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THE OPTIONS CLEARING  
CORPORATION

OFFICE OF THE  
SECRETARIAT

July 19, 2011

**VIA E-MAIL**

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

**Re: Rule Filing SR-OCC-2011-09—Rule Certification**

Dear Secretary Stawick:

Enclosed is a copy of the above-referenced rule filing, which The Options Clearing Corporation (“OCC”) is submitting pursuant to the self-certification procedures of Commodity Futures Trading Commission (“CFTC” or “Commission”) Regulation 40.6. Notice has been or promptly will be given to Clearing Members of OCC in compliance with Section 5c(c) of the Commodity Exchange Act. This rule filing has been, or is concurrently being, submitted to the Securities and Exchange Commission (the “SEC”) under the Securities Exchange Act of 1934 (the “Exchange Act”).

In conformity with the requirements of Regulation 40.6(a)(3), OCC states the following: The text of the rule is set forth at Item 1 of the enclosed filing. The date of implementation of the rule is the later of 10 business days following receipt by the Commission, the date the proposed rule is approved by the SEC or otherwise becomes effective under the Exchange Act or the date specified in the enclosed rule filing as its effective date. Item 5 of the enclosed filing sets forth a description of any written comments on the rule filing, including any such comments expressing opposing views that were not incorporated into the proposed rule.

OCC hereby certifies that the rule set forth at Item 1 of the enclosed filing complies with the Commodity Exchange Act and the Commission’s regulations thereunder.

Mr. David A. Stawick  
Page 2  
July 19, 2011



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

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephen Jarnack".

Enclosure

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

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 to amend its By-Laws and Rules as set forth below for the purpose of accommodating certain futures on real estate indexes (“Real Estate Index Futures”) proposed to be traded by CBOE Futures Exchange, LLC (“CFE”).

In its capacity as a derivatives clearing organization (“DCO”), registered as such under the Commodity Exchange Act (the “CEA”), OCC performs the clearing function for CFE’s contracts pursuant to the Agreement for Clearing and Settlement Services (“Clearing Agreement”) between OCC and CFE. Pursuant to the terms of the Clearing Agreement, OCC has agreed to clear the specific types of contracts enumerated in the Agreement and may agree to clear additional types through the execution by both parties of a new “Schedule C” to the Agreement. The text of the proposed amendments to OCC’s By-Laws is set forth below. Material proposed to be added to OCC’s By-Laws as currently in effect is underlined and material proposed to be deleted is enclosed in bold brackets.

**THE OPTIONS CLEARING CORPORATION****BY-LAWS**

\* \* \*

**Article I****Definitions**

\* \* \*

A. – L. [No Change]

M.

(1) – (11) [No change]

**Maturity Date**

(12) The term “maturity date” means (i) in respect of a series of futures other than flexibly structured security futures, the date designated by the Exchange(s) on which such series is traded as the date on or as of which the final settlement price for such series is determined, and (ii) in respect of a flexibly structured future, the date agreed upon by the Purchasing Clearing Member and Selling Clearing Member in an Exchange transaction as the date on or as of which the final settlement price for such future is determined, as such date is reported to the Corporation by the Exchange.

(13) – (14) [No change]

N. – Z. [No change]

\* \* \*

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

The proposed rule change was approved by OCC’s Board of Directors at a meeting held on June 27, 2011.

Questions regarding the proposed rule change should be addressed to Stephen M. 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 purpose of this proposed rule change is to accommodate Real Estate Index Futures that are currently proposed to be traded by CFE. Real Estate Index Futures are futures contracts on various proprietary indexes that are based on the aggregate residential real estate transaction prices in specific geographic regions over a 28-day calendar period. Unlike other index futures currently cleared by OCC, Real Estate Index Futures have a final settlement price determined as of a date well before the maturity date. The indexes underlying Real Estate Index

Futures are based on real estate transaction prices in specific geographic regions over a 28-day calendar period, but the index value is not published until 63 days after the end of that 28-day calendar period. This publication date is also the maturity date for Real Estate Index Futures and the date on which the final settlement price is then determined. OCC is proposing to define "maturity date" to include the day "as of which" the final settlement price is determined or, as in the case of Real Estate Index Futures, the day "on which" the final settlement price is determined.

In addition, a copy of the Clearing Agreement and a new Schedule C providing for the clearance of futures on non-securities indexes, such as Real Estate Index Futures, is attached hereto as Exhibit 5.

\* \* \*

The proposed changes to OCC's By-Laws are consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934, as amended ("Exchange Act"), because they are designed to permit OCC to perform clearing services for products that are subject to the jurisdiction of the CFTC without adversely affecting OCC's obligations with respect to the prompt and accurate clearance and settlement of securities transactions or the protection of investors and the public interest. 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 have any material adverse impact on competition.

**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 has been received.

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

OCC does not consent to an extension of any time period for Commission action.

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

OCC is filing the proposed rule change for immediate effectiveness pursuant to Section 19(b)(3) of the Exchange Act and Rule 19b-4(f)(4) thereunder. Pursuant to Rule 19b-4(f)(4), a rule change may take effect upon filing with the Commission if it effects a change in an existing service of OCC that does not (i) adversely affect the safeguarding of securities or funds in OCC's custody or control or for which OCC is responsible or (ii) significantly affect the respective rights or obligations of OCC or persons using the service. Real Estate Index Futures are futures on a non-security index within the exclusive jurisdiction of the CFTC, and OCC will therefore clear such contracts in its capacity as a registered derivatives clearing organization under the CFTC's regulatory jurisdiction. Accordingly, although this rule change represents a change in OCC's existing service of clearing commodity futures contracts, that service is not within the jurisdiction of the Commission. This rule change will not affect the safeguarding of funds or securities in OCC's possession because OCC will apply the same procedures and safeguards to the clearing of these contracts that it does to the clearing of securities options and security futures over which the Commission has direct regulatory authority. The respective

rights and obligations of OCC and Clearing Members with respect to matters within the Commission's jurisdiction will be unaffected.

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

The proposed rule change is not based on a rule change of another self-regulatory organization.

**Item 9. Exhibits**

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

Exhibit 5 Agreement for Clearing and Settlement Services between OCC and CFE and Schedule C-6 thereto.



**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 M. Szarmack  
Vice President and  
Associate General Counsel

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-\_\_\_\_\_; File No. SR-OCC-2011-09

SELF-REGULATORY ORGANIZATION

Proposed Rule Change By  
The Options Clearing Corporation

Relating to a Modification to Allow  
For the Clearing of Real Estate  
Index Futures Contracts

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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 \_\_\_\_\_, 2011, 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 the Substance of the Proposed Rule Change

The proposed rule change would allow for the clearing of real estate index futures contracts listed on the CBOE Futures Exchange, LLC.

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 purpose of this proposed rule change is to accommodate Real Estate Index Futures that are currently proposed to be traded by CFE. Real Estate Index Futures are futures contracts on various proprietary indexes that are based on the aggregate residential real estate transaction prices in specific geographic regions over a 28-day calendar period. Unlike other index futures currently cleared by OCC, Real Estate Index Futures have a final settlement price determined as of a date well before the maturity date. The indexes underlying Real Estate Index Futures are based on real estate transaction prices in specific geographic regions over a 28-day calendar period, but the index value is not published until 63 days after the end of that 28-day calendar period. This publication date is also the maturity date for Real Estate Index Futures and the date on which the final settlement price is then determined. OCC is proposing to define "maturity date" to include the day "as of which" the final settlement price is determined or, as in the case of Real Estate Index Futures, the day "on which" the final settlement price is determined.

In addition, a copy of the Agreement for Clearing and Settlement Services between OCC and CFE and a new Schedule C providing for the clearance of futures on non-securities indexes, such as Real Estate Index Futures, is attached hereto as Exhibit 5.

\* \* \*

The proposed changes to OCC's By-Laws are consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934, as amended ("Exchange Act"), because they are designed to permit OCC to perform clearing services for products that are subject to the jurisdiction of the CFTC without adversely affecting OCC's obligations with respect to the prompt and accurate clearance and settlement of securities transactions or the protection of investors and the public interest. 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.

**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**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f) of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule if it appears to the

Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### 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-2011-09 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-2011-09. 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-2011-09 in the caption above 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: \_\_\_\_\_

**AMENDED AND RESTATED AGREEMENT  
FOR CLEARING AND SETTLEMENT SERVICES**

This Amended and Restated Agreement for Clearing and Settlement Services (this "Agreement") is entered into as of August 4, 2009 between The Options Clearing Corporation, a Delaware corporation (the "Corporation"), and CBOE Futures Exchange, LLC, a Delaware limited liability company (the "Market").

WHEREAS, the Corporation is registered with the Commodity Futures Trading Commission ("CFTC") as a derivatives clearing organization and, as part of its business, provides clearing and settlement services in respect of security futures, as defined in Section 3(a)(55) of the Securities Exchange Act of 1934 (as amended, the "Exchange Act"), and in respect of commodity futures, options thereon ("futures options") and commodity options (commodity futures, futures options, and commodity options are referred to herein collectively as "Commodity Contracts");

WHEREAS, the Market is a board of trade that has been designated as a contract market under the Commodity Exchange Act, as amended (the "CEA") by the CFTC and has notice registered with the Securities and Exchange Commission (the "SEC") as a limited purpose national securities exchange for the trading of security futures;

WHEREAS, the Market is an "affiliate" (as defined in Article I, Section I of the Corporation's By-Laws) of Chicago Board Options Exchange, Incorporated ("CBOE"), which is an exchange that clears security option transactions through the Corporation (an "Options Exchange");

WHEREAS, the Market wishes to engage the Corporation to provide clearing and settlement services in respect of security futures and Commodity Contracts, in each case on underlying interests that are selected in accordance with Section 3(c) (collectively, the "Cleared Contracts");

WHEREAS, the Corporation is prepared to provide such services to the Market, subject to the terms and conditions of this Agreement; and

WHEREAS, the Corporation and the Market previously entered into an Agreement for Clearing and Settling Security Futures and Futures and Futures Options on Broad Based Indexes dated May 28, 2003, and amended May 11, 2004 (the "Original Agreement"), and executed Schedules C-1 and C-2 to the Original Agreement, and they wish to amend and restate the Original Agreement in its entirety by this Agreement, with the exception of Schedules C-1 and C-2 thereto, which they wish to continue to have force and effect.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants, terms and conditions herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**Item 1. Market Representations.**

The Market represents that, as of the Effective Date (as defined in Section 27), (a) it is a limited liability company duly organized and validly existing in good standing under the laws of the State of Delaware, (b) it is a board of trade that has been designated by the CFTC as a contract market pursuant to Section 5 of the CEA, (c) it is a security futures market registered as a national securities exchange pursuant to Section 6(g) of the Exchange Act, (d) it has rules that comply with the provisions of (i) the CEA and regulations of the CFTC thereunder for the trading of Commodity Contracts and (ii) the Exchange Act and the rules and regulations of the SEC thereunder and the CEA and regulations of the CFTC thereunder for the trading of security futures (as amended from time to time, the "Market Rules"), in the case of both (i) and (ii) that are to be cleared by the Corporation in accordance with its By-Laws and Rules, (e) it has all governmental and other approvals and consents that are required to have been obtained by it with respect to the Market Rules, (f) the Market Rules are in full force and effect, (g) it has all requisite power and authority to enter into and perform its obligations hereunder and to conduct its business as currently conducted, (h) this Agreement is the legal, valid and binding obligation of the Market, enforceable against the Market in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally, and subject, as to enforceability, to equitable principles of general application, regardless of whether enforcement is sought in a proceeding in equity or at law, (i) its entry into this Agreement and performance of its obligations hereunder do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any other agreement binding on or affecting it or any of its assets, (j) it is in compliance with all regulations of (i) the CFTC applicable to a designated contract market and (ii) the SEC applicable to a designated contract market that is a national securities exchange registered pursuant to Section 6(g) of the Exchange Act and (k) all governmental and other approvals and consents that are required to have been obtained by it with respect to this Agreement have been obtained and are in full force and effect and all conditions of any such approvals and consents have been complied with.

**Item 2. Corporation Representations.**

The Corporation represents that, as of the Effective Date, (a) it is a corporation duly organized and validly existing in good standing under the laws of the State of Delaware, (b) it is registered as a clearing agency under Section 17A(b) of the Exchange Act and is permitted to provide facilities for the clearance and settlement of security futures, subject to applicable rules and regulations of the SEC and the CFTC, (c) it is a derivatives clearing organization registered under Section 5b(c) of the CEA and is permitted to provide facilities for the clearance and settlement of Commodity Contracts, subject to applicable regulations of the CFTC, (d) it has all requisite power and authority to enter into and perform its obligations hereunder and to conduct its business as currently conducted, (e) the Agreement is the legal, valid and binding obligation of the Corporation, enforceable against the Corporation in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally, and subject, as to enforceability, to equitable principles of general application, regardless of whether enforcement is sought in a proceeding in equity or at law, (f) its entry into this Agreement and performance of its obligations hereunder do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or



judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets, (g) it is in compliance with all regulations of the SEC and the CFTC applicable to the clearing of security futures and Commodity Contracts, (h) the SEC and the CFTC have approved or permitted to become effective all By-Laws and Rules of the Corporation relating to security futures and Commodity Contracts, (i) all governmental and other approvals and consents that are required to have been obtained by it with respect to this Agreement have been obtained and are in full force and effect and all conditions of any such approvals and consents have been complied with, and (j) it is prepared to provide clearing and settlement services for security futures and Commodity Contracts.

**Item 3. Selection of Underlying Interests; Classes and Series of Security Futures and Commodity Contracts.**

**General Criteria for Underlying Interests.**

Underlying Interests for Security Futures. The Market may select the underlying interests that are the subject of security futures to be traded on the Market and cleared by the Corporation, subject to the following conditions: (A) all underlying interests so selected shall consist solely of (I) common stocks or other securities (including exchange-traded funds ("ETFs")) that meet the applicable requirements of Section 6(h)(3) of the Exchange Act, that are "covered securities" within the meaning of Section 18(b)(1) of the Securities Act of 1933, and that meet such additional requirements as the Corporation may establish from time to time for the purpose of ensuring that sales of such securities pursuant to physically-settled stock futures contracts are exempt from registration, qualification, filing and fee requirements under state securities and blue sky laws, and (II) narrow-based security indexes, as defined in Section 3(a)(55B) of the Exchange Act and Section 1a(25) of the CEA, that meet the applicable requirements of Section 6(h)(3) of the Exchange Act; and (B) counsel to the Corporation is satisfied that the clearance and settlement by the Corporation of security futures on the underlying interest would not (I) be unlawful or (II) be likely to subject the Corporation to liability based upon claims that trading of futures on such interest infringes the intellectual property rights of third parties or otherwise.

Underlying Interests for Commodity Options and Commodity Futures. The Market may select the underlying interests that are the subject of commodity options and futures other than security futures to be traded on the Market and cleared by the Corporation, subject to the following conditions: (A) delivery of the underlying interests shall not be required and (B) counsel to the Corporation is satisfied that the clearance and settlement by the Corporation of commodity options or futures on the underlying interest would not be (I) unlawful or (II) likely to subject the Corporation to liability based upon claims that clearing and settling of commodity options or futures on such interest infringes the intellectual property rights of third parties or otherwise. Subject to the conditions set forth in the preceding sentence and compliance with the procedures set forth in Section 3(c), the parties agree that futures on a broad-based security index traded on the Market shall be cleared by the Corporation. The parties may agree on types of other underlying interests selected by the Market to be the subject of commodity options or futures to be traded on the Market and cleared by the Corporation by completing and executing a Schedule C in the form attached hereto. The Schedules C created pursuant to this Section

3(a)(ii) and pursuant to Section 3(a)(iii) shall be numbered in a single sequence as Schedule C-1, Schedule C-2, etc. Schedules C need not be attached to this Agreement.

Underlying Interests for Futures Options. The Market may select the underlying futures contracts that are the subject of futures options to be traded on the Market and cleared by the Corporation, subject to the following conditions: (A) each underlying futures contract shall consist solely of a commodity futures contract (and not a security future); (B) such commodity futures contract shall be traded on the Market and cleared by the Corporation; (C) each underlying futures contract shall be open for trading at the time of selection or no later than the date and time that the overlying futures option is opened for trading; and (D) counsel to the Corporation shall be satisfied that the clearance and settlement by the Corporation of futures options on the underlying futures contract would not be (I) unlawful or (II) likely to subject the Corporation to liability based upon claims that clearing and settling of futures options on such futures contract infringes the intellectual property rights of third parties or otherwise. The parties may agree on other types of futures contracts selected by the Market to be the subject of futures options to be traded on the Market and cleared by the Corporation by completing and executing a Schedule C in the form attached hereto.

Nomenclature. Cleared Contracts with respect to which the underlying interest is a common stock are herein referred to as "stock futures"; Cleared Contracts with respect to which the underlying interest is a narrow-based security index are herein referred to as "narrow-based index futures"; Cleared Contracts with respect to which the underlying interest is a broad-based security index are herein referred to as "broad-based index futures." Stock futures and narrow-based index futures are herein referred to collectively as "security futures." Narrow-based index futures, broad-based index futures, and futures on indexes other than security indexes, are herein referred to collectively as "index futures." Stock futures, index futures, and commodity futures are herein referred to collectively as "futures." Options on commodity futures are herein referred to as "futures options." Options other than futures options or options on a security or a group or index of securities (including any interest therein or based on the value thereof) are herein referred to as "commodity options." For purposes of this Agreement the terms "common stock" and "stock" shall refer to (i) any equity security (including any ETF), or (ii) any non-equity security that is eligible under the By-Laws and Rules of the Corporation to be an underlying for stock options, in either case that meets the requirements for underlying interests for security futures contracts. The following are referred to herein as "types" of underlying interests in respect of futures options and futures: common stock, narrow-based security indexes, broad-based security indexes and other commodities. Commodities are referred to herein as "types" of underlying interests in respect of commodity options.

#### Procedures for Selection of Underlying Interests.

If the Market wishes to list and trade security futures or Commodity Contracts of a class (as defined in the By-Laws of the Corporation) not theretofore listed or traded on the Market, the Market shall notify the Corporation by submitting a certificate as described below (a "Certificate"): (A) in the case of a class of stock futures, no earlier than 12:01 a.m. and no later than 11:00 a.m. (Chicago time) on the trading day before the trading day on which the Market wishes to commence trading such stock futures; (B) in the case of a class of index futures, futures options that meet the requirements of clauses (A) – (C) of Section 3(a)(iii), or commodity

options on an index no later than ten days before the trading day on which the Market wishes to commence trading such futures, futures options or commodity options; (C) in the case of a class of other Commodity Contracts, as far in advance of the trading day on which the Market proposes to commence trading as may be specified in the Schedule C applicable to that class of Commodity Contract or as otherwise agreed in writing by the parties. (A "trading day" means any day on which the Corporation is open for business for the purpose of conducting money settlement, not including the expiration date of any option contract that expires on a Saturday.)

The Certificate shall set forth: (A) the type of contract (future, futures option or commodity option); (B) the complete name of the underlying interest; (C) in the case of an option, whether it is American or European style; (D) in the case of a futures option, whether it is cash-settled or physically-settled; (E) the expiration or maturity cycle of the class; (F) the series marker, if any; (G) the manner in which the opening and closing settlement price is to be determined; and (H) the date on which the Market intends to commence listing and trading contracts in the class.

If the underlying interest for a futures contract is a security index, the Certificate shall also: (A) identify the index; (B) set forth the Market's representation that the security index is a narrow-based security index (as defined in Section 3(a)(i)(II) above) or broad-based security index, as applicable, based upon the Market's review of the index; (C) identify the reporting authority for the index; (D) set out in detail the method and frequency of calculation of the index; and (E) identify the owner or owners of the index and, if other than the Market, explain the basis for the right of the Market to list and trade futures on the index.

If the underlying interest for a futures option is a future on a security index, the Certificate shall also identify the maturity date of the initial series.

If the underlying interest for a futures contract or a commodity option is an index other than a security index, the Certificate shall also (A) identify the index and state that it is not a group or index of securities (including any interest therein or based on the value thereof), (B) identify the constituents of the index, (C) identify the reporting authority for the index, (D) set out in detail the method and frequency of calculation of the index, and (E) identify the owner or owners of the index, and, if other than the Market, explain the basis for the right of the Market to list and trade options on the index.

In the case of an underlying interest that is neither an index nor a security, the Certificate shall contain the information required for an underlying index to the extent applicable to the underlying interest, any other information required to be specified by the relevant Schedule C (if applicable) and such other information as the Market deems relevant. In the case of an underlying interest that is neither an index nor a security, the Market shall also separately provide to the Corporation such other information regarding the underlying interest that may be reasonably required by the Corporation.

The Certificate shall also state that the Market certifies that the specified underlying interest meets the requirements of Section 3(a)(i) (other than clause (B) thereof), 3(a)(ii) (other than clause (B) thereof), or 3(a)(iii) (other than clause (D) thereof) of this Agreement, whichever is applicable, and the Market has approved the listing and trading of

security futures or Commodity Contracts (as relevant) to be cleared by the Corporation on such underlying interest.

Subject to Section 3(e) below, the Market may begin listing and trading Cleared Contracts in accordance with the following schedule:

for a class of stock futures, on the first trading day after the relevant Certificate has been properly submitted to, and accepted by, the Corporation, provided that the Corporation may not reject a certificate unless such certificate fails to comply in any material respect with Section 3(c) or the conditions of Section 3(a)(i) have not been satisfied and, provided further, that the Corporation notifies the Market of any such rejection and the reasons therefor after the submission of the Certificate but prior to the first trading day;

for a class of index futures, options on a commodity index, and futures options on index futures, on the tenth trading day after the relevant Certificate has been properly submitted to, and accepted by, the Corporation, provided that the Corporation may not reject a certificate unless (i) such certificate fails to comply in any material respect with Section 3(c) or the conditions of Section 3(a)(ii) or Section 3(a)(iii) (as applicable) have not been satisfied or (ii) in the reasonable determination of the Corporation, the class covered by the relevant Certificate presents any unresolved systemic, operational or risk modeling issues relative to providing services hereunder and, provided further, that the Corporation notifies the Market of any such rejection and the reasons therefor after the submission of the Certificate but prior to the first trading day; and

for a class of other futures, a class of other futures options and a class of other commodity options, on the tenth trading day after the relevant Certificate has been properly submitted to, and accepted by, the Corporation, provided that the Corporation may not reject a certificate unless (i) such certificate fails to comply in any material respect with Section 3(c) or the conditions of Section 3(a)(ii) or Section 3(a)(iii) (as applicable) have not been satisfied or (ii) in the reasonable determination of the Corporation, the class covered by the relevant Certificate presents any unresolved systemic, operational or risk modeling issues relative to providing services hereunder and, provided further, that the Corporation notifies the Market of any such rejection and the reasons therefor after the submission of the Certificate but prior to the first trading day.

In the event that the Corporation rejects a certificate pursuant to Section 3(c)(viii)(B)(ii) or Section 3(c)(viii)(C)(ii), the Corporation shall (i) make representatives of the Corporation available to explain to representatives of the Market the reasons for the rejection; (ii) undertake commercially reasonable efforts to address the systemic, operational or risk modeling issues that caused the Corporation to reject the certificate; and (iii) notify the Market when those issues have been satisfactorily addressed so that the Market may submit another certificate to the Corporation for the applicable class.

Notice of Additional Maturity or Expiration Dates. The Market may introduce an additional maturity or expiration date for security futures or Commodity Contracts of any class previously certified pursuant to Section 3(c) above, as follows:

For a maturity or expiration date in the cycle set forth in the Certificate, by providing notice to the Corporation by e-mail to [nog@theocc.com](mailto:nog@theocc.com) or such other electronic means as may be mutually agreed upon by the Corporation and the Market, or if e-mail (or such other electronic means, if applicable) is unavailable for any reason, by facsimile, specifying the underlying interest, the maturity or expiration date, the series marker (if any), the mode of settlement in the case of a series of stock futures, and the exercise price in the case of a series of futures options or commodity options. Such notice shall be provided (A) where practicable, on or before the trading day immediately preceding the trading day on which trading in the new series is to commence, and (B) in any event, not later than ten minutes after commencing to trade the series.

For a maturity or expiration date not in the cycle set forth in the Certificate, by providing advance notice to the Corporation by e-mail to [nog@theocc.com](mailto:nog@theocc.com) or such other electronic means as may be mutually agreed upon by the Corporation and the market, or if e-mail (or such other electronic means, if applicable) is unavailable for any reason, by facsimile, no later than 9:00 a.m. (Chicago time) on the trading day immediately preceding the trading day on which trading in the new series is to commence, specifying the underlying interest, the maturity or expiration date, the series marker (if any), the mode of settlement in the case of a series of stock futures, and the exercise price in the case of a series of futures options or commodity options.

**Underlying Interest Ceases to Meet Requirements.** In the event that the Corporation shall determine that an underlying interest has ceased to meet any of the requirements set forth in this Section 3 or that it has otherwise become unlawful for the Corporation to clear transactions in security futures or Commodity Contracts on such underlying interest, the Corporation may give notice to the Market, by e-mail to [lowenthal@cboe.com](mailto:lowenthal@cboe.com) or such other electronic means as may be mutually agreed upon by the Corporation and the market, or if e-mail (or such other electronic means, if applicable) is unavailable for any reason, by facsimile, that it is to cease all trading of such contracts cleared by the Corporation on such underlying interest or, in the alternative, to restrict transactions in such contracts on the Market (i) to closing transactions or (ii) to closing transactions for all accounts other than the accounts of Trading Privilege Holders (as defined in the Market Rules, such Trading Privilege Holders referred to herein as "members") of the Market to the extent such members execute opening transactions to facilitate the closing transactions of public customers. The Corporation shall not be required to accept for clearance any transaction effected in violation of such notice after the Market has had a reasonable time to halt trading. In the event that the Corporation gives any notice pursuant to this Section 3(e), the Market and the Corporation shall promptly consult with one another to determine an appropriate course of action to restore the underlying interest to compliance with the requirements of this Section 3 or to permit the orderly and lawful liquidation of open interest. Any action taken by the Corporation under the foregoing provisions shall be consistent with its By-Laws and Rules and will be substantially similar to action taken in respect of similar products traded on any other futures market, security futures market or Options Exchange.

**Monitoring of Underlying Security Indexes.** The Market shall monitor the status of each underlying security index that it has selected in order to confirm that the index remains a narrow-based index or a broad-based index, as the case may be, and shall promptly notify the

Corporation if it determines that the index has ceased, or is likely to cease, to meet the applicable definition. If the index ceases to meet the applicable definition, and in the opinion of counsel to the Corporation there is a significant risk that the clearance of futures contracts on such index or futures options on index futures on such index by the Corporation would be unlawful, then the provisions of Section 3(e) above shall apply.

Breach by Market of Section 3(c) or 3(d). If the Market, by reason of its actions or its failure to act, shall have breached in any material respect the provisions of Section 3(c) or 3(d) hereof, then the Corporation shall not be obligated to clear transactions in security futures or Commodity Contracts deriving from or related to the breach (the "Affected Transactions") unless and until the Market has corrected such breach or fulfilled such conditions as the Corporation may set. The Corporation shall, promptly upon determining not to clear Affected Transactions effected on the Market, notify the Market of such determination; provided, however, that the Corporation will continue to accept Affected Transactions for clearance until the Market has had a reasonable opportunity to halt trading, unless acceptance of such transactions for clearance would be unlawful. Such determination shall not affect the validity of any previously outstanding Cleared Contracts or any matched trade that the Corporation has previously accepted for clearance, nor relieve the Corporation of its obligations with respect thereto, nor shall such determination affect any other obligation of either party under this Agreement or any remedy which such party may have or any right or obligation of any third party under the By-Laws and Rules of the Corporation.

**Item 4. Multiplier; Units of Trading.**

Subject to any applicable limitations prescribed by the Market Rules or the By-Laws and Rules of the Corporation, the multiplier or unit of trading, as the case may be, of each series shall be designated by the Market prior to the time such series is first opened for trading on the Market, and in the absence of such designation for a series in which the underlying interest is a common stock, the unit of trading shall be 100 shares. Unless the Market specifies otherwise, the unit of trading for futures options shall be one contract in the series of futures underlying such option.

**Item 5. Comparison of Transactions in Cleared Contracts; Settlement Prices.**

**Matched Trade Reports.** The Market agrees that on each business day it will compile a matched trade report of all transactions in Cleared Contracts and all "exchange-for-physical" transactions effected by its members on that business day, and will furnish such report to the Corporation by such time or times, or on a real-time basis upon the implementation of a real-time reporting facility between the Market and the Corporation, as the Corporation may reasonably prescribe, taking into consideration the ability of the Market to provide such information within such time frames on a cost-effective basis. Unless the parties expressly agree in writing to the contrary, in no event will the Market be required to furnish such reports to the Corporation earlier than the time by which Options Exchanges are required to furnish reports of security options transactions.

**Daily Settlement Prices.** The Market shall each business day, at such time and in such manner as the parties may agree, notify the Corporation of the settlement price of each series of

futures. The Corporation shall adopt such settlement price as the basis for determining the official settlement price for the business day, except in the case of manifest error or inconsistency with its By-Laws and Rules or in any other case in which the Corporation reasonably believes that such settlement price does not reasonably reflect the value or price of the contracts of such series, in which case the Corporation, using its best efforts to consult with the Market, shall determine the official settlement price for such day; provided, however, that in the case of fungible contracts traded on more than one exchange or market and cleared by the Corporation, the daily settlement price will be determined by a method mutually agreed among the Corporation and all such exchanges, and in the absence of such agreement, as specified by the Corporation. In any case in which the Corporation fixes a daily settlement price other than (i) a price supplied by the Market or (ii) a price determined by a method mutually agreed among the Corporation and all exchanges trading the same fungible futures series, the Corporation will promptly notify the Market. The Market shall indemnify the Corporation and each of its directors, officers, committee members, agents, and employees from and against any and all liabilities, judgments, claims, damages, expenses and amounts incurred and/or paid in settlement based on the Corporation's use of a settlement price supplied by the Market in determining the official settlement price; provided, however, that no such indemnification obligation shall exist if the Corporation has not used the settlement price supplied by the Market; and provided further that, where the settlement price is with respect to fungible series traded on more than one exchange or market and cleared by the Corporation, the Market indemnification shall extend only to the price supplied by it, only with respect to contracts in the fungible futures series that were purchased or sold on the Market and only to the extent that the price supplied by the Market is used to determine the daily settlement price in accordance with an agreed upon formula. The provisions of Section 16 hereof shall apply to such indemnity as if such indemnity were provided under Section 16(b)(ii) hereof.

**Final Settlement Price.** The Corporation shall determine the final settlement price in respect of a series of futures in accordance with its By-Laws and Rules.

With respect to a futures contract that has an underlying interest (A) traded on one or more organized markets or (B) that is an index derived from constituents traded on one or more organized markets, if the Corporation determines that the primary market(s) (as determined by the Corporation) for the underlying security in respect of a maturing stock future, or one or more constituents of (I) an underlying index in respect of a maturing index future or (II) the index that is the reference variable in respect of a maturing variance future, did not open or remain open for trading at or before the time when the settlement price for such futures would ordinarily be determined, or that the price or other value used as or to determine the final settlement price (a "required value") in respect of a series of futures is otherwise unreported, inaccurate, unreliable, unavailable, or inappropriate for such use, the Corporation, using its best efforts to consult with the Market, shall determine the final settlement price in conformity with the By-Laws and Rules of the Corporation and shall promptly notify the Market of its action.

With respect to a futures contract that has an underlying interest that is not (A) traded on one or more organized markets or (B) an index derived from constituents traded on one or more organized markets, if the Corporation shall determine that a required value (as defined in Section 5(c)(i)) for an underlying interest or a constituent of an underlying index for a futures

contract is unreported, inaccurate, unreliable, unavailable or inappropriate for such use, the Corporation, using its best efforts to consult with the Market, shall determine the final settlement price in conformity with the By-Laws and Rules of the Corporation and shall promptly notify the Market of its action.

**Item 6. Clearance of Transactions in Cleared Contracts.**

**Provision of Clearing Services.** The Corporation will provide, pursuant to and in accordance with the By-Laws and Rules of the Corporation and applicable regulatory requirements, all services reasonably necessary to perform its obligations under this Agreement, including without limitation the clearing and settlement services identified in Schedule A attached hereto and incorporated herein. The Corporation will have no obligation to any purchaser or seller of a Cleared Contract arising out of any delay or error in the filing by the Market of any report of matched trades; provided, however, that nothing in this Section 6(a) will be construed to relieve the Corporation of its obligation to accept and clear such matched trades once received. The Market agrees to indemnify and hold harmless the Corporation and each of its directors, officers, committee members, agents, and employees for any loss or damage incurred resulting from any delay in the filing by the Market of any report of matched trades or from any error in the information so filed, other than an error in information submitted to the Market by a member of the Market or delays or errors in the filing of information caused by the Corporation or systems under the control of the Corporation. The provisions of Section 16 hereof shall apply to such indemnity as if such indemnity were provided under Section 16(b)(ii) hereof.

**Clearing Members.** For purposes of this Agreement "Clearing Member" means a Security Futures Clearing Member or a Commodity Futures Clearing Member (or both) as defined in the By-Laws of the Corporation. Any Security Futures Clearing Member that is a member of the Market may clear transactions in security futures listed on the Market through the Corporation. Any Commodity Futures Clearing Member that is a member of the Market may clear transactions in Commodity Contracts listed on the Market through the Corporation. Notwithstanding the foregoing, (i) any Security Futures Clearing Member may (whether or not a member of the Market) clear transactions in security futures listed on the Market through the Corporation through the Corporation's "CMTA" and/or allocation procedures and (ii) any Commodity Futures Clearing Member may (whether or not a member of the Market) clear transactions in Commodity Contracts listed on the Market through the Corporation through the Corporation's "CMTA" and/or allocation procedures.

**Item 7. Acceptance of Transactions in Cleared Contracts.**

The Corporation agrees to accept, in accordance with and subject to its By-Laws and Rules, all matched trades in Cleared Contracts that are properly submitted to it by the Market in accordance with procedures and practices of which the Market is informed with reasonable advance notice. Upon submission of a matched trade to, and acceptance of such matched trade by, the Corporation, the Corporation shall be substituted through contractual novation, as provided in its By-Laws and Rules, as the counterparty to each of the Clearing Members that were parties to the matched trade. For purposes of the preceding sentence, a Clearing Member to which a trade is given up in accordance with the Corporation's "CMTA" and/or allocation



procedures shall be deemed to have been a party to such trade, and the party giving up such trade shall be deemed not to have been a party to such trade.

**Item 8. Non-Discrimination and Consultation.**

**Certain Agreements.** So long as all conditions on the obligations of the Corporation to clear Cleared Contracts for the Market, as set forth in Article XII of the Corporation's By-Laws, continue to be satisfied, the Corporation agrees not to amend its By-Laws or Rules in any manner so as to limit its obligations hereunder to clear and settle transactions in Cleared Contracts effected on the Market, and further agrees that it will not unfairly discriminate among markets for Cleared Contracts with regard to the nature or quality of the services that it provides or the priority that it assigns to providing such services. If the Corporation makes a change to its standard form futures agreement for clearing and settlement services (the prototype of this Agreement), the Corporation shall offer to amend this Agreement to conform it to the revised standard form.

**Product Design Features.** The Corporation agrees that it will consult with the Market and use reasonable efforts to incorporate in its By-Laws, Rules and procedures product design features specified by the Market for Cleared Contracts traded or proposed to be traded on the Market and cleared by the Corporation.

**Proposed Rule Changes.** Each party shall furnish copies to the other party of all proposed rule changes that would have any material impact on the other party, its Clearing Members or members, or the Cleared Contracts traded on the Market and cleared by the Corporation. Such copies shall be furnished to the other party no later than the time that they are filed with the SEC or the CFTC; and if no such filing is made, then no later than the time that the change is made available to members of the party or is otherwise made public or placed into effect. The party proposing changes to its rules shall use reasonable efforts to consult with the other party before filing the change or placing it into effect if the party proposing the change believes that the change is one with respect to which the other party would want to have advance notice and opportunity to comment. This Section 8(c) does not require disclosure to the other party of any information contained in a rule filing for which the filing party has sought confidential treatment from the agency with which it is filed or which is otherwise non-public information.

**Adjustment Provisions Applicable to Stock Futures.** The Corporation will continue to discuss with the Market possible changes in the Corporation's By-Laws providing for adjustments in the terms of stock futures to reflect corporate events. It is the objective of the Corporation and the Market to establish and maintain adjustment provisions as may be necessary or appropriate in the interests of fairness to buyers and sellers of Cleared Contracts and the protection of the Corporation and the Market.

**Item 9. Limitations of Authority and Responsibility.**

The Corporation shall have no authority or responsibility to establish or enforce standards relating to the conduct of trading on the Market by its members or the supervision of any aspect of the conduct of such members with their customers, except as specifically provided in the By-Laws and Rules of the Corporation. The Corporation shall have no responsibility for making

disclosure to customers of members of the Market or other customers regarding Cleared Contracts or trading therein on the Market except that the Corporation shall furnish to the Market such information regarding the Corporation and the clearance by it of Cleared Contracts as may reasonably be requested by the Market for purposes of disclosure to customers.

**Item 10. Margin Requirements of Corporation**

The Corporation shall establish in its By-Laws and Rules, and shall have the responsibility to enforce, requirements as to variation (mark-to-market) payments to be made between the Corporation and its Clearing Members, and the amount and form of margin assets to be deposited or maintained with the Corporation by its Clearing Members, in respect of positions in Cleared Contracts. In establishing such requirements, the Corporation shall not discriminate as to the amount of margin assets to be deposited or maintained (a) on the basis of the market on which transactions in Cleared Contracts are effected, (b) among markets listing Cleared Contracts on the same underlying interest, or (c) between Cleared Contracts and other products posing substantially equivalent risk to the Corporation that effectively may substitute for Cleared Contracts, but the Corporation may establish higher margin requirements in respect of (A) Cleared Contracts relating to specific underlying interests or types of underlying interests in cases where the distribution or market liquidity of, or other factors relating to, such Cleared Contracts or underlying interests would, in the judgment of the Corporation, increase the risk of the Corporation, its Clearing Members or the public, or (B) particular Clearing Members based on the positions or financial or operational condition of such Clearing Members or otherwise to protect the Corporation, Clearing Members or the public. With respect to higher margin requirements established pursuant to clause (A) above, the Corporation shall, where reasonably practicable, attempt to notify and consult with the Market in advance of the establishment of such margin requirements. Subject to any applicable regulatory constraints, the Corporation shall provide for appropriate reductions in margin obligations to reflect the reduced risk of offsetting or partially offsetting positions in Cleared Contracts traded on the Market and contracts traded on Options Exchanges or other futures markets or security futures markets cleared by the Corporation that are carried by a Clearing Member in the same account at the Corporation. In the event that the Market at any time believes that margin levels established for Cleared Contracts by the Corporation are too high or otherwise inappropriate, the Market may so inform the Corporation, and representatives of the Corporation will promptly make themselves available to discuss the matter with representatives of the Market, and the Corporation shall give due consideration to any facts or analysis presented by the Market. Unless required by law, the Corporation shall not without the prior written approval of the Market make Cleared Contracts listed for trading by the Market fungible with Cleared Contracts listed for trading by any other market, exchange, electronic trading platform or other entity.

**Item 11. Financial Requirements for Clearing Members.**

The Corporation shall establish in its By-Laws and Rules financial responsibility standards with which its Clearing Members must comply. The Corporation shall conduct regular and continuous monitoring of the positions, transactions, capital and margin of Clearing Members, based upon the information reported to it in accordance with the By-Laws and Rules of the Corporation and other information made available to the Corporation.

**Item 12. Rights and Obligations of Purchasers and Sellers.**

The Market Rules shall specifically provide that the rights and obligations of purchasers and sellers of Cleared Contracts, including but not limited to rights and obligations in respect of clearing and settlement, variation payments and performance at maturity, and in the case of futures options and commodity options, upon exercise thereof, shall be as set forth in the By-Laws and Rules of the Corporation.

**Item 13. Fees for Clearing Services.**

The Corporation shall establish fee structures for the services it performs for Security Futures Clearing Members and Commodity Futures Clearing Members consistent with the provisions of the By-Laws of the Corporation. Such fee structures shall provide, *inter alia*, that fees for services charged to members of the Market shall not be greater than the fees charged by the Corporation in respect of substantially similar products offered by the Options Exchanges or other futures markets or security futures markets. Notwithstanding the foregoing, the Corporation may offer alternative fee structures to such exchanges or markets so long as it offers the same alternatives to the Market on substantially the same terms and so long as the alternative fee structure provides for the equitable allocation of reasonable dues, fees, and other charges among its Clearing Members including Clearing Members that are members of the Market. Actual clearing fees paid (net of any rebates) may therefore differ among exchanges or markets that select different fee structures.

**Item 14. Programs and Projects.**

The Corporation agrees that any program or project designed to assist one or more futures markets or security futures markets which it develops at its own expense or which it originates will be made available promptly for the benefit of the Market. Without limiting the generality of the foregoing, the Corporation agrees that, if it proposes to clear any Commodity Contract for any Options Exchange or other futures market or security futures market, it will offer to clear such Commodity Contract for the Market on terms that are no less favorable in any material respect.

**Item 15. Information Sharing.**

The Corporation agrees that it will furnish to the Market all information within its possession relating to Clearing Members that are members of the Market or that clear trades made on the Market (whether or not members), and information regarding Cleared Contracts traded on the Market, to the extent reasonably necessary for the Market to perform its regulatory responsibilities under the CEA, the Exchange Act, CFTC and SEC regulations or to the extent that the Corporation believes that such information could have a material impact on the Market, including without limitation reporting requirements pursuant to CFTC Regulations 16.00 and 16.01. In addition, each of the Corporation and the Market agrees to provide the other with information as specified in Schedule B attached hereto and incorporated herein.

**Item 16. Indemnification.**

By the Corporation.

The Corporation agrees to indemnify and hold harmless the Market and each of its directors, officers, committee members, agents and employees (each a "Market Indemnified Party" and collectively referred to as the "Market Indemnified Parties") from and against any and all loss, damage and expense arising out of or based on any violation or alleged violation by the Corporation of any of the terms of this Agreement. This indemnity agreement shall be in addition to any liability which the Corporation may otherwise have.

The Corporation agrees to indemnify and hold harmless each Market Indemnified Party from and against any and all liabilities, judgments, claims, damages, expenses and amounts incurred and/or paid in settlement (collectively referred to as "Losses") in connection with any action, suit, litigation, claim or proceeding commenced by any person to which any such Market Indemnified Party is made a party defendant, or is threatened to be made such a party, arising out of or based upon any violation or alleged violation by the Corporation of any terms of this Agreement, any alleged default by the Corporation in performing its obligations in accordance with its By-Laws and Rules in respect of any transaction in Cleared Contracts it accepts for clearing, and any violation or alleged violation by the Corporation of any law or governmental regulation. This indemnity agreement shall be in addition to any liability to any Market Indemnified Party which the Corporation may otherwise have.

By the Market.

The Market agrees to indemnify and hold harmless the Corporation and each of its directors, officers, committee members, agents and employees (each a "Corporation Indemnified Party" and collectively referred to as the "Corporation Indemnified Parties") from and against any and all loss, damage and expense (whether or not such loss, damage or expense is reimbursable by *pro rata* charges to the Clearing Fund contributions of Clearing Members) arising out of or based on any violation or alleged violation by the Market of any of the terms of this Agreement. This indemnity agreement shall be in addition to any liability which the Market may otherwise have.

The Market agrees to indemnify and hold harmless each Corporation Indemnified Party from and against any and all Losses (whether or not such Losses are reimbursable by *pro rata* charges to the Clearing Fund contributions of Clearing Members) in connection with any action, suit, litigation, claim or proceeding commenced by any person, to which any such Corporation Indemnified Party is made a party defendant or is threatened to be made such a party, arising out of or based on any violation or alleged violation by the Market of any of the terms of this Agreement or any violation or alleged violation by the Market of any law or governmental regulation. This indemnity agreement shall be in addition to any liability to any Corporation Indemnified Party which the Market may otherwise have.

**Indemnification in Respect of Intellectual Property.** Without limiting the generality of subsections (a) and (b) above: (i) the Corporation specifically agrees to indemnify and hold harmless each Market Indemnified Party, and the Market specifically agrees to indemnify and

hold harmless each Corporation Indemnified Party, from and against any and all Losses (whether or not in the case of the Corporation such Losses are reimbursable by *pro rata* charges to the Clearing Fund contributions of Clearing Members) in connection with any claim or cause of action for patent infringement or other intellectual property law violation, where such claim or cause of action relates to intellectual property that is developed or used by the indemnifying party in connection with the activities to be engaged in hereunder, provided that for purposes of this provision the Corporation shall not be deemed to have used any such intellectual property developed or used by the Market solely by virtue of clearing trades executed on the Market; and (ii) without limiting the generality of clause (i) above, the Market specifically agrees to indemnify and hold harmless each Corporation Indemnified Party from and against any and all Losses (whether or not such Losses are reimbursable by *pro rata* charges to the Clearing Fund contributions of Clearing Members) in connection with any action, suit, litigation, claim or proceeding commenced by any person, asserted against a Corporation Indemnified Party or to which a Corporation Indemnified Party is made a party defendant or is threatened to be made such a party, or is subjected to discovery or testimonial obligations, arising out of or based on (A) any allegation that the Market does not have the right for any reason to list and trade a security future or a Commodity Contract traded or proposed to be traded on the Market, or (B) any allegation that the listing and trading of a security future or a Commodity Contract by the Market, the issuance by the Corporation of the security future or Commodity Contract so listed and traded, or the clearance and settlement of such trades by the Corporation constitutes unfair competition or unjust enrichment or infringes, interferes with or misappropriates the intellectual property, contract, common law or other rights of a third party, including without limitation the owner of any proprietary index or any licensee of such index or derivative products based thereon (any such action, suit, claim, litigation or proceeding being referred to as an "Intellectual Property Claim"). Notwithstanding the foregoing, the Market shall have no indemnification obligations with respect to Losses incurred in connection with an Intellectual Property Claim in respect of (i) technology used by the Corporation (A) with respect to security futures or Commodity Contracts generally and not solely with respect to the security future or Commodity Contract that is the subject of such Intellectual Property Claim or (B) for which a non-infringing alternative exists that the Corporation could reasonably use to perform the required services with respect to such security future or Commodity Contract, or (ii) conduct of the Corporation (A) that is performed with respect to security futures or Commodity Contracts generally and not solely with respect to such security future or Commodity Contract or (B) that the Corporation could reasonably perform in an alternative and non-infringing manner with respect to such security future or Commodity Contract. A Corporation Indemnified Party shall cooperate with the Market with respect to the Intellectual Property Claim.

**Limitation on Rights Conferred.** The provisions of this Section 16 are not intended to confer any rights upon any person other than Corporation Indemnified Parties, the Market Indemnified Parties, and each person, if any, who controls the Market within the meaning of Section 13(b) of the CEA.

**Rights and Duties When Action Commenced.** Promptly after receipt by an indemnified party under Section 16(a)(ii), 16(b)(ii) or 16(c) hereof of notice of commencement of any action, suit, litigation, claim or proceeding in which such indemnified party is made a party defendant, such indemnified party will, if a claim in respect thereof is to be made against an indemnifying

party under such Section, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party will not relieve it from any liability which it may have to any indemnified party otherwise than under such Section. In case any such action is brought against any indemnified party, and it promptly notifies an indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate in, and, to the extent that it may wish, jointly with any other indemnifying party similarly notified, to assume and control the defense thereof, with counsel chosen by it, and after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party will not be liable to such indemnified party under such Section for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation, but the indemnified party may, at its own expense, participate in such defense by counsel chosen by it, without, however, impairing the indemnifying party's control of the defense. The indemnifying party may negotiate a compromise or settlement of any such action, provided that such compromise or settlement does not require a contribution by the indemnified party or have a material adverse impact on the business of the indemnified party. As used in this Section 16, the words "party defendant" shall include a counter-defendant, cross-defendant, respondent, and any other capacity in which a claim is asserted against an indemnified party.

**Intellectual Property Claim Losses in Multiple Market Situations.** With respect to a matter where an Intellectual Property Claim arises from trading or proposed trading in the security future or Commodity Contract on more than one futures market, the indemnification obligations of the Market shall be limited by the amount of such Losses properly borne by other futures markets trading or proposing to trade such security future or Commodity Contract and clearing or proposing to clear trades in such security future or Commodity Contract through the Corporation (the "Relevant Markets") as follows:

with respect to Losses sustained by a Corporation Indemnified Party in respect of an Intellectual Property Claim at a time when no Relevant Market has yet commenced trading the subject security future or Commodity Contract under circumstances that would be within the scope of such Intellectual Property Claim, the Market shall be liable to indemnify such Corporation Indemnified Party for that percentage of such Losses, including costs of defense and representation of counsel, that is equal to a fraction, the numerator of which is one and the denominator of which is the aggregate number of Relevant Markets that have announced or have communicated to the Corporation an intent to trade the subject security future or Commodity Contract under circumstances that would be within the scope of such Intellectual Property Claim;

with respect to Losses sustained by a Corporation Indemnified Party in respect of an Intellectual Property Claim at any time after one or more Relevant Markets has commenced trading the subject security future or Commodity Contract under circumstances that would be within the scope of such Intellectual Property Claim, the Market shall be liable to indemnify such Corporation Indemnified Party for that percentage of such Losses, including costs of defense and representation of counsel, that is equal to the percentage of the total number of contracts in such security future or Commodity Contract cleared by the Corporation under circumstances that would be within the scope of such Intellectual Property Claim that are purchased and sold in transactions on the Market (determined cumulatively from the time trading in such security

future or Commodity Contract under circumstances that would be within the scope of such Intellectual Property Claim commenced through the last trading day of the month immediately prior to the month in which the Corporation Indemnified Party demands payment from the Market). If at the conclusion of any proceeding that is the subject of the indemnification obligation, the total of all amounts previously paid by the Market under this Section 16(f)(ii) exceeds its cumulative percentage for the entire period of the proceeding as determined under the preceding sentence, the Market shall be entitled to reimbursement of the excess from the Corporation.

**Item 17. Notices.**

All notices, requests, demands and other communications hereunder must be in writing and shall be deemed to have been duly given (a) when delivered by hand, (b) three business days after having been mailed by first class registered mail, return receipt requested, postage and registry fees prepaid to the address set forth below, (c) under Sections 3(d) and 3(e), when sent by e-mail without notice to the sender from a server that delivery of the e-mail has been delayed or has failed, and if such notice is received, then notice shall not be deemed duly given until the e-mail is sent without such notice, or (d) when sent by facsimile transmission to the facsimile number set forth below, provided that the burden of proving receipt of a facsimile will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine.

(i) If to the Corporation:

The Options Clearing Corporation  
One North Wacker Drive, Suite 600  
Chicago, IL 60606

Attn: General Counsel

Facsimile Number: 312-322-2593  
Telephone Number: 312-322-6200

(ii) If to the Market:

CBOE Futures Exchange, LLC  
400 South LaSalle Street  
Chicago, IL 60605

Attn: General Counsel

Facsimile Number: 312-786-7919  
Telephone Number: 312-786-7462

**Item 18. Miscellaneous.**

This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Illinois. For avoidance of doubt, this Agreement amends and restates in its entirety

the Original Agreement, which shall be deemed terminated on the Effective Date of this Agreement, except for Schedules C-1 and C-2 to the Original Agreement, which survive with conforming cross-references to this Agreement and are incorporated herein by reference. Neither this Agreement nor any term hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought. All of the terms of this Agreement, whether so expressed or not, shall be binding upon the respective successors and assigns of the parties hereto and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns; provided, however, that this Agreement may not be assigned by either party hereto without the prior written consent of the other party, but a merger, consolidation, reorganization or reincorporation by, or sale of all or substantially all of the assets of, either party shall not require the consent of the other party so long as the successor entity or transferee is qualified to carry on the business contemplated herein. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The headings of this Agreement are for the purpose of reference only and shall not limit or otherwise affect the meaning hereof. This Agreement may be executed in counterparts, each of which shall be deemed an original, but both of which together constitute one and the same instrument. Terms used in this Agreement (whether or not initially capitalized) that are defined in the By-Laws and Rules of the Corporation have the meanings given to them in the By-Laws and Rules, unless expressly defined otherwise in this Agreement or unless the context requires a different meaning.

**Item 19. Breach of Agreement – Termination.**

Breach by Corporation of Section 6 or Section 7. If the Corporation, by reason of its actions or its failure to act, shall have breached in any material respect the provisions of Section 6 or Section 7 hereof, and if as a result of such breach transactions in Cleared Contracts effected on the Market and submitted to the Corporation for clearing are not timely cleared, then the Market may terminate this Agreement upon written notice to the Corporation.

Other Grounds for Termination. The Corporation shall cease clearing Cleared Contracts for the Market and this Agreement shall terminate forthwith if (i)(A) the Market ceases to meet any legal or regulatory requirement necessary to list and trade security futures and Commodity Contracts following the Effective Date, (B) the Market terminates the trading of all Cleared Contracts, or (C) any of the representations of the Market in clause (d), (e), or (f) of Section 1 hereof cease to be accurate, or (ii)(A) the Corporation ceases to be registered as a securities clearing agency or a derivatives clearing organization, or (B) its By-Laws or Rules cease to be in full force and effect in a material respect. The Corporation may cease clearing Cleared Contracts for the Market and terminate this Agreement upon at least 30 days prior written notice if the Market is in violation of this Agreement in any material respect, the Corporation provides the Market with written notice of the violation, and the Market fails to cure the violation within 30 days of receipt of the written notice describing the violation. The Market may terminate this Agreement at any time by giving the Corporation at least 60 days prior written notice; provided, however, that the Market shall to the best of its ability ensure that a secondary market is maintained in each series of Cleared Contracts that it has previously opened for trading until the



expiration date of each such series, so that it remains possible for Clearing Members to clear through the Corporation transactions closing out positions in each such series that were open at the time of termination hereof.

**Transfer of Open Positions to Successor Clearing Organization.** If this Agreement is terminated and the Market makes alternative clearing arrangements for transactions in Cleared Contracts executed on the Market thereafter, the Corporation, at the request of any Clearing Member and upon payment of a clearing fee of 7 cents per contract, shall enter into an assignment and assumption agreement satisfactory in form and substance to the Corporation wherein (i) the Corporation assigns to the Market's successor clearing organization (the "Successor") all of the Corporation's right, title and interest in and to such of the Clearing Member's open positions in Cleared Contracts traded on the Market as the Clearing Member may specify, (ii) the Successor assumes all of the Corporation's obligations in respect of such open positions, and (iii) the Successor and such Clearing Member agree to indemnify the Corporation and hold the Corporation harmless against any liability or obligation in respect of such open positions arising from and after the effective time of such assignment and assumption.

**Item 20. Survival of Obligations.**

Notwithstanding the termination of this Agreement, (a) the Corporation shall continue to be obligated with respect to any matched trade that it shall have accepted for clearance as a result of transactions effected on the Market before the date of termination, and (b) the obligation of the Market to indemnify the Corporation pursuant to Sections 16(b) and 16(c) hereof, and the obligation of the Corporation to indemnify the Market pursuant to Sections 16(a) and 16(c) hereof shall survive such termination.

**Item 21. Dispute Resolution.**

If a dispute arises between employees of the Market and employees of the Corporation relating to the clearing services that are the subject of this Agreement, and the most senior employee actively involved in the dispute on behalf of a party (in either case, the "Senior Disputant") believes that the Corporation's timely and unimpeded conduct of clearing services for the Market is threatened by the unresolved dispute, the Senior Disputant may notify the other party that a dispute exists. Such notice having been given, the Senior Disputant of each party shall without delay notify the Chief Executive Officer of such party, or if the Chief Executive Officer is not immediately available, the most senior officer of such party that is immediately available (in either case, the "Responsible Officer"), that a dispute exists between the parties. The Responsible Officers of the two parties shall thereupon endeavor in good faith to resolve the dispute and to mitigate its deleterious effects and shall confer with each other to those ends. For the judicial resolution of disputes the parties consent to the exclusive jurisdiction of the United States District Court in Chicago, Illinois, if such court has subject matter jurisdiction over the dispute; otherwise, the courts of Illinois situated in Chicago shall have exclusive jurisdiction. Each party waives any objection which it may have at any time to the laying of venue of any proceedings brought in any such court, waives any claim that such proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such proceedings, that such court does not have any jurisdiction over such party.

**Item 22. Notice of Regulatory Action.**

The Corporation shall notify the Market of any action taken by a regulatory body or agency that, in the judgment of the Corporation, has or will have a material adverse effect on the Corporation's performance of its obligations under this Agreement.

**Item 23. Links with Other Clearing Agencies.**

As required under Section 17A(b)(7)(B) of the Exchange Act, the Corporation shall coordinate with and develop fair and reasonable links with any and all other clearing agencies that perform the functions of a clearing agency with respect to security futures products, in order to permit, as of the compliance date (as defined in Section 6(h)(7)(C) of the Exchange Act), security futures products to be purchased on one market and offset on another market that trades such products.

**Item 24. System Redundancy, Disaster Recovery.**

The Corporation maintains, and will continue to maintain, appropriate facilities for system redundancy and disaster recovery, subject to the general oversight of the SEC.

**Item 25. Quality Standards.**

All services provided by the Corporation to the Market shall be performed substantially in accordance with the By-Laws and Rules of the Corporation and applicable legal and regulatory requirements, and with the same level of care and quality that the Corporation provides to the Options Exchanges, security futures markets, and futures markets that clear transactions through the Corporation. The Corporation shall use commercially reasonable efforts to maintain its counterparty credit rating of "AAA" by Standard & Poor's or a comparable rating by another nationally recognized statistical rating organization.

**Item 26. Limitation of Liability.**

Neither party shall be liable under any circumstances for incidental, consequential or special damages sustained by the other party under this Agreement, whether or not such damages relate to services covered by this Agreement, even if the party against which an award of damages is sought has been advised of the possibility of such damages; provided, however, that this Section 26(a) is not intended to limit the indemnification provisions of Section 16 or any other indemnification provisions in this Agreement to the extent that such provisions would otherwise cover incidental, consequential or special damages asserted by third parties against an indemnified party.

Neither party shall be liable for its inability to perform its obligations under this Agreement when such inability arises out of causes beyond its control, including, without limitation, any act of God, act of war or terrorism, accident, labor dispute, or the failure of any third party to provide any electronic, telecommunication or other service used in connection with the services covered by this Agreement. Each party agrees to notify the other promptly upon learning that any such event has occurred and shall cooperate with the other, upon request, in arranging alternative procedures and in otherwise taking reasonable steps to mitigate the effects of any inability to perform or any delay in performing.

**Item 27. Effectiveness of Agreement.**

On the Effective Date, and as conditions to the effectiveness of this Agreement, the CFTC and the SEC shall have approved the rule change filed in respect of this Agreement or allowed such rule change to become effective; the Market shall deliver to the Corporation a certificate of a senior officer, in form and substance satisfactory to the Corporation, to the effect that the representations of the Market set forth in Section 1 hereof are true and accurate on such date, and the Corporation shall deliver to the Market a certificate of a senior officer, in form and substance satisfactory to the Market, to the effect that the representations of the Corporation set forth in Section 2 hereof are true and accurate on such date.

**Item 28. Nonexclusive Agreement.**

This Agreement is nonexclusive and nothing in this Agreement shall prevent the Market from obtaining clearing arrangements from another party during the term of this Agreement or thereafter for security futures or Commodity Contracts traded on the Market.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

THE OPTIONS CLEARING CORPORATION

By: \_\_\_\_\_

Name:

Title:

CBOE FUTURES EXCHANGE, LLC

By: \_\_\_\_\_

Name:

Title:

**SCHEDULE A**  
**DESCRIPTION OF CLEARING AND SETTLEMENT SERVICES**

In accordance with the terms of this Agreement, the Corporation shall perform the following clearing functions:

Trade Acceptance. The Corporation shall receive matched trade submissions from the Market in accordance with the By-Laws, Rules, and procedures of the Corporation as in effect from time to time.

Transfers. The Corporation shall effect the transfer of positions between Clearing Members in accordance with the By-Laws, Rules and procedures of the Corporation as in effect from time to time.

Position Maintenance and Settlement. On a daily basis the Corporation shall calculate and collect original margin and variation margin on Cleared Contract trades and positions, and margin on positions in futures options and commodity options, in the accounts of Clearing Members. The Corporation shall settle the gains and losses associated with Cleared Contract trades and positions in the accounts of members at least once each business day.

Information for Clearing Members. The Corporation will make available to each Clearing Member on every business day with respect to Cleared Contracts in each account of such Clearing Member with the Corporation the following information, in machine readable format:

transactions in Cleared Contracts accepted by the Corporation for each account of the Clearing Member;

obligations to receive or deliver securities underlying matured physically settled security futures contracts in the Clearing Member's accounts that have been reported to National Securities Clearing Corporation for settlement or are required to be settled under the rules of the Corporation;

give-up trades, position transfers and other transactions that are effected in accordance with the Corporation's "CMTA" and/or allocation procedures;

EFP transactions, which will be identified as such by the Corporation using an available "data field" when such transactions are identified as such to the Corporation by the Market;

block trades, which will be identified as such by the Corporation using an available "data field" when such transactions are identified as such to the Corporation by the Market;

the daily mark-to-market of each open position;

amounts of money due to and from the Corporation from and to the Clearing Member;  
and

futures options and commodity options that the Clearing Member has exercised or been assigned the exercise, with the settlement date and amount receivable or payable by the Clearing Member in respect of each.

Pay/Collect. The Corporation will determine every Clearing Member's financial obligations to the Corporation each business day and require or make such payments as are necessary to discharge any balance owing in accordance with the Corporation's By-Laws and Rules.

Large Trader Reports. The Corporation will make available to the Market and/or the Clearing Member concerned such information as the Corporation may have that is necessary for the generation of any required large trader reports with respect to Cleared Contracts. The Market shall otherwise have responsibility for generating and filing such reports.

CMTA and/or Allocation Transactions. The Corporation will make the ENCORE system available to Clearing Members that are members of the Market for processing of CMTA and/or allocation transactions.

Fee Collections. The Corporation shall collect on behalf of the Market any fees invoiced by the Market to Clearing Members that are members of the Market pursuant to the Market's systems under which members of the Market designate Clearing Members of the Corporation for the payment of amounts billed by the Market to such members.

SCHEDULE B  
INFORMATION SHARING

I. Information Provided by the Corporation to the Market

A. Information provided each trading day

The following information in respect of Cleared Contracts will be provided by the Corporation to the Market each trading day for regulatory and financial surveillance purposes and for purposes of reporting under CFTC Regulations 16.00 and 16.01:

1. Cleared Contracts Compliance Data Service, which includes:
  - Matched Trades – reflects cleared matched trades including transfers and adjustments
  - Allocation Activity – identifies physically-settled and cash settled stock futures. (This information is included at contract maturity only.)
  - Open Positions – reflects all open positions
  - Delivery Positions – reflects security futures to be settled at NSCC or by physical delivery under Rules 901-912, including contracts for which settlement has been pending. (This information is included at contract maturity only.)
2. 2. Open Interest—contains all open interest information by position by Cleared Contract
3. 3. Price Data Service—settlement price data
4. 4. Contract Master—product information
5. 5. Give-ups—contains all information regarding executing and carrying firms
6. 6. Exchange-for-physicals, block trades and other non-competitive trades—contains all information relating to such transactions.

B. Information provided on an occurrence basis

1. Watch level reports when generated (monthly) for Clearing Members that are members of the Market
2. Notice of any establishment of higher margin requirements under Section 10 of the Agreement for a Clearing Member that is a member of the Market
3. Notice of any material change in the financial condition of a Clearing Member that is a member of the Market if the Corporation becomes aware of such change and believes

such change may have a material adverse effect on the ability of the Clearing Member to perform its obligations to the Corporation

4. Notice of (a) any Clearing Member default or (b) any suspension of, termination of, ceasing to act for, or liquidation of, any Clearing Member by the Corporation, if, in either case, the Clearing Member is a member of the Market
  5. Notice of any disciplinary action taken by the Corporation against a Clearing Member that is a member of the Market involving material non-compliance with financial or financial reporting requirements or material violation of the rules of the Corporation
1. C. Information provided upon request
    2. Results of margin stress-tests performed on Clearing Members who are members of the Market when requested by the Market on a Clearing Member-by-Clearing Member basis
    3. The Corporation agrees that the Market shall have the right during normal business hours to examine the Corporation's books, accounts, data base, pay/collect and other records, and at the Market's own expense to copy or make extracts from such documents and records and to utilize such data base; provided, however, that the Market shall have no such right with regard to transactions on any other futures market, security futures market or Options Exchange or which is otherwise competitive information of another futures market, security futures market or Options Exchange except insofar as (a) such transactions are entered into by members of the Market and are relevant to the Market's assessment of the financial condition of such member or (b) is necessary to protect the integrity of the Market.

## II. Information to be provided by the Market to the Corporation

The Market agrees that whenever, in the performance of its functions of monitoring compliance by its members with the financial responsibility standards established by the Market or the financial responsibility standards established by the SEC or the CFTC, it shall determine that (A) a Clearing Member is not in compliance with such standards, or (B) a Clearing Member is not in compliance with the financial responsibility standards established by the Corporation for its Clearing Members, or (C) the financial condition of a Clearing Member is such that special restrictions should be imposed on such Clearing Member, or (D) the financial condition of a Clearing Member should be reported to the Securities Investor Protection Corporation, the SEC, the CFTC or any other regulatory body, the Market shall notify the Corporation thereof by telephone immediately following the making of such determination and shall continue to keep the Corporation reasonably informed of the results of the Market's financial surveillance activities in respect of such Clearing Member so long as the Clearing Member is subject to any such special restrictions. The Market further agrees to furnish to the Corporation a copy of all written materials that are furnished to the financial surveillance committee of the Market (the "Committee") respecting a Clearing Member, provided that if the Market does not have a Committee, it hereby agrees to furnish the Corporation with a copy of all written materials respecting the financial condition of a Clearing Member relating to circumstances described in clauses (A) through (D) of the preceding sentence prepared for the management authority of the

Market exercising financial surveillance or similar functions (the "management authority"). Such written materials shall be delivered to the Corporation as promptly as practicable, but in no event later than 2:00 p.m. Central Time on the business day next following the day on which such materials are furnished to the Committee or the management authority; provided that upon the oral or written request of the Corporation, the Market shall make such materials available for pickup by the Corporation at the same time as they are furnished to the Committee or management authority. If the Market has a Committee, it also agrees (i) to notify the Corporation by telephone of each special or emergency meeting of the Committee (or regular meeting of the Committee called on less than 48 hours notice) concerning a Clearing Member prior to the commencement of such meeting, (ii) to advise the Corporation at the time of such notification as to the reasons for and purposes of such meeting, and (iii) to report by telephone to the Corporation immediately following the end of each meeting of the Committee (whether a regular or special or emergency meeting) as to the conclusions (if any) reached at such meeting concerning any Clearing Member and the reasons therefor. If the Market does not have a Committee, it also agrees to notify the Corporation of any action or proposed action concerning the financial condition of a Clearing Member to be taken by the management authority and the reasons therefor immediately upon making a determination concerning such Clearing Member.

Notwithstanding the provisions of Section 17 of this Agreement, any notice, written materials or telephone communication required to be furnished to the Corporation by this provision shall be delivered or made to any one of the Chairman, the Management Vice Chairman, or the President of the Corporation, or in case of the absence or unavailability of all of them, then to any Executive Vice President or Senior Vice President of the Corporation.

III. Information to be provided by either party to the other

If at any time either the Market or the Corporation becomes aware of the development of an excessive position or any other undesirable situation or practice that it believes is likely to have a material adverse impact upon trading in security futures or Commodity Contracts, it shall immediately notify the other party of such circumstances.



SCHEDULE C-[ ]

INTRODUCTION OF UNDERLYING INTEREST: [identify underlying interest]

[Date]

1. This is one of the Schedules C referred to in Sections 3(a)(ii) and 3(a)(iii) of the Amended and Restated Agreement for Clearing and Settlement Services dated May \_\_\_\_, 2009 (the "Agreement") between CBOE Futures Exchange, LLC (the "Market") and The Options Clearing Corporation (the "Corporation"). When completed and duly executed by the parties, this Schedule C shall be incorporated into the Agreement and become a part thereof. Terms used herein and defined in the Agreement shall have the meanings they are given in the Agreement.

2. [Insert paragraph similar in form to Section 3(a)(ii) or Section 3(a)(iii) of the Agreement, as relevant.]

3. [Insert paragraph specifying any information required to be included in the Certificate in addition to the information required to be included in the Certificate by Sections 3(c)(ii), 3(c)(v) and 3(c)(vi).]

4. [Insert paragraph specifying how far in advance of the start of trading the Certificate must be submitted and the time frame in which the Market may begin listing and trading.]

IN WITNESS WHEREOF, the parties hereto have duly executed this Schedule as of the date first above written.

CBOE FUTURES EXCHANGE, LLC

THE OPTIONS CLEARING CORPORATION

By: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Name:

Title:

Title:

## SCHEDULE C-3

INTRODUCTION OF UNDERLYING INTEREST:  
SPOT PRICES OF PHYSICAL COMMODITIES

August 4, 2009

1. This is one of the Schedules C referred to in Sections 3(a)(ii) and 3(a)(iii) of the Amended and Restated Agreement for Clearing and Settlement Services dated August 4, 2009 (the "Agreement") between CBOE Futures Exchange, LLC (the "Market") and The Options Clearing Corporation (the "Corporation"). When completed and duly executed by the parties, this Schedule C shall be incorporated into the Agreement and become a part thereof. Terms used herein and defined in the Agreement shall have the meanings they are given in the Agreement.

2. Pursuant to Section 3(a)(ii) of the Agreement, the Market may select underlying interests that are the subject of commodity options to be traded on the Market and cleared by the Corporation, subject to the following conditions: (A) delivery of the physical commodity shall not be required (i.e., the commodity options shall be cash-settled) and (B) counsel to the Corporation is satisfied that the clearance and settlement by the Corporation of commodity options on the underlying interest would not be (I) unlawful or (II) likely to subject the Corporation to liability based upon claims that clearing and settling of commodity options on such interest infringes the intellectual property rights of third parties or otherwise. For purposes of this Schedule C-3, the Market has selected as an underlying interest for commodity options the spot or futures price of a physical commodity reported by a reporting authority designated by the Market ("physical commodity options"). For the avoidance of doubt, the Market may list binary physical commodity options.

3. The Market will submit a Certificate with respect to any class of physical commodity options no later than ten trading days before the trading day on which the Market wishes to commence trading such class. The Market may begin listing and trading options in such class on the tenth trading day after the Certificate has been properly submitted to, and accepted by, the Corporation, provided that the Corporation may not reject the Certificate unless (i) the Certificate fails to comply in any material respect with Section 3(c) of the Agreement or the conditions of Section 3(a)(ii) of the Agreement have not been satisfied or (ii) in the reasonable determination of the Corporation, the class covered by the relevant Certificate presents any unresolved systemic, operational or risk modeling issues relative to providing services under the Agreement and, provided further, that the Corporation notifies the Market of any such rejection and the reasons therefor after the submission of the Certificate but prior to the first trading day. In the event that the Corporation rejects a certificate pursuant to clause (ii) above, the Corporation shall (i) make representatives of the Corporation available to explain to representatives of the Market the reasons for the rejection; (ii) undertake commercially reasonable efforts to address the systemic, operational or risk modeling issues that caused the Corporation to reject the certificate; and (iii) notify the Market when those issues have been satisfactorily addressed so that the Market may submit another certificate to the Corporation for the applicable class. The submitted Certificate shall state whether the physical commodity option is a binary option.

IN WITNESS WHEREOF, the parties hereto have duly executed this Schedule as of the date first above written.

CBOE FUTURES EXCHANGE, LLC

THE OPTIONS CLEARING CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

SCHEDULE C-4

INTRODUCTION OF UNDERLYING INTEREST:  
EVENTS

August 4, 2009

1. This is one of the Schedules C referred to in Sections 3(a)(ii) and 3(a)(iii) of the Amended and Restated Agreement for Clearing and Settlement Services dated August 4, 2009 (the "Agreement") between CBOE Futures Exchange, LLC (the "Market") and The Options Clearing Corporation (the "Corporation"). When completed and duly executed by the parties, this Schedule C shall be incorporated into the Agreement and become a part thereof. Terms used herein and defined in the Agreement shall have the meanings they are given in the Agreement.

2. Pursuant to Section 3(a)(ii) of the Agreement, the Market may select underlying interests that are the subject of commodity options to be traded on the Market and cleared by the Corporation, subject to the following conditions: (A) delivery of the underlying interests shall not be required (i.e., the commodity options shall be cash settled) and (B) counsel to the Corporation is satisfied that the clearance and settlement by the Corporation of commodity options on the underlying interest would not be (I) unlawful or (II) likely to subject the Corporation to liability based upon claims that clearing and settling of commodity options on such interest infringes the intellectual property rights of third parties or otherwise. For purposes of this Schedule C-4, the Market has selected as an underlying interest for commodity options the occurrence of a specified event ("event options"). Event options shall be binary options.

3. The Market will submit a Certificate with respect to any class of event options no later than ten trading days before the trading day on which the Market wishes to commence trading such class. The Market may begin listing and trading options in such class on the tenth trading day after the Certificate has been properly submitted to, and accepted by, the Corporation, provided that the Corporation may not reject the Certificate unless (i) the Certificate fails to comply in any material respect with Section 3(c) of the Agreement or the conditions of Section 3(a)(ii) of the Agreement have not been satisfied or (ii) in the reasonable determination of the Corporation, the class covered by the relevant Certificate presents any unresolved systemic, operational or risk modeling issues relative to providing services under the Agreement and, provided further, that the Corporation notifies the Market of any such rejection and the reasons therefor after the submission of the Certificate but prior to the first trading day. In the event that the Corporation rejects a certificate pursuant to clause (ii) above, the Corporation shall (i) make representatives of the Corporation available to explain to representatives of the Market the reasons for the rejection; (ii) undertake commercially reasonable efforts to address the systemic, operational or risk modeling issues that caused the Corporation to reject the certificate; and (iii) notify the Market when those issues have been satisfactorily addressed so that the Market may submit another certificate to the Corporation for the applicable class.

IN WITNESS WHEREOF, the parties hereto have duly executed this Schedule as of the date first above written.

CBOE FUTURES EXCHANGE, LLC

THE OPTIONS CLEARING CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

## SCHEDULE C-5

INTRODUCTION OF UNDERLYING INTEREST:  
COMMODITY INDEXES

August 4, 2009

1. This is one of the Schedules C referred to in Sections 3(a)(ii) and 3(a)(iii) of the Amended and Restated Agreement for Clearing and Settlement Services dated August 4, 2009 (the "Agreement") between CBOE Futures Exchange, LLC (the "Market") and The Options Clearing Corporation (the "Corporation"). When completed and duly executed by the parties, this Schedule C shall be incorporated into the Agreement and become a part thereof. Terms used herein and defined in the Agreement shall have the meanings they are given in the Agreement.

2. Pursuant to Section 3(a)(ii) of the Agreement, the Market may select underlying interests that are the subject of commodity options to be traded on the Market and cleared by the Corporation, subject to the following conditions: (A) delivery of the underlying interests shall not be required (i.e., the commodity options shall be cash-settled) and (B) counsel to the Corporation is satisfied that the clearance and settlement by the Corporation of commodity options on the underlying interest would not be (I) unlawful or (II) likely to subject the Corporation to liability based upon claims that clearing and settling of commodity options on such interest infringes the intellectual property rights of third parties or otherwise. For purposes of this Schedule C-5, the Market has selected commodity indexes as an underlying interest for commodity options ("commodity index options"). For the avoidance of doubt, the Market may list binary commodity index options.

3. The Market will submit a Certificate with respect to any class of commodity index options no later than ten trading days before the trading day on which the Market wishes to commence trading such class. The Market may begin listing and trading index options in such class on the tenth trading day after the Certificate has been properly submitted to, and accepted by, the Corporation, provided that the Corporation may not reject the Certificate unless (i) the Certificate fails to comply in any material respect with Section 3(c) of the Agreement or the conditions of Section 3(a)(ii) of the Agreement have not been satisfied or (ii) in the reasonable determination of the Corporation, the class covered by the relevant Certificate presents any unresolved systemic, operational or risk modeling issues relative to providing services under the Agreement and, provided further, that the Corporation notifies the Market of any such rejection and the reasons therefor after the submission of the Certificate but prior to the first trading day. In the event that the Corporation rejects a certificate pursuant to clause (ii) above, the Corporation shall (i) make representatives of the Corporation available to explain to representatives of the Market the reasons for the rejection; (ii) undertake commercially reasonable efforts to address the systemic, operational or risk modeling issues that caused the Corporation to reject the certificate; and (iii) notify the Market when those issues have been satisfactorily addressed so that the Market may submit

another certificate to the Corporation for the applicable class. The submitted Certificate shall state whether the commodity index option is a binary option.

IN WITNESS WHEREOF, the parties hereto have duly executed this Schedule as of the date first above written.

CBOE FUTURES EXCHANGE, LLC

THE OPTIONS CLEARING CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

SCHEDULE C-6

INTRODUCTION OF UNDERLYING INTEREST:  
Futures on Non-Security Indexes

June \_\_, 2011

1. This is one of the Schedules C referred to in Sections 3(a)(ii) and 3(a)(iii) of the Amended and Restated Agreement for Clearing and Settlement Services dated August 4, 2009 (the "Agreement") between CBOE Futures Exchange, LLC (the "Market") and The Options Clearing Corporation (the "Corporation"). When completed and duly executed by the parties, this Schedule C shall be incorporated into the Agreement and become a part thereof. Terms used herein and defined in the Agreement shall have the meanings they are given in the Agreement.

2. Pursuant to Section 3(a)(ii) of the Agreement, the Market may select underlying interests that are the subject of commodity futures to be traded on the Market and cleared by the Corporation, subject to the following conditions: (A) delivery of the underlying interests shall not be required (i.e., the commodity futures shall be cash-settled) and (B) counsel to the Corporation is satisfied that the clearance and settlement by the Corporation of commodity futures on the underlying interest would not be (I) unlawful or (II) likely to subject the Corporation to liability based upon claims that clearing and settling of commodity futures on such interest infringes the intellectual property rights of third parties or otherwise. The Market has selected as an underlying interest for commodity futures non-security index futures. For purposes of this Schedule C-6, a "non-security index future" is a futures contract having as its underlying interest a non-security index.

3. Except for the initial Radar Logic Real Estate Index futures (a non-security index future, as defined below): The Market will submit a Certificate with respect to any class of non-security index futures no later than ten trading days before the trading day on which the Market wishes to commence trading such class. The Market may begin listing and trading futures in such class on the tenth trading day after the Certificate has been properly submitted to, and accepted by, the Corporation, provided that the Corporation may not reject the Certificate unless (i) the Certificate fails to comply in any material respect with Section 3(c) of the Agreement or the conditions of Section 3(a)(ii) of the Agreement have not been satisfied or (ii) in the reasonable determination of the Corporation, the class covered by the relevant Certificate presents any unresolved systemic, operational or risk modeling issues relative to providing services under the Agreement and, provided further, that the Corporation notifies the Market of any such rejection and the reasons therefor after the submission of the Certificate but prior to the first trading day. In the event that the Corporation rejects a certificate pursuant to clause (ii) above, the Corporation shall (i) make representatives of the Corporation available to explain to representatives of the Market the reasons for the rejection; (ii) undertake commercially reasonable efforts to address the systemic, operational or risk modeling issues that caused the Corporation to reject the certificate; and (iii) notify the Market when those issues have been



satisfactorily addressed so that the Market may submit another certificate to the Corporation for the applicable class.

4. For purposes of this Schedule C-6, the "initial Radar Logic Real Estate Index futures" are the Midwest Region RPX Futures, Northeast Region RPX Futures, West Region RPX Futures, South Region RPX Futures, and 25-Metropolitan Statistical Area Composite RPX Futures. For the initial Radar Logic Real Estate Index futures, the Market will submit a Certificate no later than 11:00 a.m. (Chicago time) on the trading day before the trading day on which the Market wishes to commence trading such futures, provided the commencement day for trading shall be no earlier than June 30, 2011. The Market may begin listing and trading the initial Radar Logic Real Estate Index futures on the first trading day after the Certificate for such futures has been properly submitted to the Corporation, but in no event earlier than June 30, 2011.

IN WITNESS WHEREOF, the parties hereto have duly executed this Schedule as of the date first above written.

CBOE FUTURES EXCHANGE, LLC

THE OPTIONS CLEARING CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

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