



May 15, 2012

**VIA ELECTRONIC MAIL**

David A. Stawick  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, DC 20581

**Re: Rule Filing SR-OCC-2012-03 A-1 Rule Certification**

Dear Secretary Stawick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and Commodity Futures Trading Commission Regulation (“CFTC”) 40.6, enclosed is a copy of the above-referenced amended rule filing submitted by The Options Clearing Corporation (“OCC”). The date of implementation of the rule is at least 10 business days following receipt of the rule filing by the CFTC or June 1, 2012. This rule filing has been, or is concurrently being, submitted to the Securities and Exchange Commission (the “SEC” or “Commission”) under the Securities Exchange Act of 1934 (the “Exchange Act”). The text of the amended rule filing is set forth at Exhibit 4 of the enclosed filing.

In conformity with the requirements of Regulation 40.6(a)(7), OCC states the following:

**Explanation and Analysis**

The Options Clearing Corporation (“OCC”) hereby submits this technical amendment, constituting Amendment No. 1, to its rule filing SR-OCC-2012-03, in which OCC proposed to amend its By-Laws and Rules applicable to Clearing Members and applicants for clearing membership that are subject to a “statutory disqualification” under the Securities Exchange Act of 1934, as amended, to more closely align OCC’s By-Laws and Rules with applicable regulatory requirements. In addition, OCC proposed to amend its Fitness Standards for Directors, Clearing Members and Others (the “Fitness Standards”) to bring such standards into conformity with the proposed amendments to OCC’s By-Laws. A copy of OCC’s proposed amendments to the Fitness Standards was attached to SR-OCC-2012-03 as Exhibit 5.

OCC is proposing a technical amendment to Exhibit 5 in order to change the description in the Fitness Standards of OCC’s board of directors (the “Board”) to conform to amendments to OCC’s By-Laws set forth in SR-OCC-2012-01, which increased the number of public directors

on the Board from one to three and added a public director to the Nominating Committee.<sup>1</sup> By order of March 9, 2012, the Commission approved proposed rule change SR-OCC-2012-01.<sup>2</sup> The amended Fitness Standards are attached hereto as Exhibit 4.

Additions as originally proposed are indicated by underlining and deletions are indicated by bold brackets. Additions being made in this amendment are indicated by double-underlining and deletions being made in this amendment are indicated by strikeout.

Opposing Views

No opposing views were expressed related to the rule amendments.

Notice of Pending Rule Certification

OCC hereby certifies that notice of this rule filing has been be given to Clearing Members of OCC in compliance with Regulation 40.6(a)(2) by posting a copy of the submission on OCC's website concurrently with the filing of this submission.

Certification

OCC hereby certifies that the rule set forth at Item 1 of the enclosed filing complies with the Act and the CFTC's regulations thereunder.

Should you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,



Stephen Szarmack

Enclosure

cc: CFTC Central Region (w/ enclosure)  
525 West Monroe Street, Suite 1100  
Chicago, IL 60661

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<sup>1</sup> See Securities Exchange Act Release 34-66266, Notice of Filing of Proposed Rule Change Relating to Public Directors (Jan. 27, 2012).

<sup>2</sup> See Securities Exchange Act Release 34-66560, Order Approving Proposed Rule Change Relating to Public Directors (Mar. 9, 2012).

# The Options Clearing Corporation: Fitness Standards for Directors, Clearing Members and Others

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## The Options Clearing Corporation Fitness Standards

The Board of Directors and the stockholders of The Options Clearing Corporation (the "Corporation") have established qualification and fitness standards (the "Fitness Standards") for (i) directors, (ii) Clearing Members, and (iii) any person affiliated with a director or a Clearing Member. The criteria of the applicable Fitness Standards shall be used in nominating directors and in admitting Clearing Members or otherwise granting direct access to the settlement or clearing activities of the Corporation.

### Fitness Standards for Directors

The Corporation's By-Laws contain governance standards designed to provide fair representation to stockholders and Clearing Members. The Board currently has ~~46~~ 18 members consisting of nine Clearing Member directors ("Member Directors"), five directors nominated by the stockholder exchanges ("Exchange Directors"), ~~one director~~ three directors who ~~is~~ are not affiliated with any national securities exchange, national securities association or broker or dealer in securities (the "Public Director Directors"), and the Corporation's Chairman (the "Management Director"). Member Directors are divided into three equal classes elected for staggered three-year terms. The Nominating Committee consists of one Public Director, nominated by the Chairman with the approval of the Board of Directors and elected for a three-year term, and six other non-director members, which are divided into two equal classes elected for staggered two-year terms. Prior to each annual meeting of stockholders, the Nominating Committee nominates a slate of nominees for election to the class of Member Directors and the class of non-director members of the Nominating Committee members whose terms expire at that meeting. Each Exchange Director serves a one-year term and is nominated by one of the five stockholder exchanges, although a single Exchange Director may represent more than one exchange. The Public Director Directors are divided into three classes, each composed of one member, elected for staggered three-year terms (with the exception of the initial Class I Public Director, who serves a one-year term ending in 2013, after which the Class I Public Director will be elected for a three-year term) serves a three-year term and is are nominated by the Chairman, with the approval of the Board of Directors. The Management Director, who is the Corporation's Chairman, serves a one-year term. This governance structure was carefully designed to meet the statutory requirements of "fair representation" and facilitates the performance of the Corporation's role as a market utility.

The criteria below shall be used by the Nominating Committee, the stockholder exchanges, and the Board of Directors in considering nominees for election to the Board and service on the Disciplinary Committee.

#### *Criteria Applicable to all Directors*

- Characteristics essential for effectiveness as a member of the Board, including, but not limited to, integrity, objectivity, sound judgment, and leadership;
- Expertise and experience in an area relevant to governance of the Corporation, including, but not limited to: (i) strategic planning, such as new business development, expansion of markets, products and customers, and joint venture development; (ii) risk management relevant to risks such as credit, market, liquidity, operational, legal and regulatory

compliance, payment systems, clearance and settlement, new products, risk modeling, risk valuation, and systemic risk management; (iii) technology, such as infrastructure, applications development and maintenance, information security, and disaster recovery; (iv) operations; (v) trading; (vi) business management; (vii) finance; (viii) audit; (ix) governmental and legislative relationship management; (x) compensation and human resources; and (xi) legal, regulatory, and compliance expertise.

- Substantial seniority in own firm;
- Knowledge of securities and/or futures industries;
- Appropriate educational credentials or other certifications;
- For current directors eligible for re-election, length of service on the Board and attendance, and participation, and contribution at Board and committee meetings; and
- Appropriate weight given to diversity factors.

In addition, no person shall be qualified to serve on the Board if such person:

- is subject to a "statutory disqualification" under Section 3(a)(39) of the Securities Exchange Act of 1934, as amended (the "Exchange Act");
- may be refused registration under the Commodity Exchange Act ("CEA") pursuant to Section 8a(2) of the CEA; or
- has a history of serious disciplinary offenses, including, but not limited to, those that would be disqualifying under Commodity Futures Trading Commission ("CFTC") Regulation § 1.63.

*Additional Criteria for Member Directors*

- Balanced representation among all Clearing Members;
- Balanced representation of all business activities of Clearing Members;
- Nature of the firm each prospective director is associated with;
- Industry affiliations; and
- Geographical distribution of Clearing Members.

*Additional Criteria for Exchange Directors*

- Ownership of common stock of the Corporation by the exchange nominating an Exchange Director.

*Additional Criteria for the Public Director Directors*

- No affiliation with any national securities exchange or national securities association or with any broker or dealer in securities, as stated in the Corporation's By-Laws.



### **Fitness Standards for Clearing Members**

Clearing Members of the Corporation are subject to extensive regulation by either or both of the SEC and the CFTC, or, or in the case of Non-U.S. Securities Firms, the regulatory authority of the country or countries in which the firm conducts business. Clearing Member applicants must be:

- Registered as a broker or dealer under the Exchange Act;
- A futures commission merchant registered under Section 4f(a)(1) of the CEA; or
- A Non-U.S. Securities Firm, as defined in the By-Laws.

[No person shall be qualified to be admitted as a Clearing Member if it:

- is subject to a "statutory disqualification" under Section 3(a)(39) of the Exchange Act; or
- may be refused registration under the CEA pursuant to Section 8a(2) of the CEA; unless
- the Membership/Risk Committee finds that there are special circumstances warranting the waiver of such disqualification with respect to the Clearing Member applicant.]

The Membership/Risk Committee may refuse to admit any person as a Clearing Member if the person is subject to a "statutory disqualification" under Section 3(a)(39) of the Exchange Act. No person shall be qualified to be admitted as a Clearing Member if the person may be refused registration under the CEA pursuant to Section 8a(2) of the CEA.

### **Fitness Standards for Affiliates and Access Persons**

No person affiliated, within the meaning of Section 5b(c)(2)(O) of the CEA, with a director of the Corporation or a Clearing Member ("Affiliates") shall:

- [be subject to a "statutory disqualification" under Section 3(a)(39) of the Exchange Act; or]
- meet criteria for refusal to register a person under Section 8a(2) of the CEA; unless
- the Membership/Risk Committee finds that there are special circumstances warranting the waiver of such disqualification with respect to the Affiliate.

With respect to Affiliates, the Board shall be entitled to rely on a certification from the relevant director or Clearing Member that, to the best of such person's knowledge, none of its affiliates is subject to disqualification pursuant to the Corporation's Fitness Standards and that such person will notify the Corporation if at any time such director or Clearing Member becomes aware that any such affiliate fails to meet the Fitness Standards.

Section 5b(c)(2)(O)(ii)(IV) of the CEA requires each derivative clearing organization ("DCO") to establish Fitness Standards for persons with direct access to the settlement or clearing activities of the DCO ("Access Persons"). The Corporation believes that there are presently no persons with such access other than the Clearing Members.

**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

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**Form 19b-4**

**Proposed Rule Change**

**by**

**THE OPTIONS CLEARING CORPORATION**

**Pursuant to Rule 19b-4 under the  
Securities Exchange Act of 1934**

**Item 1. Text of the Proposed Rule Change**

The Options Clearing Corporation (“OCC” or the “Corporation”) proposes a technical amendment to its Fitness Standards for Directors, Clearing Members and Others (the “Fitness Standards”) to bring such standards into conformity with the proposed amendments to OCC’s By-Laws. A copy of OCC’s proposed amendments to the Fitness Standards is attached hereto as Exhibit 4.

**Item 2. Procedures of the Self-Regulatory Organization**

The proposed technical amendment is designed to conform OCC’s Fitness Standards to recent changes approved by the SEC with respect to SR-OCC-2012-01.

Questions regarding the proposed rule change should be addressed to Stephen Szarmack, Vice President and Associate General Counsel, at (312) 322-4802.

**Item 3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

The Options Clearing Corporation (“OCC”) hereby submits this partial amendment, constituting Amendment No. 1, to its rule filing SR-OCC-2012-03, in which OCC proposed to amend its By-Laws and Rules applicable to Clearing Members and applicants for clearing membership that are subject to a “statutory disqualification” under the Securities Exchange Act of 1934, as amended, to more closely align OCC’s By-Laws and Rules with applicable regulatory requirements. In addition, OCC proposed to amend its Fitness Standards for Directors, Clearing Members and Others (the “Fitness Standards”) to bring such standards

into conformity with the proposed amendments to OCC's By-Laws. A copy of OCC's proposed amendments to the Fitness Standards was attached to SR-OCC-2012-03 as Exhibit 5.

OCC is proposing a technical amendment to Exhibit 5 in order to change the description in the Fitness Standards of OCC's board of directors (the "Board") to conform to amendments to OCC's By-Laws set forth in SR-OCC-2012-01, which increased the number of public directors on the Board from one to three and added a public director to the Nominating Committee.<sup>1</sup> By order of March 9, 2012, the Commission approved proposed rule change SR-OCC-2012-01.<sup>2</sup> The amended Fitness Standards are attached hereto as Exhibit 4.

Additions as originally proposed are indicated by underlining and deletions are indicated by bold brackets. Additions being made in this amendment are indicated by double-underlining and deletions being made in this amendment are indicated by strikeout.

\* \* \*

The proposed technical change to OCC's Fitness Standards are consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), because they are designed to more closely align OCC's Fitness Standards with applicable regulatory requirements and other procedures. The proposed rule change is not inconsistent with any rules of OCC.

**Item 4. Self-Regulatory Organization's Statement on Burden on Competition**

OCC does not believe that the proposed rule change would impose any material burden on competition.

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<sup>1</sup> See Securities Exchange Act Release 34-66266, Notice of Filing of Proposed Rule Change Relating to Public Directors (Jan. 27, 2012).



**Item 5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others.**

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

**Item 6. Extension of Time Period for Commission Action**

OCC does not consent to an extension of the time period specified in Section 19(b)(2) of the Act.

**Item 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

Not applicable.

**Item 8. Proposed Rule Change Based on Rules of Another Regulatory Organization or of the Commission**

The proposed rule change is not based on Rules of another regulatory organization or of the Commission.

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<sup>2</sup> See Securities Exchange Act Release 34-66560, Order Approving Proposed Rule Change Relating to Public Directors (Mar. 9, 2012).

**Item 9.      Exhibits**

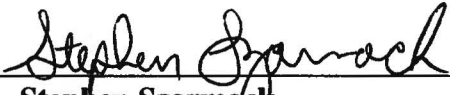
Exhibit 1      Completed notice of the proposed rule change for publication in  
the Federal Register.

Exhibit 4      Amended Fitness Standards

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, The Options Clearing Corporation has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

**THE OPTIONS CLEARING CORPORATION**

By:   
\_\_\_\_\_  
**Stephen Szarmack**  
**Vice President and Associate**  
**General Counsel**

**EXHIBIT 1**

**SECURITIES AND EXCHANGE COMMISSION**

(Release No. 34-\_\_\_\_\_; File No. SR-OCC-2012-03 A-1

**SELF-REGULATORY ORGANIZATION**

Proposed Rule Change By  
The Options Clearing Corporation

Relating to a Technical Change to  
Fitness Standards

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Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on \_\_\_\_\_, 2012, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Options Clearing Corporation ("OCC" or the "Corporation") proposes a technical amendment to its Fitness Standards for Directors, Clearing Members and Others (the "Fitness Standards") to bring such standards into conformity with the proposed amendments to OCC's

By-Laws. A copy of OCC's proposed amendments to the Fitness Standards is attached hereto as Exhibit 4.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

**A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

The Options Clearing Corporation ("OCC") hereby submits this partial amendment, constituting Amendment No. 1, to its rule filing SR-OCC-2012-03, in which OCC proposed to amend its By-Laws and Rules applicable to Clearing Members and applicants for clearing membership that are subject to a "statutory disqualification" under the Securities Exchange Act of 1934, as amended, to more closely align OCC's By-Laws and Rules with applicable regulatory requirements. In addition, OCC proposed to amend its Fitness Standards for Directors, Clearing Members and Others (the "Fitness Standards") to bring such standards into conformity with the proposed amendments to OCC's By-Laws. A copy of OCC's proposed amendments to the Fitness Standards was attached to SR-OCC-2012-03 as Exhibit 5.

OCC is proposing a technical amendment to Exhibit 5 in order to change the description in the Fitness Standards of OCC's board of directors (the "Board") to conform to amendments to OCC's By-Laws set forth in SR-OCC-2012-01, which increased the number of public directors on the Board from one to three and added a public director to the Nominating Committee.<sup>1</sup> By order of March 9, 2012, the Commission approved proposed rule change SR-OCC-2012-01.<sup>2</sup> The amended Fitness Standards are attached hereto as Exhibit 4.

Additions as originally proposed are indicated by underlining and deletions are indicated by bold brackets. Additions being made in this amendment are indicated by double-underlining and deletions being made in this amendment are indicated by strikethrough.

\* \* \*

The proposed technical change to OCC's Fitness Standards are consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), because they are designed to more closely align OCC's Fitness Standards with applicable regulatory requirements and other procedures. The proposed rule change is not inconsistent with any rules of OCC.

**B. Self-Regulatory Organization's Statement on Burden on Competition**

OCC does not believe that the proposed rule change would impose any burden on competition.

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<sup>1</sup> See Securities Exchange Act Release 34-66266, Notice of Filing of Proposed Rule Change Relating to Public Directors (Jan. 27, 2012).

<sup>2</sup> See Securities Exchange Act Release 34-66560, Order Approving Proposed Rule Change Relating to Public Directors (Mar. 9, 2012).



C. **Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others**

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. **Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. **Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments:*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2012-03 A-1 on the subject line.

*Paper Comments:*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-OCC-2012-03 A-1. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100F Fifth Street, N.E., Washington, D.C. 20549-1090. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-OCC-2012-03 A-1 and should be submitted on or before [insert date 21 days from publication in the Federal Register.] \_\_\_\_\_.

For the Commission by the Division of Market Regulation, pursuant to delegated  
authority.

Secretary

Dated: \_\_\_\_\_

# The Options Clearing Corporation: Fitness Standards for Directors, Clearing Members and Others

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## The Options Clearing Corporation Fitness Standards

The Board of Directors and the stockholders of The Options Clearing Corporation (the “Corporation”) have established qualification and fitness standards (the “Fitness Standards”) for (i) directors, (ii) Clearing Members, and (iii) any person affiliated with a director or a Clearing Member. The criteria of the applicable Fitness Standards shall be used in nominating directors and in admitting Clearing Members or otherwise granting direct access to the settlement or clearing activities of the Corporation.

### Fitness Standards for Directors

The Corporation’s By-Laws contain governance standards designed to provide fair representation to stockholders and Clearing Members. The Board currently has ~~46~~ 18 members consisting of nine Clearing Member directors (“Member Directors”), five directors nominated by the stockholder exchanges (“Exchange Directors”), ~~one director~~ three directors who ~~is~~ are not affiliated with any national securities exchange, national securities association or broker or dealer in securities (the “Public Director Directors”), and the Corporation’s Chairman (the “Management Director”). Member Directors are divided into three equal classes elected for staggered three-year terms. The Nominating Committee consists of one Public Director, nominated by the Chairman with the approval of the Board of Directors and elected for a three-year term, and six other non-director members, which are divided into two equal classes elected for staggered two-year terms. Prior to each annual meeting of stockholders, the Nominating Committee nominates a slate of nominees for election to the class of Member Directors and the class of non-director members of the Nominating Committee members whose terms expire at that meeting. Each Exchange Director serves a one-year term and is nominated by one of the five stockholder exchanges, although a single Exchange Director may represent more than one exchange. The Public Director Directors are divided into three classes, each composed of one member, elected for staggered three-year terms (with the exception of the initial Class I Public Director, who serves a one-year term ending in 2013, after which the Class I Public Director will be elected for a three-year term) ~~is~~ are nominated by the Chairman, with the approval of the Board of Directors. The Management Director, who is the Corporation’s Chairman, serves a one-year term. This governance structure was carefully designed to meet the statutory requirements of “fair representation” and facilitates the performance of the Corporation’s role as a market utility.

The criteria below shall be used by the Nominating Committee, the stockholder exchanges, and the Board of Directors in considering nominees for election to the Board and service on the Disciplinary Committee.

#### *Criteria Applicable to all Directors*

- Characteristics essential for effectiveness as a member of the Board, including, but not limited to, integrity, objectivity, sound judgment, and leadership;
- Expertise and experience in an area relevant to governance of the Corporation, including, but not limited to: (i) strategic planning, such as new business development, expansion of markets, products and customers, and joint venture development; (ii) risk management relevant to risks such as credit, market, liquidity, operational, legal and regulatory compliance, payment systems, clearance and settlement, new products, risk modeling, risk valuation, and systemic risk management; (iii) technology, such as infrastructure, applications development and maintenance, information security, and disaster recovery; (iv) operations; (v) trading; (vi)

business management; (vii) finance; (viii) audit; (ix) governmental and legislative relationship management; (x) compensation and human resources; and (xi) legal, regulatory, and compliance expertise.

- Substantial seniority in own firm;
- Knowledge of securities and/or futures industries;
- Appropriate educational credentials or other certifications;
- For current directors eligible for re-election, length of service on the Board and attendance, and participation, and contribution at Board and committee meetings; and
- Appropriate weight given to diversity factors.

In addition, no person shall be qualified to serve on the Board if such person:

- is subject to a “statutory disqualification” under Section 3(a)(39) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”);
- may be refused registration under the Commodity Exchange Act (“CEA”) pursuant to Section 8a(2) of the CEA; or
- has a history of serious disciplinary offenses, including, but not limited to, those that would be disqualifying under Commodity Futures Trading Commission (“CFTC”) Regulation § 1.63.

*Additional Criteria for Member Directors*

- Balanced representation among all Clearing Members;
- Balanced representation of all business activities of Clearing Members;
- Nature of the firm each prospective director is associated with;
- Industry affiliations; and
- Geographical distribution of Clearing Members.

*Additional Criteria for Exchange Directors*

- Ownership of common stock of the Corporation by the exchange nominating an Exchange Director.

*Additional Criteria for the ~~Public Director~~ Directors*

- No affiliation with any national securities exchange or national securities association or with any broker or dealer in securities, as stated in the Corporation’s By-Laws.

**Fitness Standards for Clearing Members**

Clearing Members of the Corporation are subject to extensive regulation by either or both of the SEC and the CFTC, or, or in the case of Non-U.S. Securities Firms, the regulatory authority of the country or countries in which the firm conducts business. Clearing Member applicants must be:

- Registered as a broker or dealer under the Exchange Act;

- A futures commission merchant registered under Section 4f(a)(1) of the CEA; or
- A Non-U.S. Securities Firm, as defined in the By-Laws.

[No person shall be qualified to be admitted as a Clearing Member if it:

- is subject to a “statutory disqualification” under Section 3(a)(39) of the Exchange Act; or
- may be refused registration under the CEA pursuant to Section 8a(2) of the CEA; unless
- the Membership/Risk Committee finds that there are special circumstances warranting the waiver of such disqualification with respect to the Clearing Member applicant.]

The Membership/Risk Committee may refuse to admit any person as a Clearing Member if the person is subject to a “statutory disqualification” under Section 3(a)(39) of the Exchange Act. No person shall be qualified to be admitted as a Clearing Member if the person may be refused registration under the CEA pursuant to Section 8a(2) of the CEA.

#### **Fitness Standards for Affiliates and Access Persons**

No person affiliated, within the meaning of Section 5b(c)(2)(O) of the CEA, with a director of the Corporation or a Clearing Member (“Affiliates”) shall:

- [be subject to a “statutory disqualification” under Section 3(a)(39) of the Exchange Act; or]
- meet criteria for refusal to register a person under Section 8a(2) of the CEA; unless
- the Membership/Risk Committee finds that there are special circumstances warranting the waiver of such disqualification with respect to the Affiliate.

With respect to Affiliates, the Board shall be entitled to rely on a certification from the relevant director or Clearing Member that, to the best of such person’s knowledge, none of its affiliates is subject to disqualification pursuant to the Corporation’s Fitness Standards and that such person will notify the Corporation if at any time such director or Clearing Member becomes aware that any such affiliate fails to meet the Fitness Standards.

Section 5b(c)(2)(O)(ii)(IV) of the CEA requires each derivative clearing organization (“DCO”) to establish Fitness Standards for persons with direct access to the settlement or clearing activities of the DCO (“Access Persons”). The Corporation believes that there are presently no persons with such access other than the Clearing Members.