

**SECOND AMENDED AND RESTATED  
BYLAWS OF NYSE CHICAGO, INC.**

**ARTICLE I. OFFICES; REGISTERED AGENT**

**Sec. 1. Registered Office and Registered Agent**

The registered office of NYSE Chicago, Inc. (the "Corporation") in the State of Delaware shall be at such location within the State of Delaware as shall from time to time be determined by the Board of Directors. The registered agent of the Corporation in the State of Delaware shall be such person or entity as shall from time to time be determined by the Board of Directors.

**Sec. 2. Other Offices**

The Corporation may also have offices at such other places both within and without the State of Delaware as the Board Of Directors may from time to time determine or the business or purposes of the Corporation may require.

**ARTICLE II. DIRECTORS**

**Sec. 1. Powers**

The business and affairs of the Corporation shall be managed by its Board of Directors. The Board of Directors, acting in accordance with the terms of these bylaws and the rules of the Corporation ("rules"), shall be vested with all powers necessary for the governing of the Corporation as an "exchange" within the meaning of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the regulation of the business conduct of any individual, corporation, partnership or other entity that holds a permit issued by the Corporation to trade securities on the market operated by the Corporation (each, a "Participant"), and the promotion of the welfare, objects and purposes of the Corporation.

**Sec. 2. General Composition and Term of Office**

(a) Subject to Section 2(b), the Board shall consist of a number of directors ("Directors") as determined from time to time by the stockholders; provided that (1) at least fifty percent (50%) of the directors will be persons from the public and will not be, or be affiliated with, a broker-dealer in securities or employed by, or involved in any material business relationship with, the Corporation or its affiliates ("Public Directors"); and (2) at least twenty percent (20%) of the directors shall consist of individuals nominated by the trading permit holders who are permitted to trade on the Corporation's facilities for the trading of equities that are securities as covered by the Exchange Act (collectively, such individuals "Permit Holders") (such directors, "Non-Affiliated Directors"). For purposes of calculation of the minimum number of Non-Affiliated Directors, if 20 percent of the Directors is not a whole number, such number of Directors to be nominated and selected

by the Permit Holders will be rounded up to the next whole number. The term of office of a director shall not be affected by any decrease in the authorized number of directors.

(b) Nominees for a Director position shall provide the Secretary such information as is reasonably necessary to serve as the basis for a determination of the nominee's qualifications as a Director, for purposes of Section 2(a) of these bylaws, and the Secretary shall make such determination concerning the nominee's qualifications.

(c) At each annual meeting of the stockholders, except as otherwise provided by the bylaws, the stockholders shall elect directors to serve until the next annual meeting or until their successors are elected and qualified.

(d) The Board of Directors shall appoint the Chairman of the Board by majority vote.

(e) Each director shall hold office for a term that expires at the annual meeting of the stockholders next following his or her election, provided that if he or she is not re-elected and his or her successor is not elected and qualified at the meeting and there remains a vacancy on the Board of Directors, he or she shall continue to serve until his or her successor is elected and qualified or until his or her earlier death, resignation or removal. A director may serve for any number of terms, consecutive or otherwise.

(f) Except as otherwise provided in these bylaws or the rules, the stockholders shall nominate directors for election at the annual meeting of the stockholders. Such nominations shall comply with the Corporation's rules and these bylaws.

### **Sec. 3. Nomination and Election**

(a) Candidates for election as a Non-Affiliated Director shall be nominated by the Nominating Committee.

(b) The Nominating Committee shall publish the name(s) of one or more Participants as its nominee(s) for Non-Affiliated Directors of the Board of Directors of the Corporation. A director shall qualify as a Public Director or Non-Affiliated Director only so long as such director meets the requirements for that position. The Nominating Committee shall name sufficient nominees so that at least twenty percent (20%) of the Directors consist of Non-Affiliated Directors. The names of the nominees shall be published on a date in each year (the "Announcement Date") sufficient to accommodate the process described in this Section 3(b). After the name of proposed nominee(s) is published, Permit Holders in good standing may submit a petition to the Corporation in writing to nominate additional eligible candidate(s) to fill Non-Affiliated Director position(s) during the next term. If a written petition of at least 10 percent of Permit Holders in good standing is submitted to the Nominating Committee within two weeks after the Announcement Date, such person(s) shall also be nominated by the Nominating Committee; provided, however, that no Permit Holder, either alone or together with other Permit Holders that are deemed its affiliates, may account for more than 50% of the signatories to the petition endorsing a particular petition nominee for the Non-Affiliated Director position(s) on the Board of Directors of the Corporation. Each petition for a petition candidate must include

a completed questionnaire used to gather information concerning director candidates (the Corporation shall provide the form of questionnaire upon the request of any Permit Holder). Notwithstanding anything to the contrary, the Nominating Committee shall determine whether any petition candidate is eligible to serve on the Board of Directors (including whether such person is free of any statutory disqualification (as defined in section 3(a)(39) of the Exchange Act)), and such determination shall be final and conclusive.

(c) In the event that the number of nominees exceeds the number of available seats, the Nominating Committee shall submit the contested nomination to the Permit Holders for selection. Permit Holders shall be afforded a confidential voting procedure and shall be given no less than 20 calendar days to submit their votes. Each Permit Holder in good standing may select one nominee for the contested seat on the Board of Directors; provided, however that no Permit Holder, either alone or together with other Permit Holders who are deemed its affiliates, may account for more than 20% of the votes cast for a particular nominee for the Non-Affiliated Director position(s) on the Board of Directors of the Corporation. With respect to the contested position, the nominee for the Board of Directors receiving the most votes of Permit Holders shall be submitted by the Nominating Committee to the Board of Directors of the Corporation. Similarly, the Nominating Committee shall submit uncontested nominees to the Board of Directors. Tie votes shall be decided by the Board of Directors at its first meeting following the election.

#### **Sec. 4. Chairman**

The Board of Directors, acting through a vote of a majority of its directors, shall elect the Chairman of the Board from among the directors of the Corporation. Unless another director is appointed by the Board for such purpose in the Chairman's absence, the Chairman shall preside at all meetings of the stockholders and the Board. The Chairman shall also have such other duties, authority and obligations as may be given to him or her by these bylaws or by the Board of Directors.

#### **Sec. 5. Vacancies**

Any vacancy on the Board of Directors resulting from the death, retirement, resignation, disqualification or removal of a director, as well as any newly created directorship resulting from an increase in the number of directors which occurs between annual meetings of the stockholders at which directors are elected, may be filled (i) with a person nominated by the Chairman of the Corporation and elected by a majority of the directors then in office, though less than a quorum or by a sole remaining director, or (ii) by action taken by the stockholders of the Corporation, and those vacancies resulting from removal from office by a vote of the stockholders for cause may be filled by a vote of the stockholders at the same meeting at which such removal occurs. Any person chosen to fill a vacancy or newly-created directorship must qualify as the type of director (Public Director or Non-Affiliated Director) associated with the seat on the Board being filled. A director chosen to fill a vacancy or newly-created directorship shall hold office

until the end of the next annual meeting of stockholders. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

#### **Sec. 6. Participation in Meeting, Action or Proceeding**

No director shall participate in the determination of any matter in which such director is personally interested. Non-Affiliated Directors shall not be deemed to be personally interested in the determination of matters that may affect the Participants as a whole or certain groups of Participants, and Non-Affiliated Directors shall not be prohibited from participating in such determinations in the normal course of conducting the Corporation's business. In a matter involving an issuer of a security listed or to be listed on the Corporation, a director shall be deemed to be "personally interested" if he or she is a director, officer or employee of the issuer of that security, and shall not participate in a decision relating to that matter. Other relationships between a director and an issuer shall be evaluated on a case-by-case basis.

#### **Sec. 7. Place of Meetings; Mode**

Any meeting of the Board of Directors may be held at such place, within or without the State of Delaware, as shall be designated in the notice of such meeting, but if no such designation is made, then the meeting will be held at the principal business office of the Corporation. Members of the Board of Directors or any committee designated by the Board may participate in a meeting of the Board or committee by 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.

#### **Sec. 8. Regular Meetings**

Regular meetings of the Board of Directors may be held, with or without notice, at such time or place as the Board of Directors may designate for the purpose of conducting such business as may be properly conducted at such a meeting.

#### **Sec. 9. Special Meetings**

(a) Special meetings of the Board of Directors may be called on one days' notice to each director by the Chairman of the Board or the Chief Executive Officer and shall be called by the Secretary upon the written request of any three directors then in office.

(b) Notice of any special meeting shall be given by written, electronic or telephonic means to each director at his or her business address or such other address as he or she may have advised the Secretary of the Corporation to use for such purpose. If delivered, notice shall be deemed to be given when delivered to such address or to the person to be notified. If mailed, such notice shall be deemed to be given two business days after deposit in the United States mail, postage prepaid, of a letter addressed to the appropriate

location. Notice may also be given by telephone, electronic transmission or other means not specified in this section, and in each such case shall be deemed to be given when actually received by the director to be notified.

### **Sec. 10. Voting; Quorum and Action by the Board**

Each director shall be entitled to one vote. Except as otherwise required by law, at all meetings of the Board of Directors, the presence of a majority of the number of directors then in office shall constitute a quorum for the transaction of business. The act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors except as may be otherwise specifically provided by law, the certificate of incorporation, the bylaws or the rules. If a quorum shall not be present at any meeting of the Board of Directors, a majority of the directors present at the meeting may adjourn the meeting, without notice other than announcement at the meeting, until a quorum shall be present.

### **Sec. 11. Waiver of Notice**

A written waiver of notice, signed by a director entitled to notice of a meeting of the Board of Directors, whether before or after the time of the meeting stated in the notice, shall be deemed equivalent to the giving of such notice to that director. Attendance of a director at a meeting of the Board of Directors or of a committee of the board of which the director is a member shall constitute a waiver of notice of such meeting except when the director attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

### **Sec. 12. Presumption of Assent**

A director of the Corporation who is present at a duly convened meeting of the Board of Directors or at a committee of the Board at which action on any corporate matter is taken shall be conclusively presumed to have assented to the action taken unless his or her dissent shall be entered in the minutes of the meeting or unless he or she shall file his or her written dissent to such action with the person acting as the secretary of the meeting before the adjournment of the meeting or shall forward such dissent by registered or certified mail to the Secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

### **Sec. 13. Action in Lieu of Meeting**

Unless otherwise provided by law, the certificate of incorporation or these bylaws, 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 committee, as the case may be, consent thereto in writing or by electronic

transmission, and such writing(s) or electronic transmission(s) are filed with the minutes of proceedings of the Board of Directors or the committee.

#### **Sec. 14. Compensation**

The directors may be paid their reasonable expenses, if any, of attendance at each meeting of the Board of Directors and at each meeting of a committee of the Board of Directors of which they are members.

#### **Sec. 15. Removal**

Directors may be removed by the stockholders only as provided in the certificate of incorporation.

### **ARTICLE III. STOCKHOLDERS**

#### **Sec. 1. Annual Meeting**

The annual meeting of the stockholders shall be held at such place and time as determined by the Board of Directors, for the purpose of electing directors and for the transaction of such other business as may properly come before the meeting. Except as otherwise required by law, written notice of the annual meeting stating the place, date and hour of the meeting shall be given to each stockholder entitled to vote at such meeting not less than ten (10) nor more than sixty (60) days before the date of the meeting.

#### **Sec. 2. Special Meetings**

Special meetings of the stockholders for any purpose or purposes may be called by the Chairman, the Board of Directors or the Chief Executive Officer, and shall be called by the Secretary at the request in writing of stockholders owning not less than a majority of the then issued and outstanding capital stock of the Corporation entitled to vote. Except as otherwise required by law, written notice of a special meeting stating the place, date and hour of the meeting and the purpose or purposes for which the meeting is called, shall be given to each stockholder entitled to vote at such meeting not less than ten (10) nor more than sixty (60) days before the date of the meeting. Business transacted at any special meeting of stockholders shall be limited to the purpose(s) stated in the notice of the meeting.

#### **Sec. 3. Waiver of Notice**

A waiver of notice in writing signed by a stockholder entitled to such notice, whether before or after the time of the meeting stated in the notice, shall be deemed equivalent to the giving of such notice. Attendance of a stockholder in person or by proxy at a meeting of stockholders shall constitute a waiver of notice of such meeting except when the stockholder or his or her proxy attends the meeting for the express purpose of objecting,

at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

#### **Sec. 4. Lists of Stockholders**

The Corporation shall have charge of the stock ledger of the Corporation and shall prepare and make, at least 10 days before each meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of 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 10 days prior to the meeting, either at a place within the municipality where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where said meeting is to be held. The list shall also be produced and kept at the time and place of meeting during the whole time of the meeting, and may be inspected by any stockholder who may be present.

#### **Sec. 5. Quorum and Vote Required for Action**

(a) The holders of a majority of the capital stock issued and outstanding and entitled to vote thereat, present in person or represented cast at the meeting, when present in person or by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business except as otherwise provided by law, the certificate of incorporation or these bylaws. If, however, such quorum shall not be present or represented at any meeting of the stockholders, the stockholders entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without further notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the original meeting as originally notified. 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.

(b) When a quorum is present at any meeting, the vote of the holders of a majority of the capital stock having voting power present in person or represented by proxy shall decide any question brought before such meeting, unless the question is one upon which by express provision of the General Corporation law of the State of Delaware or of the certificate of incorporation, a different vote is required in which case such express provision shall govern and control the decision of such question.

#### **Sec. 6. Voting of Shares; Proxies**

Unless otherwise provided in the certificate of incorporation or these bylaws, each stockholder of the Corporation shall at every meeting of the stockholders be entitled to one (1) vote in person or by proxy for each share of the capital stock having voting power

held by such stockholder, but no proxy shall be valid after three years from its date, unless the proxy provides for a longer period. Any such proxy shall be in writing and shall be filed with the Secretary of the Corporation before or at the time of the meeting.

### **Sec. 7. Action in Lieu of Meeting**

Action may be taken by the stockholders of the Corporation, without a meeting, by written consent as and to the extent provided at the time by the General Corporation Law of the State of Delaware, provided that the matter to be acted upon by such written consent previously has been approved by the Board of Directors of the Corporation and directed by such Board to be submitted to the stockholders for their action by written consent.

## **ARTICLE IV. COMMITTEES**

### **Sec. 1. Number of Committees**

The committees of the Corporation shall consist of an Executive Committee, a Nominating Committee, a Regulatory Oversight Committee, a Judiciary Committee and such other committees as may be provided in the bylaws or rules or as may be from time to time established by the Board of Directors.

### **Sec. 2. Appointment; Vacancies; and Removal**

(a) The Board shall appoint, consistent with these bylaws, the members of all committees of the Board, and the Board may, at any time, with or without cause, remove any member of a committee so appointed, unless otherwise provided herein.

(b) Any vacancy occurring in a committee shall be filled by the Board of Directors.

### **Sec. 3. General Provisions**

(a) Except as otherwise provided in this Article IV, each committee shall be comprised of at least three people and may include persons who are not members of the Board; provided, however, that such committee members who are not also members of the Board shall only participate in committee actions to the extent permitted by law. In appointing new members to committees of the Board, the Board is responsible for determining that any such committee meets the composition requirements set forth in this Article IV.

(b) The presence of a majority of the members of a committee shall be necessary to constitute a quorum for the transaction of business at a meeting of a committee.

(c) The act of a majority of the members present at any meeting at which there is a quorum shall be the act of such committee, except as may be otherwise specifically required by these bylaws of the Corporation, the rules, or applicable law.



(d) Unless otherwise restricted by these bylaws, the rules, applicable law, or rules of the particular committee, members of a committee or of any subcommittee thereof may participate in meetings by means of conference call or similar communications equipped by means of which all persons participating in the meeting can hear each other, and such participation shall constitute presence in person at the meeting.

(e) No member of a committee shall participate in the adjudication of any matter in which he or she is personally interested, although his or her presence at a meeting at which such matter is considered shall count toward the quorum requirements for the meeting.

#### **Sec. 4. Powers and Duties of Committees**

All committees shall have such duties and may exercise such authority as may be prescribed for them in these bylaws or in the rules or by the Board of Directors.

#### **Sec. 5. Conduct of Proceedings**

Except as otherwise provided in the certificate of incorporation, these bylaws or the rules, or by the Board of Directors, each committee may determine the manner in which its proceedings shall be conducted. Any action required or permitted to be taken at any meeting of any committee may be taken without a meeting if a written consent to the action is signed by all of the members of the committee and the written consent is filed with the minutes of the proceedings of the committee.

#### **Sec. 6. Regulatory Oversight Committee**

(a) The Board shall, on an annual basis, appoint the Regulatory Oversight Committee (“ROC”).

(b) The ROC shall consist of at least three members, each of whom shall be a Public Director of the Corporation. The Board, on affirmative vote of a majority of directors then in office, may, at any time remove a member of the ROC for cause. A failure of the member to qualify as a Public Director shall constitute a basis to remove a member of the ROC for cause. If the term of office of a ROC committee member terminates under this Section, and the remaining term of office of such committee member at the time of termination is not more than three months, during the period of vacancy the relevant committee shall not be deemed to be in violation of the compositional requirements of such ROC by virtue of such vacancy.

(c) The ROC shall oversee the Corporation’s regulatory and self-regulatory organization responsibilities and evaluate the adequacy and effectiveness of the Corporation’s regulatory and self-regulatory organization responsibilities; assess the Corporation’s regulatory performance; and advise and make recommendations to the Board or other committees of the Board about the Corporation’s regulatory compliance, effectiveness and plans. In furtherance of its functions, the ROC shall (i) review the regulatory budget of the Corporation and specifically inquire into the adequacy of resources available in the

budget for regulatory activities; (ii) meet regularly with the Chief Regulatory Officer in executive session; (iii) in consultation with the Chief Executive Officer of the Corporation, establish the goals, assess the performance, and recommend the compensation of the Chief Regulatory Officer; and (iv) keep the Board informed with respect to the foregoing.

### **Sec. 7. Nominating Committee**

The Nominating Committee shall consist solely of Non-Affiliated Directors, as defined above, and/or Permit Holder representatives, and shall be responsible for approving and submitting names of candidates for election to the position of Non-Affiliated Director pursuant to, and in accordance with, Article II, Section 3. "Permit Holder representative" shall mean an officer, director, employee or agent of a Permit Holder.

### **Sec. 8. Executive Committee**

The Executive Committee shall consist of directors, including the Chairman of the Board. A majority of the committee members (including the Chairman if the Chairman is a Public Director) shall be Public Directors. The Chairman of the Board shall be the Chairman of the Executive Committee. The Executive Committee shall have such powers as may be set forth in the rules or delegated to it by the Board of Directors.

## **ARTICLE V. OFFICERS**

### **Sec. 1. Officers of the Corporation**

The Board shall elect officers of the Corporation as it deems appropriate, which may include a Chief Executive Officer, President, Chief Regulatory Officer, Secretary, Treasurer, and such other officers as the Board of Directors may determine. Any two or more offices may be held by the same person, except that the Chief Regulatory Officer and the Secretary may not hold either the office of Chief Executive Officer or President.

### **Sec. 2. Tenure and Appointment; Removal and Vacancies**

(a) Each officer of the Corporation shall hold office until his or her successor is appointed and qualified, or until his or her earlier death, resignation, retirement or removal.

(b) Any officer of the Corporation may be removed at any time by the Board of Directors, with or without cause, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Vacancies in any office of the Corporation may be filled for the unexpired term by the Board

### **Sec. 3. Powers and Duties**

Each of the offices of the Corporation shall, unless otherwise ordered by the Board, have such powers and duties as customarily pertain to the respective office, and such further powers and duties as from time to time may be conferred by the Board, or by an officer delegated such authority by the Board.

## **ARTICLE VI. INDEMNIFICATION**

### **Sec. 1. Indemnification**

(a) The Corporation shall, to the fullest extent permitted by law, as those laws may be amended and supplemented from time to time, indemnify any director or officer made, or threatened to be made, a party to any action, suit or proceeding, whether criminal, civil, administrative or investigative, by reason of being a director or officer of the Corporation or a predecessor corporation or, at the Corporation's request, a director, officer, partner, member, employee or agent of another corporation or other entity; provided, however, that the Corporation shall indemnify any director or officer in connection with a proceeding initiated by such person only if such proceeding was authorized in advance by the Board of Directors of the Corporation. The indemnification provided for in this Section 1 shall: (i) not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement or vote of stockholders or disinterested directors or otherwise, both as to action in their official capacities and as to action in another capacity while holding such office; (ii) continue as to a person who has ceased to be a director or officer; and (iii) inure to the benefit of the heirs, executors and administrators of an indemnified person.

(b) Expenses incurred by any such person in defending a civil or criminal action, suit or proceeding by reason of the fact that he is or was a director or officer of the Corporation (or was serving at the Corporation's request as a director, officer, partner, member, employee or agent of another corporation or other entity) 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 he or she is not entitled to be indemnified by the Corporation as authorized by law. Notwithstanding the foregoing, the Corporation shall not be required to advance such expenses to a person who is a party to an action, suit or proceeding brought by the Corporation and approved by a majority of the Board of Directors of the Corporation that alleges willful misappropriation of corporate assets by such person, disclosure of confidential information in violation of such person's fiduciary or contractual obligations to the Corporation or any other willful and deliberate breach in bad faith of such person's duty to the Corporation or its stockholders.

(c) The foregoing provisions of this Section 1 shall be deemed to be a contract between the Corporation and each director or officer who serves in such capacity at any time while this bylaw is in effect, and any repeal or modification thereof shall not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought based in whole or in part upon any such state of facts. The rights provided to any person by this bylaw

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 or officer or in such other capacity as provided above.

(d) The Board of Directors in its discretion shall have power on behalf of the Corporation to indemnify any person, other than a director or officer, made or threatened to be made a party to any action, suit or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that such person, or his or her testator or intestate, is or was an officer, employee or agent of the Corporation or, at the Corporation's request, is or was serving as a director, officer, partner, member, employee or agent of another corporation or other entity.

(e) To assure indemnification under this Section 1 of all directors, officers, employees and agents who are determined by the Corporation or otherwise to be or to have been "fiduciaries" of any employee benefit plan of the Corporation that may exist from time to time, Section 145 of the Delaware General Corporation Law shall, for the purposes of this Section 1, be interpreted as follows: an "other enterprise" shall be deemed to include such an employee benefit plan, including without limitation, any plan of the Corporation that is governed by the Act of Congress entitled "Employee Retirement Income Security Act of 1974," as amended from time to time; the Corporation shall be deemed to have requested a person to serve an employee benefit plan where the performance by such person of his duties to the Corporation also imposes duties on, or otherwise involves services by, such person to the plan or participants or beneficiaries of the plan; excise taxes assessed on a person with respect to an employee benefit plan pursuant to such Act of Congress shall be deemed "fines."

## **ARTICLE VII. AMENDMENTS**

### **Sec. 1. Bylaws**

These bylaws may be amended or repealed, or new bylaws may be adopted, by the Board of Directors. These bylaws may also be amended or repealed, or new bylaws may be adopted, by action taken by the stockholders of the Corporation. Before any amendment to, alteration or repeal of any provision of the bylaws of the Corporation under this Article VII shall be effective, those changes shall be submitted to the Board and if the same must be filed with or filed with and approved by the Commission, then the proposed changes to the bylaws of the Corporation shall not become effective until filed with or filed with and approved by the Commission, as the case may be.

### **Sec. 2. Rules**

The rules of the Corporation may be amended or repealed, or new rules may be adopted, by the Board of Directors.

## **ARTICLE VIII. CERTIFICATES OF STOCK AND THEIR TRANSFER**

### **Sec. 1. Form and Execution of Certificates**

Every holder of stock in the Corporation shall be entitled to have a certificate signed by, or in the name of, the Corporation by any two authorized officers of the Corporation, certifying the number of shares owned. Any and all signatures on a certificate may be facsimiles. Such certificates shall be in such form as may be determined by the Board of Directors. In case any officer, transfer agent or registrar of the Corporation who has signed, or whose facsimile signature has been placed upon, any such certificate shall have ceased to be such officer, transfer agent or registrar of the Corporation before such certificate is issued by the Corporation, such certificate may nevertheless be issued and delivered by the Corporation with the same effect as if the officer, transfer agent or registrar who signed, or whose facsimile signature was placed upon, such certificate had not ceased to be such officer, transfer agent or registrar.

### **Sec. 2. Conditions to Transfer**

No sale, transfer or other disposition of stock of the Corporation shall be effected except (a) (i) pursuant to an effective registration statement under the Securities Act and in accordance with all applicable state securities laws; or (ii) upon delivery to the Corporation of an opinion of counsel satisfactory to the counsel for the Corporation that such sale, transfer or other disposition may be effected pursuant to a valid exemption from the registration requirements of the Securities Act and all applicable state securities laws; and (b) upon delivery to the Corporation of such certificates or other documentation as counsel to the Corporation shall deem necessary or appropriate in order to ensure that such sale, transfer or other disposition complies with the Securities Act and all applicable state securities laws.

### **Sec. 3. Replacement Certificates**

The Corporation may direct a new certificate to be issued in place of any certificate or certificates evidencing shares of stock of the Corporation alleged to have been lost, stolen or destroyed, upon the making of an affidavit of the fact by the person claiming the certificate to be lost, stolen or destroyed. When authorizing such issue of a new certificate or certificates, the Corporation may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or certificates, or his such owner's legal representative, to advertise the same in such manner as it shall require and require such owner to give the Corporation a bond in such sum as it may direct as indemnity against any claim that may be made against the Corporation with respect to the certificate alleged to have been lost, stolen or destroyed. The Corporation may delegate its authority to direct the issuance of replacement stock certificates to the transfer agent or agents of the Corporation.

### **Sec. 4. Transfers of Stock**

Upon surrender to the Corporation or the transfer agent of the Corporation of a certificate for shares of stock of the Corporation duly endorsed or accompanied by proper evidence of succession, assignment or other authority to transfer, it shall be the duty of the Corporation to issue a new certificate to the person entitled to the new certificate, cancel the old certificate and record the transaction upon its books, provided the Corporation or a transfer agent of the Corporation shall not have received a notification of adverse interest and that the conditions of Section 8-401 of Title 6 of the Delaware Code have been met.

### **Sec. 5. Registered Stockholders**

The Corporation shall be entitled to treat the holder of record (according to the books of the Corporation) of any share or shares of its stock as the holder in fact of those shares 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 party whether or not the Corporation shall have express or other notice of that claim or interest, except as expressly provided by the laws of the State of Delaware.

### **Sec. 6. Notice on Certificates**

Each certificate evidencing shares of stock of the Corporation shall include a clear and conspicuous notice of the restrictions and limitations on the transfer of the shares evidenced by such certificate, in form and substance similar to the following:

“THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS, AND MAY BE TRANSFERRED ONLY PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT OR AN EXEMPTION FROM REGISTRATION THEREUNDER AND OTHERWISE IN ACCORDANCE WITH THE BYLAWS OF THE CORPORATION.”

## **ARTICLE IX. SELF-REGULATORY FUNCTION OF THE CORPORATION**

### **Sec. 1. Management of the Corporation**

In connection with managing the business and affairs of the Corporation, the Board of Directors shall consider applicable requirements for registration as a national securities exchange under Section 6(b) of the Exchange Act, including, without limitation, the requirements that (a) the rules of the Corporation shall be designed to protect investors and the public interest and (b) the Corporation shall be so organized and have the capacity to carry out the purposes of the Exchange Act and to enforce compliance by its members, as that term is defined in Section 3 of the Exchange Act (such statutory members being referred to in the Corporation's bylaws and rules as "Participants") and

persons associated with Participants, with the provisions of the Exchange Act, the rules and regulations under the Act and the rules of the Corporation.

## **Sec. 2. Participation in Board and Committee Meetings**

All meetings of the Board of Directors of the Corporation (and any committees of the Board) pertaining to the self-regulatory function of the Corporation (including disciplinary matters) or relating to the structure of the market which the Corporation regulates shall be closed to all persons other than members of the Board of Directors and officers, staff, counsel or other advisors whose participation is necessary or appropriate to the proper discharge of such regulatory functions and any representatives of the United States Securities and Exchange Commission. In no event shall members of the Board of Directors of NYSE Chicago Holdings, Inc. who are not also members of the Board of Directors of the Corporation or any officers, staff, counsel or advisors of NYSE Chicago Holdings, Inc. who are not also officers, staff, counsel or advisors of the Corporation be allowed to participate in any meetings of the Board of Directors of the Corporation (or any committees of the Corporation) pertaining to the self-regulatory function of the Corporation (including disciplinary matters) or relating to the structure of the market which the Corporation regulates.

## **Sec. 3. Confidentiality of Information and Records Relating to SRO Function**

All books and records of the Corporation reflecting confidential information pertaining to the self-regulatory function of the corporation (including but not limited to disciplinary matters, trading data, trading practices, and audit information) shall be retained in confidence by the Corporation and its personnel and will not be used by the Corporation for any non-regulatory purposes and shall not be made available to any persons (including, without limitation, any Participants) other than to personnel of the Commission, and those personnel of the Corporation, members of committees of the Corporation, members of the Board of Directors of the Corporation, hearing officers and other agents of the Corporation to the extent necessary or appropriate to properly discharge the self-regulatory responsibilities of the Corporation. Nothing in this Section 3 shall be interpreted as to limit or impede the rights of the Commission to access and examine such confidential information pursuant to the federal securities laws and the rules and regulations thereunder, or to limit or impede the ability of any officers, directors, employees or agents of the Corporation to disclose such confidential information to the Commission.

## **Sec. 4. Maintenance of Books and Records**

All books and records of the Corporation, including minutes of meetings of the Board of Directors and of the Corporation's committees, shall be maintained by the Secretary of the Exchange at a location within the United States.

## **Sec. 5. Regulatory Fees and Penalties**

Any regulatory assets or any regulatory fees, fines or penalties collected by the Corporation's regulatory staff will be applied to fund the legal, and regulatory and surveillance operations of the Corporation, and the Corporation shall not distribute such assets, fees fines or penalties to pay dividends or be distributed to any other entity. For purposes of this Section, regulatory penalties shall include restitution and disgorgement of funds intended for customers.

## **ARTICLE X. GENERAL PROVISIONS**

### **Sec. 1. Fiscal Year**

The fiscal year of the Corporation shall be as determined from time to time by the Board of Directors.

### **Sec. 2. Dividends**

Subject to applicable law or of the certificate of incorporation, dividends may be declared upon the capital stock of the Corporation by the Board of Directors; and such dividends may be paid in cash, property or shares of stock of the Corporation.

### **Sec. 3. Reserves**

Before payment of any dividends, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Board of Directors from time to time, in its discretion, determines to be proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or for such other purpose as the Board of Directors shall determine to be conducive to the interests of the Corporation, and the directors may modify or abolish any such reserve in the manner in which it was created.

### **Sec. 4. Subsidiary Corporations**

The Board of Directors may constitute any officer of the Corporation its proxy, with power of substitution, to vote the stock of any subsidiary of the Corporation. In the absence of specific action by the Board of Directors, the Chief Executive Officer and the Secretary of the Corporation shall have authority to represent the Corporation and to vote, on behalf of the Corporation, the securities of other corporations, both domestic and foreign, held by the Corporation.

### **Sec. 5. Severability**

If any provision of these bylaws, or the application of any provision of these bylaws to any person or circumstances, is held invalid, the remainder of these bylaws and the application of such provision to other persons or circumstances shall not be affected.