (the "Threshold Price") without being fully executed, it will be posted at the Threshold Price for a brief period, not to exceed one second ("Posting Period"), to allow more liquidity to be collected. Upon posting, either the current Threshold Price of the Order or an updated NASDAQ BBO for buy Orders or for sell Orders (whichever is higher for a buy Order/lower for a sell Order) then becomes the reference price for calculating a new Acceptable Trade Range. If the Order remains unexecuted, a new Acceptable Trade Range will be calculated and the Order will execute or post up to the new Acceptable Trade Range Threshold Price. This process will repeat until the Order is (i) executed, cancelled, or posted at its limit price or (ii) the Order has been subject to a configurable number of instances of the Acceptable Trade Range as determined by the Exchange not to exceed 10 iterations, in which case the Order will be returned.

(C) During the Posting Period, the Exchange will disseminate as a quotation: (i) the Threshold Price for the remaining size of the Order triggering the Acceptable Trade Range and (ii) on the opposite side of the market, the best price will be displayed using an indicator message which indicates it is not currently available for execution. Following the Posting Period, the Exchange will return to a normal trading state and disseminate its Best Bid and Offer.

Section 10 Risk Monitor Mechanism

The Trading System will maintain a counting program for each Futures Participant. When engaged, the counting program will count the number of contracts traded by market participant identifier designated for each Futures Participant, per contract, within a specified time period, not to exceed 15 seconds, established by each Futures Participant (the "Specified Time Period"). The specified time period will commence when a transaction occurs in a particular contract. This feature is optional.

(a) Risk Monitor Mechanism. The Specified Engagement Size is determined by the following: (A) For each contract, the counting program will determine the percentage that the number of executed contracts relative to the Futures Participant's total size at all price levels on a given side for that contract ("contract percentage") throughout the Specified Time Period; (B) The counting program will determine the sum of the contract percentages for the Contract ("Contract Percentage"); (C) Once the counting program determines that the Contract Percentage in B equals or exceeds a percentage established by the Futures Participant ("Specified Percentage"), the number of executed contracts in the Contract has met the Specified Engagement Size.

(b) Specified Engagement Size. The Specified Engagement Size is determined by the following: (A) For each contract, the counting program will determine the percentage that the number of executed contracts relative to the Futures Participant's total size at all price levels on a given side for that contract ("contract percentage") throughout the Specified Time Period; (B) The counting program will determine the sum of the contract percentages for the Contract ("Contract Percentage"); (C) Once the counting program determines that the Contract Percentage in B equals or exceeds a percentage established by the Futures Participant ("Specified Percentage"), the number of executed contracts in the Contract has met the Specified Engagement Size.

The Specified Engagement Size will be automatically offset by a number of contracts that are executed on the opposite side of the market in the same Contract during the Specified Time Period (the "Net Offset Specified Engagement Size"). Buy future executions will only be offset by sell future executions; buy put executions will only be offset by sell put executions; and buy call executions will only be offset by sell call executions.

The Net Offset Specified Engagement Size for each Contract is determined by offsetting the number of contracts executed on the opposite side of the market for each Contract during the Specified Time Period. The Risk Monitor Mechanism shall be engaged once the Net Offset Specified Engagement Size is for a net number of contracts executed among all contracts during the Specified Time Period that represents a Contract's percentage equal to or greater than the Specified Percentage, excluding Immediate or Cancel Orders submitted by the Futures Participant.

(c) Any marketable Orders that are executable against a Futures Participant's Orders that are received prior to the time the Risk Monitor Mechanism is engaged will be automatically

executed at a price up to the Futures Participant's size, regardless of whether such an execution results in executions in excess of the Futures Participant's Specified Engagement Size.

(d) The system will automatically reset the counting program and commence a new Specified Time Period when:

- (i) a previous counting period has expired and a transaction occurs in any Contract; or
- (ii) if prior to the expiration of the specified time period, the Futures Participant initiates a purge across all series in an option, then re-enters his/her bid or offer and a transaction occurs in any Contract.

* * * * *

Section 11 Block Trades

The Exchange shall designate the Contract in which Block Trades shall be permitted and determine the minimum quantity thresholds for such transactions. The following shall govern Block Trades:

A. A Block Trade must be for a quantity that is at or in excess of the applicable minimum threshold. Orders may not be aggregated in order to achieve the minimum transaction size, except by those entities described in Sections I. and J.

B. Each party to a Block Trade must be an Eligible Contract Participant as that term is defined in Section 1a(18) of the Commodity Exchange Act.

C. A Futures Participant shall not execute any Order by means of a Block Trade for a Customer unless such Customer has specified that the Order be executed as a Block Trade.

D. The price at which a Block Trade is executed must be fair and reasonable in light of (i) the size of the Block Trade, (ii) the prices and sizes of other transactions in the same Contract at the relevant time, (iii) the prices and sizes of transactions in other relevant markets, including without limitation the underlying cash market or related futures markets, at the relevant time, and (iv) the circumstances of the markets or the parties to the Block Trade.

E. Block trades shall not set off conditional Orders or otherwise affect Orders in the Order Book.

F. Futures Participants must ensure that each Block Trade is reported to the Exchange within five minutes of the time of execution; except that Block Trades executed outside of Trading Hours must be reported within fifteen minutes of the commencement of Trading Hours on the next Business Day for that Contract. The report must include the Contract, contract month, price, quantity of the transaction, the respective Clearing Futures Participants, the time of execution, and, for options on Futures, strike price, put or call and expiration month. The Exchange shall promptly publish such information separately from the reports of transactions in the regular market.

G. Unless otherwise agreed to by the principal counterparties to the Block Trade, it is the obligation of the Futures Participant to report Block Trades. The Futures Participant must ensure

that each Block Trade is reported to the Exchange within five minutes of the time of execution; except that Block Trades executed outside of Trading Hours must be reported within fifteen minutes of the commencement of Trading Hours on the next Business Day for that Contract. The Block Trade report made to the Exchange must include the following information: Contract, contract month, price, quantity of the transaction, the respective Clearing Futures Participants, the time of execution, and, for options on Futures, strike price, put or call and expiration month. Failure to timely and accurately report Block Trades may subject the Futures Participant to disciplinary action.

H. Clearing Futures Participants and Futures Participants involved in the execution of Block Trades must maintain a record of the transaction in accordance with this Chapter III, Section 1.

I. A commodity trading advisor (“CTA”) registered or exempt from registration under the Act, including, without limitation, any investment advisor registered or exempt from registration under the Investment Advisors Act of 1940, shall be the applicable entity for purposes of Sections A., B., C., and D., provided such advisors have total assets under management exceeding \$25 million and the block trade is suitable for the Customers of such advisors.

J. A foreign Person performing a similar role or function to a CTA or investment advisor as described in Section I, and subject as such to foreign regulation, shall be the applicable entity for purposes of Sections A., B., C., and D., provided such Persons have total assets under management exceeding \$25 million and the Block Trade is suitable for the Customers of such Persons.

Section 12 Exchange for Related Positions

An Exchange for Related Position (“EFRP”) transaction involves a privately negotiated off-exchange execution of an Exchange futures or options Contract and, on the opposite side of the market, the simultaneous execution of an equivalent quantity of the cash product, by-product, related product, or OTC derivative instrument corresponding to the asset underlying the Exchange Contract.

The following types of EFRP transactions are permitted to be executed outside of the Exchange’s centralized market in accordance with the requirements of this rule:

Exchange of Futures for Physical (“EFP”) – the simultaneous execution of an Exchange futures contract and a corresponding physical transaction or a forward contract on a physical transaction.

Exchange of Futures for Risk (“EFR”) – the simultaneous execution of an Exchange futures contract and a corresponding OTC swap or other OTC derivative transaction.

Exchange of Option for Option (“EOO”) – the simultaneous execution of an Exchange option contract and a corresponding transaction in an OTC option or other OTC instrument with similar characteristics.

For purposes of this rule, EFPs, EFRs and EOOs shall collectively be referred to as EFRP transactions.

538.A. Parties to an EFRP

One party to the EFRP must be the buyer of the Exchange Contract and the seller of (or the holder of the short market exposure associated with) the related position; the other party to the EFRP must be the seller of the Exchange Contract and the buyer of (or the holder of the long market exposure associated with) the related position. The Exchange Contract and the corresponding related position must be executed for accounts with the same beneficial ownership.

Notwithstanding the foregoing, a Futures Participant may facilitate, as principal, the related position component of an EFRP on behalf of a customer provided that the Futures Participant can demonstrate that the related position was passed through to the customer who received the Exchange Contract as part of the EFRP.

Parties to an EFR or EOO transaction must comply with all relevant CFTC regulations governing eligibility to participate in the related position component of such transactions.

538.B. Independently Controlled Accounts

The opposing accounts to an EFRP transaction must be (a) independently controlled accounts with differential beneficial ownership; (b) independently controlled accounts of separate legal entities with common beneficial ownership; or (c) independently controlled accounts of the same legal entity, provided that the account controllers operate in separate business units.

For EFRP transactions between accounts with common beneficial ownership, the parties to the trade must be able to demonstrate the independent control of the accounts and that the transaction had economic substance for each party to the trade.

538.C. Related Position

The related position component of an EFRP must be the cash commodity underlying the Exchange Contract or a by-product, a related product or an OTC derivative instrument of such commodity that has a reasonable degree of price correlation to the commodity underlying the Exchange Contract. The related position component of an EFRP may not be a futures Contract or an option on a futures contract.

Each EFRP requires a bona fide transfer of ownership of the underlying asset between the parties or a bona fide, legally binding contract between the parties consistent with relevant market conventions for the particular related position transaction.

The execution of an EFRP transaction may not be contingent upon the execution of another EFRP or related position transaction between the parties where the transactions result in the offset of the related position without the incurrence of market risk that is material in the context of the related position transactions.

538.D. Quantity Equivalence

The quantity of the related position component of the EFRP must be approximately equivalent to the quantity of the Exchange component of the EFRP. Appropriate hedge ratios between the Exchange and related position components of the EFRP may be used to establish equivalency.

538.E. Prices and Price Increments

The Exchange component of the EFRP transaction must be priced in accordance with the applicable futures price increments or option premium increments as set forth in the Rules governing the Exchange Contract.

EFRP's may be transacted at such commercially reasonable prices as are mutually agreed upon by the parties to the transaction. EFRPs may not be priced to facilitate the transfer of funds between parties for any purpose other than as the consequence of legitimate commercial activity.

538.F. EFRPs Following the Termination of Trading in Exchange Contracts

EFRP transactions in certain Exchange Contracts may be executed for a defined period of time following the termination of trading in accordance with the applicable product rules governing each Exchange Contract. Such transactions may be executed only to liquidate Exchange positions.

538.G. Recordkeeping

Parties to an EFRP transaction must maintain all records relevant to the Exchange Contract and the related position transaction, including order tickets, records customarily generated in accordance with relevant market practices, records reflecting payments between the parties and, where appropriate, transfer of title, as well as any other records required to be kept pursuant to CFTC Regulation 1.35. Brokers who facilitate EFRP transactions must maintain all records corresponding to their facilitation of the transactions.

Records related to EFRP transactions must be provided to the Exchange upon request. It shall be the responsibility of the carrying Clearing Futures Participant to obtain and submit the requested records of their clients to the Exchange on a timely basis.

538.H. Submission to the Clearing Corporation

Each EFRP transaction shall be submitted to the Clearing Corporation within the time period and in the manner specified by the Exchange and the Clearing Corporation in Appendix B of the Rulebook. In all cases, the record submitted to the Clearing Corporation must reflect the correct EFRP transaction type and must reflect the accurate date and time at which the relevant terms of the transaction were agreed upon by the parties to the trade.

An EFRP transaction submitted to the Clearing Corporation shall not be considered accepted by the Clearing Corporation until the transaction has cleared and the first payment of settlement variation and performance bond has been confirmed.

538.I. EFRP Volumes Required to be Reported with Daily Large Trader Positions

Each Clearing Futures Participant, omnibus account and foreign broker responsible for submitting daily large trader positions in accordance with Chapter III, Section 16 must submit for each reportable account the EFRP volume bought and sold in the reportable instrument. The information must be included in the daily Large Trader Report to the Exchange.

538.J. Immediately Offsetting EFPs in Foreign Currency Futures

EFPs in foreign currency futures wherein the parties immediately offset the cash transaction are permitted and the Exchange would expect to see confirmation statements issued by the bank/foreign exchange dealer party to the transaction. These confirmation statements should be the type normally produced by the bank/foreign exchange dealer for confirmation of currency deals and should indicate by name, the identity of the counter party principal to the transaction. However, in circumstances where the EFP Transaction is between a bank/foreign exchange dealer and a CTA, account controller, or other Person acting on behalf of a third party (such as a commodity pool or fund), the cash side confirmation statement must identify, at minimum, the name of the third party's carrying Clearing Futures Participant and the third party's account number (or other account specific designation), but need not identify the third party by name. These transactions are only permissible as EFPs in foreign currency futures and not in any other asset class or in EFRs or EOOs in foreign currency futures.

Chapter V Trading Procedures and Standards

Section 1 Authorized Traders and Trader IDs

(a) Each Futures Participant shall from time to time permit one or more individuals to act as its Authorized Traders. Each Authorized Trader shall satisfy such requirements as may be prescribed by the Exchange from time to time. Without limiting the generality of the foregoing, each Futures Participant shall ensure that (i) none of its Authorized Traders shall be subject to any statutory disqualification (unless an appropriate exemption has been obtained with respect thereto) and (ii) each of its Authorized Traders shall be technically proficient and shall conduct its business in a fair and equitable manner.

(b) Futures Participants shall not knowingly enter, or cause to be entered, bids or offers into the Trading System until the Futures Participant's Authorized Risk Officer has entered all required risk controls for its Authorized Traders, including Automated Systems, as provided in Section 5 of this Chapter. Notwithstanding the foregoing, the Futures Participant shall remain responsible in accordance with these Rules for the acts and omissions of any of its Authorized Traders, regardless of the level of risk controls set by the Futures Participant and the approval of such risk controls by the Exchange. The Exchange will not issue a active Trader ID to an Authorized Trader of a Futures Participant if an Authorized Risk Officer has not set pre-trade risk parameters to Chapter IV, Section 5.

(c) Each Futures Participant, in a form and manner prescribed by the Exchange, shall include an assigned Trader ID with every Order from that Futures Participant that is submitted to the Exchange. Additionally, Futures Participants shall mark each Order entered into the Exchange's Trading System with a CTI Code, Origin Code and Clearing Account Type Indicator and such other information as may be prescribed by the Exchange. (i) Each Futures Participant is responsible for all Orders submitted through its Futures Participant Exchange Account by any Persons associated with that Futures Participant. Each Futures Participant and Authorized Trader shall not knowingly enter, or cause to be entered bids or offers into the Trading System other than in good faith for the purpose of executing bona fide trades.

(d) Trader IDs are subject to the following requirements (except in relation to Automated Systems, with respect to which paragraph (e) below is applicable):

- (i) Each Trader ID shall represent
 - (A) the natural person physically responsible for entering the Order into the Trading System (if a natural person entered the Order into the Trading System); or
 - (B) the natural person physically responsible for entering the Order directly or indirectly into a system of or used by a Futures Participant that interfaces with the Trading System (if no natural person entered the Order into the Trading System and instead a natural person entered the Order directly or indirectly into a system of or used by a Futures Participant that interfaces with the Trading System)
- (ii) A Trader ID issued for a natural person may only be used by that natural person. A Trader ID issued for a natural person may not be used by any other natural person or entity and may not be used as the Trader ID for an Automated System.
 - (a) An Authorized Trader is responsible for transactions executed by or through the Futures Participant's Exchange Account. Each Authorized Trader must sign a written statement provided by the Exchange whereby the Authorized Trader consents to the jurisdiction of the Exchange and the Commission and agrees to observe and be bound by the By-laws and Rules of the Exchange, the Act, Commission regulations and related requirements, and all Exchange regulatory and operational guidance and procedures. Among other duties and responsibilities that the Exchange may impose, an Authorized Trader must:
 - (1) Have the authority to modify or withdraw any Order entered under the Authorized Trader's Trader ID;
 - (2) Have the ability to identify immediately for the Exchange the sources of all Orders submitted under the Authorized Trader's Trader ID; or
 - (3) Ensure that any Person conducting business under a Futures Participant's associated Trader IDs are competent and appropriately trained.
 - (iii) No Futures Participant, Authorized Trader or Person associated with a Futures Participant shall submit an Order to the Trading System unless the Order is submitted with a Trader ID attached in the manner, format, and following the procedures established by the Exchange. Each Futures Participant and Authorized Trader of a Futures Participant must reasonably ensure that no Trader ID is used by any Person not so authorized by the Futures Participant pursuant to these Rules.
- (e) Trader IDs are subject to the following requirements in relation to Automated Systems:
 - (i) Each Order originating from an Automated System that is submitted to the Trading System shall include a Trader ID for that Automated System.
 - (ii) A Trader ID issued for an Automated System may only be used for that Automated System. A Trader ID issued for an Automated System may not be used for any other Automated System and may not be used as the Trader ID for any natural person or entity.

- (f) Each Futures Participant shall comply with the following issuance, recordkeeping, and reporting requirements related to Trader IDs:
- (i) Each Trader ID issued for a natural person or Automated System for inclusion with any Order from the Futures Participant that is submitted to the Trading System shall be unique, and shall not be associated with more than one natural person or Automated System.
 - (a) Each Futures Participant must provide to the Exchange the name, title, telephone number and other information for its Authorized Traders, including other emergency contacts, in the manner, format, and following the procedures established by the Exchange.
 - (ii) Each Futures Participant shall collect and maintain accurate, complete, and up-to-date records with the following information for each Trader ID issued for a natural person or Automated System for inclusion with any Order from the Futures Participant that is submitted to the Trading System.
 - (A) a clear identification of whether the Trader ID is issued for a natural person or Automated System;
 - (B) if the Trader ID is issued for a natural person, the name, address, telephone and e-mail contact information, and position or relationship to the Futures Participant;
 - (C) if the Trader ID is issued for an Automated System, the name, address, telephone and email contact information, and position or relationship to the Futures Participant of the head operator of the Automated System;
 - (D) and any other related information as may be prescribed by the Exchange.
 - (iii) Each Futures Participant shall provide to the Exchange in a form and manner prescribed by the Exchange information requested by the Exchange regarding any Trader IDs and the natural persons and Automated Systems for which they have been issued for inclusion with any Order from the Futures Participant that is submitted to the Trading System. The information requested relating to an Automated System may include, among other things, information regarding the head operator and other individuals that operate the Automated System and the type of models, algorithms, programs, and systems utilized by the Automated System.
 - (iv) Each Futures Participant shall promptly report to the Exchange in a form and manner prescribed by the Exchange any new or amended information regarding Trader IDs.
 - (v) Each Futures Participant shall maintain or cause to be maintained audit trail information for all Orders entered into the Trading System, including Order modifications and cancellations. This audit trail must contain, at a minimum, all Order entry, modification, cancellation and response receipt time(s) as well as all Financial Information Exchange interface (FIX) tag information and Specialized Quote Interface (SQF) information, as applicable. Futures Participants are required to produce, upon request of the Exchange or its Regulatory Services Provider, the audit trail for all Orders submitted to the Exchange in a format prescribed by the Exchange.

(h) All written Orders and any other original records pertaining to Orders entered through the Trading System must be retained for five years and otherwise in accordance with the provisions of Commission Regulation 1.31. A Futures Participant shall retain all memoranda reflecting Orders for a Customer Account in accordance with Chapter III, Section 1 and shall retain those memoranda for the period required in Chapter III, Section 1. A Futures Participant receiving a Customer Order other than in the form of an electronic or written record must comply with the requirements of Commission regulation 1.35.

Section 2 Clearing

(a) The rights and obligations of purchasers and sellers of Futures, options on Futures and Security Futures cleared by The Options Clearing Corporation, including but not limited to rights and obligations in respect of clearing and settlement, variation payments and performance at maturity, shall be as set forth in the By-Laws and Rules of The Options Clearing Corporation.

(b) All transactions executed on or subject to the Rules of the Exchange must be cleared through The Options Clearing Corporation, including Block Trades and exchange for related positions ("EFRPs").

(c) The Options Clearing Corporation's default rules and procedures will govern in the event of a default by a Futures Clearing Participant.

Section 3 Establishment of Settlement Prices

The Exchange shall establish Daily and Final Settlement Prices at the times and using the methodology established by the Exchange as described in the Contract specifications. Such Daily Settlement Prices are subject to subsequent review and revision by the Clearing Corporation. The time set for determining the Daily Settlement Price or the Final Settlement Price need not coincide with the end of a Trading Day.

Section 4 Direct Access

Authorized Customers of any Clearing Futures Participant may access the Trading System directly, provided that the following provisions of this Rule are satisfied.

(a) The Clearing Futures Participant must be a futures commission merchant and the Customer Account must be held by the Clearing Futures Participant or a carrying broker maintaining an account for its Customers on an omnibus basis with the Clearing Futures Participant.

(b) The Clearing Futures Participant shall complete an application in the form supplied by the Exchange which requests, among other things, information pertaining to the Authorized Customer for which direct access to the Trading System is sought, a guarantee as to the performance of the Authorized Customer with respect to a Contract, as specified in Chapter II, Section 1, specifically guaranteeing the transactions of the Authorized Customer, information concerning Authorized Traders and an agreement executed by the Authorized Customer regarding usage of the Trading System in a form as prescribed by the Exchange.

(i) The Authorized Customer must not be presently enjoined by order, judgment or decree of any court of competent jurisdiction or of the Commission or the Securities and Exchange Commission or of any state securities authority or agency from engaging in or continuing

any conduct or practice in connection with the purchase or sale of any commodity, security, option or similar instrument.

(c) The Clearing Futures Participant will be required to designate at least two Authorized Risk Officers. Clearing Futures Participants must immediately notify the Exchange if an Authorized Risk Officer is no longer with the firm or if another individual should be designated.

(i) Clearing Futures Participants must keep Authorized Risk Officer, Authorized Customer and Authorized Customer's Authorized Trader information updated at all times.

(d) The Authorized Risk Officer will be required to designate pre-trade risk parameters as required by Chapter IV, Section 5.

(e) The Exchange shall provide an Authorized Customer's Authorized Traders a Trader ID to directly access the Trading System if all the qualifications and requirements in (a) through (d) of this Rule have been met.

(f) The Clearing Futures Participant shall remain responsible, in accordance with these Rules, for the acts and omissions of any of its Authorized Customers, regardless of the level of risk controls set by the Clearing Futures Participant and the approval of such risk controls by the Exchange.

(g) The Clearing Futures Participant is responsible for the financial obligations of each Authorized Customer for which it authorizes direct access with respect to all Orders entered and transacted as well as for compliance by the Authorized Customer with the Rules of the Exchange and compliance with Exchange procedures.

(h) With respect to each Authorized Customer for which a Clearing Futures Participant has authorized direct access, the Clearing Futures Participant shall: (i) take any and all actions requested or required by the Exchange with respect to such Authorized Customer, including, but not limited to, assisting the Exchange in any investigation into potential violations of Exchange Rules or of the Act, and requiring such Authorized Customer to produce documents, provide information, answer questions and/or to appear in connection with any investigation; (ii) suspend or terminate the Authorized Customer's access to the Exchange's Trading System if the Exchange determines that the actions of the Authorized Customer threaten the integrity or liquidity of any Exchange Contract, violate Exchange Rules or the Act, or if the Authorized Customer fails to cooperate in any investigation; (iii) suspend or terminate the Authorized Customer if the Clearing Futures Participant has reason to believe that the actions of the Authorized Customer threaten the integrity or liquidity of any Exchange Contract, violate the Rules or the Act, or if the Authorized Customer fails to cooperate in any investigation; and (iv) utilize such controls designed to facilitate the Clearing Futures Participant's management of financial risk as may be provided by the Exchange from time to time.

(i) A Clearing Futures Participant may revoke access to the Authorized Customer by notifying the Exchange in writing and receiving acknowledgment from the Exchange.

(j) The Clearing Futures Participant authorizing a connection to the Trading System is responsible for maintaining or causing to be maintained the audit trail for all Orders submitted to the Exchange; and producing, upon request of the Exchange or its Regulatory Services Provider, the audit trail for all Orders submitted to the Exchange by an Authorized Customer. Each

Authorized Customer connecting to the Trading System is responsible for maintaining or causing to be maintained the audit trail for all Orders submitted to the Exchange. A Clearing Futures Participant that has arrangements for a third party to maintain audit trail information on its behalf shall remain responsible for compliance with this Rule.

- (i) The audit trail shall be submitted in a format prescribed by the Exchange.
 - (ii) The Exchange or its Regulatory Services Provider may request additional details concerning the audit trail for certain Order types, such as Bunched Orders where the detail is not apparent.
 - (iii) The electronic audit trail must be maintained for a minimum of five (5) years. Upon the request of the Exchange, each Clearing Futures Participant and Authorized Customer must have the ability to produce to the Exchange the audit trail data in a format prescribed by the Exchange.
- (k) A Clearing Futures Participant that has actual or constructive notice of a violation or potential violation of the Rules or the Act in connection with the use of the Trading System by an Authorized Customer for which it provides access and fails to take appropriate action may be subject to disciplinary action under the Rules.
- (l) If a Clearing Futures Participant's permit is terminated by the Exchange or its trading privileges are suspended by the Exchange, all access to the Exchange's Trading System which is authorized by such Clearing Futures Participant shall automatically terminate on the effective date of the termination or suspension.

Section 5 Transaction Cancellations and Adjustments

- (a) The Exchange, in its sole discretion, may unilaterally, regardless of whether a request has been made, either cancel a transaction or adjust the execution price of a transaction in a contract (1) that has taken place outside the non-reviewable range designated for a Contract; and (2) which the Exchange determines has taken place at an unrepresentative price or when necessary to mitigate market disrupting events caused by malfunctions in its Trading System or errors in Orders submitted by Futures Participants.
- (b) When determining whether to cancel or adjust a transaction the Exchange may consider one or more of the following factors:
- (1) the price movements in other Contract months of the same Contract;
 - (2) the current market conditions, including levels of activity and volatility;
 - (3) the last trade price for the Contract;
 - (4) information regarding price movements in related markets, the release of economic data, or other relevant news immediately before or during the trading session;
 - (5) an obvious error;

- (6) the proximity of the trade to the close of the market;
- (7) the impact of the error transaction on other transactions; and
- (8) any other factor which the Exchange, in its sole discretion, may deem relevant.

(c) A Futures Participant that executes a transaction in a Contract in error, at an unrepresentative price which is outside the non-reviewable range designated by a Contract, may, within 10 minutes of the Order execution, contact the Exchange to seek to cancellation or an adjustment pursuant to section (a). Trades executed within the non-reviewable range will not be cancelled or adjusted. Any trade where the only error is the number of contracts traded and not the price at which they traded will not be subject to cancellation. The Exchange has the authority, but not the obligation, to review a trade after its execution if it determines that the trade price was egregiously out of line with fair value. The Exchange will make the final decision on whether a trade price is cancelled or adjusted. The Exchange will notify all Futures Participants as soon as practicable (through means deemed appropriate by the Exchange) of (1) trades that the Exchange is investigating pursuant to this Rule and (2) trades that the Exchange has cancelled or adjusted pursuant to this Rule.

(d) Mutual Agreement. The determination as to whether a trade was automatically executed at an erroneous price may be made by mutual agreement of the affected parties to a particular transaction. A trade may be cancelled or adjusted on the terms that all parties to a particular transaction agree. In the absence of mutual agreement by the parties, a particular trade may only be cancelled or adjusted as provided in this Rule.

Section 6 Market Maker Obligations

(a) The Exchange may from time to time approve one or more Futures Participants as Market Makers and allocate to such Market Makers such number and types of Contracts, as it may deem necessary or appropriate. Any and all such approvals or allocations may be reviewed, conditioned or terminated at any time in accordance with this Rule.

(b) A Futures Participant desiring to act as a Market Maker shall file an application with the Exchange in such form as the Exchange may from time to time prescribe. Market Makers shall be selected by the Exchange from among the applications from time to time on file with the Exchange, based on the Exchange's judgment as to which applicant or applicants is or are most qualified to perform the functions of a Market Maker. Factors to be considered in making such selection may include, but are not limited to, any one or more of the following:

- (i) the adequacy of each applicant's capital;
- (ii) each applicant's operational capacity;
- (iii) the trading experience of, and observance of generally accepted standards of conduct by, each applicant, in particular the individual or individuals who would represent such applicant in its capacity as a Market Maker (each, a "Market Maker Designee");
- (iv) the number and experience of support personnel of each applicant who will be performing functions related to its Market Maker business;

- (v) if applicable, the regulatory history of, and history of adherence to the Rules of the Exchange, rules of other self-regulatory organizations and applicable law by each applicant, in particular its Market Maker Designees;
- (vi) the willingness and ability of each applicant to promote the Exchange as the marketplace of choice;
- (vii) the market performance commitments of each applicant; and
- (viii) if applicable, any performance evaluations conducted pursuant to the Rules of the Exchange or rules of other self-regulatory organizations.

(c) In approving any applicant as a Market Maker, the Exchange may place one or more conditions or limitations on the approval, including but not limited to conditions concerning the capital, operations or personnel of such applicant, satisfaction of market performance commitments or benchmarks by such applicant, and the number or types of Contracts which may be allocated to such applicant. Unless earlier terminated pursuant to subsection (d) below, approval to act as a Market Maker shall be for a one year period, after which the Futures Participant may once again request approval to be a Market Maker pursuant to this rule for another year. There shall be no limit to the number of one year periods for which a Futures Participant may request approval to act as a Market Maker.

(d) Each Futures Participant approved as a Market Maker shall retain such status for a period up to one year or until it resigns as a Market Maker and the Exchange relieves such Market Maker of its obligations to act as Market Maker, or the Exchange suspends or terminates such Market Maker's status.

(e) In allocating Contracts to Market Makers approved in accordance with the above, the Exchange may: (i) consider any relevant information, including but not limited to performance, volume, capacity, market performance commitments, operational factors, efficiency, competitiveness and recommendations of committees of the Board or of the Exchange; (ii) place one or more conditions or limitations of the type specified in paragraph (c) above on the approval; or (iii) allocate any Contract to more than one Market Maker.

(f) No Market Maker may sell, transfer or assign any of its rights or obligations as a Market Maker (including but not limited to its allocation of any Contracts by virtue of its status as a Market Maker) without the prior written approval of such sale, transfer or assignment (including but not limited to the approval of the Person to which such rights, obligations or allocation are intended to be sold, transferred or assigned) by the Exchange. Any purported sale, transfer or assignment in violation of the foregoing sentence shall be void from the outset. For purposes of this paragraph (f), the following transactions shall be deemed to constitute a transfer of a Market Maker's rights or obligations:

- (i) Any sale, transfer or assignment of five percent of the equity or profits or losses of a Market Maker (or any series of smaller changes that in the aggregate amount to a change of at least such percentage); provided that any sale, transfer or assignment of an interest of less than such percentage may be found by the Exchange to constitute a transfer of a Market Maker's rights or obligations if the particular facts and circumstances warrant such a determination;

- (ii) Any change in, or transfer of, control of a Market Maker; and
 - (iii) Any merger, sale of assets or other business combination or reorganization involving a Market Maker.
- (g) The Exchange may from time to time evaluate a Market Maker's performance with respect to, among other things, one or more of the following: quality of markets, market share (taking into account all contracts similar to the relevant Contract or Contracts), administrative factors and observance of ethical standards. In this connection, the Exchange may consider any relevant information, including but not limited to market share and trading data, a Market Maker's regulatory history and such other factors and data as may be pertinent under the circumstances.
- (h) The Exchange may terminate, place conditions upon or otherwise limit a Futures Participant approval to act as a Market Maker or a Market Maker's allocation of Contracts, under any one or more of the following circumstances:
- (i) if the Exchange finds in connection with an evaluation under paragraph (g) above that such Futures Participant's performance as a Market Maker has been unsatisfactory;
 - (ii) if such Futures Participant becomes subject to a material financial, operational or personnel change;
 - (iii) if such Futures Participant fails to comply with any conditions previously placed upon its approval as a Market Maker or its allocation of Contracts or perform its obligations; or
 - (iv) if for any reason such Futures Participant is no longer eligible for approval as a Market Maker or to be allocated a particular number or type of Contracts.
- (i) Each applicant for approval as a Market Maker pursuant to the above shall be given an opportunity to present any matter which it wishes the Exchange to consider in conjunction with the application. Prior to taking any remedial action against a Market Maker pursuant to the above, such Market Maker shall be given notice thereof and an opportunity to present any matter which it wishes the Exchange to consider in determining whether to take such action. The Exchange may require that any presentation under this paragraph be made partially or entirely in writing, and may require the submission of additional information from any Person wishing to make a presentation under this paragraph. Formal rules of evidence shall not apply to any proceeding involving such a presentation. Notwithstanding the foregoing, the Exchange shall have the authority to immediately terminate, condition or otherwise limit a Futures Participant approval to act as a Market Maker in accordance with the above, without prior notice or opportunity to make a presentation under this paragraph, if the financial, operational or personnel change in question warrants such action.
- (j) Market Makers shall have no obligation to submit bids and offers. However, when and if they are submitting bids and offers for which they are approved as a Market Maker, they are required to submit a two-sided market (bid and offer) in all Contracts unless a specific obligation is specified with respect to submitting a bids and offers for a Contract.

Section 7 Customer Price Improvement Obligations

(a) A Futures Participant that obtains a better price executing a Customer Order must offer the entire price improvement to the Customer, subject to Section (b).

(b) A Futures Participant that executes a Customer Order for the wrong Contract Month or price, but otherwise executes the trade consistent with the Customer's instructions (1) may offset any loss suffered from the erroneous trade against any improvement achieved for the Customer on a properly executed Order and (2) must offer any net improvement received to the Customer.

(c) If a Futures Participant fails to timely submit a Customer Order, then upon discovery of the error the Futures Participant (1) may promptly seek to execute the Customer Order at the best obtainable price without obtaining new instructions from the Customer, but (2) must report any resulting trade to the Customer at the price actually executed and provide any price benefit to the Customer. If a Futures Participant fails to timely submit a Customer Order and does not upon discovery promptly seek to and execute the Customer Order, then the Futures Participant must (1) notify the Exchange and Customer of the error and (2) provide the Customer with a monetary adjustment equivalent to the price at which the Customer Order should have been executed.

(d) If provisions of this Section conflict with any instructions of the Customer related to the Customer Order, then the instructions of the Customer prevail.

Section 8 Customer Order Error Correction Procedures

If a Futures Participant discovers an error in the handling of an Order for a Customer after the relevant trade is completed, and the Order cannot be executed in the market at a price which is better than or equal to that at which the Order should have been executed, such Futures Participant will make cash payments or other adjustments as are appropriate to rectify the error. Upon the request of a Futures Participant that failed to execute or made an error in executing or reporting a Customer Order, the Exchange may, in its sole discretion, permit the correction of the error to protect the interest of the Customer. Any violation of this Rule or the purpose of taking advantage of an Order or Orders will constitute conduct which is inconsistent with just and equitable principles of trade.

Section 9 Customer Margin

(a) Definitions: Only for purposes of Customer Margin, the following definitions will apply:

Customer

An account holder trading in any commodity contract, except the holder of a proprietary account as defined by CFTC Regulation 1.17(b)(3), or Non-Customer account as defined by CFTC Regulation 1.17(b)(4).

Margin Call

A request for Margin funds to bring an account up to the original margin requirement when margin equity in the account is less than the maintenance margin requirement.

Non-Customer

An account holder trading in any commodity contract which satisfies the definition in CFTC Regulation 1.17(b)(4).

Omnibus Account

An account held in the name of a futures commission merchant or foreign broker that is utilized for placing and clearing trades of one (1) or more undisclosed Persons.

(b) General Rules:

- (1) No Clearing Futures Participant shall effect a transaction or carry a Customer Account without obtaining margin at the times, in the amounts, and in the forms required by this Rule.
- (2) If a Clearing Futures Participant fails to obtain and maintain the required minimum margin deposits for a Customer Account pursuant to this Rule, the Exchange may require that the Clearing Futures Participant immediately liquidate all or part of the positions in the Customer Account to decrease or eliminate the margin deficiency.
- (3) Nothing in this Rule prevents the Exchange, the Clearing Corporation, a Clearing Futures Participant from imposing margin rates or requirements on a Customer that are higher or more stringent than the rates or requirements imposed by this Rule.
- (4) Terms used in this Rule, but not otherwise defined by these Rules, have the meaning set forth in the Joint Audit Committee's Margins Handbook. In addition, a Clearing Futures Participant must follow the procedures specified in the Joint Audit Committee's Margins Handbook for the computation, issuance, collection, and offsets for margin calls and corresponding capital charges for the Clearing Futures Participant unless the Manual is inconsistent with these Rules, in which case these Rules prevail.

(c) Rates and Requirements:

- (1) The Clearing Corporation, pursuant to Commission Rule 39.13, shall determine the rates to be used to derive customer initial margin requirements for any Contract.
- (2) The Exchange will publish the minimum initial and maintenance margin requirements for each Contract, which shall be no less than the requirements established by the Clearing Corporation.
- (3) Any changes in Contract margin requirements will apply to both new and existing Contracts in a customer's account. The Exchange may, within its discretion, establish different maintenance margin rates or requirements for different types of accounts. The term "customer initial margin" has the meaning set forth in Commission Rule 1.3.

(d) Account Administration, Classification, and Aggregation:

- (1) Omnibus Accounts: A Futures Participant must calculate margin requirements for an omnibus account (whether domestic or foreign) on a gross basis and in accordance with the rules of the Clearing Corporation. However, a Futures Participant may impose maintenance

margin rates for positions in the omnibus account and need not impose the initial margin rates. To use spread or hedge margin rates, a Futures Participant must obtain a written representation from the omnibus account identifying the positions within the account that are spreads or bona fide hedges, and if a Clearing Member, comply with the rules of the Clearing Corporation.

(2) Bona Fide Hedge Accounts: For bona fide hedging transactions and positions as defined by Commission regulation 1.3(z)(1), a Futures Participant may impose maintenance margin rates for the transactions and positions and need not impose the initial margin rates if the Futures Participant has a reasonable basis to believe, and the Customer represents in writing that, the transactions or positions are for bona fide hedging.

(3) Aggregation:

(a) When determining margin requirements, margin calls and release of margin deposits, a Futures Participant may aggregate identically-owned accounts within the same regulatory account classification of Customer segregated, Customer secured and non-segregated.

(b) Except for omnibus accounts, a Futures Participant may calculate margin requirements on a net basis for concurrent long and short Contracts in identically-owned accounts within the same regulatory account classification.

(4) Extension of Credit: No Futures Participant shall extend or maintain credit to or for a Customer to evade or circumvent any requirements of this Rule. A Futures Participant may extend or maintain (or arrange for the extension or maintenance of) credit to or for a Customer to meet the margin requirements of this Rule only if the credit or loan is secured as defined by Commission regulation 1.17(c)(3) and the proceeds are treated by the Futures Participant in accordance with Commission Regulation §1.30.

(e) Type, Form, and Value of Margin Deposits:

(1) A Futures Participant must only accept the following assets, securities, or instruments as margin deposits, which must be and remain unencumbered by third party claims:

(i) U.S. dollars and foreign currencies,

(ii) U.S. government treasury and agency securities,

(iii) municipal securities,

(iv) readily marketable securities (which means securities traded on a "ready market" as defined by Securities and Exchange Commission rule 15c3-1(c)(11)),

(v) money market mutual funds that meet the requirements of Commission Regulation §1.25 (other than securities issued by the Customer or an affiliate of the Customer), and/or

- (vi) irrevocable letters of credit in a form, and issued by banks or trust companies, approved by the Clearing Corporation (other than letters of credit issued by the Customer or an affiliate of the Customer).
 - (2) Notwithstanding paragraph (1), the rules of the Clearing Corporation may limit acceptable margin deposits.
 - (3) If a Futures Participant accepts securities identified in this Rule as margin deposits, then the Futures Participant must value the securities at no greater than the current market value of the securities less any deductions specified by Securities and Exchange Commission rule 15c3- 1.
 - (4) A Futures Participant must not consider any guarantee of a Customer Account when determining whether required margin in that account is satisfied.
- (f) Margin Calls and Liquidation:
- (1) Once additional margin deposits are required pursuant to this Rule or a Rule of the Clearing Corporation, as applicable, a Futures Participant must call for the additional margin as promptly as possible and in any event not more than one business day after the event giving rise to the call. Once the Futures Participant calls for the additional margin, the Futures Participant must collect the full amount of the required additional margin from a Customer as promptly as possible and in any event within a reasonable time. In a margin call, a Futures Participant must require that a Customer deposit additional margin so that the Customer's account at least meets the minimum initial margin requirement (i) when the margin equity in the account initially falls below the minimum maintenance margin requirements and (ii) subsequently when the margin equity plus existing margin calls on the account are less than the minimum maintenance margin requirements.
 - (2) After a margin call is made by a Futures Participant but before the Customer makes the required additional margin deposit, the Futures Participant may only accept an Order from the Customer to establish a new position if the Futures Participant reasonably believes that the Customer will meet the outstanding margin call within a reasonable time. If a margin call to a Customer is outstanding for an unreasonable time, a Futures Participant may only accept Orders from the Customer that will reduce the Customer's margin requirements.
 - (3) After a margin call is made by a Futures Participant, if the Customer fails to deposit the required additional margin deposit within a reasonable time, the Futures Participant may, but is not required to, liquidate all or a portion of the Customer's positions to restore the Customer's account to a properly margined level. However, the inability of a Futures Participant to liquidate all or a portion of the Customer's positions before the account equity results in a debit or deficit balance does not affect any liability of the Customer to the Futures Participant.
 - (4) A Futures Participant must make and retain a written record of the date, time, amount, and other relevant information for all margin calls made (whether made by telephone, in writing, or by other means) as well as margin calls reduced, satisfied, or relieved.

(5) A Futures Participant that liquidates all or a portion of the Customer's positions pursuant to this Rule is not deemed to have extended credit or made a loan to the Customer in violation of this Rule.

(g) Release of Margin: A Futures Participant may only release free funds in connection with a Customer Account if after release the Customer Account has at least free funds at the initial margin requirement level, provided however that a Clearing Member may not release free funds except in compliance with the Rules of the Clearing Corporation.

Section 10 Average Price Transactions

A Futures Participant that is a registered as a futures commission merchant may confirm for a Customer Account an average price when multiple execution prices are received on an Order or series of Orders if all the following requirements are met:

- (a) The Customer has requested average price reporting and has received appropriate disclosure of the method used to calculate the average price.
- (b) Each Order is, or series of Orders are, for the same Customer Account or group of Customer Accounts.
- (c) Each Order is, or series of Orders are, for the same Contract, Contract Month, market direction (i.e., purchase or sale), and Order instructions pursuant to Chapter IV, Section 3.
- (d) Each individual trade is submitted to, and cleared by, the Clearing Corporation at the price executed.
- (e) The Futures Participant calculates and confirms the weighted average mathematical price by (1) multiplying the number of contracts purchased or sold at each execution price by that price; (2) adding the results together; and (3) dividing the sum by the total number of contracts. For a series of Orders, the Futures Participant may compute the average price based on each Order in the series. The Futures Participant may confirm to the Customer either the actual average price or an average price rounded up for a buy Order, or rounded down for a sell Order, to the nearest price increment.
- (f) The applicable confirmation and monthly account statement provided to each relevant Customer indicates that the price represents an average price.
- (g) The Futures Participant does not average its proprietary trades with Customer trades that are subject to average price calculations.
- (h) The Futures Participant creates and maintains records (in accordance to Commission regulation 1.31) to support its average price calculations pursuant to this Rule and the allocations into Customer Accounts and makes those records available for inspection by the relevant Customers upon request.

Section 11 Pre-Negotiated Business and Cross Transactions

(a) Except as otherwise provided for in Chapter IV, Section 11, a Futures Participant may only execute Cross Transactions or seek to match an Order through pre-negotiation with itself or with its other Customers in accordance with this Rule.

(b) When pre-negotiating and executing a Cross Transaction for a Customer, a Futures Participant must (1) obtain a prior written consent from the Customer which is either a generic or transaction specific consent and (2) act with due skill, care, and diligence, and ensure that the Customer's interests are not prejudiced.

(c) When submitting a Cross Transaction to the Trading System through this Rule, if only one side of the transaction is a Customer Order, then the Futures Participant must submit the Customer Order first to the Trading System.

(d) If a bid and an offer for a Contract Month does not exist in the Trading System, then before submitting Orders in the relevant Contract Month that have been pre-negotiated, a Futures Participant must (1) submit one Order (in compliance with Section (c), if applicable), (2) wait five seconds for futures and eight seconds for options, and (3) submit the second Order for the relevant Contract Month. Because both Orders submitted pursuant to this Rule are exposed to the market, the Trading System may not necessarily match the two Orders.

(e) A Person must not enter a bid and/or offer into the Trading System in an attempt to circumvent the requirements of this Section.

Section 12 Bunched Orders

(a) For post-execution allocation of a Bunched Order, a Futures Participant acting as an Eligible Account Manager (as defined by Commission regulation 1.35(b)(5)), need not provide, at the time of either Order entry or report of Order execution, specific Customer Account identifiers for accounts included in a Bunched Order, if the Futures Participant complies with the requirements of Commission regulation 1.35(b)(5), as applicable.

(b) A Futures Participant that executes Bunched Orders or carries accounts eligible for post execution allocation of Bunched Orders must maintain records that, as applicable, identify each Bunched Order subject to post-execution allocation and the accounts to which Contracts executed for the Bunched Order were allocated, as required by Commission regulation 1.35(b)(5).

Section 13 Position Limits and Position Accountability

(a) Unless otherwise provided by this Section, no Person shall own or control, separately or in combination, a net long position or a net short position in a Contract in excess of any position limit established by Commission regulations or the Exchange and as designated for a Contract. No Futures Participant shall effect a transaction in a Contract that the Futures Participant knows or has reason to believe would result in the Futures Participant, a Customer, or any other Person holding or controlling, separately or in combination, a net long position or net short position in excess of a position limit established by Commission regulations or the Exchange.

(b) To determine whether a Person is complying with any position limit or accountability reporting requirement established by the Exchange or Commission regulations (1) all positions in accounts for which a Person, by power of attorney or otherwise, directly or indirectly holds positions or controls trading shall be aggregated and (2) positions held by two or more Persons acting pursuant to an expressed or implied agreement or understanding shall be aggregated as if the positions were held by a single Person.

(i) An 'eligible entity', as defined in CFTC Regulation 150.1(d) need not aggregate its positions with the eligible entity's client positions or accounts carried by an authorized 'independent account controller', as defined in Regulation 150.1(e), provided that the positions are not held in the spot month during such time as a notice period or spot month position limit is in effect. If an independent account controller is affiliated with an eligible entity or another independent account controller, each of the affiliated entities must comply with the requirements specified in CFTC Regulation 150.3(a)(4)(i)(A-D).

(c) The position limits in this Rule do not apply to bona fide hedging positions meeting the requirements of Commission regulation 1.3(z)(1). However, the Exchange may limit bona fide hedging positions or any other positions that have been exempted pursuant to Commission regulation 150.5(e) if the Exchange determines that the positions are not in accordance with sound commercial practices or exceed an amount which may be established and liquidated in an orderly manner.

(d) To request an exemption from Sections (a) through and including (c), a Person must apply to the Exchange pursuant to this Section (d) by providing the information requested and following the procedures established by the Exchange. When considering whether to grant an exemption, the Exchange will take into account the factors contained in Commission regulation 150.5(d)(1).

(e) (i) The Exchange may, at any time, require a person who owns or controls positions in contracts traded on or cleared by the Exchange and which are subject to position accountability rules to provide information relating to such person's position. Upon request by the Exchange, such person shall provide information relating to the positions owned or controlled by that person including, but not limited to, the nature and size of the position, the trading strategy employed with respect to the position, and hedging information, if applicable. If the person from whom such information is requested fails to provide the information as directed, the Exchange may order the reduction of such position.

(ii) An order to reduce an open position may also be issued by the Chief Regulatory Officer or his designee, if he determines in his sole discretion, that such action is necessary to maintain an orderly market.

(iii) A Clearing Futures Participant that carries positions for another person shall be responsible for taking reasonable and diligent actions to effect the timely compliance with any order issued pursuant to this rule upon notification of such order by the Exchange. All positions must be initiated and liquidated in an orderly manner.

(iv) A person who holds or controls aggregate positions in excess of specified position accountability levels pursuant to an approved exemption shall be deemed to have consented, when so ordered by the Exchange, not to further increase the positions, to

comply with any prospective limit which exceeds the size of the position owned or controlled, or to reduce any open position which exceeds position accountability or levels.

Section 14 Transfers of Positions

(a) A Clearing Futures Participant may transfer a position on its books to:

- (1) correct errors in an existing Contract, provided that the original trade documentation confirms the error;
- (2) transfer an existing Contract from one account to another within the same Futures Participant where no change in ownership is involved;
- (3) transfer an existing Contract from one Clearing Futures Participant to another Clearing Futures Participant where no change in ownership occurs; or
- (4) transfer an existing Contract through operation of law from death or bankruptcy.

(b) Upon written request, the Exchange may, in its sole discretion, allow the transfer of a position as a result of a merger, asset purchase, consolidation, or similar non-recurring transaction for an association, limited liability company, partnership, trust, corporation, or other entity.

(c) Clearing Futures Participants must transfer positions pursuant to this Rule at the same prices that appear on the books of the transferring Clearing Futures Participant, and the transfer must indicate the date when the original trade was made. Each Clearing Futures Participant that is a party to a transfer of positions must make and retain records stating the nature of the transaction, the name of the counter-party Clearing Futures Participant, and any other information required by the Clearing Corporation.

Section 15 Automated Order-Routing Systems

(a) If any Futures Participant provides any Customer, other Futures Participant, or any other Person access to an electronic or automated order-routing system that enables the submitting of Orders to the Exchange through the Futures Participant's system, then the Futures Participant must:

- (1) adopt and enforce written procedures reasonably designed to protect the reliability and confidentiality of Customer Orders and Customer Account information at all points during the Order-routing process, and assign responsibility for overseeing the process to individuals who understand how the Order-routing process works and who are capable of evaluating whether the process complies with relevant procedures;
- (2) adopt and enforce written procedures reasonably designed to maintain adequate personnel and facilities for the timely and efficient delivery of Customer Orders and reporting of executions, and to timely handle Customer complaints about Order delivery and reporting;
- (3) adopt and enforce written procedures reasonably designed to prevent the Order-routing system from being used to create undue financial risks for Futures Participant or its other Customers, including the Futures Participant's use of pre-trade risk limits or controls; and

(4) reasonably ensure that the Order-routing system has adequate operational capacity and that the operational capacity is consistent with the representations made by the Futures Participant to Customers, other Futures Participants, and other Persons.

(b) A Futures Participant is fully responsible for all Orders submitted directly to the Exchange through its electronic or automated Order-routing system as if the Futures Participant had placed each Order itself.

Section 16 Regulatory Trading Halts

The Exchange shall halt trading of broad-based index futures Contracts at any time that circuit breaker procedures are in place to halt or suspend trading in all equity securities trading on a national securities exchange or national securities association. After the triggering of circuit breaker procedures, the Exchange will resume trading of broad-based index futures Contracts only after trading has resumed in equity securities traded on a national securities exchange or national securities association.

Section 17 Restrictions on Message Traffic

At any time, the Exchange may, in its sole discretion, restrict the electronic transmissions or submissions to the Trading System by Futures Participants of Orders, modifications or cancellations of Orders, trade reports, and other messages or vice versa ("Message Traffic") to safeguard the operations or integrity of the Exchange or to preserve market integrity, fair and orderly trading, or the public interest or for the protection of investors.

Section 18 Access to the Trading System

(a) Misuse of the Trading System is strictly prohibited. It shall be deemed an act detrimental to the interest and welfare of the Exchange to either willfully or negligently engage in unauthorized access to the Trading System, to assist any individual in obtaining unauthorized access to the Trading System, to trade on the Trading System without proper authorization as described in these Rules, to alter the equipment associated with the Trading System, to interfere with the operation of the Trading System, to use or configure a component of the Trading System in a manner which does not conform to Exchange's agreements and procedures to intercept or interfere with information provided on or through the Trading System, or in any way to use the Trading System in a manner contrary to the Rules of the Exchange.

(b) All access denials, suspensions, expulsions and other restrictions imposed upon a Futures Participant, Authorized Trader or Authorized Customer by the Exchange pursuant to Exchange disciplinary procedures shall restrict with equal force and effect, access to, and use of, the Trading System.

(c) The Exchange, at its sole discretion, shall have the right to summarily terminate the connection of any Futures Participant or Authorized Trader. Additionally, the Exchange, at its sole discretion, shall have the right to direct a Futures Participant, Authorized Trader or Authorized Customer to immediately terminate access to the Trading System of any user.

Section 19 Trading Restrictions and Suspensions

(a) The President or his delegate is authorized at any time to restrict or suspend trading in any Contract if he believes that the restriction or suspension is necessary or appropriate to preserve market integrity, maintain fair and orderly trading, or otherwise further the public interest or for the protection of investors.

(b) Any trading restrictions or suspensions imposed pursuant to Section (a) may include without limitation:

(1) a change in the closing time and/or the time for determining the Daily Settlement Prices for that Trading Day; and/or

(2) a setting of Daily Settlement Prices by the President or his delegate based on the following:

(i) the mid-point of the NASDAQ Best Bid and Offer for the Contract Month immediately before the restriction or suspension;

(ii) if the mid-point of the NASDAQ Best Bid and Offer appears unrepresentative of fair market value, then the NASDAQ Best Bid and Offer will be adjusted by the last representative bid or offer; or

(iii) any other methodology deemed appropriate by the President or his delegate under the circumstances.

(c) The President or his delegate may lift a trading restriction or suspension imposed by this Rule if the President or his delegate believes that trading can resume on a fair and orderly basis and the public interest is served.

(d) No trading restriction or suspension imposed under this Rule shall continue for more than two business days (or as soon thereafter as a quorum of the Board can be assembled) unless the Board approves of the continuation of the restriction or suspension.

(e) Any trading restrictions or suspensions imposed under this Rule will be posted on the Exchange's website. The Exchange will document its decision-making process and the reasons for using its authority under this Rule, and consult with Commission staff as necessary and appropriate.

Section 20 Business Continuity

Futures Participants shall take appropriate actions as instructed by the Exchange to accommodate the Exchange's business continuity-disaster recovery plans and shall connect to the Exchange's disaster recovery site and participate in Exchange and industry business continuity-disaster recovery testing as and to the extent required by the Exchange.

Section 21 Proprietary Nature of Market Data

All Futures Participants, Authorized Traders and all employees, agents, vendors, and other Persons affiliated with the foregoing:

- (a) understand and acknowledge that the Exchange has a proprietary interest in Market Data, the NASDAQ Best Bid and Offer, and all related trade data and settlement prices relating to all Contracts traded through the Trading System and the Exchange; and
- (b) agree not to take any action contrary or detrimental to the Exchange's interest and to take reasonable measures to ensure that no such action is taken by any Person affiliated with them.

Section 22 Limitation of Liability

(a) Except for any party found to have engaged in willful or wanton misconduct, neither the Exchange (which for purposes of this Section includes its parents, subsidiaries and affiliates), its Futures Participants or Clearing Futures Participants, nor any of its or their respective officers, directors, employees, or agents shall be liable to any Person (including, but not limited to, a Customer) for any losses, damages, costs or expenses (including, but not limited to, loss of profits, loss of use, direct, indirect, incidental or consequential damages) arising from (1) any failure or malfunction of the Trading System or the Clearing Corporation or any Exchange services or facilities used to support the Trading System including but not limited to any user interface or any inability to enter or cancel Orders (the "the Trading System Complex"), or (2) any fault in delivery, delay, omission, suspension, inaccuracy or termination, or any other cause, in connection with the furnishing, performance, maintenance, use of or inability to use all or any part of the Trading System Complex. The foregoing shall apply regardless of whether a claim arises in contract, tort, negligence, strict liability or otherwise. The foregoing shall not limit the liability of any Futures Participant, Clearing Futures Participant, or any of their respective officers, directors or employees for any act, incident, or occurrence within their control. For purposes of this Section, the "the Trading System Complex" shall include any Exchange facilities or services used to support Block Trades, cross trades and exchange of futures for related positions pursuant to Chapter IV, Sections 11 and 12.

(b) No express or implied warranties or representations regarding the Trading System Complex are provided by the Exchange, including, but not limited to, warranties of merchantability and warranties of fitness for a particular purpose or use.

(c) Any dispute arising from the use of the Trading System or the Clearing Corporation in which the Exchange or any of its or their respective officers, directors, employees or agents is a party shall be construed and enforced in accordance with the laws of the State of Pennsylvania, without reference to that State's choice of law principles. Any actions, suits, or proceedings against any of the above must be brought within two years from the time that a cause of action has accrued, and any party bringing such action consents to the exclusive jurisdiction of the U.S. District Court for the Eastern District of Pennsylvania and the Court of Common Pleas of Philadelphia County, Pennsylvania, and waives any objection to venue and any right to trial by jury.

(d) This provision shall in no way create a cause of action and shall not authorize an action that would otherwise be prohibited by the Rules of the Exchange.

Chapter VI Disciplinary Rules

Section 1 Disciplinary Rules

(a) Any Futures Participant or Authorized Trader, or any person associated with any Futures Participant (the "Respondent") who is alleged to have violated or aided and abetted a violation of the By-Laws and Rules of the Exchange or any interpretation thereof, or the rules, regulations, resolutions and stated policies of the Board of Directors or any Committee of the Exchange, shall be subject to the disciplinary jurisdiction of the Exchange, and after notice and opportunity for a hearing may be appropriately disciplined by expulsion, suspension, fine, censure, limitation or termination as to activities, functions, operations, or association with a Futures Participant, or any other fitting sanction in accordance with the provisions of these disciplinary rules.

(b) A Futures Participant or a general partner, officer, director (or a person occupying a similar status or performing similar functions) of a Futures Participant or an Authorized Trader may be charged with any violation within the disciplinary jurisdiction of the Exchange committed by any person under his supervision or control or by the Futures Participant with which he is affiliated, as though such violation were its own. A Futures Participant may be charged with any violation within the disciplinary jurisdiction of the Exchange committed by its general partners, officers, directors, persons occupying a similar status or performing similar functions, or employees or by a Futures Participant, Authorized Trader or other person who is associated with such Futures Participant, as though such violation were its own.

(c) Any Futures Participant, Authorized Trader or any person associated with a Futures Participant, shall continue to be subject to the disciplinary jurisdiction of the Exchange following the termination of such Futures Participant or the termination of the employment by or the association with a Futures Participant of such person, or the deregistration of a Futures Participant from the Exchange; provided that the Exchange serves written notice to such party within one year of receipt by the Exchange of notice of such termination or deregistration that the Exchange is making inquiry into a matter or matters which occurred prior to such termination or deregistration.

(d) For the purpose of the Disciplinary Rules, the term "person associated with a Futures Participant" or "associated person of a Futures Participant" shall mean "an Authorized Trader or any general partner, officer, or director of such Futures Participant (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such Futures Participant, or any employee of such Futures Participant."

Section 2 Investigation and Authorization of Complaint

(a) Initiation of Investigation. The Exchange shall investigate possible violations within the disciplinary jurisdiction of the Exchange upon instruction of either the Board, the Business Conduct Committee, or other Exchange officials or upon receipt by the Exchange of a written accusation from a Futures Participant or from any person which specifies in reasonable detail the facts which are the subject of the accusation.

(b) Cooperation with Investigation or Examination. Each Futures Participant, or person associated with a Futures Participant shall promptly comply with any request of the Exchange's regulatory staff or the Exchange's Regulatory Services Provider, including the Enforcement

Department, or any officer of the Exchange for information, documents or testimony; each Futures Participant or person associated with a Futures Participant shall not otherwise impede or delay an Exchange investigation into matters within its disciplinary jurisdiction.

(c) Right to Counsel. A Futures Participant or person associated with a Futures Participant shall have the right to be represented by counsel or any other representative of its choosing in connection with requests for information, documents or testimony and throughout the course of any disciplinary proceeding and the review thereof or any hearing concerning a summary action. A member may not be represented by a member of the Exchange's Board of Directors or Hearing Panel, any employee of the Exchange or any person substantially related to the underlying investigations, such as a material witness or Respondent.

(d) Report. Whenever the staff of the Exchange has a reasonable basis to believe that a violation within the disciplinary jurisdiction of the Exchange has occurred, a written report shall be submitted to the Business Conduct Committee specifying the violations which are believed to have occurred and those facts which gave rise to these violations.

(e) Notice and Statement. Prior to submitting its report, the staff shall notify the person(s) who is the subject of the report ("Subject") of the general nature of the allegations and of the specific provisions of the Commodity Exchange Act, rules and regulations promulgated thereunder, or the Certificate of Incorporation, By-Laws or Rules of the Exchange or any interpretation thereof or any resolution of the Board regulating the conduct of business on the Exchange, that appear to have been violated. The staff shall also inform the Subject that the report will be reviewed by the Committee. The Subject may then submit a written statement to the Committee concerning why no disciplinary action should be taken. To assist a Subject in preparing such a written statement, he shall have access to any documents and other materials in the investigative file of the Exchange that were furnished by him or his agents.

(f)(i) Determination to Initiate Charges. Whenever it shall appear to the Business Conduct Committee that there is probable cause for finding a violation within the disciplinary jurisdiction of the Exchange and that disciplinary action is warranted, the Business Conduct Committee shall direct the staff of the Exchange to prepare a statement of charges. Whenever the Business Conduct Committee determines that violations within the disciplinary jurisdiction of the Exchange have not occurred or that disciplinary action is not warranted it shall so instruct the staff and its instruction not to initiate disciplinary action along with the reasons for not initiating such action shall be recorded in the minutes of the Business Conduct Committee.

Section 3 Statement of Charges

(a) The Statement of Charges shall set forth the specific provisions within the disciplinary jurisdiction of the Exchange alleged to have been violated, the persons or organization alleged to have committed each of the violations ("Respondents") and the specific acts which give rise to the alleged violations.

(b) A copy of the Statement of Charges shall be served upon each of the Respondents in accordance with Section 11 and shall reflect the timeframe to answer prescribed in Section 4 and the procedures to request a hearing specified in Section 5. The Statement of Charges shall state that the Respondent is entitled, upon request, to a hearing on the charges. A failure to request a hearing within the period of time prescribed in the notice, except for good cause, may be deemed

a waiver of the right to a hearing and that a failure to answer or to deny expressly a charge may be deemed to be an admission of such charge.

Section 4 Answer

(a) A Respondent shall have fifteen (15) business days after service of the Statement of Charges to file a written answer thereto. The Answer shall specifically admit or deny each allegation contained in the Statement of Charges, and a Respondent shall be deemed to have admitted any allegation contained not specifically denied. The Answer may also contain any defense which a Respondent wishes to submit and may be accompanied by documents in support of his Answer or defense. A Respondent must state in his Answer whether he requests a hearing concerning the Statement of Charges. In lieu of requesting a hearing, a Respondent may request that the matter be decided upon written submissions, whereupon the Hearing Panel shall decide whether to grant such request and determine a schedule for each party to make their respective submissions. A Respondent who does not request a hearing or that the matter be decided upon written submissions, shall be deemed to have waived his right to request a hearing or have his written submissions, other than the Answer and any documents in support of his Answer or defense, be considered by a Hearing Panel (as defined in Section 5). The Hearing Panel may thereafter prepare its decision in accordance with Section 8. A Respondent who does not so request a hearing shall be deemed to have waived his right to request a hearing and the Business Conduct Committee may thereafter prepare its decision in accordance with Section 8.

(b) In the event a Respondent admits a charge, fails to deny a charge or fails to file an Answer within the specified time, or has not within the specified time, requested and obtained from the Business Conduct Committee an extension of time to answer, the charges shall be considered to be admitted and the Business Conduct Committee may prepare its decision in accordance with Section 8. A hearing panel should impose a sanction for each violation found to have been admitted pursuant to Section 10. Any sanction imposed by the Hearing Panel must be communicated to the Respondent in writing in accordance with Section 8. The decision shall state that Respondent may request a hearing solely on the sanctions as prescribed in Section 5. If Respondent does not request a hearing within the time stated in the notice, the Respondent will be deemed to have accepted the sanction.

Section 5 Hearing

(a) Hearing Panels.

1. Request for a Hearing—A hearing on the Statement of Charges shall, at the request of Respondent in his Answer, or upon motion of the Business Conduct Committee or Enforcement Staff, be held before a Hearing Panel composed of three persons, one of whom shall be public and qualify as a Public Director. Should the hearing be at the request of the Respondent, Exchange staff must provide written notice to the Chair of the Business Conduct Committee or the Chair's designee which requests the naming of a Hearing Panel within 5 business days of receiving Respondent's request for a hearing.
2. Selection of Hearing Panel—The Chair of the Business Conduct Committee or the Chair's designee shall name a Hearing Panel within 10 business days of (i) receipt of notice from Exchange staff that Respondent has requested a hearing; or (ii) upon motion of the Business Conduct Committee for naming of a Hearing Panel, or (iii) upon Respondent's request that the matter be decided upon written submissions (as set forth in Section 4). In selecting a

Hearing Panel, consideration will be given to the composition of the Hearing Panel to insure that any group or class of industry participants does not dominate or exercise a disproportionate influence on the panel. Hearing Panelists shall not consist of individuals who are employed by the Exchange, serve on the Business Conduct Committee or otherwise have a conflict with respect to a particular matter. The Chair of the Business Conduct Committee or the Chair's designee shall then promptly notify Exchange staff and Respondent of the names of the members of the Hearing Panel.

3. Hearing Panel— The responsibilities of the Hearing Panel include, but are not limited to: presiding over hearings in contested disciplinary cases authorized by the Business Conduct Committee; conducting pre-hearing conferences; ruling on procedural or discovery matters; making all necessary evidentiary or other rulings; regulating the conduct of the hearing; imposing appropriate sanctions for improper conduct by a party or a party's representative; issuing decisions; and rendering decisions in connection with Summary Disposition Proceedings.

The Hearing Panelists will not be permitted to be involved in any manner in the investigation of possible misconduct, to participate in the consideration by the Business Conduct Committee of whether to institute a disciplinary action, to render a decision following a hearing without the concurrence of a majority of the Hearing Panel or rule upon requests to disqualify any member of the Hearing Panel.

The Hearing Panel shall be Futures Participant of the Exchange, or general partners or officers of Futures Participants, or such other persons whom the Chair of the Business Conduct Committee or the Chair's designee considers to be qualified. The Chair of the Committee or the Chair's designee shall select these three persons from individuals who have been deemed qualified to serve as a Hearing Panelist. In making such selections the Chair or the Chair's designee shall, to the extent practicable, choose individuals whose background, experience and training qualify them to consider and make determinations regarding the subject matter to be presented to the Hearing Panel. The Chair shall also consider such factors as the availability of the individual Hearing Panelists, the extent of their prior service on Hearing Panels and any relationship between such persons and a Respondent which might make it inappropriate for such persons to serve on the Hearing Panel.

After being designated as a qualified Hearing Panelist, each prospective Hearing Panelist shall complete a mandatory training session to be conducted by the Hearing Attorney. Qualified Hearing Panelists serve for three-year terms. If a Hearing Panelist wishes to continue serving after expiration of the term, the Hearing Panelist must submit an updated application for review and approval by the Business Conduct Committee.

4. Hearing Attorney - A Hearing Attorney shall assist the Hearing Panel in the discharge of its duties. The Hearing Attorney shall not have a vote in the Panel's disposition of the matter, but will advise the Panel on the application of the Disciplinary Rules, Guidelines for Sanctions, and relevant precedent. The Hearing Attorney will not be permitted to be involved in any manner in the investigation of possible misconduct, to participate in the consideration by the Business Conduct Committee of whether to institute a disciplinary action, to render a decision following a hearing without the concurrence of a majority of the Hearing Panel, rule upon requests to disqualify the Hearing Attorney or any member of the Hearing Panel, or issue citations for violations of Exchange rules.

5. Notice—Promptly after the selection of the Hearing Panelists, the Chair of the Business Conduct Committee or the Chair's designee shall cause written notice thereof to be given to the Respondent. If any person involved in the disciplinary proceeding shall have knowledge of a relationship between himself and any person selected for service on the Hearing Panel which might result in such Panelist being unable to render a fair and impartial decision, he shall give prompt written notice thereof to the Chair of the Business Conduct Committee or the Chair's designee, specifying the nature of such relationship and the grounds for contesting the qualification of such person to serve on the Hearing Panel. The decision of the Chair of the Business Conduct Committee or the Chair's designee shall be final and conclusive with respect to the qualification of any person to serve on the Hearing Panel.
6. Compensation of Hearing Panelists—Hearing Panelists appointed by the Chair of the Business Conduct Committee will be compensated for any hearing sessions, including pre-hearing conferences, and for one deliberation session per disciplinary proceeding for which a Hearing Panel renders a decision. The fixed and non-negotiable rate to be paid to the Hearing Panelists shall be the same for each hearing session that lasts four hours or less and for one deliberation session. A hearing session is defined as any meeting between the parties and the Hearing Panel. Hearing Panelists may be paid additional compensation in extraordinary cases, as determined by the Chair of the Business Conduct Committee in consultation with the Business Conduct Committee. Factors to be considered in determining whether a case is extraordinary include, but are not limited to, the anticipated and actual length of time of the hearing; the complexity and nature of the matter; and the magnitude of the potential penalty.
7. Hearing Panelist Availability—If a Hearing Panelist is unable to participate in the hearing for any reason, the Chair of the Business Conduct Committee shall appoint a qualified replacement Hearing Panelist for that hearing. The replacement Hearing Panelist will be selected from a pre-screened pool of qualified candidates.

(b) Notice of Hearing and Pre-Hearing Procedures.

1. Hearing Date—A hearing on the Statement of Charges shall commence no later than 120 days after the earlier of the date of filing of a written Answer by the Respondent wherein a hearing is requested or the date the Business Conduct Committee requests a hearing date. The 120 day deadline for the commencement of a hearing may be extended by the Hearing Panel for good cause.
2. Notice—The Respondent shall be given at least 15 business days notice of the time and place of the hearing and may appear personally at the hearing.
3. Requests for Adjournments—A request by the Respondent or Exchange staff for an adjournment of the hearing date shall be in writing and will be considered by the Hearing Panel for just cause. The Hearing Panel shall promptly consider the request for an adjournment for just cause, rule on the request and inform the parties, in writing if time permits, as to whether the request was, or was not, granted. In the event that the request for an adjournment for just cause is granted, the Hearing Attorney shall, at that time, schedule a new hearing date and so inform the parties of the new date.

4. Exchange of Evidence—Exchange staff and the Respondent shall furnish to the Hearing Panelists and to each other (i) copies of all documentary evidence each intends to present at the hearing, and (ii) a list of witnesses, including names, addresses and telephone numbers, that each intends to call at the hearing on such date as prescribed by the Hearing Panel, but in any event, not less than 8 business days in advance of the scheduled hearing date. Respondent shall be entitled to examine all books, documents, or other evidence in the possession or control of the Exchange, except the Exchange shall not be required to disclose: (i) documents that are privileged or constitute attorney work product; (ii) documents that were prepared by an employee of the Exchange but will not be offered in evidence at the hearing; (iii) documents that may disclose a technique or guideline used in examinations, investigations, or enforcement proceedings; and (iv) documents that disclose the identity of a confidential source. Exchange staff shall make all witnesses within its jurisdiction available to participate in the hearing and the Exchange shall produce evidence within its control.

5. Pre-Hearing Conferences-Where appropriate, the Hearing Panel shall schedule one or more pre-hearing conference(s) to be held not less than 8 business days in advance of the scheduled hearing date, to be attended by Exchange staff, each of the Respondents and the Hearing Panel. The pre-hearing conference shall be held for the purpose of clarifying and simplifying issues and otherwise expediting the proceeding. At such conference, and if they have not done so previously, Exchange staff and the Respondents shall furnish to the Hearing Panel and to each other (i) copies of all documentary evidence each intends to present at the hearing, and (ii) a list of witnesses, including names, addresses and telephone numbers, that each intends to call at the hearing. Exchange staff and Respondents shall also attempt to stipulate to the authenticity of documents and to facts and issues not in dispute, and any other items which will serve to expedite the hearing of the matter.

(c) Conduct of Hearing. The Hearing Panelists shall determine all questions concerning the admissibility of evidence and shall otherwise regulate the conduct of the hearing. Formal rules of evidence shall not apply. The charges shall be presented by the Exchange staff who shall be parties to the hearing and, along with Respondent, may present evidence and produce witnesses who shall testify under oath, cross-examine witnesses relevant to the Statement of Charges and shall be subject to cross examination and questioning by the Hearing Panel with respect to the charges that are the subject of the hearing. The Hearing Panel may, on its own motion, request the production of documentary evidence and witnesses and may also question witnesses. A transcript of the hearing shall be made and shall become a part of the record. The costs of the making of such a transcript, including, but not limited to, the costs for the court reporter, reproduction of the transcript and producing copies thereof, shall be equally borne by the Exchange and by Respondent. Exchange staff shall provide a copy of the transcript of the hearing to the Hearing Panel within 5 business days of receiving the transcript.

•• Interpretations and Policies: -----

.01 Intervention. Any person not otherwise a party may intervene as a party to the hearing upon demonstrating to the satisfaction of the Hearing Panel that he has an interest in the subject of the hearing and that the disposition of the matter, may, as a practical matter, impair or impede his ability to protect that interest. Also, the Hearing Panel may in its discretion permit a person to intervene as a party to the hearing when the person's claim or defense and

the main action have questions of law or fact in common. Any person wishing to intervene as a party to a hearing shall file with the Hearing Panel a notice requesting the right to intervene, stating the grounds therefor, and setting forth the claim or defense for which intervention is sought.

.02 The Hearing Panel, in exercising its discretion concerning intervention, shall take into consideration whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

.03 Attendance. Any person not otherwise a party, counsel or a representative of a party may not attend a hearing unless specifically allowed by the Hearing Panel.

Section 6 Summary Disciplinary Proceedings

(a) In lieu of commencing a "disciplinary proceeding" as that term is used in Sections 1-14, the Exchange may, subject to requirements set forth in this Rule, issue a warning for first-time violations or violators or impose a fine, not to exceed \$5,000, on any Futures Participant for any violation of a certain rules which are specified herein. In issuing a warning or imposing a fine, the Exchange shall have determined such a violation is minor in nature. Notwithstanding the foregoing, the Exchange may determine to consider any violation the subject of a disciplinary proceeding.

(b) In issuing a warning, no more than one warning letter may be issued per rolling 12-month period for the same violation.

(c) In imposing a fine, the person against whom a fine is imposed shall be served with a written statement, signed by an authorized official of the Exchange on behalf of the Business Conduct Committee, setting forth (i) the alleged violation; (ii) the act or omission constituting each such violation; (iii) the fine imposed for each violation; and (iv) the date by which such determination becomes final and such fine becomes due and payable to the Exchange or when such determination must be contested, as provided in paragraph (d) hereunder, such date to be not less than seven business days after the date of service of the written statement.

(d) If the person against whom a fine is imposed pursuant to this Rule pays the fine, such payment shall be deemed to be a waiver by such person of his right to a disciplinary proceeding under Sections 1-14 and any review of the matter by the Business Conduct Committee, an Exchange Hearing Panel, the Disciplinary Review Committee, or the Exchange Board of Directors.

(e) Any person against whom a fine is imposed pursuant to this Rule may contest the Exchange's determination by filing with the Department of the Exchange taking the action not later than the date by which such determination must be contested a written response meeting the requirements of an "Answer" as provided in Section 4, at which point the matter shall be referred to the Business Conduct Committee for its consideration and determination.

(f) The Committee may then (a) decide that the matter be dismissed and the notice of alleged violation be rescinded; (b) decide that the notice, as issued, is valid, whereupon the alleged

violator could either pay the fine or contest the matter before a Hearing Panel; (c) decide that the notice, as issued, should be modified to specify either a higher or lower fine than the one on the notice as issued, whereupon the alleged violator could either pay the new fine or contest the matter before a Hearing Panel; or (d) decide that the matter merits formal disciplinary action and authorize issuance of a Complaint, pursuant to Section 2.

(g) If a disciplinary proceeding thereafter results, and the Hearing Panel determines that the person has violated the rule as alleged, the Hearing Panel shall (a) be free to impose any disciplinary sanction provided for in Section 1-14 and (b) determine whether the violation is minor in nature.

(h) The following violations are subject to the provisions set forth in Section 6:

Failure to Comply with an Exchange Inquiry

Each Futures Participant or Authorized Person is required to promptly comply with any request of information made by the Exchange, or any other regulatory authority acting on behalf of the Exchange, in connection with any regulatory inquiry, investigation or examination relating to the Exchange's disciplinary jurisdiction or regulatory obligations.

For the purpose of this rule, information received within ten (10) business days from the date of the original request shall be deemed to meet the requirement of prompt compliance, except for purposes of Examinations Department requests, information received within two business days from the date of the original request shall be deemed to meet the requirement of prompt compliance.

The Exchange may under extenuating circumstances grant extensions to allow for responses beyond the allotted requirement. Requests for extensions must be submitted in writing to the appropriate department, prior to the due date of the outstanding request. Each additional request for information not furnished within the allotted time periods may be considered a separate occurrence for purposes of the fine schedule below.

FINE SCHEDULE (Implemented on a three year running calendar basis.)

1st Occurrence	\$1,000.00
2nd Occurrence	\$2,500.00
3rd and Thereafter	Sanction is discretionary with Business Conduct Committee

Section 7 Offers of Settlement

(a) At any time during a period not to exceed 120 days immediately following the issuance of a Statement of Charges, a Respondent may submit to the Business Conduct Committee a written offer of settlement which shall contain a proposed stipulation of facts and shall consent to specified sanctions. Where the Business Conduct Committee accepts an offer of settlement, it shall issue a written decision and impose sanctions consistent with the terms of such offer and may not alter such offer without the consent of the Respondent. An Offer of Settlement may be

approved with language which permits the Respondent to accept a sanction without either admitting or denying the rule violations upon which the sanction is based. The decision shall specify the rule violations the Business Conduct Committee has reason to believe were committed, the basis or reasons for the conclusions and any sanction to be imposed. If an Offer of Settlement is accepted without the agreement of the Enforcement Staff, the decision should adequately support the Hearing Panel's acceptance of the settlement. A Respondent may withdraw an Offer of Settlement at any time before final acceptance by the Business Conduct Committee. If an Offer of Settlement is withdrawn after submission, or is rejected by a Hearing Panel, the Respondent should not be deemed to have made any admissions by reason of the Offer of Settlement and should not be otherwise prejudiced by having submitted the Offer of Settlement. Sanctions shall be considered by the Business Conduct Committee in accordance with the considerations stated in Section 10.

(b) Where the Business Conduct Committee rejects an offer of settlement, it shall notify the Respondent in accordance with Section 11 and the matter shall proceed as if such offer had not been made, and the offer and all documents relating thereto shall not become part of the record.

(c) A decision of the Business Conduct Committee issued upon acceptance of an offer of settlement as well as its determination whether to accept or reject such an offer shall be final, and the Respondent may not seek review thereof. A copy of the decision shall be promptly served on the Respondents in accordance with Section 11.

•• Interpretation and Policies: -----

.01 If a Respondent submits an offer of settlement after the 120 day period, the Business Conduct Committee may consider such offer and determine appropriate sanctions as long as its consideration does not delay the hearing in the matter. If a Respondent submits an offer of settlement after the hearing has commenced, the Exchange staff shall promptly submit its position with respect to such offer of settlement. The Hearing Panel shall then determine whether to consider the offer of settlement and, if considered, whether to accept or reject such offer.

Section 8 Decision

(a) Except as provided in Section 7, the Hearing Panel shall review the entire record of the disciplinary proceeding or, if appropriate, the written submissions if the Hearing Panel granted the Respondent's request to decide the matter upon such written submissions. After this Review, the Hearing Panel, by a majority vote, shall determine based on the weight of the evidence contained in the record of the proceeding whether Respondents have committed violations and the appropriate sanctions, if any, therefor.

(b) The Hearing Panel shall thereafter issue a written decision in conformity with its determination, including in its decision: (i) a notice of the charges or a summary of the charges; (ii) the answer, if any, or a summary of the answer; (iii) a summary of the evidence produced at the hearing, or where appropriate, incorporation by reference of the investigation report; (iv) a statement of findings and conclusions with respect to each charge, and a complete explanation of the evidentiary and other basis for such findings and conclusions with respect to each charge; (v)

an indication of each specific rule that the Respondent was found to have violated; and (vi) a declaration of all sanctions imposed against the Respondent, including the basis for such sanctions and the effective date of such sanctions. The decision shall be prepared, absent extraordinary circumstances, within 60 days after Exchange staff has served the Hearing Panel with a copy of the transcript of the hearing. A copy of the decision shall be promptly served on the Respondents in accordance with Section 11. The decision will become the final decision of the Exchange unless that decision is appealed pursuant to Section 9.

Section 9 Review

(a) **Petition by Respondent.** A Respondent or Enforcement staff shall have ten (10) business days after service of notice and a copy of a decision made by the Hearing Panel to appeal such decision to the Board of Directors in accordance with Section 9. Such petition shall be in writing and shall specify the findings, conclusions or sanctions to which objection is taken in such decision, which is the subject of the petition, together with the reasons that Respondent petitions for review of these findings, conclusions or sanctions. Any objections to a decision not specified in the petition for review shall be thereafter waived. Within fifteen (15) business days after a Respondent's petition for review has been filed with the Secretary of the Exchange pursuant to Section 9, Enforcement staff may submit to the Secretary a written response to the petition. A copy of the response must be served upon the Respondent. A Respondent has fifteen (15) business days from the service of the response to file a reply with the Secretary and Enforcement staff.

(b) **Conduct of Review.**

(i) The review shall be conducted by the Board of Directors or an Advisory Committee thereof. If an Advisory Committee is appointed to conduct the review, it shall be composed of three Board members, one of whom shall be a Public Director. Any Board member who participated in a matter before the Business Conduct Committee may not participate in any review of that matter by the Board of Directors or an Advisory Committee. Unless the Board of Directors or the Advisory Committee shall decide to hear oral arguments, such review shall be based solely upon the record and written exceptions filed by the parties. The review shall be conducted as soon as is practicable. Except for good cause shown, the review shall be conducted solely on the record before the Hearing Panel, the written exceptions filed by the parties, and the oral or written arguments of the parties.

(ii) Should the Board of Directors conduct the review, then based upon such review, the Board of Directors by a majority vote of its members, shall decide to affirm, reverse or modify, in whole or in part the decision of the Hearing Panel. Such modification may include an increase or decrease of the sanction. The Board of Directors may not reverse, or modify, in whole or in part, the findings, conclusions and decision if the factual conclusions in the decision are supported by substantial evidence and such decision is not arbitrary, capricious or an abuse of discretion. The decision of the Board shall be in writing and pursuant to the provisions of Section 8(b) if the decision was reversed, or modified, in whole or in part from the decision of the Hearing Panel, shall be promptly served on the Respondent in accordance with Section 11, and shall be final and conclusive subject to Section 9(c) and (d), as well as the provisions of the Commodity Exchange Act.

(iii) Should the review be conducted by an Advisory Committee, the Advisory Committee shall submit a written report to the Board of Directors. In such report, the Advisory

Committee shall recommend to affirm, reverse or modify, in whole or in part, the decision of the Hearing Panel. Such modification may include an increase or decrease of the sanction. The Advisory Committee may not reverse, or modify, in whole or in part, the findings, conclusions or decision if the factual conclusions in the decision are supported by substantial evidence and such decision is not arbitrary, capricious or an abuse of discretion. The Board of Directors by a majority vote of its members, shall decide to affirm, reject or modify, in whole or in part the recommendations of the Advisory Committee. Such modification may include an increase or decrease of the sanction. The Board of Directors may not reverse, or modify, in whole or in part, the findings, conclusions and decision of the Advisory Committee if the factual conclusions in the decision are supported by substantial evidence and such decision is not arbitrary, capricious or an abuse of discretion. The decision of the Board shall be in writing, shall be promptly served on the Respondent in accordance with Section 11, and shall be final and conclusive subject to Section 9(c) and (d), as well as to the provisions of the Commodity Exchange Act.

(c) Review on Motion of Board of Directors. The Board of Directors may on its own initiative order review of a Hearing Panel decision within twenty (20) business days after notice of the decision has been served on the Respondent. Such review shall be conducted in accordance with the procedure set forth in paragraph (b) of this Rule. Should the Board of Directors vote to modify or reverse such decision, the Board shall make its own findings and issue a final decision of the Exchange. An Advisory Committee appointed by the Board of Directors may conduct such a review in accordance with the provisions of Section 9.

(d) Petition by Enforcement Staff. An appeal of a decision made by the Hearing Panel may also be taken by the Enforcement staff by petitioning the Board of Directors, within ten (10) business days after service of notice and a copy of the decision, for permission to proceed with such appeal. Such petition shall be in writing and shall specify the findings and conclusions of such decision, which are the subject of the petition, together with the reasons that Enforcement staff petitions for review of these findings and conclusions. Any objections to a decision not specified in the petition for review shall be thereafter waived. If permission to appeal is granted, staff shall serve a copy of the petition on the Respondent within five (5) business days of permission to appeal being granted. Within fifteen (15) business days Respondent may submit to the Board of Directors a written response to the petition. A copy of the response must be served upon the Exchange's Enforcement staff, who then has fifteen (15) business days from the service of the response to file a reply with the Board of Directors and the Respondent.

Section 10 Judgment and Sanctions

(a) Futures Participants and persons associated with or employed by Futures Participants shall (subject to any rules or order of the Commodity Futures Trading Commission) be appropriately disciplined for violations under these disciplinary rules by expulsion, suspension, fine, censure, limitations or termination as to activities, functions, operations, or association with a Futures Participant, or any other fitting sanction that are the subject of the Statement of Charges and commensurate with the violations the Respondent was found to have committed. Disciplinary sanctions must be sufficient to deter recidivism or similar violations by other members and member organizations. Disciplinary sanctions, including sanctions imposed pursuant to an accepted settlement offer, must take into account the Respondent's disciplinary history. In the event of demonstrated Customer harm, any disciplinary sanction must also include full Customer restitution, except where the amount of the restitution, or to whom it should be provided, cannot be reasonably determined.

(b) Effective Date of Judgment. Sanctions imposed under these disciplinary rules shall not become effective until the Exchange review process is completed or the decision otherwise becomes final. Pending effectiveness of a decision imposing sanctions on a Respondent, the Hearing Panel may impose such conditions and restrictions on the activities on such Respondent which it finds to be necessary or appropriate for the protection of the investing public, Futures Participants and the Exchange and its subsidiaries.

Section 11 Service of Notice and Extension of Time Limits

(a) Service of Notice. Any charges, notices, or other documents may be served upon a Respondent either personally or by deposit in the United States mail, postage pre-paid via registered or certified mail or by courier service addressed to the Respondent at his address as it appears on the books and records of the Exchange. Unless otherwise stated in this Section, all documents required to be filed with the Exchange, the Board of Directors, the Regulatory Department, or an Exchange committee by a Respondent pursuant to this Section must be received by the Exchange on or before the day prescribed.

(b) Extension of Time Limits. Any time limits imposed under this Section for the submission of answers, petitions, requests for a hearing, or other materials may be extended by the Exchange body before which the matter is currently pending.

Section 12 Fairness and Impartiality of Board or Committee Members

(a) Disqualification on Own Motion. No Board member or committee member shall in any manner participate in any disciplinary proceeding if such person cannot render a fair and impartial decision in the matter. In such case, that person shall remove himself from any consideration of the matter.

(b) Disqualification On Order of Chairman. Whenever any person has any reason to believe that a particular Board member or committee member cannot render a fair and impartial decision in a disciplinary proceeding, such person shall give prompt written notice thereof to the appropriate Chairman, specifying the grounds for contesting the qualification of such Board member or committee member. In such case, the decision of the Chairman shall be final and conclusive with respect to whether a Board member or committee member participates in the determination of such matters.

Section 13 Surveillance

The Exchange has contracted for the performance of market and trade practice surveillance and related investigations with respect to Futures Participants. The failure by any Futures Participants to comply with any applicable requirement, rule or procedure of or to furnish any information requested by the entity authorized by the Exchange to act on its behalf with respect to those functions shall constitute a violation of these Rules.

Section 14 Actions against Non-Futures Participants

If the Exchange has reason to believe or suspect that any non-Futures Participant is conducting trading activities in violation of the Commodity Exchange Act or Exchange rules or in a manner that threatens the integrity or liquidity of any contract, the Exchange may request such non-

Futures Participant and require any Futures Participants to appear, produce documents and testify, or participate in a hearing to be conducted by the Business Conduct Committee.

If, after the hearing, the Business Conduct Committee determines that the actions of such non-Futures Participant threaten the integrity or liquidity of any contract or threaten to violate or violate the Commodity Exchange Act or Exchange rules, the Business Conduct Committee may:

1. Order any Clearing Futures Participant to liquidate all or any portion of such non-Futures Participant's position;
2. Order that no Clearing Futures Participant accept new positions on behalf of any such non-Futures Participant;
3. Order such action as is necessary to prevent a threat to the contract or violation of the Commodity Exchange Act or Exchange rules.

Section 15 Consent to Jurisdiction

(a) Any Person initiating or executing a transaction on or subject to the Rules of the Exchange directly or through an intermediary, and any Person for whose benefit such a transaction has been initiated or executed, expressly consents to the jurisdiction of the Exchange and agrees to be bound by and comply with the Rules of the Exchange in relation to such transactions, including, but not limited to, rules requiring cooperation and participation in investigatory and disciplinary processes.

(b) The scope of applicable Rules include Chapter I, Chapter II, Section I (vi) and (vii), Chapter III, Section 11, Chapter IV, Sections 4 and 5, and Chapter V, Sections 1 and 4.

Section 16 Duty to Report

(a) If an emergency event shall occur with respect to any Futures Participant, such Futures Participant promptly shall advise the Membership Department of the Exchange of the occurrence thereof by the fastest available means of communication and immediately thereafter shall deliver written notice to the Exchange specifying

- (1) the nature of such emergency event,
- (2) the time when such emergency event occurred, and
- (3) whether such Futures Participant consents to a summary suspension pursuant to this Rule and Section 17 and, if so, whether such Futures Participant waives a hearing with respect thereto.

(b) For purposes of this Rule, the term "emergency event" shall mean with respect to any Futures Participant:

- (1) the filing of a petition, answer or other document, or the taking of any other action, by a Futures Participant with respect to itself, or against such Futures Participant seeking a liquidation, arrangement, reorganization or other or similar relief under the provisions of the

Federal Bankruptcy Act or of any other state or federal law for the relief of insolvent debtors;

- (2) the dissolution of such Futures Participant;
- (3) the insolvency (as defined under any applicable state or federal law) of such Futures Participant;
- (4) the failure of such Futures Participant to meet the applicable financial requirements of the Exchange, the Clearing Corporation or any governmental agency or self-regulatory body;
- (5) the failure of such Futures Participant to meet when due any margin call issued by any clearing organization or other person or to pay any option premium when due to any person, the default by such Futures Participant under any commodity interest on this or any other contract market, or the failure or inability for financial reasons of such Futures Participant to fulfill any of its contracts; or
- (6) the imposition of any injunction or other restraint by any government agency, court or arbitrator which may affect the ability of such Futures Participant to perform its contracts or otherwise to engage in business.

Section 17 Summary Suspension

In the event that a Futures Participant advises the Exchange as provided in Section 16 and consents to a summary suspension, either orally or in writing, the Exchange shall immediately suspend such Futures Participant in accordance with the terms of such consent.

Section 18 Action of Business Conduct Committee¹

(a) If at any time, the Business Conduct Committee, in its sole discretion, determines that there is a substantial question as to whether a financial emergency exists with respect to any Futures Participant, the Business Conduct Committee may suspend such Futures Participant. For purposes of this Rule, the term "financial emergency" shall mean, with respect to any Futures Participant, any situation in which, in the sole discretion of the Business Conduct Committee, the financial condition of such Futures Participant is not adequate for such Futures Participant to meet its financial obligations as they become due or to engage in business, or is such that it would not be in the best interests of the marketplace for such Futures Participant to continue in business, including, without limitation, any event specified in paragraph (b) of Section 16.

(b) Any action taken pursuant to paragraph (a) of this Section shall be taken after notice to the Futures Participant against which the action is taken and an opportunity for such Futures Participant to be heard, unless

- (1) such Futures Participant shall have waived such notice and/or hearing, or
- (2) the Business Conduct Committee in its sole discretion shall determine that the furnishing of notice and/or an opportunity to be heard before taking such action is not practicable under the circumstances.

(c) In any case in which action is taken against a Futures Participant without prior notice and/or an opportunity to be heard pursuant to subparagraph (b)(2) of this Section, the Exchange shall give such Futures Participant notice and an opportunity to be heard promptly.

¹ This provision deals with financial requirements such that the Business Conduct Committee is not acting as a "major disciplinary committee" pursuant to Regulation 1.64(a)(2)(i)(B), such that the composition requirements of Regulation 1.64(c) do not apply.

Section 19 Notice to Futures Participant

(a) Any notice given to a Futures Participant before action is taken against him pursuant to Section 18 shall state:

- (1) the financial emergency or other situation which it is believed may give rise to the need for action by the Business Conduct Committee; and
- (2) the date, time and place of the hearing to be held before the Business Conduct Committee.

(b) Any notice given to a Futures Participant after action has been taken against him pursuant to Section 18 shall:

- (1) state the action taken;
- (2) briefly state the reasons for the action;
- (3) state the effective time, date and duration of the action; and
- (4) state that the Futures Participant has an opportunity for a prompt hearing and specify the manner for requesting such a hearing.

Section 20 Hearing

At any hearing conducted under Section 18, the Business Conduct Committee shall determine the procedures to be followed, except that the following shall apply in every case:

- (a) The case in support of the summary action shall be presented by a representative of the Enforcement Department.
- (b) The Futures Participant shall be allowed to be represented by counsel or any other representative of his choosing other than a person who is a subject of the same or a related investigation or disciplinary proceeding and, either personally or through such representative, to present witnesses and documentary evidence and to cross-examine witnesses.
- (c) No formal rules of evidence shall apply and the Business Conduct Committee shall be free to accept or reject any and all evidence it considers proper.
- (d) A stenographic transcript shall be made of the proceedings.

- (e) The Exchange shall require persons within its jurisdiction who are called as witnesses to appear at the hearing and to produce evidence. It shall make reasonable efforts to secure the presence of all other persons called as witnesses whose testimony would be relevant.
- (f) The notice of the hearing, the stenographic transcript, the documentary evidence and any other material presented to the Business Conduct Committee by either party with notice to the other shall constitute the record of the hearing.

Section 21 Decision

(a) Promptly following any hearing pursuant to Section 20, the Business Conduct Committee shall render a written decision based on the preponderance of the evidence contained in the record of the hearing and shall provide a copy of the decision to the Futures Participant. The decision shall include:

- (1) a description of any action taken without a hearing;
- (2) the reasons for any action taken without a hearing;
- (3) a brief summary of the evidence produced at the hearing;
- (4) the findings and conclusions of the Business Conduct Committee;
- (5) a determination that any action previously taken should be affirmed, modified or reversed;
and
- (6) a declaration of any action to be taken pursuant to the determination made in subparagraph (a)(5) of this Rule, the effective date and duration of such action and the date upon which such decision becomes final. Notwithstanding the foregoing, the Business Conduct Committee may take action pursuant to Section 18 prior to rendering the written decision, if the Business Conduct Committee in its sole discretion deems it necessary or appropriate to do so.

(b) The decision of the Business Conduct Committee shall not be subject to appeal.

Section 22 Investigation of Financial Condition

Every Futures Participant suspended under the provisions of these member responsibility rules shall immediately afford every facility required by the Business Conduct Committee for the investigation of its affairs and shall, after the announcement of its suspension pursuant to Section 10(c), file with the Secretary of the Exchange a written statement covering all information required by said Committee, including a complete list of its creditors and the amount owing to each.

Section 23 Time for Settlement of Suspended Futures Participant

(a) If a Futures Participant suspended under the provisions of these responsibility rules fails to settle with its creditors and apply for reinstatement within six months from the time of its suspension, or within such further time as the Board of Directors may grant, or fails to obtain reinstatement as hereinafter provided, its permit may be terminated by the Exchange.

(b) The Board of Directors may, by the affirmative vote of two-thirds of the Directors present at a regular or special meeting of the Board, extend the time of settlement for periods not exceeding one year each.

Section 24 Reinstatement of Suspended Futures Participant

(a) When a Futures Participant suspended under the provisions of these responsibility rules applies for reinstatement, notice thereof shall be sent by the designated department of the Exchange to each Futures Participant of the Exchange by posting a notice on the Exchange's website at least fourteen (14) calendar days prior to the consideration by the Executive Committee of said application. The applicant shall furnish to said Committee a list of creditors, a statement of the amounts originally owing and the nature of the settlement in each case. If satisfactory proof of settlement with all creditors is furnished, said Committee may approve his reinstatement.

(b) If the application for reinstatement is denied by the Executive Committee, the applicant may appeal within ten (10) calendar days thereafter to the Board of Directors, which may act on its reinstatement.

Section 25 Disciplinary Measures During Suspension in Futures Participant Responsibility Actions

A Futures Participant suspended under the provisions of these responsibility rules may be proceeded against by the Exchange for any offense committed by it either before or after the announcement of its suspension in all respects as if it were not under suspension.

Section 26 Rights of Suspended Futures Participant

A Futures Participant suspended under the provisions of these member responsibility rules shall be deprived during the term of its suspension of all rights and privileges of Futures Participant, except such rights as it may have under the Rules.

Chapter VII Arbitration Rules

Section 1 Arbitration

Matters Subject to Arbitration; Incorporation by References

(a) Any dispute, claim or controversy between a customer, on one hand, and a Futures Participant (including the Related Parties of such Futures Participant), on the other hand, in each case in connection with, or otherwise related to, the Exchange business of such parties, shall, at the request of any such party, be arbitrated before an arbitration committee or panel constituted in accordance with, and subject to NFA's Code of Arbitration as in effect from time to time, which code is hereby incorporated by reference into this Chapter; provided, however, that a Customer shall not be subject to arbitration pursuant to this Chapter without written consent by such Customer given in accordance with Commission Regulation § 166.5.

(b) Any dispute, claim or controversy between or among Futures Participant (including their respective Related Parties), in each case in connection with, or otherwise related to, the Exchange business of such parties, shall, at the request of any such party and upon the approval

of the President of the Exchange, or his or her designee, be arbitrated before an arbitration committee or panel constituted in accordance with, and subject to, NFA's Member Arbitration Rules as in effect from time to time, which rules are hereby incorporated by reference into this Chapter. This paragraph does not apply if NFA otherwise has jurisdiction over the dispute, claim or controversy.

(c) Copies of any Arbitration Claim or notice of intent to arbitrate filed with the NFA by or against any Futures Participant (including their respective Related Parties) pursuant to the NFA Code of Arbitration and Member Arbitration Rules must be filed simultaneously with the President of the Exchange. Notwithstanding references to the President of NFA in Rule 2(b) of the NFA Code of Arbitration, any determinations as to arbitrability shall be made by the President of the Exchange, or his or her designee. If a party to a dispute, in an answer, reply or other written response to a request for arbitration, challenges the appropriateness of submitting a matter to arbitration under this Chapter, the President of the Exchange, or his or her designee, shall serve upon the parties written notice of his or her decision to accept or reject the matter for arbitration. The decision by the President of the Exchange, or his or her designee, to accept or reject a matter for arbitration shall, at the request of any party to the dispute, be subject to review by the Board of the Exchange or a panel of the Board of the Exchange composed of at least three directors. Requests for review must be submitted to the President of the Exchange, or his or her designee, within 10 calendar days from receipt of notice of the decision by the President of the Exchange, or his or her designee. This paragraph does not apply if NFA otherwise has jurisdiction over the dispute, claim or controversy.

(d) For purposes of this rule, the term "Customer" means any person for or on behalf of whom a Futures Participant of the Exchange effects a transaction on or subject to the By-Laws and Rules of the Exchange, except another Futures Participant.

(e) For purposes of this Rule, the term "Related Parties" means, with respect to any Futures Participant, as applicable, any partner, director, officer, branch manager or employee of such Futures Participant (or any person occupying a similar status or performing similar functions) or any person directly or indirectly controlling, controlled by or under common control with, such Futures Participant.

(f) For purposes of this Rule, the term "NFA" means the National Futures Association, and includes any successor organization fulfilling similar functions under the Commodity Exchange Act.

(g) References in NFA's Arbitration Code or Member Arbitration Rules to "Members" and "Associates" shall be deemed to be references to the Exchange's members and associated persons. References in NFA's Arbitration Code or Member Arbitration Rules to "customers" shall be deemed to be references to "Customers" as defined in Section 1(d) above. Exchange members shall cooperate with NFA in all arbitration proceedings. NFA shall have the same power to compel production of evidence by Exchange members, employees and associated persons that it has with NFA "Members", employees and "Associates".

Section 2 Failure to Honor Award or Settlement

(a) Any Futures Participant or associated person or Related Party who fails to honor an arbitral award or settlement rendered under this Chapter shall be subject to disciplinary proceedings in accordance with Chapter VI.

(b) In addition to commencing a disciplinary proceeding against a Futures Participant, or Related Party for failure to honor an Award, the President of the Exchange may, on 30 days written notice, summarily suspend a Futures Participant, or Related Party which:

- (1) fails to comply with an award within 30 days from the date of service of the award by NFA or such other period as specified in the Award unless there is pending a request to modify the Award pursuant to NFA rules or an application to vacate, modify or correct the Award in a court of competent jurisdiction; or
- (2) fails to comply with a settlement agreement within 30 days after NFA terminates the arbitration proceeding pursuant to NFA rules or such other period as specified in the settlement agreement; or
- (3) fails to comply with a settlement agreement executed in connection with an NFA-sponsored pre-arbitration mediation proceeding within 30 days after the time stated in the settlement agreement; or
- (4) fails to pay any fee assessed within the time so ordered by the panel.

The suspension shall remain in effect until such award, settlement agreement, or order of the panel has been satisfied.