

ICE

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BY ELECTRONIC TRANSMISSION

Submission No. 13-61

August 9, 2013

Ms. Melissa Jurgens
Secretary of the Commission
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

**Re: Amendments to Exchange Bylaws, Chapter 1 (Definitions) and Standing Resolution 6 of the Rules
Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6(a)**

Dear Ms. Jurgens:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended, and Commission Regulation 40.6(a), ICE Futures U.S., Inc. ("Exchange") hereby notifies the Commission of amendments to the Exchange's Bylaws, certain definitions and Standing Resolution 6 of the Rules of the Exchange. The amendments will become effective on August 26, 2013 and are attached as Exhibit A.

The amendments relate to certain aspects of the 2007 merger transaction in which ICE acquired the former Board of Trade of the City of New York, Inc. Specifically, at that time certain terms of the transaction were characterized as "core rights" and codified as such in Annex E to the bylaws and in other provisions of the bylaws and Annexes. Bylaw 16.1 provides that commencing July 1, 2013, any amendment of a core right no longer requires separate supermajority votes of the public directors and the entire Board; consequently, any such amendment may be adopted after that date by a simple majority vote of the Board.¹ On July 22, 2013 the Exchange's Board unanimously voted to eliminate the classification of any bylaw or rule as a core right; accordingly, the attached amendments delete Annexes A-E in their entirety and, as described further below, relocate portions of the Annexes to the bylaws.

Specifically, seven (7) defined terms from Annex D have been moved to the "Definitions" section (Chapter 1) of the Exchange's Rules; Annex A has generally been incorporated (with

¹ Bylaw 16.1 provides in relevant part that: "Notwithstanding anything herein to the contrary, until July 1, 2013, the provisions described on Annex E and this Section 16.1 (the "Core Rights") shall not be amended or repealed, and no Bylaw that violates the Core Rights shall be adopted (a "Core Rights Amendment") unless (i) the Public Directors, by a Required Public Director Vote, determine that a Core Rights Amendment should be adopted and recommend the same to the Board of Directors and (ii) the Core Rights Amendment is approved by a vote of at least two-thirds of the entire Board of Directors, determined as if there were no vacancies;..."

certain limited exceptions) into Article V of the bylaws, which has been re-titled "Trading Memberships and Trading Permits; Clearing"; a portion of Annex B has been added to Resolution 6 regarding contract fees; and Annex C has been incorporated into Article VII of the bylaws, which has been re-titled "Trade Committees". The relocated provisions have been retained generally to comply with regulatory standards applicable to the Exchange under the Commission's regulations or to restore provisions that were previously codified in the bylaws but which had been relocated to the Annexes in 2007 for the sake of clarity and ease of reference.

For example, the amendments to new Article VII contain provisions regarding Trade Committees that are comprised of market participants who advise the Exchange on matters relevant to the terms and conditions of legacy contracts. The pre-merger bylaws of the Exchange had provided for Trade Committees and the Exchange continues to regularly engage these committees to solicit the views of market participants with respect to material rules and amendments that are under consideration. None of the amendments alter the composition of the Board or the existing membership structure. The following summarizes the additions and other changes that are being made to the bylaws and Annexes:

Annexes A-E:	Deleted
Bylaw Section 1.3	Deletes references to the Annexes
Bylaw Section 4.1(a)	Deletes an obsolete reference to requirements which existed until the 4-year anniversary of the merger, and thus lapsed in 2011.
Bylaw Section 4.1(b)	Deletes obsolete provisions regarding 4 year of the initial public directors, which lapsed in 2011.
Bylaw Section 4.2	Deletes obsolete provisions regarding the filling of vacancies of public directors during the first 4 years following the merger.
Bylaw Section 4.3	Relocated from Annex A (Section 4) -- sets forth the Board's authority to establish contract fees.
Bylaw Section 5.1	Relocated from Annex A (Section 1)--establishes the various categories of members and permit holders, along with the rights and obligations associated with each.
Bylaw Section 5.2	Relocated from Annex A (Section 2)--sets forth the Board's authority to establish eligibility criteria for members and permit holders.
Bylaw Section 5.3	Relocated from Annex A (Section 3)--sets forth financial standards, reporting requirements and rules for safeguarding customer funds applicable to intermediaries.
Bylaw Sections 5.4-6	Relocated from Annex A (Sections 5, 6 and 7)--sets forth rules on suspension for failure to pay amounts owing to Exchange, notice procedures and obligations of a suspended or terminated member.

- Bylaw Section 5.7 Relocated from Annex A (Section 8)--sets forth procedures for transfer of memberships and permits.
- Section 5.8 Relocated from Annex A (Section 9)--designates clearing organizations to clear Exchange contracts and sets forth clearing member duty to comply with Exchange and clearing organization eligibility criteria; deletes provision directing that ICUS organizational documents not be inconsistent with Exchange bylaws.
- Bylaw Section 7.1 Relocated from former Bylaw 7.4 – sets forth the authority to establish Exchange committees (as distinguished from Board committees) and the ability to add/delete committee members.
- Bylaw Sections 7.2-3 Relocated from Annex C (Sections 1-4) -- establishes Trade Committee charters, composition and operating procedures; deletes former Bylaw 7.3.
- Bylaw Section 16.1 Deletes provisions setting forth procedures for amending core rights.
- Standing Resolution 6 Relocated from Annex B (Section (b)(ii))--sets forth certain events that would not be deemed “transfers” of a NYBOT Membership for purposes of determining the contract fee rate applicable to the successor of a NYBOT Member Firm or to a discrete line of business of such a firm.
- Chapter 1 of Rules: Relocates certain definitions from Annex D.

The Exchange is not aware of any substantive opposing views expressed with respect to this filing and certifies that, concurrent with its filing a copy of this submission was posted on the Exchange's website and may be accessed at (<https://www.theice.com/notices/RegulatoryFilings.shtml>).

If you have any questions or need further information, please contact me at 212-748-4083 or at Audrey.hirschfeld@theice.com.

Sincerely,



Audrey R. Hirschfeld
SVP and General Counsel
ICE Futures U.S., Inc.

Enc.

cc: Division of Market Oversight
New York Regional Office

EXHIBIT A

ICE FUTURES U.S.[®], INC.

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BYLAWS

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ICE FUTURES U.S.[®], INC.

BYLAWS

ARTICLE I

DEFINITIONS; AND INTERPRETATION; ANNEXES AND SCHEDULES

Section 1.1. Capitalized terms used but not defined herein shall have their ~~respective~~ meanings set forth in ~~Annex D~~ the Rules.

Section 1.2. Any reference in these Bylaws to the Delaware General Corporation Law shall be to the Delaware General Corporation Law as it now exists or as it may hereafter be amended.

Section 1.3. ~~The Annexes hereto (and any Schedules thereto) are hereby incorporated by reference into, and shall be deemed to be part of, these Bylaws.~~

Section 1.4. ~~To the extent that there is any conflict or inconsistency between the Bylaws and the Rules, the Bylaws shall control.~~

ARTICLE II

OFFICES

Section 2.1. The registered office of ICE Futures U.S.[®], Inc. (the "Corporation") shall be in the City of Wilmington, County of New Castle, State of Delaware. The Corporation may also have offices at such other places both within and without the State of Delaware as the Board of directors of the Corporation (the "Board of Directors") may from time to time determine or the business of the Corporation may require.

ARTICLE III

MEETINGS OF STOCKHOLDERS

Section 3.1. Annual Meetings

(a) Annual meetings of stockholders shall be held at such date and time as shall be designated from time to time by the Board of Directors and stated in the notice of meeting, at which they shall elect the Board of Directors and transact such other business as may properly be brought before the meeting.

(b) Notice of the annual meeting stating the place, if any, date and hour of the meeting, and the means of remote communications, if any, by which stockholders may be deemed to be present in person and vote at such meeting, shall be given to each stockholder entitled to vote at such meeting not fewer than ten (10) nor more than sixty (60) days before the date of the meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation.

Section 3.2. Special Meetings

(a) Special meetings of the stockholders, for any purpose or purposes, unless otherwise prescribed by statute or by the certificate of incorporation of the Corporation (the "Certificate of Incorporation"), may be called at any time by the Board of Directors, the Chairman of the Board, if any, or the Chief Executive Officer, or by the Secretary upon the written request of holders of common stock representing in the aggregate at least 50% of the shares of common stock outstanding at such time. Such request shall state the purpose or purposes of the proposed meeting. At any special meeting, only such business may be transacted which is related to the purpose or purposes set forth in the notice of such special meeting given pursuant to Section 3.2(b) of these Bylaws.

(b) Notice of a special meeting stating the place, if any, date and hour of the meeting and the purpose or purposes for which the meeting is called, and the means of remote communications, if any, by which stockholders may be deemed to be present in person and vote at such meeting, shall be given not fewer than ten (10) nor more than sixty (60) days before the date of the meeting, to each stockholder entitled to vote at such meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation.

Section 3.3. Stockholder List

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

Section 3.4. Quorum

The holders of a majority of the stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business except as otherwise provided by statute or by the Certificate of Incorporation or these Bylaws. When a quorum is once present to organize a meeting, it is not broken by the subsequent withdrawal of any stockholders. The stockholders present in person or by proxy and entitled to vote may, by a majority of the votes cast, adjourn the meeting despite the absence of a quorum.

Section 3.5. Adjournment

Any meeting of stockholders, annual or special, may be adjourned from time to time in accordance with Section 3.6 hereof, to reconvene at the same or some other place, if any, and notice need not be given of any such adjourned meeting if the time and place thereof, and the means of remote communications, if any, by which stockholders may be deemed to be present in person and vote at such meeting, are announced at the meeting at which the adjournment is taken. At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned

meeting shall be given to each stockholder of record entitled to vote at the meeting in conformity with the requirements of these Bylaws.

Section 3.6. Organization

Meetings of stockholders shall be presided over by the Chairman of the Board, if any, or in the absence of the Chairman of the Board by the Vice Chairman of the Board, if any, or in the absence of the Vice Chairman of the Board by the Chief Executive Officer, or in the absence of the Chief Executive Officer by a Vice President, or in the absence of the foregoing persons by a Chairman designated by the Board of Directors, or in the absence of such designation by a Chairman chosen at the meeting. The Secretary, or in the absence of the Secretary an Assistant Secretary, shall act as Secretary of the meeting, but in absence of the Secretary and any Assistant Secretary the Chairman of the meeting may appoint any person to act as Secretary of the meeting. The order of business at each such meeting shall be as determined by the Chairman of the meeting. The Chairman of the meeting shall have the right, power and authority to adjourn a meeting of stockholders for a reasonable period of time to another place, if any, date and time, and to prescribe such rules, regulations and procedures and to do all such acts and things as are necessary or desirable for the proper conduct of the meeting and are not inconsistent with any rules, regulations or procedures adopted by the Board of Directors pursuant to the provisions of the Certification of Incorporation, including, without limitation, the establishment of procedures for the maintenance of order and safety, limitations on the time allotted to questions or comments on the affairs of the Corporation, restrictions on entry to such meeting after the time prescribed for the commencement thereof and the opening and closing of the voting polls for each item upon which a vote is to be taken.

Section 3.7. Vote; Proxies

Unless otherwise provided in the Certificate of Incorporation, each stockholder entitled to vote at any meeting of stockholders shall be entitled to one (1) vote for each share of stock held by such stockholder which has voting power upon the matter in question. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another Person or Persons to act for such stockholder by proxy, but no such proxy shall be voted or acted upon after three (3) years from its date, unless the proxy provides for a longer period. A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power, regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the Corporation generally. A stockholder may revoke any proxy which is not irrevocable by attending the meeting and voting in person or by filing an instrument in writing revoking the proxy or another duly executed proxy bearing a later date with the Secretary of the Corporation. Voting at meetings of stockholders need not be by written ballot and need not be conducted by inspectors unless the holders of a majority of outstanding shares of all classes of stock entitled to vote thereon present in person or represented by proxy at such meeting shall so determine. Directors shall be elected by a plurality of the votes of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors. In all other matters, unless otherwise provided by law or by the Certificate of Incorporation or these Bylaws, the affirmative vote of the holders of a majority of the shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the stockholders. Where a separate vote by class or classes is required, the affirmative vote of the holders of a majority of the shares of such class or classes present in person or represented by proxy at the meeting shall be the act of such class or classes, except as otherwise provided by law, the Certificate of Incorporation or these Bylaws.

Section 3.8. Record Dates

(a) In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, or delegate the task of fixing a record date to a committee consisting of one (1) or more directors of the Corporation, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more sixty (60) nor less than ten (10) days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to vote notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to consent to corporate action in writing without a meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which date shall not be more than ten (10) days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. If no record date has been fixed by the Board of Directors, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is required by law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation by delivery to its registered office in the State of Delaware, its principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by law, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

(c) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of shares of capital stock of the Corporation ("Shares"), or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted and which record date shall be not more than sixty (60) days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

Section 3.9. Action by Written Consent

Unless otherwise provided in the Certificate of Incorporation or by law, whenever stockholders are required or permitted to take any action by vote, such action may be taken

without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of stockholders to take the action were delivered to the Corporation as provided in this Section 3.9.

ARTICLE IV DIRECTORS

Section 4.1. Number; Election Qualifications

(a) The number of directors constituting the entire Board of Directors shall be nine (9), consisting of two individuals who are executive officers or directors of IntercontinentalExchange, Inc. ("ICE") or any successor to, or successor owner of, ICE, the Chief Executive Officer or the President of the Corporation, four (4) representatives who are not Trading ~~m~~Members of the Exchange and qualify as Public Directors, and two other individuals elected by the shareholders, and acting by a majority vote of the total number of directors. The number of directors may be such other number, not less than three (3), fixed from time to time by the Board of Directors, acting by a majority vote of the total number of directors which the Corporation would have, prior to any increase or decrease, determined as if there were no vacancies, provided, that no decrease shall shorten the term of any incumbent director, ~~and provided, further, that until January 12, 2011 (the "Four-Year Anniversary"), the Board of Directors shall consist of at least four (4) Public Directors.~~

(b) Each director shall be elected by the stockholders at their annual meeting, ~~provided, however, that each initial Public Director shall hold office for four (4) consecutive one (1) year terms from the Effective Date and shall be reelected by ICE at each annual meeting called for such purpose if such Public Director is nominated by a majority of the other Public Directors; provided, that if ICE fails to elect any such Public Director for any reason, such Public Director shall continue in office as provided in the immediately succeeding sentence.~~ Each director shall hold office until the next election, and until his or her successor is elected and qualified or until his or her earlier death, resignation or removal. Any director may resign at any time upon written notice or by electronic transmission given to the Board of Directors or to the Chief Executive Officer or the Secretary of the Corporation. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein, no acceptance of such resignation shall be necessary to make it effective.

(c) Directors need not be stockholders.

(d) In the event applicable CFTC rules or other requirements require that additional directors of the Corporation qualify as Public Directors, the Board of Directors, after consultation with the Public Directors, shall cause the Corporation to take all necessary actions to increase the size of the Board of Directors by such number of Public Directors as is necessary to satisfy then applicable laws or CFTC rules or requirements relating to the independence of directors.

Section 4.2. Vacancies

Any vacancies resulting from death, resignation, disqualification, removal or other cause and newly created directorships resulting from any increase in the authorized number of directors or from any other cause, shall be filled by, and only by, directors then in office, even if less than a quorum, or by the sole remaining director; ~~provided, however, that until the Four Year Anniversary any vacancy in a directorship most recently held by one (1) of the four (4) Public Directors shall be filled by, and only by, an individual appointed by the remaining Public Directors then holding office and approved by ICE (such approval not to be unreasonably withheld). In the event there is a vacancy in a directorship most recently held by one (1) of the Public Directors, the Public Directors then holding office and ICE shall act to ensure that such a vacancy is filled promptly (and in any event within two (2) weeks of the occurrence of such vacancy). If any such vacancy is not filled within such two (2) week period, the stockholders may fill such seat with a person who would qualify as a Public Director. Prior to the Four Year Anniversary, the stockholders shall not remove any Public Director from the Board of Directors without cause. If the Board of Directors fails to adopt and approve fees or charges for a Commodity Contract proposed by ICE (provided that such proposed fees or charges do not violate Section 4(b) of Annex A or Section 4 of Annex B) or fails to approve any bona fide market maker programs that are consistent with standard industry practices, the stockholders shall have the right to remove for cause any director who has not voted to adopt and approve such proposed fees or charges, or market maker programs (including, in any such case, any director who abstains from a vote to adopt and approve such proposed fees and charges, or market maker programs).~~ Any director elected or appointed to fill a vacancy or a newly created directorship shall hold office until the next annual election and until his or her successor is duly elected and shall qualify, or until his or her earlier resignation or removal.

Section 4.3. Board Authority: Transaction Fees

The business of the Corporation shall be managed by or under the direction of its Board of Directors. The Board of Directors may from time to time adopt resolutions that impose fees or charges for each Commodity Contract purchased or sold on the Exchange or subject to the Rules. In fixing the amount of any such fees or charges, the Board of Directors may, in its discretion, establish different rates for Transactions in different Commodity Contracts, or for different types of Transactions involving the same Commodity Contract, or may omit any such fees or charges with respect to any type of Transaction or may establish different rates based on such other factors as the Board of Directors may determine are appropriate. Such fees and charges shall be paid or collected by Persons in accordance with such terms and conditions as the Board of Directors may prescribe. If any Person fails to pay any fee or charge required pursuant to this Section, the Corporation may, in addition to any other rights or remedies it may have, order that any trading in Commodity Contracts for such Person's account be for liquidation only until such fees or charges are paid.

Section 4.4. Meetings

The Board of Directors may hold meetings, both regular and special, either within or without the State of Delaware.

(a) Regular meetings of the Board of Directors may be held at such time and at such place as shall from time to time be determined by the Board of Directors and publicized among all directors, and if so determined and publicized, notice thereof need not be given.

(b) Special meetings of the Board of Directors may be called by the Chairman of the Board, if any, by the Vice Chairman of the Board, if any, by the Chief Executive Officer or by any two (2) directors on reasonable notice to each director either personally or by mail, e-mail or facsimile, which notice, with respect to each director, may be waived in writing by such director.

Section 4.5. Quorum

At each meeting of the Board of Directors, a majority of the total number of directors fixed hereby (including any vacancies) shall constitute a quorum. The vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors unless the Certificate of Incorporation or these Bylaws shall require a vote of a greater number. In case at any meeting of the Board of Directors a quorum shall not be present, the members of the Board of Directors present may adjourn the meeting from time to time until a quorum shall be present.

Section 4.6. Organization

Meetings of the Board of Directors shall be presided over by the Chairman of the Board, if any, or in the absence of the Chairman of the Board by the Vice Chairman of the Board, if any, or in the absence of the Vice Chairman of the Board by the Chief Executive Officer, or in their absence by a Chairman chosen at the meeting. The Secretary, or in the absence of the Secretary an Assistant Secretary, shall act as Secretary of the meeting, but in the absence of the Secretary and any Assistant Secretary the Chairman of the meeting may appoint any person to act as Secretary of the meeting.

Section 4.7. Action by Written Consent

Any action required or permitted to be taken at any meeting of the Board of Directors or any committee thereof may be taken without a meeting if all of the members of the Board of Directors or of such committee, as the case may be, consent thereto in writing or by electronic transmission and the writing or writings or transmission or transmissions are filed with the minutes of the Corporation. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 4.8. Participation In Meetings by Means of Remote Communication

Members of the Board of Directors, or of any committee designated by the Board of Directors, may participate in a meeting of the Board of Directors or of such committee, as the case may be, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

ARTICLE V COMMITTEES OF DIRECTORS

Section 4.9 Committees of the Board **5.1. Composition**

(a) The Board of Directors may designate one (1) or more committees, each committee to consist of one (1) or more of the directors of the Corporation. The Board of Directors may designate one (1) or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member.

Section 5.2. Scope of Authority

(b) Any such committee, to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers that require it; but no such committee shall have such power or authority in reference to the following matters: (a) approving or adopting, or recommending to the stockholders, any action or matter expressly required by the Delaware General Corporation Law to be submitted to stockholders for approval; and (b) adopting, amending or repealing any provision of these Bylaws.

Section 5.3. Organization

(c) Unless the Board of Directors otherwise provides, each committee designated by the Board of Directors may adopt, amend and repeal rules for the conduct of its business. In the absence of a provision by the Board of Directors or a provision in the rules of such committee to the contrary, a majority of the entire authorized number of members of such committee shall constitute a quorum for the transaction of business, the vote of a majority of the members present at a meeting at the time of such vote if a quorum is then present shall be the act of such committee, and in other respects each committee shall conduct its business in the same manner as the Board of Directors conducts its business pursuant to Article IV of these Bylaws.

ARTICLE V

TRADING MEMBERSHIPS AND TRADING PERMITS; CLEARING

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Section 5.1 Issuance of Trading Memberships and Trading Permits

(a) Trading Memberships.

(i) The Corporation shall issue to each Former Member (and to no other Person) a NYBOT Membership upon receiving from such Former Member properly completed, executed copies of such NYBOT Membership application documentation as the Corporation shall have requested and delivered to such Former Member prior to the Effective Time. A NYBOT Member shall own, at all times, three thousand one hundred sixty two (3,162) shares of common stock, par value \$0.01 per share, of ICE ("ICE Common Stock") (as adjusted for reclassifications, stock splits (including reverse stock splits), stock dividends or distributions, recapitalizations or similar transaction) for each NYBOT Membership held by such NYBOT Member. Any NYBOT Member that fails to hold such requisite number of shares of ICE Common Stock shall have such NYBOT Membership revoked and permanently cancelled. Each NYBOT Member shall grant to the Exchange a security interest in all of such shares of ICE Common Stock as provided in the Rules in a manner, and pursuant to arrangements, required by the Corporation. Each NYBOT Member shall have the right to execute trades in

all Existing Products, to the extent that such Existing Products are then traded by the Exchange.

(ii) The Corporation may issue other Trading Memberships in such numbers and for such consideration as the Board of Directors may from time to time determine, subject to these Bylaws and the Rules, provided, however, that any Trading Membership issued other than pursuant to paragraph (a)(i), above, shall not include the right to execute Transactions on the Exchange trading floor.

(b) Trading Permits.

(i) The Corporation shall issue NYBOT Trading Permits to each Former Permit Holder (and to no other Person), upon receiving from such Former Permit Holder properly completed, executed copies of such Trading Permit application documentation as the Corporation shall have requested and delivered to such Former Permit Holder. Each such NYBOT Trading Permit shall be limited to the specific Commodity Contracts for which such Former Permit Holder had trading rights immediately prior to the Effective Time.

(ii) The Corporation may issue other Trading Permits in such numbers and for such consideration as the Board of Directors may from time to time determine, subject to these Bylaws and the Rules, provided, however, that any Trading Permits issued other than pursuant to paragraph (b)(i), above, shall not include the right to execute Transactions on the Exchange trading floor.

(c) Trading Members, Permit Holders, Member Firms and Lessees shall have only such rights and privileges as are set forth in these Bylaws, the Rules or as prescribed by the Board of Directors, which rights will exist as a matter of contract only. Trading Members, Permit Holders, Member Firms and Lessees shall not constitute stockholders within the meaning of the Delaware General Corporation Law, the Certificate of Incorporation, these Bylaws or the Rules, shall not have any of the rights and privileges of stockholders and shall have only such rights and privileges as are set forth in the Rules or as prescribed by the Board of Directors, which rights will exist as a matter of contract only. No director or officer of the Exchange shall have any fiduciary duty, obligation or responsibility of any nature to Trading Members, Permit Holders, Member Firms or Lessees by virtue of such contractual rights. Without limiting the generality of the foregoing, Trading Members, Permit Holders, Member Firms and Lessees will not have any voting rights in the Corporation or any rights to receive any distributions of cash, securities or other property, whether on dissolution, liquidation, merger, consolidation or otherwise.

Section 5.2 Eligibility Criteria and Procedures.

The Board of Directors may from time to time adopt such eligibility criteria and application procedures for becoming a Trading Member, Permit Holder, Member Firm or Lessee and such requirements and procedures for acquisition, transfer, lease, sale or other disposition of a Trading Membership or a Trading Permit as the Board of Directors shall determine.

Section 5.3. Financial Standards, Reporting Requirements and Treatment of Customer Funds

(a) The Board of Directors may from time to time adopt minimum financial standards and related reporting requirements to be complied with by Trading Members, Permit Holders, Member Firms and Lessees as a continuing condition to exercising or maintaining such status as a Trading Member, Permit Holder, Member Firm or Lessee, and, for purposes of imposing such standards and requirements, the Board of Directors may create such categories as it deems necessary or appropriate.

(b) Each Member Firm that is registered with the CFTC as a Futures Commission Merchant or an Introducing Broker shall maintain minimum capital, comply with reporting requirements and use, segregate, invest and hold customer funds in accordance with, and otherwise comply with Commodity Futures Trading Commission Regulations 1.10, 1.12, 1.14, 1.15, 1.17, 1.20, 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, 1.27 and 1.28 as applicable to it, provided that (i) any requirement which concerns the filing with or reporting to the Commission or the approval of the Commission shall not be considered a requirement of the Corporation; and (ii) any reference to a "designated self-regulatory organization" or "self-regulatory organization of which an FCM is a member" shall mean the Corporation unless the Corporation has notified any such Member Firm that this term shall mean another "self-regulatory organization".

Section 5.4 Failure to Pay Fees and Other Amounts.

(a) If any Trading Member, Permit Holder, Member Firm or Lessee shall fail to pay any fees, charges or other amounts owing, directly or indirectly, to the Corporation, including, but not limited to, floor fines, booth fees and telecommunication and work station fees, when and as provided in the Rules or in any agreement to which such Person is a party, and such failure shall not be corrected within thirty (30) days following written notice by the Corporation that such fees or other amounts are in arrears, such Person shall be suspended automatically, and shall remain suspended until such arrearage, together with any other amounts which accrued and remain unpaid since the date of the suspension, is paid, and such Person is reinstated as provided in this Section. Any such Person that makes full payment in good funds within thirty (30) days of the suspension shall be automatically reinstated effective the day following receipt by the Corporation. Any such suspended Person that makes full payment in good funds after thirty (30) days from the date of the suspension but prior to ninety (90) days thereafter may be reinstated as provided in the Rules.

(b) If a Person suspended pursuant to paragraph (a) of this Section 5 shall fail to pay the arrearage upon which such suspension was based within ninety (90) days following the effective date of any such suspension:

(i) such Person shall automatically have all Exchange rights and privileges terminated; and

(ii) The Corporation may sell any Trading Membership or Trading Permit held by such Person and any ICE Common Stock as to which a security interest was granted to the Corporation, and pay and apply the proceeds as provided in the Rules; provided, however, that on written application received prior to the expiration of such ninety (90) day period, the Corporation, in its sole discretion, may extend such period.

Section 5.5 Notice.

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Notice of all fees, charges and other amounts shall be mailed by the Corporation to each Person owing any such amount at his address on file with the Corporation; provided, however, that non-receipt shall not operate to release any such Person from the obligation to make payment, extend time for payment, or relieve any such Person from any penalties for non-payment.

Section 5.6 Effect of Suspension or Termination.

(a) A Trading Member, Permit Holder, Member Firm or Lessee whose rights and privileges have been suspended shall remain and continue to be:

(i) subject to all of the Rules;

(ii) liable for fees, charges and other amounts imposed by the Corporation; and

(iii) obligated to the Corporation for all Commodity Contracts, obligations and liabilities entered into or incurred before, during and after suspension.

(b) A Trading Member, Permit Holder, Member Firm or Lessee whose rights and privileges have been terminated shall remain and continue to be:

(i) liable for all fees, charges and other amounts imposed by the Corporation prior to termination of such rights and privileges;

(ii) obligated to the Corporation for all Commodity Contracts, obligations and liabilities entered into or incurred prior to such termination; and

(iii) liable for all fines and other penalties imposed subsequent to the termination of rights and privileges which are based upon Rule violations committed prior to said termination if an investigation into said violations shall have been commenced within six (6) months of the effective date of such termination.

(c) In connection with the investigation and prosecution of Rule violations referred to in paragraph (b)(iii), former Trading Members, Permit Holders, Member Firms and Lessees remain subject to the Corporation's Disciplinary Rules, and retain all rights and protections granted by all Rules relating to Corporation disciplinary procedures.

Section 5.7 Transferability of Trading Memberships and Trading Permits.

(a) The acquisition, lease, transfer, sale or other disposition of Trading Memberships and Trading Permits shall be effected according to the Rules; provided, however, that (i) no Person may transfer his Trading Membership or Trading Permit where an arbitration proceeding is pending against such Person or where the Compliance Department has commenced an investigation into possible violations of the Rules by such Person, until such arbitration, investigation and any resulting disciplinary actions have been completed, (ii) no NYBOT Permit Holder may lease a Trading Permit and (iii) no Person may exercise, receive or confer any Member Firm rights, privileges or benefits through the lease of a Trading Membership (including, for the avoidance of doubt, a NYBOT Membership).

(b) Notwithstanding the provisions of paragraph (a) of this Section 5.7, the Chief Executive Officer may permit the transfer of a Trading Membership or Trading Permit if the transferor deposits with the Corporation an Official Teller's Check in an amount equal to the sum of (i) the price of the last sale or the last bid for such Trading Membership or Trading Permit, whichever is higher, plus (ii) the market value of the shares of ICE Common Stock required pursuant to Section 1(a)(i) of this Annex A, in the case of a Trading Membership and the Corporation shall retain such deposit in its custody until such time as the investigation and any disciplinary actions have been completed, after which said deposit shall be disposed of as provided in the Rules.

(c) Each transferee of a Trading Membership or Trading Permit shall enter into such documentation as the Corporation may require from time to time, including without limitation a written acknowledgement that such transferee agrees to be bound by and subject to these Bylaws and the Rules.

(d) To the extent any attempted acquisition, lease, transfer, sale or other disposition of a Trading Membership or Trading Permit would be in violation of these Bylaws or the Rules, it shall be null and void *ab initio*.

Section 5.8 Clearing.

(a) ICE Clear U.S.[®] Inc. is hereby designated as the Clearing Organization authorized to clear Transactions. The Board of Directors may from time to time designate one (1) or more additional clearing organizations as being authorized to clear any or all Transactions.

(b) In order to be eligible to be a member of ICE Clear U.S., Inc. (a "Clearing Member") a firm shall satisfy the requirements for Clearing Members set forth in the Exchange Rules and the rules of the relevant Clearing Organization.

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ARTICLE VI COMPENSATION OF DIRECTORS

Section 6.1. Any action taken by the Board of Directors or any committee thereof with respect to the compensation and benefits of directors of the Corporation shall be approved by the stockholders.

ARTICLE VII ~~TRADING RIGHTS; ELECTRONIC TRADING; TRADE COMMITTEES;~~ ~~EXCHANGE COMMITTEES; TRADE COMMITTEES~~

Section 7.1 ~~Exchange Committees.~~ ~~In connection with issuing rights with respect to certain matters regarding the trading of Commodity Contracts on the Exchange, the Corporation shall comply with the requirements set forth in Annex A. The Exchange shall have such committees ("Exchange Committees") as are provided for in the Rules or as the Board of Directors shall appoint from time to time. Subject to the limitations provided in these Bylaws on the authority and power of Trade Committees, Exchange Committees shall have such powers as may be delegated to them from time to time by the Board of Directors; provided, however, that such powers shall in no case exceed such powers as the Board of Directors might delegate lawfully to an officer of the Exchange. Unless otherwise specifically provided in the Rules, Exchange~~

Committees shall have such number and composition as the Board of Directors may from time to time determine. The President of ICE Futures U.S., Inc. may add to, or remove from, any Exchange Committee such individual(s) as he deems necessary and appropriate until the next meeting of the Board, consistent with the charter for such committee. All such interim changes shall be subject to ratification by the Board. The Board shall appoint a chairman of every committee and may appoint such vice chairmen as deemed desirable. The Exchange Committees shall not be deemed to be committees of the Board of Directors.

Section 7.2. Trade Committees.

(a) The Corporation shall have one trade committee with respect to each of the Core Products (each, a "Trade Committee"). Each Trade Committee shall consist of such number of individuals as the Board shall determine, and shall consist of individuals who are actively engaged, or employed by a firm that is actively engaged, in trading the relevant Core Products, along with such other individuals as the Board may appoint. The Board shall endeavor to appoint to each Trade Committee representatives from diverse interests within the user community, such as the Core Product industry, FCMS, asset managers and other traders. The Chairman of the Board shall be an *ex officio* member of each Trade Committee without a right to vote. Each member of a Trade Committee shall serve for a one-year term, subject to reappointment in accordance with this Annex C. The Board of Directors may fix the end of directors' terms to be coterminous.

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(b) The Board shall appoint a Chairman for each Trade Committee. The Chairman of the Board of Directors may add to, or remove from, any Trade Committee such individual(s) as he deems necessary and appropriate until the next meeting of the Board, consistent with the composition requirements for such committee. All such interim changes shall be subject to ratification by the Board.

(c) Unless otherwise specifically provided in the Rules, regular meetings of Trade Committees shall be held on such date and at such time as the Trade Committee shall determine. The Chairman of any Trade Committee shall have the authority to call a special meeting of such Trade Committee to be held on such date and at such time as the Chairman shall determine. Notice of all meetings of Trade Committees may be in writing, by telephone, or by other means of communication. With the consent of the Chief Executive Officer of the Corporation, the Chairman of the Board may call a meeting on twenty-four (24) hour's notice. The Chairman of the Board may call any other meeting on not less than two (2) Business Days' notice before such meeting, which notice may be in writing served at the offices of the members of the Trade Committee, by telephone, by facsimile, by email or any other reasonable means of communication.

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(d) Any action required or permitted to be taken by a Trade Committee may be taken without a meeting if the number of members of the Trade Committee necessary to take such action consent in writing to the taking of such action. Any one (1) or more members of a Trade Committee may participate in a meeting by means of a conference telephone or similar communications device allowing all Persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

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(e) Unless otherwise specifically provided in the Rules, a majority of the entire Trade Committee shall constitute a quorum for the transaction of business by such Trade Committee. Unless otherwise specifically provided in the Rules, any action taken by a vote of a majority of

the Trade Committee members present at a meeting at which a quorum is present shall be deemed to be a valid action of such Trade Committee.

(f) Each Trade Committee shall have and may exercise only the power or authority of recommending to the Board any modifications to the contractual terms and conditions and advising the Board with respect to such terms and conditions of the product over which such Trade Committee has authority. For the avoidance of doubt, no Trade Committee shall have the power or authority to prevent the implementation of a decision by the Board of Directors with respect to, or make or reject, any proposed changes with respect to any other Commodity Contract or other operations of the Exchange.

In connection with conducting, or arranging for the conduct, of electronic trading on the Exchange, the Corporation shall comply with the requirements of Annex B.

~~**Section 7.3.** The Corporation shall have certain Trade Committees (as defined in Annex C), the authority of, procedures governing and duration of which shall be as set forth in Annex C. No Trade Committee, or member thereof, in his or her capacity as such, shall have the authority to bind the Corporation. Each Trade Committee shall have only such authority as is expressly granted to such Trade Committee by these Bylaws or by the Board of Directors. The Trade Committees shall not be deemed to be committees of the Board of Directors.~~

~~**Section 7.4.** The Exchange shall have such committees ("Exchange Committees") as are provided for in the Rules or as the Board of Directors shall appoint from time to time. Subject to the limitations provided in these Bylaws, including the Annexes hereto, on the authority and power of Trade Committees, Exchange Committees shall have such powers as may be delegated to them from time to time by the Board of Directors; provided, however, that such powers shall in no case exceed such powers as the Board of Directors might delegate lawfully to an officer of the Exchange. Unless otherwise specifically provided in the Rules, Exchange Committees shall have such number and composition as the Board of Directors may from time to time determine. The President of ICE Futures U.S., Inc. may add to, or remove from, any Exchange Committee such individual(s) as he deems necessary and appropriate until the next meeting of the Board, consistent with the charter for such committee. All such interim changes shall be subject to ratification by the Board. The Board shall appoint a chairman of every committee and may appoint such vice chairmen as deemed desirable. The Exchange Committees shall not be deemed to be committees of the Board of Directors.~~

ARTICLE VIII NOTICES

Section 8.1. Whenever any notice is required by law, the Certificate of Incorporation or these Bylaws to be given, a waiver thereof in writing, signed by the person or persons entitled to said notice, or a waiver thereof by electronic transmission by such person, whether given before or after the time stated therein, shall be deemed equivalent thereto. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors or members of a committee of directors need be specified in any written waiver of notice unless so required by the Certificate of Incorporation or these Bylaws. If mailed, notice to stockholders shall be deemed given when deposited in the mail, postage prepaid, directed to the stockholder at

the stockholder's address as it appears on the records of the Corporation. Without limiting the manner by which notices otherwise may be given effectively to stockholders, any notice to stockholders may be given by electronic transmission in the manner provided in Section 232 of the Delaware General Corporation Law.

ARTICLE IX OFFICERS

Section 9.1. The Board of Directors may elect from among its members a Chairman of the Board and Vice Chairman of the Board. The Board of Directors may also choose officers of the Corporation, which may include a Chief Executive Officer, a President, one (1) or more Senior Vice Presidents, a Chief Financial Officer and a Secretary (collectively, the "Senior Officers") and may also choose one (1) or more Vice Presidents, Assistant Secretaries, Treasurers and Assistant Treasurers and such other officers as the Board of Directors may deem desirable or appropriate and may give any of them such further designations or alternate titles as it considers desirable. In addition, the Board of Directors at any time and from time to time may authorize any officer of the Corporation to appoint one (1) or more officers of the kind described in the immediately preceding sentence (other than any Senior Officers). Any number of offices may be held by the same person and directors may hold any office, unless the Certificate of Incorporation or these Bylaws otherwise provide.

Section 9.2. Unless otherwise provided in the resolution of the Board of Directors electing or authorizing the appointment of any officer, each officer of the Corporation shall hold office until his or her successor is chosen and qualifies or until his or her earlier resignation or removal. Any officer may resign at any time upon written notice to the Board of Directors or to the Chief Executive Officer or the Secretary of the Corporation. Such resignation shall take effect at the time specified therein or, if no time is so specified, immediately upon delivery, and unless otherwise specified therein no acceptance of such resignation shall be necessary to make it effective. Any officer may be removed with or without cause at any time by the affirmative vote of a majority of the Board of Directors. Any officer authorized by the Board of Directors to appoint a person to hold an office of the Corporation may also remove such person from such office with or without cause at any time, unless otherwise provided in the resolution of the Board of Directors providing such authorization. Any such removal shall be without prejudice to the contractual rights of such officer, if any, with the Corporation, but the election of an officer shall not of itself create contractual rights. Any vacancy occurring in any office of the Corporation shall be filled by the Board of Directors.

Section 9.3. Any action taken by the Board of Directors or any committee thereof with respect to the compensation and benefits of officers of the Corporation shall be approved by the stockholders.

Section 9.4. During any time at which there is no Chief Executive Officer of the Corporation, any and all rights, powers and authority granted to the Chief Executive Officer under these Bylaws (including the Annexes hereto) shall be exercised by the President of the Corporation until such time as the Board of Directors elects a Chief Executive Officer.

ARTICLE X CERTIFICATES OF STOCK

Section 10.1. The shares of stock in the Corporation shall be uncertificated shares except, to the extent, if any, required by applicable law, every holder of stock in the Corporation shall be entitled to have a certificate, signed by, or in the name of the Corporation by the Chief Executive Officer or a Vice President and the Chief Financial Officer or an Assistant Treasurer, the Secretary or an Assistant Secretary of the Corporation, certifying the number of shares of stock registered in certificate form owned by him or her in the Corporation. Any of or all the signatures on any such certificate may be facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue.

ARTICLE XI REGISTERED STOCKHOLDERS

Section 11.1. The Corporation shall be entitled to recognize the exclusive right of a Person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other Person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the State of Delaware.

ARTICLE XII FISCAL YEAR

Section 12.1. The fiscal year of the Corporation shall be the calendar year or such other period as may be fixed by the Board of Directors.

ARTICLE XIII INDEMNIFICATION, EXCULPATION AND INSURANCE

Section 13.1.

(a) A director of the Corporation shall not be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent that such exemption from liability or limitation thereof is not permitted under the Delaware General Corporation Law as currently in effect or as the same may hereafter be amended. No amendment, modification or repeal of this Section 13.1(a) shall adversely affect any right or protection of a director that exists at the time of such amendment, modification or repeal.

(b) The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that such person is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to

be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that such person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful. The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that such person is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation and except that the Corporation shall not make any indemnification in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which the Court of Chancery or such other court shall deem proper. To the extent that a present or former director or officer of the Corporation has been successful on the merits or otherwise in the defense of any action, suit or proceeding referred to in this Section 13.1(b), or in defense of any claim, issue or matter therein, the Corporation shall indemnify such person against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith. Any indemnification under this Section 13.1(b) (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the present or former director, officer, employee or agent is proper in the circumstances because such person has met the applicable standard of conduct set forth in this Section 13.1(b). Such determination shall be made, with respect to a person who is a director or officer at the time of such determination, (1) by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (2) by a committee of such directors designated by majority vote of such directors, even though less than a quorum, or (3) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, or (4) by the stockholders. Expenses (including attorneys' fees) incurred by an officer or director in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Corporation as authorized in this Section 13.1(b). Such expenses (including attorneys' fees) incurred by former directors and officers or other employees and agents shall be paid upon such terms and conditions, if any, as the Corporation deems appropriate. The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 13.1(b) shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any by law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office. The rights provided to any person by this Section 13.1(b) shall be enforceable against the Corporation by such person who shall be presumed to have relied upon it in serving or continuing to serve as a director, officer, employee or agent as provided above. No amendment of this Section 13.1(b) shall impair the rights of any person

arising at any time with respect to events occurring prior to such amendment. For purposes of this Section 13.1(b), references to "the Corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees and agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under this Section 13.1(b) with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued; reference to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to any employee benefit plan; references to "serving at the request of the Corporation" shall include any service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; references to "agents" shall include any member of any Trade Committee or Exchange Committee; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Corporation" as referred to in this Section 13.1(b). The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 13.1(b) shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such person.

(c) Any actions, suits or proceedings against the Corporation or any of its officers, directors or employees must be brought within two (2) years from the time that a cause of action has accrued. Any party bringing any such action, suit or proceeding consents to jurisdiction in the courts of the State of Delaware and the Federal Courts of the United States of America located in the State of Delaware, and waives any objection to venue therein. This provision shall in no way create a cause of action and shall not authorize an action that would otherwise be prohibited by the Rules.

ARTICLE XIV SEAL

Section 14.1. The Board of Directors may adopt a corporate seal having inscribed thereon the name of the Corporation, the year of its organization and the words "Corporate Seal, Delaware." The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

ARTICLE XV TIME PERIODS

Section 15.1. In applying any provision of these Bylaws that requires that an act be done or not be done a specified number of days prior to any event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of the doing of the act shall be excluded, and the day of the event shall be included.

ARTICLE XVI AMENDMENTS

Section 16.1. The Board of Directors and the stockholders may adopt additional Bylaws, and may amend or repeal any Bylaws, whether or not adopted by them, at any time, ~~provided, however, that:~~

~~Notwithstanding anything herein to the contrary, until July 1, 2013, the provisions described on Annex F and this Section 16.1 (the "Core Rights") shall not be amended or repealed, and no Bylaw that violates the Core Rights shall be adopted (a "Core Rights Amendment") unless (i) the Public Directors, by a Required Public Director Vote, determine that a Core Rights Amendment should be adopted and recommend the same to the Board of Directors and (ii) the Core Rights Amendment is approved by a vote of at least two-thirds of the entire Board of Directors, determined as if there were no vacancies; provided, however, that the size of the entire Board of Directors for purposes of calculating the two-thirds vote required by (ii) shall exclude the number of Public Directors, if any, that are barred from voting on such matter due to the fact that such Public Director or a member of such Public Director's immediate family, directly or indirectly, has a financial interest in such matter; provided, further, however, that for this purpose compensation paid by ICE to such Public Director for serving as a director of the Exchange shall not be deemed to be a financial interest. For the avoidance of doubt, notwithstanding any provision of these Bylaws or the Annexes to these Bylaws, any action permitted to be taken under these Bylaws and taken in accordance with these Bylaws shall not be deemed to be a Core Right Amendment. The Board of Directors shall not adopt, alter or amend these Bylaws in a manner that violates this Article XVI.~~

Section 16.2. The Board of Directors shall not adopt any Rules or make any amendment to the Rules that would be inconsistent with these Bylaws.

ARTICLE XVII MISCELLANEOUS

Section 17.1. Unless otherwise provided in the Rules, any alteration of the Rules relating to Commodity Contracts, may, if the Board of Directors so decides, be binding on Commodity Contracts entered into before as well as after its adoption, provided such alteration does not affect the amount of money to be paid, or the quality of the merchandise to be received, under such Commodity Contracts, in which case such alteration may only apply with respect to the first delivery or expiration month following the last delivery or expiration month in which there is an open position at the time such alteration becomes effective; provided, however, that with respect to the Coffee "C" futures and options contracts, that any such alteration, that is consistent with the Act and the regulations thereunder, may be implemented to any delivery or expiration month with respect to which the first (1st) day delivery notices may be issued is more than twenty-four (24) months away, whether or not such delivery or expiration month has any open interest.

Section 17.2. All Rules shall be binding and effective and in force, and shall govern all cases to which they may be applicable, at such time as the Board of Directors prescribes or, if the Board of Directors does not so prescribe, on such date as the President may prescribe following the date on which such Rule may become effective under the Commodity Exchange Act and the regulations promulgated thereunder; and

Section 17.3. The correct interpretation or meaning of any Rule may, in the discretion of the Board of Directors, be determined by a two-thirds vote of the Board of Directors present at any regular meeting or any special meeting called for that purpose, and such interpretation shall continue in force until the ambiguity of such Rule is removed by proper amendment as herein provided, but no such determination of the Board of Directors shall in any way affect any rights accrued under any final decision theretofore rendered by any committee from which no appeal is pending or may be taken.

Section 17.4. The Board of Directors shall not adopt or amend any Rule to, or interpret the meaning of any Rule so as to, violate the rights of the stockholders under these Bylaws ~~(including the Annexes hereto).~~

**ANNEX-A
TRADING MEMBERSHIPS AND TRADING PERMITS**

Section 1. Issuance of Trading Memberships and Trading Permits

(a) — Trading Memberships.

(i) The Corporation shall issue to each Former Member (and to no other Person) a NYBOT Membership upon receiving from such Former Member properly completed, executed copies of such NYBOT Membership application documentation as the Corporation shall have requested and delivered to such Former Member prior to the Effective Time. A NYBOT Member shall own, at all times, three thousand one hundred sixty two (3,162) shares of common stock, par value \$0.01 per share, of ICE ("ICE Common Stock") (as adjusted for reclassifications, stock splits (including reverse stock splits), stock dividends or distributions, recapitalizations or similar transaction) for each NYBOT Membership held by such NYBOT Member. Any NYBOT Member that fails to hold such requisite number of shares of ICE Common Stock shall have such NYBOT Membership revoked and permanently cancelled. Each NYBOT Member shall grant to the Exchange a security interest in all of such shares of ICE Common Stock as provided in the Rules in a manner, and pursuant to arrangements, required by the Corporation. Each NYBOT Member shall have the right to execute trades in all Existing Products, to the extent that such Existing Products are then traded by the Exchange.

(ii) The Corporation may issue other Trading Memberships in such numbers and for such consideration as the Board of Directors may from time to time determine, subject to these Bylaws and the Rules, provided, however, that any Trading Membership issued other than pursuant to paragraph (a)(i), above, shall not include the right to execute Transactions on the Exchange trading floor.

(b) — Trading Permits.

(i) The Corporation shall issue NYBOT Trading Permits to each Former Permit Holder (and to no other Person), upon receiving from such Former Permit Holder properly completed, executed copies of such Trading Permit application documentation as the Corporation shall have requested and delivered to such Former Permit Holder. Each such NYBOT Trading Permit shall be limited to the specific Commodity Contracts for which such Former Permit Holder had trading rights immediately prior to the Effective Time.

(ii) The Corporation may issue other Trading Permits in such numbers and for such consideration as the Board of Directors may from time to time determine, subject to these Bylaws and the Rules, provided, however, that any Trading Permits issued other than pursuant to paragraph (b)(i), above, shall not include the right to execute Transactions on the Exchange trading floor.

(c) Trading Members, Permit Holders, Member Firms and Lessees shall have only such rights and privileges as are set forth in these Bylaws, the Rules or as prescribed by the Board of Directors, which rights will exist as a matter of contract only. Trading Members, Permit Holders, Member Firms and Lessees shall not constitute stockholders within the meaning of the Delaware General Corporation Law, the Certificate of Incorporation, these Bylaws or the Rules, shall not have any of the rights and privileges of stockholders and shall have only such rights and privileges as are set forth in the Rules or as prescribed by the Board of Directors, which rights will exist as a matter of contract only. No director or officer of the Exchange shall have any fiduciary duty, obligation or responsibility of any nature to Trading Members, Permit Holders, Member Firms or Lessees by virtue of such contractual rights. Without limiting the generality of the foregoing, Trading Members, Permit Holders, Member Firms and Lessees will not have any

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voting rights in the Corporation or any rights to receive any distributions of cash, securities or other property, whether on dissolution, liquidation, merger, consolidation or otherwise.

~~Amended by the Board March 18, 2009, effective March 20, 2009 [¶ (c)].~~

~~Section 2. Eligibility Criteria and Procedures.~~

~~The Board of Directors may from time to time adopt such eligibility criteria and application procedures for becoming a Trading Member, Permit Holder, Member Firm or Lessee and such requirements and procedures for acquisition, transfer, lease, sale or other disposition of a Trading Membership or a Trading Permit as the Board of Directors shall determine, subject to the provisions of Section 8(a) of this Annex A.~~

~~Section 3. Financial Standards, Reporting Requirements and Treatment of Customer Funds~~

~~(a) The Board of Directors may from time to time adopt minimum financial standards and related reporting requirements to be complied with by Trading Members, Permit Holders, Member Firms and Lessees as a continuing condition to exercising or maintaining such status as a Trading Member, Permit Holder, Member Firm or Lessee, and, for purposes of imposing such standards and requirements, the Board of Directors may create such categories as it deems necessary or appropriate.~~

~~(b) Each Member Firm that is registered with the CFTC as a Futures Commission Merchant or an Introducing Broker shall maintain minimum capital, comply with reporting requirements and use, segregate, invest and hold customer funds in accordance with, and otherwise comply with Commodity Futures Trading Commission Regulations 1.10, 1.12, 1.14, 1.15, 1.17, 1.20, 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, 1.27 and 1.28 as applicable to it, provided that (i) any requirement which concerns the filing with or reporting to the Commission or the approval of the Commission shall not be considered a requirement of the Corporation; and (ii) any reference to a "designated self-regulatory organization" or "self-regulatory organization of which an FCM is a member" shall mean the Corporation unless the Corporation has notified any such Member Firm that this term shall mean another "self-regulatory organization".~~

~~—Amended by the Board June 23, 2011, effective July 16, 2011 [¶ (b)].~~

~~—Amended by the Board September 20, 2012, effective October 17, 2012 [¶ (b)].~~

~~Section 4. Transaction Fees.~~

~~(a) The Board of Directors may from time to time adopt resolutions that impose fees or charges for each Commodity Contract purchased or sold on the Exchange or subject to the Rules. In fixing the amount of any such fees or charges, the Board of Directors may, in its discretion, establish different rates for Transactions in different Commodity Contracts, or for different types of Transactions involving the same Commodity Contract, or may omit any such fees or charges with respect to any type of Transaction or may establish different rates based on such other factors as the Board of Directors may determine are appropriate. Such fees and charges shall be paid or collected by Persons in accordance with such terms and conditions as the Board of Directors may prescribe. If any Person fails to pay any fee or charge required pursuant to this Section, the Corporation may, in addition to any other rights or remedies it may have, order that any trading in Commodity Contracts for such Person's account be for liquidation only until such fees or charges are paid.~~

~~(b) Subject to the other provisions of the Bylaws, the Exchange will trade any derivative of a contract for a Core Product (such as a Mini or Maxi Contract) proposed by ICE, unless the trading or clearance of such new contract would violate applicable laws or regulations. The Exchange shall make all rule changes necessary to permit such new contracts to be traded and cleared, and shall cause the Clearing Organization to clear such derivative contracts in accordance with customary risk practices.~~

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(c) Subject to the other provisions of the Bylaws, the Exchange will trade any new contract proposed by ICE that is not a derivative contract for a Core Product, unless the trading or clearance of such new contract would violate applicable laws or regulations or the Board of Directors determines that trading or clearing such new contract would materially and adversely affect the long-term business of the Corporation, without regard to how it may affect any other contract. The Exchange shall make all rule changes necessary to permit such new contracts to be traded and cleared, and shall cause the Clearing Organization to clear such new contracts in accordance with customary risk practices.

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(d) Upon the request of ICE, the Exchange will trade all contracts traded by ICE or ICE Futures as of September 14, 2006 and all contracts for energy products traded by ICE or ICE Futures thereafter, unless the trading or clearance of such contracts would violate applicable laws or regulations, or violate any contract that the Exchange was a party to as of September 14, 2006, and which the Exchange remains subject to at the time such products are to be traded. The Exchange shall make all rule changes necessary to permit such contracts to be traded and cleared, and shall cause the Clearing Organization to clear such new contracts in accordance with customary risk practices.

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Amended by the Board March 18, 2009; effective March 20, 2009 [¶¶ (d) through (f)].

Amended by the Board May 19, 2011; effective May 23, 2011 [¶ (e)].

Amended by the Board September 20, 2012; effective October 22, 2012 [(b) through (d)].

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Section 5. Failure to Pay Fees and Other Amounts.

(a) If any Trading Member, Permit Holder, Member Firm or Lessee shall fail to pay any fees, charges or other amounts owing, directly or indirectly, to the Corporation, including, but not limited to, floor fines, booth fees and telecommunication and work station fees, when and as provided in the Rules or in any agreement to which such Person is a party, and such failure shall not be corrected within thirty (30) days following written notice by the Corporation that such fees or other amounts are in arrears, such Person shall be suspended automatically, and shall remain suspended until such arrearage, together with any other amounts which accrued and remain unpaid since the date of the suspension, is paid, and such Person is reinstated as provided in this Section. Any such Person that makes full payment in good funds within thirty (30) days of the suspension shall be automatically reinstated effective the day following receipt by the Corporation. Any such suspended Person that makes full payment in good funds after thirty (30) days from the date of the suspension but prior to ninety (90) days thereafter may be reinstated as provided in the Rules.

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(b) If a Person suspended pursuant to paragraph (a) of this Section 5 shall fail to pay the arrearage upon which such suspension was based within ninety (90) days following the effective date of any such suspension:

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(i) such Person shall automatically have all Exchange rights and privileges terminated; and
(ii) The Corporation may sell any Trading Membership or Trading Permit held by such Person and any ICE Common Stock as to which a security interest was granted to the Corporation, and pay and apply the proceeds as provided in the Rules; provided, however, that on written application received prior to the expiration of such ninety (90) day period, the Corporation, in its sole discretion, may extend such period.

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Section 6. Notice.

Notice of all fees, charges and other amounts shall be mailed by the Corporation to each Person owing any such amount at his address on file with the Corporation; provided, however, that non-receipt shall not operate to release any such Person from the obligation to make payment, extend time for payment, or relieve any such Person from any penalties for non-payment.

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Section 7. Effect of Suspension or Termination.

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(a) A Trading Member, Permit Holder, Member Firm or Lessee whose rights and privileges have been suspended shall remain and continue to be:

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(i) subject to all of the Rules;

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(ii) liable for fees, charges and other amounts imposed by the Corporation; and

(iii) obligated to the Corporation for all Commodity Contracts, obligations and liabilities entered into or incurred before, during and after suspension.

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(b) A Trading Member, Permit Holder, Member Firm or Lessee whose rights and privileges have been terminated shall remain and continue to be:

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(i) liable for all fees, charges and other amounts imposed by the Corporation prior to termination of such rights and privileges;

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(ii) obligated to the Corporation for all Commodity Contracts, obligations and liabilities entered into or incurred prior to such termination; and

(iii) liable for all fines and other penalties imposed subsequent to the termination of rights and privileges which are based upon Rule violations committed prior to said termination if an investigation into said violations shall have been commenced within six (6) months of the effective date of such termination.

(c) In connection with the investigation and prosecution of Rule violations referred to in paragraph (b)(iii), former Trading Members, Permit Holders, Member Firms and Lessees remain subject to the Corporation's Disciplinary Rules, and retain all rights and protections granted by all Rules relating to Corporation disciplinary procedures.

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Section 8. Transferability of Trading Memberships and Trading Permits.

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(a) The acquisition, lease, transfer, sale or other disposition of Trading Memberships and Trading Permits shall be effected according to Annex B to the Bylaws, the Rules, Sections 1 and 2 hereof and this Section 8; provided, however, that (i) no Person may transfer his Trading Membership or Trading Permit where an arbitration proceeding is pending against such Person or where the Compliance Department has commenced an investigation into possible violations of the Rules by such Person, until such arbitration, investigation and any resulting disciplinary actions have been completed, (ii) no NYBOT Permit Holder may lease a Trading Permit and (iii) no Person may exercise, receive or confer any Member Firm rights, privileges or benefits through the lease of a Trading Membership (including, for the avoidance of doubt, a NYBOT Membership).

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(b) Notwithstanding the provisions of paragraph (a) of this Section 8, the Chief Executive Officer may permit the transfer of a Trading Membership or Trading Permit if the transferor deposits with the Corporation an Official Teller's Check in an amount equal to the sum of (i) the price of the last sale or the last bid for such Trading Membership or Trading Permit, whichever is higher, plus (ii) the market value of the shares of ICE Common Stock required pursuant to Section 1(a)(i) of this Annex A, in the case of a Trading Membership and the Corporation shall retain such deposit in its custody until such time as the investigation and any disciplinary actions have been completed, after which said deposit shall be disposed of as provided in the Rules.

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(c) Each transferee of a Trading Membership or Trading Permit shall enter into such documentation as the Corporation may require from time to time, including without limitation a written acknowledgement that such transferee agrees to be bound by and subject to these Bylaws and the Rules.

(d) To the extent any attempted acquisition, lease, transfer, sale or other disposition of a Trading Membership or Trading Permit would be in violation of these Bylaws or the Rules, it shall be null and void *ab initio*.

Amended by the Board September 20, 2012; effective October 22, 2012 [¶ (a)].

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Section 9. Clearing.

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(a) ICE Clear U.S.[®], Inc. is hereby designated as the Clearing Organization authorized to clear Transactions. The Board of Directors may from time to time designate one (1) or more additional clearing organizations as being authorized to clear any or all Transactions.

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~~(b) In order to be eligible to be a member of ICE Clear U.S., Inc. (a "Clearing Member") after the Effective Time, a firm shall satisfy the requirements for Clearing Members set forth in the Exchange Rules and the rules of the relevant Clearing Organization.~~

~~(c) Subject to applicable law and CFTC requirements, the Corporation shall take such actions as are reasonably necessary to cause the organizational documents of ICE Clear U.S., Inc. not to be inconsistent with these Bylaws.~~

~~(d) Subject to the other provisions of these Bylaws, the Corporation shall take such actions as are reasonably necessary to cause ICE Clear U.S., Inc. to clear any derivative of a contract for a Core Product (such as a Mini or Maxi Contract) proposed by ICE, unless the trading or clearance of such new contract would violate applicable laws or regulations. ICE may determine that any such Mini or Maxi Contract is to be fungible and treated equivalently with Core Products. The Exchange shall make, and shall cause ICE Clear U.S., Inc. to make, all rule changes necessary to permit such derivative contracts to be cleared by ICE Clear U.S., Inc. in accordance with customary risk practices.~~

~~(e) Subject to the other provisions of the Bylaws, the Corporation shall take such actions as are reasonably necessary to cause ICE Clear U.S., Inc. to clear any new contract proposed by ICE that is not a derivative contract for a Core Product, unless the clearance of such new contract would violate applicable laws or regulations or the Board of Directors determines that clearing such new contract would materially and adversely affect the long-term business of the Corporation, without regard to how it may affect any other contract. The Corporation shall make, and shall cause ICE Clear U.S., Inc. to make, all rule changes necessary to permit such new contracts to be cleared by ICE Clear U.S., Inc. in accordance with customary risk practices and to admit as Clearing Members all entities that then clear any such contracts.~~

~~Amended by the Board November 14, 2007; effective December 17, 2007 [¶ (b)].~~

~~Amended by the Board March 18, 2009; effective March 20, 2009 [¶¶ (a) through (f)].~~

~~Amended by the Board June 13, 2011; effective July 15, 2011 [¶¶ (b)].~~

~~Amended by the Board September 20, 2012; effective October 22, 2012 [¶ (b)].~~

ANNEX B FEE DISCOUNTS

~~(a) Discount for Certain Trading. Notwithstanding anything to the contrary set forth herein, (i) NYBOT Members shall be entitled to a fee reduction of no less than 20% off the lowest fees established by the Corporation and ICE Clear U.S., Inc., and charged to individuals who are not NYBOT Members (other than with respect to prices charged in connection with bona fide market making programs, including incentive programs) and (ii) NYBOT Member Firms shall be entitled to a fee reduction of no less than 20% off the lowest fees established by the Corporation and ICE Clear U.S., Inc., and charged to entities that are not NYBOT Member Firms (other than with respect to prices charged in connection with bona fide market making programs, including incentive programs). Such fee reductions shall apply with respect to Transactions constituting proprietary trading conducted by the Person entitled to the discount, solely for his, her or its own account, whether executed by open outcry trading or electronic trading (but shall not include Transactions for customer or other accounts, whether or not such Person is affiliated with such other account through an ownership interest, control of trading in such account, or otherwise) with respect to any Existing Products;~~

~~(b) Duration of Discount for Certain Electronic Trading.~~

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~~(i) Upon the transfer by a NYBOT Member of a NYBOT Membership, the discount for Transactions made via electronic trading shall terminate, provided, however, that (i) a transfer to an individual who confers privileges to a NYBOT Member Firm shall not be deemed a transfer for this purpose and (ii) the leasing of a NYBOT Membership to an individual shall not be deemed a transfer with respect to such NYBOT Member's rights under Section 4(a) of Annex B.~~

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~~(ii) Upon the occurrence of a merger, acquisition, consolidation, assets purchase or similar non-recurring corporate transaction in which another entity (the "Acquiring Firm") becomes the successor in interest of a discrete line of business, or the entire business, of a NYBOT Member Firm (the "Acquired Business"), the Acquiring Firm shall be entitled to the fee reduction enjoyed by the NYBOT Member Firm immediately prior to such corporate transaction, but only with respect to Existing Products that formed an integral part of the Acquired Business immediately prior to the corporate transaction, and only to the extent that the Exchange-related activities conducted with the Acquired Business are the same as those regularly conducted by the NYBOT Member Firm immediately prior to the corporate transaction. In all other circumstances, the discount for Transactions made via electronic trading shall terminate to the extent that a corporate transaction results in an Acquiring Firm become the successor in interest of a discrete line of business, or the entire business, of a NYBOT Member Firm.~~

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~~(e) MFN for Electronic Trading. From and after the Effective Time, all NYBOT Permit Holders and Lessees shall be entitled to pay the lowest Exchange fee and ICE Clear U.S., Inc. fee for electronic Transactions in any Existing Product on the Exchange (a "MFN Discount"), but excluding for such purpose (i) any discount pursuant to Section 4(a) above, (ii) fees charged in connection with bona fide market making programs, including incentive programs, and (iii) in the case of Lessees, fees charged to NYBOT Permit Holders. Such MFN Discount shall apply with respect to Transactions constituting proprietary trading conducted by the NYBOT Permit Holder or Lessee solely for his or her own account (but shall not include Transactions for customer or other accounts, whether or not the NYBOT Permit Holder or Lessee is affiliated with such other account, through an ownership interest, control of trading in such account, or otherwise). The entitlement to such MFN Discount expires upon the first transfer of a NYBOT Trading Permit or a NYBOT Membership, provided, however, that the leasing of a NYBOT Membership to an individual shall not be deemed a transfer for this purpose.~~

~~Amended by the Board March 18, 2009; effective March 20, 2009 [¶¶ (a) through (e)];~~

~~— Amended by the Board July 8, 2009; effective July 13, 2009 [¶¶ (b)(i) and (ii)];~~

~~— Amended by the Board September 30, 2012; effective October 22, 2012;~~

~~— Amended by the Board January 16, 2013; effective February 1, 2013 [¶¶ (a) and (e)].~~

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Annex C Trade Committees

~~The Corporation shall have one trade committee with respect to each of the Core Products (each, a "Trade Committee").~~

Section 1. Composition of the Trade Committees.

~~(a) Each Trade Committee shall consist of such number of individuals as the Board shall determine, and shall consist of individuals who are actively engaged, or employed by a firm that is actively engaged, in trading the relevant Core Products, along with such other individuals as the Board may appoint. The Board shall endeavor to appoint to each Trade Committee representatives from diverse interests within the user community, such as the Core Product industry, FCMS, asset managers and other traders. The Chairman of the Board shall be an ex officio member of each Trade Committee without a right to vote. Each member of a Trade~~

~~Committee shall serve for a one-year term, subject to reappointment in accordance with this Annex C. The Board of Directors may fix the end of directors' terms to be coterminous.~~

~~(b) The Board shall appoint a Chairman for each Trade Committee. The Chairman of the Board of Directors may add to, or remove from, any Trade Committee such individual(s) as he deems necessary and appropriate until the next meeting of the Board, consistent with the composition requirements for such committee. All such interim changes shall be subject to ratification by the Board.~~

~~Amended by the Board April 9, 2008; effective April 14, 2008 [¶¶ (a) and (b)].~~

~~Amended by the Board September 20, 2012; effective October 22, 2012 [¶ (a)].~~

Section 2. Meetings of the Trade Committees.

~~(a) Unless otherwise specifically provided in the Rules, regular meetings of Trade Committees shall be held on such date and at such time as the Trade Committee shall determine.~~

~~(b) The Chairman of any Trade Committee shall have the authority to call a special meeting of such Trade Committee to be held on such date and at such time as the Chairman shall determine.~~

~~(c) Notice of all meetings of Trade Committees may be in writing, by telephone, or by other means of communication. With the consent of the Chief Executive Officer of the Corporation, the Chairman of the Board may call a meeting on twenty-four (24) hour's notice. The Chairman of the Board may call any other meeting on not less than two (2) Business Days' notice before such meeting, which notice may be in writing served at the offices of the members of the Trade Committee, by telephone, by facsimile, by email or any other reasonable means of communication.~~

~~(d) Any action required or permitted to be taken by a Trade Committee may be taken without a meeting if the number of members of the Trade Committee necessary to take such action consent in writing to the taking of such action.~~

~~(e) Any one (1) or more members of a Trade Committee may participate in a meeting by means of a conference telephone or similar communications device allowing all Persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.~~

Section 3. Quorum; Vote.

~~(a) Unless otherwise specifically provided in the Rules, a majority of the entire Trade Committee shall constitute a quorum for the transaction of business by such Trade Committee.~~

~~(b) Unless otherwise specifically provided in the Rules, any action taken by a vote of a majority of the Trade Committee members present at a meeting at which a quorum is present shall be deemed to be a valid action of such Trade Committee.~~

Section 4. Scope of Authority.

~~Each Trade Committee shall have and may exercise only the power or authority of recommending to the Board any modifications to the contractual terms and conditions and~~

advising the Board with respect to such terms and conditions of any Core Product over which such Trade Committee has authority. For the avoidance of doubt, except as expressly set forth in this Section 4, Annex B to the Bylaws, and Section 16 of the Bylaws, no Trade Committee shall have the power or authority to prevent the implementation of a decision by the Board of Directors with respect to, or make or reject, any proposed changes with respect to any other Commodity Contract or other operations of the Exchange.

~~Amended by the Board April 9, 2008; effective April 14, 2008.~~

~~Amended by the Board March 17, 2010; effective April 15, 2010.~~

ANNEX D CERTAIN DEFINITIONS

~~(The following definitions shall apply to the Bylaws and Annexes)~~

Affiliated Person

~~The term "Affiliated Person" shall mean with respect to a Member Firm, an individual who is a general partner, director, officer, member (in the case of a limited liability company), executive employee or manager of such firm.~~

Core Products

~~The term "Core Product" shall mean the following existing Commodity Contracts traded by the Exchange, as hereafter amended from time to time: *Coffee "C", Cocoa, Cotton No. 2, Sugar No. 11, Frozen Concentrated Orange Juice, NFC Orange Juice, and Sugar No. 14.*~~

Disciplinary Rules

~~The term "Disciplinary Rules" shall mean the rules and procedures governing the investigation of rule violations and the disciplining of any Person in connection with such violations, as set forth in the Corporation's Rules.~~

Effective Time

~~The term "Effective Time" shall mean the time that the Merger becomes effective.~~

Existing Product

~~The term "Existing Product" shall mean Commodity Contracts that are listed in Schedule II attached hereto.~~

Former Member

~~The term "Former Member" means a holder of an equity membership in NYBOT immediately prior to the Effective Time.~~

Former Permit Holder

~~The term "Former Permit Holder" means the holder of any right (other than the right held by a Former Member) to execute trades in specified Commodity Contracts on the Exchange immediately prior to the Effective Time pursuant to the rules or bylaws of NYBOT in effect immediately prior to the Effective Time.~~

Merger

The term "Merger" shall mean the business combination transaction in which Board of Trade of the City of New York, Inc. shall merge with and into the Corporation.

Mini or Maxi Contract

The term "Mini or Maxi Contract" shall mean with respect to a Futures Contract any other contract having the same terms as such Futures Contract except that it has a standard size that is (i) in the case of a Mini Contract, one half or less of the standard size of such Futures Contract as of September 14, 2006, provided that if the standard size of such Futures Contract is increased after September 14, 2006, the size of such Mini Contract shall be one half or less of the standard size of such larger Futures Contract; and (ii) in the case of a Maxi Contract, two times or more (or, in the case of Sugar No. 11 and Sugar No. 14, three times or more) of the standard size of such Futures Contract as of September 14, 2006; provided that if the standard size of such Futures Contract is reduced after September 14, 2006, the size of such Maxi Contract shall be two times or more (or, in the case of Sugar No. 11 and Sugar No. 14, three times or more) of the standard size of such smaller Futures Contract.

Required Public Director Vote

The term "Required Public Director Vote" shall mean an affirmative vote of at least the number of Public Directors that is one less than the total number of Public Directors, determined as if there were no vacancies, eligible to vote on a matter but, in all cases, at least one Public Director; provided, that, no Public Director shall be eligible to vote on any such matter if such Public Director or a member of such Public Director's immediate family, directly or indirectly, has a financial interest in such matter; provided, further, however, that for this purpose, compensation paid by ICE to such Public Director for serving as a director of NYBOT shall not be deemed to be a financial interest.

Trade Committee

The term "Trade Committee" shall mean a Trade Committee that is organized in accordance with Section 1(b) of Annex C.

Amended by the Board September 20, 2012, effective October 22, 2012.

ANNEX E

CORE RIGHTS

The amendment or repeal of the following shall constitute "Core Rights" as such term is used in the Bylaws of the Corporation:

I. Exchange Rules

(a) The eligibility standards and criteria for becoming a NYBOT Member, NYBOT Permit Holder, or Lessee;

(b) The financial requirements applicable to a NYBOT Member, NYBOT Permit Holder, Lessee, and NYBOT Member Firm;

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~~_____ (e) The trading privileges authorized to each category of NYBOT Permit Holder and to NYBOT Members;~~

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~~_____ (d) The sale, leasing and transferability of rights applicable to NYBOT Memberships and NYBOT Trading Permits;~~

~~_____ (e) The requirements applicable to obtaining Exchange floor trading privileges by NYBOT Members and NYBOT Permit Holders;~~

~~_____ (f) The eligibility requirements applicable to remaining a Clearing Member, to the extent that such Person was a Clearing Member prior to the Effective Time; and~~

~~_____ Any of the Rules in (a) (f) above shall be considered a Core Right and an amendment or repeal of any such Rules shall be considered a Core Right Amendment only to the extent such Rule is applicable to Core Products and only to the extent that any such amendment or repeal of such Rule (i) with respect to open outcry trading of a Core Product, would materially and adversely affect the rights of NYBOT Members, NYBOT Permit Holders, NYBOT Member Firms, Lessees or the Clearing Members referenced in (f) above or (ii) otherwise would materially and adversely affect the rights referenced in Part II of this Annex F of NYBOT Members, NYBOT Permit Holders, Lessees, NYBOT Member Firms or the Clearing Members referenced in (f) above.~~

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~~II. Bylaws and Annexes~~

~~_____ The provisions of the Bylaws and Annexes to the Bylaws pertaining to the composition of the Board of Directors, NYBOT Memberships, NYBOT Member Firms, and NYBOT Trading Permits, the Transaction discounts set out in Annex B to the Bylaws, eligibility to be a Clearing Member and Trade Committee composition.~~

DEFINITIONS

[In the text below additions are underscored and deletions overstruck.]

Affiliated Person

The term "Affiliated Person" shall mean with respect to a Member Firm, an individual who is a general partner, director, officer, member (in the case of a limited liability company), executive employee or manager of such Firm.

Disciplinary Rules

The term "Disciplinary Rules" shall mean the rules and procedures governing the investigation of rule violations and the disciplining of any Person in connection with such violations, as set forth in the Corporation's Rules.

Effective Time

The term "Effective Time" shall mean the time that the Merger becomes effective.

Existing Product

The term "Existing Product" shall mean those Commodity Contracts that were listed for trading on the Exchange as of September 14, 2006.

Former Member

The term "Former Member" means a holder of an equity membership in NYBOT immediately prior to the Effective Time.

Former Permit Holder

The term "Former Permit Holder" means the holder of any right (other than the right held by a Former Member) to execute trades in specified Commodity Contracts on the Exchange immediately prior to the Effective Time pursuant to the rules or bylaws of NYBOT in effect immediately prior to the Effective Time.

Merger

The term "Merger" shall mean the business combination transaction in which Board of Trade of the City of New York, Inc. was merged with and into the Corporation.

R-6 Eligibility for Particular Member and Member Firm Contract Rates

WHEREAS, pursuant to Section 4.3 of ~~Annex A to~~ Article IV of the Bylaws, the Board has established contract fees to be paid to the Exchange in such amounts as it has deemed necessary;

NOW THEREFORE BE IT RESOLVED, that the following classifications shall apply to accounts with respect to the fees so established, as modified by the Board from time to time:

(a) In the case of a NYBOT Member Firm, an account shall be eligible to pay fees at the NYBOT Member Firm rate if the account is beneficially owned exclusively by such NYBOT Member Firm. Accounts of Affiliated Firms, shareholders, partners or members of a NYBOT Member Firm shall not be considered ~~non-member accounts~~ NYBOT Member Firm accounts and shall not be entitled to NYBOT Member Firm rates, except as specified below:

(i) In the case of a group of Affiliated Firms, all Affiliated Firms in such group shall be eligible to pay fees at the NYBOT Member Firm rate if at least six (6) NYBOT Memberships are the subject of Conferring Agreements with respect to a Member Firm in the group of Affiliated Firms.

In the event of the merger or consolidation of two (2) or more groups of Affiliated Firms, all Affiliated Firms in the surviving group shall be entitled to ~~Member Firm~~ such rates if such group maintains NYBOT Memberships that are the subject of Conferring Agreements in an amount equal to eighty percent (80%) of the sum of the number of such NYBOT Memberships that were subject to Conferring Agreements with respect to NYBOT Member Firms in each such group during the twelve (12) calendar month period prior to the effective date of such merger or consolidation.

(b) Joint accounts in which any owner is not a NYBOT Member shall not be considered ~~non-member~~ NYBOT Member accounts, provided, however, that a joint account ~~in which the non-member is the spouse of the~~ held by a NYBOT Member and his/her spouse shall be considered the account of a NYBOT Member.

~~(e) The account of a NYBOT Permit Holder shall be considered the account of a NYBOT Member only with respect to the Transactions authorized by the particular type of NYBOT Trading Permit held by the account holder.~~

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(c)(i) Upon the transfer by a NYBOT Member of a NYBOT Membership, any fee discount associated with such NYBOT Membership prior to the transfer shall terminate, provided, however, that the following transactions shall not be deemed to be transfers for this purpose: (i) a transfer to an individual who confers privileges to a NYBOT Member Firm to which the transferor had conferred privileges immediately prior to the transfer, and (ii) the leasing of a NYBOT Membership to an individual.

(ii) Upon the occurrence of a merger, acquisition, consolidation, asset purchase or similar non-recurring corporate transaction in which one entity (the "Acquiring Firm") becomes the successor in interest of a discrete line of business, or the entire business, of a NYBOT Member Firm (the "Acquired Business"), the Acquiring Firm shall be entitled to the fee discount, if any, enjoyed by the NYBOT Member Firm immediately prior to such corporate transaction, but only (A) with respect to Existing Products that formed an integral part of the Acquired Business immediately prior to the corporate transaction, and (B) to the extent that the Exchange-related activities conducted with the Acquired Business are the same as those regularly conducted by the NYBOT Member Firm immediately prior to the corporate transaction. In all other circumstances, any discount shall terminate to the extent that a corporate transaction results in an Acquiring Firm becoming the successor in interest of a discrete line of business, or the entire business, of a NYBOT Member Firm.

(d) An omnibus account carried in the name of a NYBOT Member Firm shall be entitled to fees at the NYBOT Member Firm rate if:

(i) One hundred percent (100%) of the Transactions executed in the account are for one (1) or more NYBOT Members and/or NYBOT Member Firms;

(ii) The NYBOT Member Firm in whose name the account is established (the "acountholder") represents to the Exchange in writing that all Transactions effected, or to be effected, in the account have been, and will be, exclusively for NYBOT Members and NYBOT Member Firms; and

(iii) The acountholder and the Clearing Member carrying such account provide to the Exchange, upon request, such documentation as the Exchange may require to substantiate the ownership and trading activity in the account.

(e) An omnibus account that is not carried in the name of a NYBOT Member Firm shall be entitled to fees at the NYBOT Member Firm rate upon specific authorization to do so from the Exchange. Such authorization may be granted if:

(i) One hundred percent (100%) of the Transactions executed in the account are for one (1) or more NYBOT Members and/or NYBOT Member Firms;

(ii) The acountholder identifies to the Exchange all of the Customers carried in the account;

(iii) The NYBOT Members and/or NYBOT Member Firms carried in the omnibus account and the Clearing Member carrying such account provide to the Exchange, upon request, such documentation as the Exchange may require to substantiate the ownership and trading activity in the account, and either

(A) if the omnibus account holds positions only for one (1) NYBOT Member or NYBOT Member Firm, such NYBOT Member or NYBOT Member Firm represents to the Exchange in writing that all positions held in the account have been, and will be, exclusively for the NYBOT Member or NYBOT Member Firm; or

(B) if the omnibus account holds positions for more than one (1) NYBOT Member or NYBOT Member Firm, each such NYBOT Member or NYBOT Member Firm confirms to the Exchange in writing that positions are being carried for such NYBOT Member or NYBOT Member Firm with the acountholder, and that all such positions shall be solely for the account of such NYBOT Member or NYBOT Member Firm.