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Page 1 of * 791

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No.* SR - 2018 - * 02
Amendment No. (req. for Amendments *)

Filing by NYSE National, Inc.

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

Initial * ☑ Amendment * ☐ Withdrawal ☐

Section 19(b)(2) * ☑ Section 19(b)(3)(A) * ☐ Section 19(b)(3)(B) * ☐

Pilot ☐

Extension of Time Period for Commission Action * ☐

Date Expires *

Rule
- 19b-4(f)(1)
- 19b-4(f)(2)
- 19b-4(f)(3)
- 19b-4(f)(4)
- 19b-4(f)(5)
- 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) * ☐ Section 806(e)(2) * ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) * ☐

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposes rules and rule changes to support the re-launch of the Exchange on the Pillar trading platform

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Clare Last Name * Saperstein

Title * Associate General Counsel NYSE Group Inc

E-mail * Clare.Saperstein@theice.com

Telephone * (212) 656-2355 Fax (212) 656-8101

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 02/21/2018

By David De Gregorio

(Name *)

(Title *)

Senior Counsel

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

David DeGregorio,

Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information *

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO] -xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO] -xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

Add Remove View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] NYSE National, Inc. ("NYSE National" or the "Exchange") proposes the following rules and rule changes to support the re-launch of the Exchange on the Pillar trading platform: (1) amendments to Article V, Sections 5.01 and 5.8 of the Fourth Amended and Restated Bylaws of NYSE National ("Bylaws"); (2) new rules based on the rules of the Exchange's affiliates relating to (a) trading securities on an unlisted trading privileges basis (Rules 5 and 8), (b) trading on the Pillar trading platform (Rules 1 and 7), (c) disciplinary rules (Rule 10), and (d) administration of the Exchange (Rules 3, 12, and 13); (3) rule changes that renumber current Exchange rules relating to (a) membership (Rule 2), (b) order audit trail requirements (Rule 6), and (c) business conduct, books and records, supervision, extensions of credit, and trading practices (Rule 11); and (4) deletion of Chapters I – XVI and the rules contained therein.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1, and the text of the proposed rule change is attached as Exhibit 5.

(b) The Exchange does not believe that the proposed rule change will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The Board of Directors of the Exchange and its Regulatory Oversight Committee have approved the proposed rule change. No further action by the Board of Directors or the membership of the Exchange is required. Therefore, the Exchange's internal procedures with respect to the proposed change are complete.

The person on the Exchange staff prepared to respond to questions and comments on the proposed rule change is:

Clare F. Saperstein
Associate General Counsel
NYSE Group, Inc.
(212) 656-2355

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

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

(a) Purpose

1. Background

On February 1, 2017, the Exchange ceased trading operations.[3] The Exchange proposes to re-launch trading operations on Pillar, which is an integrated trading technology platform designed to use a single specification for connecting to the equities and options markets operated by the Exchange and its affiliates, NYSE Arca, Inc. ("NYSE Arca"), NYSE American LLC ("NYSE American"), and New York Stock Exchange LLC ("NYSE").[4] Subject to rule approvals, the Exchange anticipates re-launching trading operations on Pillar in the second quarter of 2018.

In the Spring of 2016, NYSE Arca's cash equities market was the first trading system to migrate to Pillar.[5] NYSE American's cash equities market transitioned

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3 See Securities Exchange Act Release No. 80018 (February 10, 2017), 82 FR 10947 (February 16, 2017) (SR-NSX-2017-04) ("Termination Filing"). On January 31, 2017, Intercontinental Exchange, Inc. ("ICE"), through its wholly-owned subsidiary NYSE Group, acquired all of the outstanding capital stock of the Exchange (the "Acquisition"). See Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017) (SR-NSX-2016-16). Prior to the Acquisition, the Exchange was named "National Stock Exchange, Inc."

4 See www.nyse.com/pillar.

5 In connection with the NYSE Arca implementation of Pillar, NYSE Arca filed four rule proposals relating to Pillar. See Securities Exchange Act Release Nos. 74951 (May 13, 2015), 80 FR 28721 (May 19, 2015) (Notice) and 75494 (July 20, 2015), 80 FR 44170 (July 24, 2015) (SR-NYSEArca-2015-38) (Approval Order of NYSE Arca Pillar I Filing, adopting rules for Trading Sessions, Order Ranking and Display, and Order Execution); Securities Exchange Act Release Nos. 75497 (July 21, 2015), 80 FR 45022 (July 28, 2015) (Notice) and 76267 (October 26, 2015), 80 FR 66951 (October 30, 2015) (SR-NYSEArca-2015-56) (Approval Order of NYSE Arca Pillar II Filing, adopting rules for Orders and Modifiers and the Retail Liquidity Program); Securities Exchange Act Release Nos. 75467 (July 16, 2015), 80 FR 43515 (July 22, 2015) (Notice) and 76198 (October 20, 2015), 80 FR 65274 (October 26, 2015) (SR-NYSEArca-2015-58) (Approval Order of NYSE Arca Pillar III Filing, adopting rules for Trading Halts, Short Sales, Limit Up-Limit Down, and Odd Lots and Mixed Lots); and Securities Exchange Act Release Nos. 76085 (October 6, 2015), 80 FR 61513 (October 13, 2015) (Notice) and 76869 (January 11, 2016), 81 FR 2276 (January 15, 2016) (Approval Order of NYSE Arca Pillar IV Filing, adopting rules for Auctions). NYSE Arca Equities,

to Pillar on July 24, 2017.[6] NYSE has filed proposed rule changes to launch trading on Pillar.[7] In each case, NYSE Arca, NYSE American, and NYSE have proposed trading rules that are substantially similar and that are based on the rule numbering framework of NYSE Arca. As described in the rule filings for NYSE American and NYSE, those exchanges proposed specified differences to certain trading rules as compared to NYSE Arca to differentiate their respective trading models. For example, NYSE American has a delay mechanism and does not offer specified order types[8] and NYSE has proposed a parity allocation model.[9]

Inc., which was a wholly-owned subsidiary of NYSE Arca, has been merged with and into NYSE Arca and as a result, former NYSE Arca Equities rules are now the rules of NYSE Arca. NYSE Arca rules that only apply to its cash equities market have a suffix of "-E" in the rule number. See Securities Exchange Act Release No. 81419 (August 17, 2017), 82 FR 40044 (August 23, 2017) (SR-NYSEArca-2017-40) (Approval Order).

6 In connection with the NYSE American implementation of Pillar, NYSE American filed several rule changes. See Securities Exchange Act Release Nos. 79242 (November 4, 2016), 81 FR 79081 (November 10, 2016) (SR-NYSEMKT-2016-97) (Notice and Filing of Immediate Effectiveness of Proposed Rule Change of framework rules); 81038 (June 28, 2017), 82 FR 31118 (July 5, 2017) (SR-NYSEMKT-2016-103) (Approval Order) ("NYSE American ETP Listing Rules Filing"); 80590 (May 4, 2017), 82 FR 21843 (May 10, 2017) (SR-NYSEMKT-2017-01) (Approval Order) ("NYSE American Trading Rules Filing"); 80577 (May 2, 2017), 82 FR 21446 (May 8, 2017) (SR-NYSEMKT-2017-04) (Approval Order) ("NYSE American Market Maker Filing"); 80700 (May 16, 2017), 82 FR 23381 (May 22, 2017) (SR-NYSEMKT-2017-05) (Approval Order) ("NYSE American Delay Mechanism Filing"). NYSE American was previously known as NYSE MKT LLC. See Securities Exchange Act Release No. 80748 (May 23, 2017), 82 FR 24764, 24765 (SR-NYSEMKT-2017-20) (Notice of filing and immediate effectiveness of proposed rule change to change the name of NYSE MKT to NYSE American).

7 See Securities Exchange Act Release Nos. Securities Exchange Act Release Nos. 76803 (December 30, 2015), 81 FR 536 (January 6, 2016) (SR-NYSE-2015-67) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change); 80214 (March 10, 2017), 82 FR 14050 (March 16, 2017) (SR-NYSE-2016-44) (Approval Order) ("NYSE ETP Listing Rules Filing"); 81225 (July 27, 2017), 82 FR 36033 (August 2, 2017) (SR-NYSE-2017-35) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change); and 81310 (August 3, 2017), 82 FR 37257 (August 9, 2017) (SR-NYSE-2017-36) (Notice of Filing) ("NYSE Trading Rules Filing").

8 See NYSE American Delay Mechanism Filing, supra, note 6.

9 See NYSE Trading Rules Filing, supra note 7.

With Pillar, the Exchange proposes to re-launch trading in all Tape A, Tape B, and Tape C securities on an unlisted trading privileges ("UTP") basis on a fully automated price-time priority allocation model. As proposed, the Exchange's trading rules would be based on the rules and trading model of the cash equities platform of NYSE Arca, which operates as a fully automated price-time priority allocation exchange, without any substantive differences. Accordingly, the Exchange proposes rules relating to orders and modifiers, ranking and display of orders, execution and routing of orders, and all other trading functionality that are based on the rules of NYSE Arca. In addition, in specified circumstances, described in more detail below, the Exchange proposes rules based on NYSE American as well, which was a more recent exchange to transition to the Pillar trading platform. In short, the Exchange is not proposing any new or novel rules for how trading would operate on the Exchange.

However, unlike its affiliated exchanges, the Exchange would not be a listing venue. Because the Exchange would trade securities on a UTP basis only, the Exchange proposes to operate in the same manner that NYSE Arca operates with respect to securities that trade on a UTP basis on that exchange. For example, the Exchange would not operate any auctions and therefore would not propose rules to provide for auction functionality on the Exchange. However, the Exchange would make available order types that already exist on NYSE Arca and NYSE American for securities that trade on a UTP basis and that route directly to the primary listing market, including orders designated to participate in an auction on the primary listing market. In addition, because the Exchange would not be a listing venue, the Exchange would not provide for either "lead" or "designated" market makers, which are available on NYSE Arca and NYSE American, respectively, for securities listed on those exchanges only. As with NYSE Arca and NYSE American, proposed Exchange rules would provide that ETP Holders may register as a market maker in securities that trade on a UTP basis on the Exchange. And as with NYSE Arca and NYSE American, Exchange rules would not require a market maker for a security to trade on a UTP basis on the Exchange. Similar to NYSE American, the Exchange would not operate a retail liquidity program.

While the trading rules for the Exchange's re-launch would be based on the rules of its affiliated exchanges, the Exchange proposes to retain its existing rules relating to membership and ETP Holder conduct. As described in more detail below, the Exchange proposes to renumber such rules and make minor modifications to certain rules. However, the Exchange is not proposing any new rules; all such rules would be either existing Exchange rules that have been renumbered or updated rules based on an existing rule of another exchange.

Because the Exchange is not proposing new or different rules to qualify as a member of the Exchange, for the re-launch, the Exchange proposes to reinstate

ETP Holder status[10] using the existing process described in Interpretation and Policies .01 to current Rule 2.5, which sets forth the expedited process for reinstatement as an ETP Holder and to register associated persons when the Exchange re-launched operations in 2015.[11] Pursuant to that rule, approved ETP Holders that were in good standing as of the close of business on May 30, 2014, when the Exchange previously ceased trading operations, had their ETP Holder status reinstated and associated persons registered pursuant to that expedited process.

Because the Exchange proposes to use an established process to reinstate ETP Holder status, the Exchange is not proposing any substantive differences to this rule. The Exchange proposes to amend Interpretation and Policies .01 to Rule 2.5 to replace the date of May 30, 2014, with the date of February 1, 2017, which was when the Exchange last terminated ETP Holder status. This proposed rule change would therefore provide for the reinstatement of ETP Holders whose status was terminated on February 1, 2017 in the exact same manner that the Exchange reinstated ETP Holders whose status had previously been terminated on May 30, 2014.

In short, for the re-launch of Exchange operations, the trading experience for reinstated ETP Holders on the Exchange would be identical to how trading functions on NYSE Arca for securities trading on a UTP basis. The Exchange proposes to differentiate itself from its affiliated exchanges through a different pricing model, which the Exchange will establish in a separate proposed rule change.[12]

2. Summary of Proposed Rule Changes

In preparation for the re-launch, the Exchange adopted the rule numbering framework of the NYSE Arca rules, which are organized in 14 Rules.[13] This framework replaces the Exchange's current rule numbering framework.

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10 When the Exchange ceased operations, the Exchange terminated the ETP status of all ETP Holders as of the close of business on February 1, 2017. See Termination Filing, supra note 3.

11 See Securities Exchange Act Release No. 75098 (June 3, 2015), 80 FR 32644 (June 9, 2015) (Notice of filing and immediate effectiveness of proposed rule change to establish expedited process to reinstate ETP Holder status).

12 The Exchange also proposes to file separate proposed rule changes to establish market data products that will be available for the Exchange and related fees.

13 See Securities Exchange Act Release No. 81782 (September 29, 2017), 82 FR 81782 (October 5, 2017) (SR-NYSENat-2017-04) (Notice of Filing and Immediate Effectiveness) ("Framework Filing").

With this filing, and as described in greater detail below, the Exchange proposes to expand on the Framework Filing by making the following changes to its rulebook:

- Adding new rules based on the rules of the Exchange's affiliates relating to:
  - trading securities on an unlisted trading privileges basis (Rules 5 and 8)
  - trading on the Pillar trading platform (Rules 1 and 7)
  - disciplinary rules (Rule 10)
  - administration of the Exchange (Rules 3, 12, and 13)

- Moving and renumbering current rules set forth in Chapters II, III, IV, V, VI and XII to the new framework:
  - ETP Holder[14] membership (Rule 2)
  - order audit trail requirements (Rule 6)
  - rules of fair practice, books and records, supervision, extensions of credit, and trading practices (Rule 11)

- Because Rules 4 and 9 would not include any rules, designating those rules as "Reserved"

In addition, the Exchange proposes to amend Article V, Section 5.01 and 5.8 of the Bylaws.

Because the current rulebook would be replaced with both new and renumbered rules under the new framework, the Exchange proposes to delete current Chapters I – XVI and the rules contained therein.

The following summarizes the proposed rule changes and Part 3, below, provides additional detail regarding the specific proposed rule changes.

A. *Bylaws*

The Exchange proposes to amend Article V, Sections 5.01 and 5.8 of the Bylaws to conform the Exchange's name for its existing "Appeals Committee" to "Committee for Review." The proposed change would more closely align the Bylaws of the Exchange with the governing documents of its affiliates, NYSE, NYSE American, and NYSE Arca, which all have "committees for review," rather than appeals committees.

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14 The Exchange proposes to define the term "ETP Holder" in Rule 1.1 to mean an Exchange-approved holder of an ETP. This proposed rule is based on current Rule 1.5(E)(2).

B. Definitions

Rule 1 would set forth definitions that would be used in Exchange rules. As described below, except for membership and conduct rules, the Exchange's proposed definitions are based on the rules for the NYSE Arca or NYSE American cash equities markets, or both. Accordingly, the definitions in proposed Rule 1.1 are based on definitions set forth in NYSE Arca Rule 1.1 and NYSE American Rule 1.1E, as applicable. The definitions set forth in proposed Rule 1.1 would also include current definitions set forth in Chapter I that relate to membership.

C. Membership Rules

To facilitate the expedited process to reinstate ETP Holders for the re-launch of trading operations, the Exchange proposes to retain its existing rules relating to membership and the registration of associated persons, which are currently set forth in Chapter II of the Exchange's rulebook. Consistent with the Framework Filing, the Exchange proposes to move the membership rules to Rule 2, but would retain the current individual rule numbers. As described in greater detail below, the Exchange proposes amendments to certain of those membership rules.

D. *Unlisted Trading Privileges Rules*

Proposed Rules 5 and 8 would provide for rules to trade all Tape A, Tape B, and Tape C securities, including Exchange Traded Products, on a UTP basis.[15] Because NYSE American is the latest affiliate of the Exchange to add rules for trading securities on a UTP basis on the Pillar trading platform, the Exchange is proposing rules that are based on the rules of NYSE American with only non-substantive and technical differences, as described in greater detail below. As described in NYSE American ETP Listing Rules Filing, the NYSE American rules are based on NYSE Rules 5P and 8P, which in turn are modeled on NYSE Arca Rules 5-E and 8-E.[16] The NYSE American and NYSE rules are

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15 As described below, the term "Exchange Traded Product" will be defined in Rule 1.1 and would include Equity Linked Notes ("ELNs"), Investment Company Units, Index-Linked Exchangeable Notes, Equity Gold Shares, Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed-Income Index-Linked Securities, Futures-Linked Securities, Multifactor-Index-Linked Securities, Trust Certificates, Currency and Index Warrants, Portfolio Depository Receipts, Trust Issued Receipts, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Paired Trust Shares, Trust Units, Managed Fund Shares, and Managed Trust Securities.

16 See NYSE American ETP Listing Rules Filing, supra note 6 and NYSE ETP Listing Rules Filing, supra note 7.

differentiated from the NYSE Arca rules because they are intended for trading on a UTP basis only. Those rules therefore include a preamble explaining that such rules are for trading on a UTP basis only and not for listing purposes, even though individual NYSE American and NYSE rules reference listing requirements. The Exchange proposes to follow this established and approved process for its proposed Rules 5 and 8 without any differences. Accordingly, proposed Rules 5 and 8 are based on the approved rules of NYSE American and NYSE, including proposed preambles to such rules explaining that such rules would govern trading on a UTP basis only and would not govern the listing of securities, even though individual rules may include references to listing requirements. In addition, proposed Rules 5 and 8 are based on the approved rules of NYSE, which cross reference options-related rules of NYSE Arca.

E. Consolidated Audit Trail and Order Audit Trail Rules

Rule 6 would set forth rules relating to (i) compliance with the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan"),[17] which are currently set forth in Chapter XIV (the "Compliance Rules"), (ii) new Rule 6.6900 to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members ("Fee Dispute Rule"); and (iii) new rules based on NYSE Arca Order Audit Trail System ("OATS") rules relating to order audit trail system requirements. None of these are novel rules and are either renumbered Exchange rules (the Compliance Rules) or new rules based on the approved rules of other exchanges (the Fee Dispute Rule and OATS rules).

F. Trading Rules

Rule 7 would establish rules for trading on the Exchange. As noted above, the Exchange will re-launch on the same trading platform as NYSE Arca's cash equities trading platform, and proposes trading rules based on the rules of NYSE Arca. Rule 7 would include rules based on NYSE Arca Rule 7-E, including general provisions relating to trading, market makers, trading on the Exchange, operation of the routing broker, and the Plan to Implement a Tick Size Pilot Program. Rule 7 would therefore specify all aspects of trading on the Exchange, including the orders and modifiers that would be available and how orders would be ranked, displayed, and executed.

Because the Exchange will not be a listing venue, the Exchange does not propose

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17 The CAT NMS Plan is designed to create, implement and maintain a consolidated audit trail ("CAT") that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Each Participant of the Plan is required to enforce compliance by its Industry Members, as applicable, with the provisions of the Plan, by adopting a Compliance Rule applicable to their Industry Members.

to have either lead or designated market makers assigned to securities trading on the Exchange. The Exchange therefore does not propose a rule based on NYSE Arca Rule 7.24-E (Designated Market Maker Performance Standards). In addition, because the Exchange would not operate auctions, the Exchange does not propose a rule based on NYSE Arca Rule 7.35-E (Auctions).

G. Disciplinary Rules

Rule 10 would set forth the Exchange's rules relating to investigation, discipline, sanction, and other procedural rules that are modeled on the rules of the Exchange's affiliate NYSE American, which in turn, are modeled on the rules of the Financial Industry Regulatory Authority, Inc. ("FINRA").

H. Rules of Fair Practice, Books and Records, Supervision, Extensions of Credit, and Trading Practice Rules

The Exchange proposes to retain its existing rules relating to rules of fair practice, books and records, supervision, extensions of credit, and trading practices, which are set forth in Chapters III, IV, V, VI, and XII, and move and renumber them to Rule 11. The Exchange believes that retaining existing rules relating to rules of fair practice, books and records, supervision, extensions of credit, and trading practices would facilitate the expedited process for ETP Holders and their associated persons to be reinstated as members because such ETP Holders would not be required to change their internal procedures to be reinstated as ETP Holders of the Exchange. However, because the Exchange has established a new numbering framework, the Exchange proposes to renumber these existing rules under Rule 11, but with sub-numbering that is the same as the existing Exchange rule numbers for such rules. Accordingly, these rules would all begin as "Rule 11", but then would have a sub-number assigned that is identical to the existing rule number. For example, Rule 3.1 would be renumbered as Rule 11.3.1.

The Exchange proposes to rename Rule 11 as "Rules of Fair Practice; Books and Records; Supervision; Extensions of Credit; Trading Practice Rules." Because Rules 4 and 9 will not include any rules, the Exchange proposes to delete the current titles associated with those rules and designate them as "Reserved."

I. Organizational, Administration, Business Conduct, Books and Records and Supervisory Rules

In addition to the above categories of rules, the Exchange proposes rules based on NYSE Arca Rules 3 (Organization and Administration), 12 (Arbitration), and 13 (Liability of Directors and the Exchange).

3. Proposed Rule Changes

Proposed Changes to the Bylaws

The Exchange has an Appeals Committee, which presides over appeals related to disciplinary and adverse action determinations in accordance with the Exchange rules.[18] The Exchange proposes to change the name of the committee, from "Appeals Committee" to "Committee for Review." In order to make the change, the Exchange proposes to replace "Appeals Committee" with "Committee for Review" in Article V, Sections 5.01 and 5.8 of the Bylaws, as well as in the table of contents of the Bylaws. The change would be non-substantive, as the makeup and function of the committee would not change.

The proposed change would conform the Exchange's name for the Appeals Committee to that of its affiliates, NYSE, NYSE American, and NYSE Arca, which all have committees for review, rather than appeals committees.[19] The change would thereby more closely align the Bylaws of the Exchange with the governing documents of its national securities exchange affiliates.

In addition, "Fourth" would be replaced with "Fifth" on the cover page heading, the table of contents, and first page of the Bylaws.

No other changes are proposed to the Bylaws.

Rule 0 – Regulation of the Exchange and ETP Holders

As described in the Framework Filing, Rule 0 establishes the regulation of the Exchange and ETP Holders. As proposed, Rule 0 would provide that:

> The Exchange and FINRA are parties to a Regulatory Services Agreement ("RSA") pursuant to which FINRA has agreed to perform certain regulatory functions of the Exchange on behalf of the Exchange. Exchange Rules that refer to Exchange staff and Exchange departments should be understood as also referring to FINRA staff and FINRA departments acting on behalf of the Exchange pursuant to the RSA, as

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18 See Securities Exchange Release No. 79684 (December 23, 2016), 81 FR 96552 (December 30, 2016) (SR-NSX-2016-16, at 96557 (proposal). See also Securities Exchange Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017) (SR-NSX-2016-16) (approval).

19 See the Eleventh Amended and Restated Operating Agreement of New York Stock Exchange LLC, Article II, Section 2.03(h)(iii); Eleventh Amended and Restated Operating Agreement of NYSE American LLC, Article II, Section 2.03(h)(iii); Amended and Restated NYSE Arca, Inc. Bylaws, Article IV, Section 4.01(a).

applicable. Notwithstanding the fact that the Exchange has entered into an RSA with FINRA to perform certain of the Exchange's functions, the Exchange shall retain ultimate legal responsibility for, and control of, such functions.

This proposed rule is based on NYSE Arca Rule 0 without any substantive differences. This Exchange does not currently have a rule that addresses the same topics as proposed Rule 0 and therefore this would be a new Exchange rule.

Rule 1 - Definitions

As described in the Framework Filing, Rule 1 would establish definitions applicable to trading on the Exchange's Pillar trading platform. Proposed Rule 1.1 includes definitions that are based on NYSE Arca Rule 1.1 definitions, NYSE American Rule 1.1E definitions, and definitions currently set forth in Rule 1.5 in Chapter I of the Exchange's rulebook. Because definitions would be specified in Rule 1.1, the Exchange proposes to delete Chapter I of the current rulebook.

Proposed Rule 1.1 would provide that as used in Exchange rules, unless the context requires otherwise, the terms in proposed Rule 1.1 would have the meanings indicated. This rule is based on NYSE American Rule 1.1E. Throughout proposed Rule 1.1, where applicable, the Exchange proposes non-substantive differences as compared to the NYSE Arca rules to use the term "Exchange" instead of the term "NYSE Arca Marketplace." In addition, the Exchange proposes sub-paragraph numbering for Rule 1.1 that aligns to the alphabetical ordering of the proposed definitions. The Exchange proposes the following definitions:

- Proposed Rule 1.1(a) would define the terms "Authorized Trader" or "AT" to mean a person who may submit orders to the Exchange's Trading Facilities on behalf of his or her ETP Holder. This proposed rule is based on NYSE American Rule 1.1E(g) without any differences.

- Proposed Rule 1.1(b) would define the term "Away Market" to mean any exchange, alternative trading system ("ATS") or other broker-dealer (1) with which the Exchange maintains an electronic linkage and (2) that provides instantaneous responses to orders routed from the Exchange. The Exchange will designate from time to time those ATSs or other broker-dealers that qualify as Away Markets. This proposed rule is based on NYSE Arca Rule 1.1(f) and NYSE American Rule 1.1E(ff) without any substantive differences.

- Proposed Rule 1.1(c) would define the term "BBO" to mean the best bid or offer that is a protected quotation on the Exchange and that the term "BB" means the best bid on the Exchange and the term "BO" means the best offer on the Exchange. This proposed rule is based on NYSE Arca

Rule 1.1(g) and NYSE American Rule 1.1E(h).

- Proposed Rule 1.1(d) would define the term "Board and Board of Directors" to mean the Board of Directors of NYSE National, Inc. This proposed rule is based on NYSE Arca Rule 1.1(h).

- Proposed Rule 1.1(e) would define the term "Core Trading Hours" to mean the hours of 9:30 am Eastern Time through 4:00 pm Eastern Time or such other hours as may be determined by the Exchange from time to time. This proposed rule is based on NYSE Arca Rule 1.1(j) and NYSE American Rule 1.1E(j).

- Proposed Rule 1.1(f) would define the terms "effective national market system plan" and "regular trading hours" to have the meanings set forth in Rule 600(b) of Regulation NMS under the Exchange Act. This proposed rule is based on NYSE Arca Rule 1.1(l) and NYSE American Rule 1.1E(hhh).

- Proposed Rule 1.1(g) would define the term "Eligible Security" to mean any equity security (i) traded on the Exchange pursuant to a grant of unlisted trading privileges under Section 12(f) of the Exchange Act and (ii) specified by the Exchange to be traded on the Exchange or other facility, as the case may be. This proposed rule is based on NYSE American Rule 1.1E(l) with a non-substantive difference not to reference securities listed on the Exchange.

- Proposed Rule 1.1(h) would define the term "ETP" to refer to an Equity Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange. This proposed rule is based on current NYSE National Rule 1.5(E)(1), which has been renumbered as Rule 1.1(h).

- Proposed Rule 1.1(i) would define the term "ETP Holder" to mean the Exchange-approved holder of an ETP. This proposed rule is based on current NYSE National Rule 1.5(E)(2), which has been renumbered as Rule 1.1(i).

- Proposed Rule 1.1(j) would define the term "Exchange" to mean NYSE National, Inc. This proposed rule is based on NYSE American Rule 1.1E(k).

- Proposed Rule 1.1(k) would define the term "Exchange Act" to mean the Securities Exchange Act of 1934, as amended. This proposed rule is based on NYSE Arca Rule 1.1(q).

- Proposed Rule 1.1(l) would define the term "Exchange Book" to mean the

Exchange's electronic file of orders. This proposed rule is based on NYSE American Rule 1.1E(a).

- Proposed Rule 1.1(m) would define the term "Exchange Traded Product" to mean a security that meets the definition of "derivative securities product" in Rule 19b-4(e) under the Exchange Act and would define the term "UTP Exchange Traded Product" to mean an Exchange Traded Product that trades on the Exchange pursuant to unlisted trading privileges. This proposed rule is based on NYSE American Rule 1.1E(bbb).

- Proposed Rule 1.1(n) would define the term "FINRA" to mean the Financial Industry Regulatory Authority, Inc. This proposed rule is based on NYSE Arca Rule 1.1(r).

- Proposed Rule 1.1(o) would define the terms "General Authorized Trader" or "GAT" to mean an authorized trader who performs only non-market making activities on behalf of an ETP Holder. This proposed rule is based on NYSE Arca Rule 1.1(u) and NYSE American Rule 1.1E(p).

- Proposed Rule 1.1(p) would define the term "Good Standing" to mean an ETP Holder who is not in violation of any of its agreements with the Exchange or any of the provisions of the Rules or Bylaws of the Exchange, and who has maintained all of the conditions for approval of the ETP. This proposed rule is based on NYSE Arca Rule 1.1(v) with one substantive difference to exclude references to OTP, OTP Holder or OTP Firm from the proposed rule as NYSE National would not trade any options and therefore would not have OTPs, OTP Holders or OTP Firms on the Exchange.

- Proposed Rule 1.1(q) would define the term "Marketable" to mean, for a Limit Order, an order that can be immediately executed or routed and that Market Orders are always considered marketable. This proposed rule is based on NYSE Arca Rule 1.1(y) and NYSE American Rule 1.1E(u).

- Proposed Rule 1.1(r) would define the term "Market Maker" to mean an ETP Holder that acts as a Market Maker pursuant to Rule 7. This proposed rule is based on NYSE Arca Rule 1.1(z) and NYSE American Rule 1.1E(v).

- Proposed Rule 1.1(s) would define the terms "Market Maker Authorized Trader" or "MMAT" to mean an Authorized Trader who performs market making activities pursuant to Rule 7 on behalf of a Market Maker. This proposed rule is based on NYSE Arca Rule 1.1(aa) and NYSE American Rule 1.1E(w).

- Proposed Rule 1.1(t) would define the term "Market Participant" to include electronic communications networks ("ECN"), dealer-specialists registered with a national securities exchange, and market makers registered with a national securities association. This proposed rule is based on NYSE Arca Rule 1.1(bb).

- Proposed Rule 1.1(u) would define the term "Nasdaq" to mean The Nasdaq Stock Market LLC. This proposed rule is based on NYSE Arca Rule 1.1(cc).

- Proposed Rule 1.1(v) would define the terms "NBBO, Best Protected Bid, Best Protected Offer, and Protected Best Bid and Offer (PBBO)". The term "NBBO" would mean the national best bid or offer. The terms "NBB" would mean the national best bid and "NBO" would mean the national best offer. The terms "Best Protected Bid" or "PBB" would mean the highest Protected Bid, and "Best Protected Offer" or "PBO" would mean the lowest Protected Offer, and the term "Protected Best Bid and Offer" ("PBBO") would mean the Best Protected Bid and the Best Protected Offer. This proposed rule is based on NYSE Arca Rule 1.1(dd) and NYSE American Rule 1.1E(dd).

- Proposed Rule 1.1(w) would define the term "NMS Stock" to mean any security, other than an option, for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan. This proposed rule is based on NYSE Arca Rule 1.1(ee) and NYSE American Rule 1.1E(ddd).

- Proposed Rule 1.1(x) would define the term "NYSE National" to have the same meaning as the term "Exchange" as that term is defined in proposed Rule 1.1. This proposed rule is based on NYSE Arca Rule 1.1(i), but with reference to "NYSE National" instead of "NYSE Arca."

- Proposed Rule 1.1(y) would define the term "NYSE National Marketplace" to mean the electronic securities communications and trading facility of the Exchange through which orders are processed or are consolidated for execution and/or display. This proposed rule is based on NYSE American Rule 1.1E(e).

- Proposed Rule 1.1(z) would define the term "Person" to mean a natural person, corporation, partnership, limited liability company, association, joint stock company, trustee of a trust fund, or any organized group of persons whether incorporated or not. This proposed rule is based on current NYSE National Rule 1.5(P)(1), which has been renumbered as Rule 1.1(z) without any changes.

- Proposed Rule 1.1(aa) would define the terms "Person Associated with an

ETP Holder," Associated Person of an ETP Holder" or "Associated Person" to mean any partner, officer, director, or branch manager of an ETP Holder (or any Person occupying a similar status or performing similar functions), any Person directly or indirectly controlling, controlled by, or under common control with an ETP Holder, or any employee of such ETP Holder, except that any Person Associated with an ETP Holder whose functions are solely clerical or ministerial shall not be included in the meaning of such terms. This proposed rule is based on current NYSE National Rule 1.5(P)(2), which has been renumbered as Rule 1.1(aa) with a non-substantive difference to add the short-hand definition of "Associated Person" to mean the same thing as "Person Associated with an ETP Holder."

- Proposed Rule 1.1(bb) would define the term "Principal" to mean any Person Associated with an ETP Holder actively engaged in the management of the ETP Holder's securities business, including supervision, solicitation, conduct of the ETP Holder's business, or the training of Authorized Traders and Persons Associated with an ETP Holder for any of these functions and that such Persons include Sole Proprietors, Officers, Partners, and Directors of Corporations. This proposed rule is based on current NYSE National Rule 1.5(P)(3), which has been renumbered as Rule 1.1(bb) with a non-substantive difference to change "shall include" to "include."

- Proposed Rule 1.1(cc) would define the term "Principal – Financial and Operations" to mean a Person Associated with an ETP Holder whose duties include: final approval and responsibility for the accuracy of financial reports submitted to any duly established securities industry regulatory body; final preparation of such reports; supervision of individuals who assist in the preparation of such reports; supervision of and responsibility for individuals who are involved in the actual maintenance of the ETP Holder's books and records from which such reports are derived; supervision and/or performance of the ETP Holder's responsibilities under all financial responsibility rules promulgated pursuant to the provisions of the Act; overall supervision of and responsibility for the individuals who are involved in the administration and maintenance of the ETP Holder's back office operations; or any other matter involving the financial and operational management of the ETP Holder. This proposed rule is based on current NYSE National Rule 1.5(P)(4), which has been renumbered as Rule 1.1(cc) without any changes.

- Proposed Rule 1.1(dd) would define the term "Protected Bid" or "Protected Offer" to mean a quotation in an NMS stock that is (i) displayed by an Automated Trading Center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an Automated

Quotation that is the best bid or best offer of a national securities exchange or the best bid or best offer of a national securities association. The term "Protected Quotation" would mean a quotation that is a Protected Bid or Protected Offer. For purposes of the foregoing definitions, the terms "Automated Trading Center," "Automated Quotation," "Manual Quotation," "Best Bid," and "Best Offer," would have the meanings ascribed to them in Rule 600(b) of Regulation NMS under the Securities Exchange Act. This proposed rule is based on NYSE Arca Rule 1.1(ss) and NYSE American Rule 1.1E(eee) without any substantive differences.

- Proposed Rule 1.1(ee) would define the term “Security” and “Securities” to mean any security as defined in Rule 3(a)(10) under the Exchange Act, provided, that for purposes of Rule 7, such term would mean any NMS stock. This proposed rule is based on NYSE Arca Rule 1.1(vv) and NYSE American Rule 1.1E(rr).

- Proposed Rule 1.1(ff) would define the term “Securities Trader” to mean any Person engaged in the purchase or sale of securities or other similar instruments for the account of an ETP Holder with which such Person is associated, as an employee or otherwise, and who does not transact any business with the public. This proposed rule is based on current NYSE National Rule 1.5(S)(1), which has been renumbered as Rule 1.1(ff) without any changes.

- Proposed Rule 1.1(gg) would define the term “Securities Trader Principal” to mean a Person who has become qualified and registered as a Securities Trader and passes the General Securities Principal qualification examination. Each Principal with responsibility over securities trading activities on the Exchange shall become qualified and registered as a Securities Trader Principal. This proposed rule is based on current NYSE National Rule 1.5(S)(2), which has been renumbered as Rule 1.1(gg) without any changes.

- Proposed Rule 1.1(hh) would define the term “Self-Regulatory Organization” and “SRO” to have the same meaning as set forth in the provisions of the Exchange Act relating to national securities exchanges. This proposed rule is based on NYSE Arca Rule 1.1(ww) and NYSE American Rule 1.1E(ss) without any substantive differences.

- Proposed Rule 1.1(ii) would define the term “Trade-Through” to mean the purchase or sale of an NMS stock during regular trading hours, either as principal or agent, at a price that is lower than a Protected Bid or higher than a Protected Offer. This proposed rule is based on NYSE Arca Rule 1.1(bbb) and NYSE American Rule 1.1E(fff) without any substantive differences.

- Proposed Rule 1.1(jj) would define the term "Trading Center" to mean, for purposes of Rule 7, a national securities exchange or a national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent. For purposes of this definition, the terms "SRO trading facility," "alternative trading system," "exchange market maker" and "OTC market maker" would have the meanings ascribed to them in Rule 600(b) of Regulation NMS under the Exchange Act. This proposed rule is based on NYSE Arca Rule 1.1(ccc) without any substantive differences.

- Proposed Rule 1.1(kk) would define the term "Trading Facilities" to mean any and all electronic or automatic trading systems provided by the Exchange to ETP Holders. This proposed rule is based on NYSE American Rule 1.1E(xx) without any differences.

- Proposed Rule 1.1(ll) would define the term "UTP Security" to mean a security that is listed on a national securities exchange other than the Exchange and that trades on the Exchange pursuant to unlisted trading privileges. This proposed rule is based on NYSE Arca Rule 1.1(iii) and NYSE American Rule 1.1E(ii) without any substantive differences.

- Proposed Rule 1.1(mm) would define the term "UTP Listing Market" to mean the primary listing market for a UTP Security. This proposed rule is based on NYSE Arca Rule 1.1(ggg) and NYSE American Rule 1.1E(jj) without any substantive differences.

- Proposed Rule 1.1(nn) would define the term "UTP Regulatory Halt" to mean a trade suspension, halt, or pause called by the UTP Listing Market in a UTP Security that requires all market centers to halt trading in that security. This proposed rule is based on NYSE Arca Rule 1.1(hhh) and NYSE American Rule 1.1E(kk) without any substantive differences.

Rule 2 – ETP Holders of the Exchange

The Exchange proposes to retain its existing rules relating to membership, which are currently set forth in Chapter II. Consistent with the Framework Filing, the Exchange proposes to move those rules, as amended, to new Rule 2. For consistency and clarity, the Exchange proposes to retain the same individual rule numbers. When moving the rules, the Exchange proposes non-substantive differences to (i) use a different sub-paragraph numbering format;[20] (ii) use the

[20] Current Exchange rules use an "(a)(i)(A)(1)" sub-paragraph numbering convention and the Exchange proposes to use an "(a)(1)(A)(i)" sub-paragraph numbering convention.

term "Commentary" instead of "Interpretation and Policies;" and (iii) update internal rule cross references to replace references to the term "Chapter" with the term "Rule."[21]

Subject to these non-substantive differences, the Exchange proposes to move Rules 2.1 (Rights, Privileges and Duties of ETP Holders), 2.2 (Obligations of ETP Holders and the Exchange), 2.3 (ETP Holder Eligibility), 2.4 (Restrictions), 2.5 (Application Procedures for an ETP Holder), 2.6 (Revocation of an ETP or an Association with an ETP Holder), 2.7 (Voluntary Termination of Rights as an ETP Holder), 2.8 (Transfer or Sale of an ETP), and 2.9 (Dues, Assessments and Other Charges) to Rule 2 without any additional differences.

In addition to the non-substantive differences described above, the Exchange proposes to amend Commentary .01 to Rule 2.5 to facilitate the efficient reinstatement of ETP Holders by replacing the date "May 30, 2014" with the date "February 1, 2017," which was when the Exchange ceased operations and terminated ETP Holder status. This amendment will allow the use of the existing expedited process – without any substantive changes – to facilitate the reinstatement, subject to certain conditions, of former ETP Holders of the Exchange and to register Associated Persons. The Exchange proposes non-substantive differences to update the rule cross references in Commentary .01 from Rule 2.4 to Rule 2.2.[22]

The Exchange proposes to delete the following rules currently set forth in Chapter II and not move them to Rule 2:

- Rule 2.10 (No Affiliation between Exchange and any ETP Holder). Proposed Rule 3.9, described in greater detail below, would establish the permitted relationships between ETP Holders and Exchange affiliates. Accordingly, current Rule 2.10 is not necessary. The Exchange proposes to designate Rule 2.10 as "Reserved."

- Rule 2.11 (NSX Securities LLC). The Exchange will no longer use NSX Securities LLC as a routing broker and is now affiliated with Archipelago Securities LLC. Proposed Rule 7.45, described in greater detail below and which is based on NYSE Arca Rule 7.45-E, would establish rules for both the inbound and outbound routing of orders. The Exchange proposes to designate Rule 2.11 as "Reserved."

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21 See proposed Rules 2.5(c) (replacing "Chapter" with "Rule") and 2.5(d) and (e)(2) (replacing "Chapter X" with "Rule 10").

22 See Securities Exchange Act Release No. 78676 (August 25, 2016), 81 FR 60083 (August 31, 2016) (SR-NSX-2016-07) (Notice of filing of amendments to Chapter II, including moving rule text relating to requirements for Associated Persons from Rule 2.4 to Rule 2.2).

- Rule 2.12 (Back-Up Order Routing Services). By its terms, current Rule 2.12 expired on September 30, 2008. Moreover, proposed Rule 7.45 would address all routing services on behalf of the Exchange. The Exchange proposes to designate Rule 2.12 as "Reserved."

The Exchange proposes that Rule 2.13 (Exchange Backup Systems and Mandatory Testing) would address mandatory participation in the testing of backup systems. To maintain consistency across all exchanges operated by NYSE Group, the Exchange proposes that Rule 2.13 would be based on NYSE Arca Rule 2.27 instead of current Rule 2.13 (Mandatory Participation in Testing of Backup Systems), with the following minor substantive differences to reflect the differences between the Exchange and NYSE Arca. First, because the Exchange does not have any OTP Holders, proposed Rule 2.13 would not reference OTP Holders. Second, because the Exchange would not have lead market makers, proposed Rule 2.13 would not include text based on Rule 2.27(c). The Exchange would delete current Rule 2.13 in its entirety.

The Exchange also proposes new Rule 2.18 (Activity Assessment Fees) to be included in Rule 2, which is based on NYSE Arca Rule 2.18 and NYSE American Rule 2.17E. Proposed Rule 2.18 would provide authority for the Exchange to impose fees, assessments, and other charges, for example, in connection with securities transaction fees required under Section 31 of the Act.[23] The Exchange proposes to delete current Rule 16.1, which similarly addresses the Exchange's authority to prescribe dues, fees, assessments and other charges.

To maintain rule numbering consistency, the Exchange proposes to add Rules 2.14 through and including Rule 2.17 and designate each rule "Reserved."

Because Rule 2 would set forth rules on membership, the Exchange proposes to delete the rules in Chapter II in their entirety. In addition, because Rule 2 would include rules authorizing the Exchange to prescribe dues, fees, assessments, and other charges, the Exchange proposes to delete the rules in Chapter XVI in their entirety.

Rule 3 – Organization and Administration

The Exchange proposes new Rule 3 titled "Organization and Administration," which would include specified rules set forth in NYSE Arca Rule 3 and NYSE Arca Rule 13.1.

To maintain the same rule numbers as NYSE Arca, proposed Rules 3.1 through

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[23] The Exchange does not propose rule text based on Commentary .01 to NYSE Arca 2.18, which has expired on its own terms.

3.7 would be designated as "Reserved".[24]

Proposed Rule 3.8 (Liability for Payment) provides that an ETP Holder failing to pay any assessments, dues or other charges to the Exchange for thirty days after the same shall become payable, may be suspended by the Exchange in accordance with Rule 10.9555, except that failure to pay any fine levied in connection with a disciplinary action would be governed by Rule 10.8320. The proposed Rule is based on NYSE Arca Rule 3.8 (Liability for Payment) with non-substantive differences to reference the applicable disciplinary rules on the Exchange, described in greater detail below.

Proposed Rule 3.9 (Certain Relationships) would preclude an ETP Holder from being affiliated with NYSE Group, Inc., unless the Commission otherwise approves. The proposed Rule further provides that any failure by an ETP Holder to comply with Rule 3.9 would subject it to the disciplinary actions prescribed by Rule 10.9555, which provides for non-summary suspensions and other actions. The proposed Rule is based on NYSE Arca Rule 3.10 (Certain Relationships), with non-substantive differences to reference the applicable disciplinary rule on the Exchange, described in greater detail below. As discussed above, proposed Rule 3.9 obviates the need for current Rule 2.10 to be maintained.

Proposed Rule 3.10 (Notice of Expulsion or Suspension) would require an ETP Holder to provide prompt written notification to the Exchange whenever such ETP Holder is expelled or suspended from any SRO, encounters financial difficulty or operating inadequacies, or fails to perform contracts or becomes insolvent. The proposed Rule would further require an ETP Holder to give prompt written notification to the Exchange with respect to the expulsion or suspension of any ETP Holder or any other Associated Person of such ETP Holder by any SRO. The proposed Rule is based on NYSE Arca Rule 13.1 without any differences.[25]

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[24] NYSE Arca Rules 3.1 (Overview), 3.2 (Exchange Committees), 3.3 (Board Committees) relate to board committees, which are described in the Exchange's Fourth Amended and Restated By-Laws, which is available here: https://www.nyse.com/publicdocs/nyse/regulation/nyse/NYSE_National_Inc_Fourth_Amended_and_Restated_Bylaws.pdf. Proposed Rules 3.4 and 3.5 would be designated as "Reserved" like the analogous NYSE Arca rules. NYSE Arca Rule 3.6 authorizes the exchange to enter into surveillance agreements with domestic and foreign SROs, although it does not cover domestic agencies and foreign regulators. As discussed below, proposed Rule 8210(b) would authorize Exchange staff to enter into regulatory cooperation agreements with a domestic federal agency or subdivision thereof, a foreign regulator, or a domestic or foreign SRO. The authority to adopt and prescribe fines in NYSE Arca Rule 3.7 (Dues, Fees and Charges) would be encompassed in proposed Rule 2.9 (Dues, Assessments and Other Charges).

[25] As discussed below, proposed Rule 10.9555 would govern suspensions,

Proposed Rule 3.11 (Fingerprint-Based Background Checks of Exchange Employees and Others) would establish the Exchange's requirements for fingerprint-based background checks of Exchange employees and others. The proposed rule is based on NYSE Arca Rule 3.11 with non-substantive differences to use the term "will" instead of "shall" and number the Commentary as ".01" instead of ".10."

Rule 5 - Securities Traded and Rule 8 - Trading of Certain Exchange Traded Products

Rules 5 and 8 would set forth the Exchange's rules to: (1) allow the Exchange to trade, pursuant to UTP, any NMS Stock listed on another national securities exchange, and (2) establish rules for the trading pursuant to UTP of certain Exchange Traded Products. Since NYSE American was the most recent exchange in the NYSE Group to add rules for the trading pursuant to UTP of Exchange Traded Products, the Exchange proposes rules that are based on current NYSE American Rules 5E and 8E.[26]

As noted above, because the Exchange will not be a listing venue, the Exchange proposes to include introductory language to both Rules 5 and 8 that would provide that these rules would apply only to the trading pursuant to UTP of Exchange Traded Products, and would not apply to the listing of Exchange Traded Products on the Exchange. The Exchange is proposing this language to clarify that the rules incorporated in Rules 5 and 8 should not be interpreted to be either initial or continued listing requirements of the Exchange, but rather, requirements that pertain solely to the trading of Exchange Traded Products pursuant to UTP on the Pillar platform. Accordingly, references to securities listed on the Exchange in proposed Rule 5 and 8 are not designed to be listing standards. Rather, similar to NYSE American Rules 5 and 8 and NYSE Rules 5P and 8P, proposed Rules 5 and 8 are intended only to address trading of securities on a UTP basis. The Exchange therefore proposes rules that are virtually identical to established and approved rules of NYSE American and NYSE that are for the same purpose.

To further clarify this point, proposed Rule 5.1(a)(1) would provide that the Exchange would not list any Exchange Traded Products unless it filed a proposed

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cancellations, bars, limitations and prohibitions on access to the Exchange's services for failure to meet the eligibility or qualification standards or prerequisites for access to services offered by the Exchange.

26 See NYSE American ETP Listing Rules Filing, supra note 6. The proposed rules are also based on NYSE Rules 5P and 8P. See NYSE ETP Listing Rules Filing, supra note 7. Both the NYSE American and NYSE rules are modeled on NYSE Arca Rules 5-E and 8-E.

rule change under Section 19(b)(2)[27] under the Act. Therefore, the provisions of proposed Rules 5 and 8 described below, which permit the listing of Exchange Traded Products, would not be effective until the Exchange files a proposed rule change to amend its rules to comply with Rules 10A-3 and 10C-1 under the Act and to incorporate qualitative listing criteria, and such proposed rule change is approved by the Commission. This change would require the Exchange to add rules relating to the independence of compensation committees and their advisors.[28]

In addition, the Exchange proposes the following non-substantive differences in its proposed rules as compared to the NYSE American Rules 5E and 8E that would be applied throughout Rules 5 and 8 (collectively, the "General Definitional Term Changes"):

- Because the Exchange uses the term "Commentary" to refer to commentaries to its Rules, the Exchange proposes to substitute this term where "Supplementary Material" is used in the rules of NYSE American.

- Because the Exchange uses the defined term "Exchange Act" to refer to the Securities Exchange Act of 1934, as amended, the Exchange proposes to substitute this defined term where "Securities Exchange Act of 1934," "Securities Act of 1934," "Securities Exchange Act," or "1934 Act" is used in the rules of NYSE American.

- Because the Exchange does not need to distinguish these proposed rules from other rules with the same numbering on the Exchange, the Exchange will not denote these proposed rules with the letter "E" at the end of each rule.

- Because the Exchange's rules regarding the production of books and

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27 15 U.S.C. 78s(b)(2).

28 On June 20, 2012, the Commission adopted Rule 10C-1 to implement Section 10C of the Act, as added by Section 952 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Rule 10C-1 under the Act directs each national securities exchange to prohibit the listing of any equity security of an issuer, with certain exceptions, that does not comply with the rule's requirements regarding compensation committees of listed issuers and related requirements regarding compensation advisers. See, CFR 240.10C-1; Securities Act Release No. 9199, Securities Exchange Act Release No. 64149 (March 30, 2011), 76 FR 18966 (April 6, 2011) and Securities Exchange Act Release No. 67220 (June 20, 2012), 77 FR 38422 (June 27, 2012).

records would be described in proposed Rule 11.4.1[29] the Exchange proposes to refer to Rule 11.4.1 wherever NYSE American Rule 440-Equities is referenced in the rules of NYSE American.

- Because the Exchange proposes to define the term "Exchange Traded Product" in Rule 1.1, described above, to use this term instead of "Derivative Securities Product."

Because Rules 5 and 8 would address all rules relating to trading securities on a UTP basis, the Exchange proposes to delete the rules in Chapter XV in their entirety.

Rule 5 – Securities Traded

The Exchange proposes that Rule 5 would include rules based on NYSE American Rule 5E. Rule 5 would establish the Exchange's authority to extend UTP to all Tape A, B, and C securities. These proposed rules would also permit the Exchange to trade pursuant to UTP the following: ELNs, Investment Company Units, Index-Linked Exchangeable Notes, Equity Gold Shares, Equity Index Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities, Multifactor Index-Linked Securities, and Trust Certificates.

Proposed Rule 5.1(a)

Proposed Rule 5.1(a)(1) would provide that the Exchange may extend UTP to any security that is an NMS Stock (as defined in Rule 600 to Regulation NMS under the Exchange Act) that is listed on another national securities exchange or with respect to which UTP may otherwise be extended in accordance with Section 12(f) of the Exchange Act.[30] This proposed text is identical to NYSE American Rule 5.1E(a), NYSE Rule 5.1(a), and Rules 14.1 of both Cboe BYX Exchange, Inc. and Cboe EDGA Exchange, Inc. ("EDGA"). The proposed rule is also substantially similar to NYSE Arca Rule 5.1-E(a).[31]

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29 In addition to the existing obligations under the Exchange's rules regarding the production of books and records, proposed Rule 11.4.1 provides restrictions on ETP Holder activities pertaining to books and records.

30 15 U.S.C. 78l(f). See also 17 CFR 242.600.

31 See NYSE Arca Rule 5.1-E(a)(1) and Securities Exchange Act Release No. 67066 (May 29, 2012), 77 FR 33010 (June 4, 2012) (SR-NYSEArca-2012-46). See also Cboe BZX Exchange, Inc. ("BZX") Rule 14.11 and Securities Exchange Act Release No. 58623 (September 23, 2008), 73 FR 57169 (October 1, 2008) (SR-BATS-2008-004); Nasdaq PHLX LLC ("Phlx") Rule 803(o) and Securities Exchange Act Release No. 57806 (May 9, 2008), 73 FR 28541 (May 16, 2008) (SR-Phlx2008-34); and Nasdaq ISE, LLC ("ISE") Rule 2101 and Securities

Proposed Rule 5.1(a)(2) would establish rules for trading of UTP Exchange Traded Products, which are defined in Rule 1.1 (described above). Specifically, the requirements in subparagraphs (A)-(F) of proposed Rule 5.1(a)(2) would apply to UTP Exchange Traded Products traded on the Exchange. Proposed Rule 5.1(a)(2) and its sub-paragraphs are based on NYSE American Rule 5.1E(a)(2) and its sub-paragraphs and NYSE Rule 5.1(a)(2) and its subparagraphs with a non-substantive difference to use the defined term of "UTP Exchange Traded Product," which is defined in Rule 1.1.

Under proposed Rule 5.1(a)(2)(A), the Exchange would file a Form 19b-4(e) with the Commission with respect to each Exchange Traded Product[32] the Exchange trades pursuant to UTP within five days after commencement of trading.

Proposed Rule 5.1(a)(2)(B) would provide that the Exchange would distribute an information circular prior to the commencement of trading in an Exchange Traded Product that generally would include the same information as the information circular provided by the listing exchange, including (a) the special risks of trading the Exchange Traded Product, (b) the Exchange's rules that will apply to the Exchange Traded Product, including Rules 8.4 and 8.5,[33] and (c) information about the dissemination of value of the underlying assets or indices.

Under proposed Rule 5.1(a)(2)(D), the Exchange would halt trading in a UTP Exchange Traded Product as provided for in proposed Rule 7.18. The Exchange proposes different rule text from NYSE American Rule 5.1(a)(2)(D) to streamline its rules and eliminate duplication in requirements relating to the halting of trading of UTP Exchange Traded Products, which are addressed in proposed Rule 7.18, described below.

Proposed Rule 5.1(a)(2)(F) provides that the Exchange's surveillance procedures for Exchange Traded Products traded on the Exchange pursuant to UTP would be similar to the procedures used for equity securities traded on the Exchange and would incorporate and rely upon existing Exchange surveillance systems.

Exchange Act Release No. 57387 (February 27, 2008), 73 FR 11965 (March 5, 2008) (SR-ISE-2007-99).

32 Although Rule 19b-4(e) of the Act defines any type of option, warrant, hybrid securities product or any other security, other than a single equity option or a security futures product, whose value is based, in whole or in part, upon the performance of, or interest in, an underlying instrument, as a "new derivative securities product," the Exchange prefers to refer to these types of products that it will be trading as "exchange traded products," so as not to confuse investors with a term that can be deemed to imply such products are futures or options related.

33 See proposed Rules 8.4 (Account Approval) and 8.5 (Suitability).

Proposed Rules 5.1(a)(2)(C) and (E) would establish the following requirements for ETP Holders that have customers that trade UTP Exchange Traded Products:

- Prospectus Delivery Requirements. Proposed Rule 5.1(a)(2)(C)(i) would remind ETP Holders that they are subject to the prospectus delivery requirements under the Securities Act of 1933, as amended (the "Securities Act"), unless the Exchange Traded Product is the subject of an order by the Commission exempting the product from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940, as amended (the "1940 Act"), and the product is not otherwise subject to prospectus delivery requirements under the Securities Act. ETP Holders would also be required to provide a prospectus to a customer requesting a prospectus.[34]

- Written Description of Terms and Conditions. Proposed Rule 5.1(a)(2)(C)(ii) would require ETP Holders to provide a written description of the terms and characteristics of UTP Exchange Traded Products to purchasers of such securities, not later than the time of confirmation of the first transaction, and with any sales materials relating to UTP Exchange Traded Products.

- Market Maker Restrictions. Proposed Rule 5.1(a)(E) would establish certain restrictions for any ETP Holder registered as a market maker in an Exchange Traded Product listed on the exchange that derives its value from one or more currencies, commodities, or derivatives based on one or more currencies or commodities, or is based on a basket or index composed of currencies or commodities (collectively, "Reference Assets"). Specifically, such an ETP Holder must file with the Exchange and keep current a list identifying all accounts for trading the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, which the ETP Holder acting as registered market maker may have or over which it may exercise investment discretion.[35] If an account in which an ETP Holder acting as a registered

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34 Proposed Rule 5.1(a)(2)(C)(iii).

35 The proposed rule would also, more specifically, require a market maker to file with the Exchange and keep current a list identifying any accounts ("Related Instrument Trading Accounts") for which related instruments are traded (1) in which the market maker holds an interest, (2) over which it has investment discretion, or (3) in which it shares in the profits and/or losses. In addition, a market maker would not be permitted to have an interest in, exercise investment discretion over, or share in the profits and/or losses of a Related Instrument Trading Account that has not been reported to the Exchange as required by the proposed rule.

market maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, has not been reported to the Exchange as required by this Rule, an ETP Holder acting as registered market maker in the Exchange Traded Product would be permitted to trade in the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives. Finally, a market maker could not use any material nonpublic information in connection with trading a related instrument.

Proposed Rule 5.1(b)

As noted above, the terms "Exchange Traded Product" and "UTP Exchange Traded Product" would be defined in Rule 1.1. The Exchange proposes to set forth additional definitions that would be relevant to the rules for the trading pursuant to UTP of the Exchange Traded Products in proposed Rule 5.1(b). Proposed Rule 5.1(b) is based on NYSE American Rule 5.1E(b). To maintain consistency in rule references between the Exchange's proposed rules and NYSE American's rules, the Exchange proposes to Reserve the same subparagraphs in the definitions of proposed Rule 5.1(b) as those that are Reserved in the subparagraphs of NYSE American Rule 5.1E(b).[36]

Proposed Rule 5.2(j)(2) – (j)(7)

The Exchange proposes to add Rules 5.2(j)(2) – (j)(7), which would be substantially identical to NYSE American Rules 5.2E(j)(2)-(j)(7) and substantially similar to NYSE Rules 5.2(j)(2)-(j)(7) and NYSE Arca Rules 5.2-E(j)(2)-(j)(7). These proposed rules would permit the Exchange to trade pursuant to UTP the following:

- ELNs that meet the rules for the trading pursuant to UTP that are contained in proposed Rule 5.2(j)(2);
- Investment Company Units that meet the rules for the trading pursuant to UTP that are contained in proposed Rule 5.2(j)(3);
- Index-Linked Exchangeable Notes that meet the rules for the trading pursuant to UTP that are contained in proposed Rule 5.2(j)(4);
- Equity Gold Shares that meet the rules for the trading pursuant to UTP that are contained in proposed Rule 5.2(j)(5);

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[36] The Exchange is proposing to designate paragraphs (b)(3), (b)(7), (b)(8), (b)(10), (b)(17) and (b)(19) of proposed Rule 5.1(b) as "Reserved" because they are Reserved in NYSE American Rule 5.1E(b).

- Equity Index Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities, and Multifactor Index-Linked Securities that meet the rules for the trading pursuant to UTP that are contained in proposed Rule 5.2(j)(6); and

- Trust Certificates that meet the rules for the trading pursuant to UTP that are contained in proposed Rule 5.2(j)(7).

The text of these proposed rules is identical to NYSE American Rules 5.2E(j)(2)-5.2(j)(7), other than certain non-substantive and technical differences explained below.

The Exchange proposes to Reserve paragraphs 5.2(a)-(i)[37] and (j)(1),[38] to maintain

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37 NYSE American adopted rules for the trading pursuant to UTP of ETPs that are substantially identical to the rules of NYSE Arca. See NYSE American ETP Listing Rules Filing, supra note 6. In order to maintain the same rule numbers as NYSE Arca, NYSE American reserved paragraphs 5.2E(a)-(i) as these rules pertain to specific listing criteria for NYSE Arca and not trading ETPs pursuant to UTP, and NYSE American was not proposing similar rules at the time. Because the Exchange will not be a listing venue, the Exchange similarly proposes to designate these rules as "Reserved."

NYSE Arca Rule 5.2-E(a) pertains to applications for admitting securities to list on NYSE Arca and NYSE Arca Rule 5.2-E(b) pertains to NYSE Arca's unique two-tier listing structure.

NYSE Arca Rules 5.2-E(c)-(g) relate to listing standards for securities that are not ETPs, and NYSE American did not propose rule changes related to such securities.

NYSE Arca Rule 5.2-E(h) pertains to Unit Investment Trusts ("UITs"). NYSE American trades UITs pursuant to UTP under proposed Rule 5.2(j)(3) (Investment Company Units) or proposed Rule 8.100 (Portfolio Depository Receipts), and the Exchange is proposing the same.

38 NYSE American added rules for the trading pursuant to UTP of ETPs that are substantially identical to the rules of NYSE Arca. See id. and NYSE American ETP Listing Rules Filing, supra note 6. In order to maintain the same rule numbers as NYSE Arca, NYSE American reserved paragraph 5.2E(j)(1) as NYSE Arca Rule 5.2-E(j)(1) pertains to "Other Securities" that are not otherwise covered by the requirements contained in the other listing rules of NYSE Arca. As NYSE American added only the rules that were necessary for the exchange to trade ETPs pursuant to UTP, NYSE American did not propose a rule comparable to NYSE Arca Rule 5.2-E(j)(1) at that time. The Exchange similarly does not propose rules comparable to that NYSE Arca rule.

the same rule numbers as the NYSE American rules with which it conforms.

Proposed Rule 5.2(j)(2) (ELNs)

The Exchange is proposing Rule 5.2(j)(2) to provide rules for the trading pursuant to UTP of ELNs, so that they may be traded on the Exchange pursuant to UTP. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 5.2E(j)(2).[39]

Proposed Rule 5.2(j)(3) (Investment Company Units)

The Exchange proposes Rule 5.2(j)(3) to establish rules for the trading pursuant to UTP of investment company units, so that they may be traded on the Exchange pursuant to UTP. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 5.2E(j)(3).[40]

Proposed Rule 5.2(j)(4) (Index-Linked Exchangeable Notes)

The Exchange proposes Rule 5.2(j)(4) to establish rules for the trading pursuant to UTP of index-linked exchangeable notes, so that they may be traded on the Exchange pursuant to UTP.

In addition to the General Definitional Term Changes described above, the Exchange is proposing the following non-substantive differences between this proposed rule and NYSE American Rule 5.2E(j)(4):[41]

- To qualify for listing and trading under NYSE American Rule 5.2E(j)(4),

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39 See NYSE American Rule 5.2E(j)(2), which is based on NYSE Arca Rule 5.2-E(j)(2). See also NYSE American ETP Listing Rules Filing, supra note 6 and Securities Exchange Act Release Nos. 50319 (September 7, 2004), 69 FR 55204 (September 13, 2004) (SR-PCX-2004-75); 56924 (December 7, 2007), 72 FR 70918 (December 13, 2007) (SR-NYSEArca-2007-98); 58745 (October 7, 2008), 73 FR 60745 (October 14, 2008) (SR-NYSEArca-2008-94).

40 See NYSE American Rule 5.2E(j)(3), which is based on NYSE Arca Rule 5.2-E(j)(3). See also NYSE American ETP Listing Rules Filing, supra note 6 and Securities Exchange Act Release Nos. 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR-PCX-2001-14) and 40603 (November 3, 1998), 63 FR 59354 (November 3, 1998) (SR-PCX-98-29).

41 See NYSE American Rule 5.2E(j)(4), which is based on NYSE Arca Rule 5.2-E(j)(4). See also NYSE American ETP Listing Rules Filing, supra note 6 and Securities Exchange Act Release No. 49532 (April 7, 2004), 69 FR 19593 (April 13, 2004) (SR-PCX-2004-01).

an index-linked exchangeable note and its issuer must meet the criteria in NYSE Arca Rule 5.2-E(j)(1) (Other Securities), except that the minimum public distribution will be 150,000 notes with a minimum of 400 public note-holders, except, if traded in thousand dollar denominations then there is no minimum public distribution and number of holders.

Because neither NYSE American nor the Exchange have and are not proposing a rule for "Other Securities" comparable to NYSE Arca Rule 5.2-E(j)(1), the Exchange, like NYSE American, proposes to reference NYSE Arca Rule 5.2-E(j)(1) in subparagraphs (a) and (c) of proposed Rule 5.2(j)(4) in establishing the criteria that an issuer and issue must satisfy.[42]

- To qualify for listing and trading under NYSE American Rule 5.2E(j)(4), an index to which an exchangeable note is linked and its underlying securities must meet (i) the procedures and criteria set forth in Supplementary Material .03 to NYSE American Rule 901C;[43] or (ii) the criteria set forth in subsections (C) and (D) of NYSE American Rule 5.2E(j)(2), the index concentration limits set forth in Supplementary Material .03(a)(7) to NYSE American Rule 901C, and Supplementary Material .03(b)(iii) to NYSE American Rule 901C insofar as it relates to Supplementary Material .03(a)(7) to NYSE American Rule 901C.

  Because the Exchange does not plan to trade options at this time and is not proposing rules for listing of index options contracts, the Exchange is proposing to refer to NYSE Arca Rule 5.13-O in proposed Rule 5.2(j)(4)(d)(i) and (ii), which has the same requirements as NYSE American Rule 901C. The Exchange would apply the criteria set forth in NYSE Arca Rule 5.13-O in determining whether an index underlying an index-linked exchangeable note satisfies the requirements of Rule

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42 The Exchange will monitor for any changes to the rules of NYSE Arca, and will amend its rules accordingly to conform to the rules of NYSE Arca. The Exchange notes that it is proposing to cross-reference to the rules of an affiliate of the Exchange, which will facilitate monitoring for changes to such rules. The Exchange also notes that it is proposing to follow the established and approved rules of NYSE, which also reference the rules of NYSE Arca. See NYSE ETP Listing Rules Filing, supra note 7.

43 Supplementary Material .03 to NYSE American Rule 901C is substantially identical to NYSE Arca Rule 5.13-O (NYSE Arca Rule 5.13-O is cross-referenced in NYSE Arca Rule 5.2-E(j)(4), on which NYSE American Rule 5.2E(j)(4) was originally based; see NYSE American ETP Listing Rules Filing, supra note 6, and sets forth criteria for narrow-based and micro narrow-based indexes on which an options contract may be listed without filing a proposed rule change under Section 19(b) of the Exchange Act.

5.2(j)(4)(d).[44]

The Exchange proposes to reference NYSE Arca Rule 5.13-O because the Exchange does not have options trading rules. In referencing such rules, the Exchange proposes to follow the established and approved rules of NYSE Rule 5.2(j)(4), which also references NYSE Arca Rule 5.13-O.[45]

Proposed Rule 5.2(j)(5) (Equity Gold Shares)

The Exchange is proposing Rule 5.2(j)(5) to provide rules for the trading pursuant to UTP of equity gold shares, so that they may be traded on the Exchange pursuant to UTP. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 5.2E(j)(5).[46]

Proposed Rule 5.2(j)(6) (Index-Linked Securities)

The Exchange is proposing Rule 5.2(j)(6) to provide rules for the trading pursuant to UTP of equity index-linked securities, so that they may be traded on the Exchange pursuant to UTP.

In addition to the General Definitional Term Changes described above, the Exchange is proposing the following non-substantive changes between this proposed rule and NYSE American Rule 5.2E(j)(6):[47]

- To qualify for listing and trading under NYSE American Rule 5.2E(j)(6), both the issue and issuer of an index-linked security must meet the criteria in NYSE Arca Rule 5.2-E(j)(1) (Other Securities), with certain specified exceptions. Because neither NYSE American nor the Exchange have and are not proposing a rule for "Other Securities" comparable to NYSE Arca

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44 See supra note 42.

45 See NYSE ETP Listing Rules Filing, supra note 7.

46 See NYSE American Rule 5.2E(j)(5), which is based on NYSE Arca Rule 5.2-E(j)(5). See also NYSE American ETP Listing Rules Filing, supra note 6 and Securities Exchange Act Release No. 51245 (February 23, 2005), 70 FR 10731 (March 4, 2005) (SR-PCX-2004-117).

47 See NYSE American Rule 5.2E(j)(6), which is based on NYSE Arca Rule 5.2-E(j)(6). See also NYSE American ETP Listing Rules Filing, supra note 6 and Securities Exchange Act Release Nos. 54231 (July 27, 2006), 71 FR 44339 (August 4, 2006) (SR-NYSEArca-2006-19); 59332 (January 30, 2009), 74 FR 6338 (February 6, 2009) (SR-NYSEArca-2008-136); and 52204 (August 3, 2005), 70 FR 46559 (August 10, 2005) (SR-PCX-2005-63).

Rule 5.2-E(j)(1), the Exchange, like NYSE American, proposes to reference NYSE Arca Rule 5.1-E(j)(1) in proposed Rule 5.2(j)(6)(A)(a) establishing the criteria that an issue and issuer must satisfy.[48]

- The listing standards for Equity Index-Linked Securities in NYSE American Rule 5.2E(j)(6) reference NYSE American Rule 915 in describing the criteria for securities that compose 90% of an index's numerical value and at least 80% of the total number of components.

  Because the Exchange does not plan to trade options at this time and is not proposing rules for establishing the criteria for underlying securities of put and call options contracts described in NYSE American Rule 915,[49] the Exchange is proposing to refer to NYSE Arca Rule 5.3-O in paragraph (B)(I)(1)(b)(iv) of proposed Rule 5.2(j)(6), to establish the initial listing criteria that an index must meet to trade pursuant to UTP. The Exchange would apply the criteria set forth in NYSE Arca Rule 5.3-O in determining whether an index's numerical value meets the then current criteria for standardized option trading.[50]

  The Exchange proposes to reference NYSE Arca Rule 5.3-O because the Exchange does not have options trading rules. In referencing such rules, the Exchange proposes to follow the established and approved rules of NYSE Rule 5.2(j)(6), which also references NYSE Arca Rule 5.3-O.[51]

  Proposed Rule 5.2(j)(7) (Trust Certificates)

The Exchange is proposing Rule 5.2(j)(7) to provide rules for the trading pursuant to UTP of trust certificates, so that they may be traded on the Exchange pursuant to UTP. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 5.2E(j)(7).[52]

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48 See supra note 42.

49 NYSE American Rule 915 is substantially identical to NYSE Arca Rule 5.3-O (NYSE Arca Rule 5.3-O is cross-referenced in NYSE Arca Rule 5.2-E(j)(6), on which NYSE American Rule 5.2E(j)(6) was originally based; see NYSE American ETP Listing Rules Filing, supra note 6), and establishes the criteria for underlying securities of put and call option contracts listed on the exchange.

50 See supra note 42.

51 See NYSE ETP Listing Rules Filing, supra note 7.

52 See NYSE American Rule 5.2E(j)(7), which is based on NYSE Arca Rule 5.2-E(j)(7). See also NYSE American ETP Listing Rules Filing, supra note 6 and Securities Exchange Act Release Nos. 59051 (December 4, 2008), 73 FR 75155

Rule 8 – Trading of Certain Exchange Traded Products

The Exchange proposes that the rules set forth in Rule 8 would be based on Sections 1 and 2 of NYSE American Rule 8E, NYSE Rule 8P, and NYSE Arca Rule 8-E. These proposed rules would permit the Exchange to trade pursuant to UTP the following: Currency and Index Warrants, Portfolio Depositary Receipts, Trust Issued Receipts, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Paired Trust Shares, Trust Units, Managed Fund Shares, and Managed Trust Securities.[53]

The Exchange proposes to designate Rule 8.100(g) as Reserved to maintain the same rule numbers as the NYSE American rules with which it conforms.

The text of proposed Rule 8 is based on Sections 1 and 2 of NYSE American Rule 8E, with only specified non-substantive and technical differences explained below and the General Definitional Term Changes described above. In addition, as described above, proposed Rule 8 would apply only to the trading pursuant to UTP of Exchange Traded Products on the Exchange would not apply to the listing of Exchange Traded Products on the Exchange.

Proposed Rules 8.1 – 8.13 – Currency and Index Warrants

The Exchange is proposing Rules 8.1-8.13 to provide rules for the trading pursuant to UTP (including sales-practice rules such as those relating to suitability and supervision of accounts) of currency and index warrants.[54] Proposed Rules 8.1 – 8.13 are based on NYSE American rules 8.1E – 8.13E. The Exchange is proposing the following non-substantive differences between these proposed rules and NYSE American Rules 8.1E-8.13E (Currency and Index Warrants):

(December 10, 2008) (SR-NYSEArca-2008-123) and 58920 (November 7, 2008), 73 FR 68479 (November 18, 2008) (SR-NYSEArca-2008-123).

53 The Exchange is only proposing listing and trading rules necessary to trade ETPs pursuant to UTP. Accordingly, the Exchange, like NYSE American and NYSE LLC, is not proposing a rule comparable to NYSE Arca Rule 8.100-E(g).

54 NYSE American Rules 8.1E-8.13E, which are based on NYSE Arca Rules 8.1-E – 8.13-E, all pertain to the listing and trading requirements (including sales-practice rules such as those relating to suitability and supervision of accounts) for Currency and Index Warrants. See Section 1 of NYSE American Rule 8E; see also NYSE American ETP Listing Rules Filing, supra note 6 and Securities Exchange Act Release Nos. 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR-PCX-00-25) and 59886 (May 7, 2009), 74 FR 22779 (May 14, 2009) (SR-NYSEArca-2009-39).

Proposed Rule 8.1 (General)

Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.1E.

Proposed Rule 8.2 (Definitions)

Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.2E.

Proposed Rule 8.3 (Listing of Currency and Index Warrants)

Other than with respect to the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.3E.

Proposed Rule 8.4 (Account Approval)

The account approval rules of NYSE American Rule 8.4E reference NYSE American Rule 921[55] in describing the criteria that must be met for opening up a customer account for options trading. Because the Exchange does not plan to trade options at this time and is not proposing to add rules that pertain to the opening of accounts that are approved for options trading, the Exchange proposes to require an ETP Holder to ensure its account is approved for options trading pursuant to NYSE Arca Rule 9.18-E(b).[56]

The Exchange proposes to reference NYSE Arca Rule 9.18-E(b) because the Exchange does not have options trading rules. In referencing such rule, the Exchange proposes to follow the established and approved rules of NYSE Rule 8.4 and NYSE Arca Rule 8.4-E, which also reference NYSE Arca Rule 9.18-E(b).[57]

Proposed Rule 8.5 (Suitability)

The account suitability rules of NYSE American Rule 8.5E reference NYSE

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55 NYSE American Rule 921 is substantially similar to NYSE Arca Rule 9.18-E(b) (NYSE Arca Rule 9.18-E(b) is cross-referenced in NYSE Arca Rule 8.4-E, on which NYSE American Rule 8.4E was originally based; see NYSE American ETP Listing Rules Filing, supra note 6), and establishes criteria that must be met to open up a customer account for options trading.

56 See supra note 42.

57 See NYSE ETP Listing Rules Filing, supra note 7.

American Rule 923[58] in describing rules that apply to recommendations made in stock index, currency index and currency warrants. Because the Exchange does not plan to trade options at this time and is not proposing to add rules that pertain to account suitability for options trading described in NYSE American Rule 923, the Exchange proposes to cross-reference NYSE Arca Rule 9.18-E(c) in proposed Rule 8.5. The Exchange would apply the criteria set forth in NYSE Arca Rule 9.18-E(c) in determining account suitability.[59]

The Exchange proposes to reference NYSE Arca Rule 9.18-E(c) because the Exchange does not have options trading rules. In referencing such rule, the Exchange proposes to follow the established and approved rules of NYSE Rule 8.5 and NYSE Arca Rule 8.5-E, which also reference NYSE Arca Rule 9.18-E(c).[60]

Proposed Rule 8.6 (Discretionary Accounts)

The rules of NYSE American Rule 8.6E state that NYSE American Rule 408-Equities[61] will not apply to customer accounts insofar as they may relate to discretion to trade in stock index, currency index and currency warrants, and that NYSE American Rule 924[62] will apply to such discretionary accounts instead. Because the Exchange does not plan to trade options at this time and is not proposing a rule specific to the Exchange's discretionary accounts for equity trading as described in NYSE American Rule 408-Equitites, nor a rule that pertains to exercising discretion for options trading described in NYSE American

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58 Rule 923 is substantially similar to NYSE Arca Rule 9.18-E(c) (NYSE Arca Rule 9.18-E(c) is cross-referenced in NYSE Arca Rule 8.5-E, on which NYSE American Rule 8.5E was originally based; see NYSE American ETP Listing Rules Filing, supra note 6), and establishes suitability rules that pertain to recommendations in stock index, currency index and currency warrants.

59 See supra note 42.

60 See NYSE ETP Listing Rules Filing, supra note 7.

61 NYSE American Rule 408-Equities is substantially similar to NYSE Arca Rule 9.6-E(a) (NYSE Arca Rule 9.6-E(a) is cross-referenced in NYSE Arca Rule 8.6-E, on which NYSE American Rule 8.6E was originally based; see NYSE American ETP Listing Rules Filing, supra note 6), and pertains to the rules of the exchange with regard to discretionary power in customer accounts for equity trading.

62 NYSE American Rule 924 is substantially similar to NYSE Arca Rule 9.18-E(e) (NYSE Arca Rule 9.18-E(e) is cross-referenced in NYSE Arca Rule 8.6-E, on which NYSE American Rule 8.6E was originally based; see NYSE American ETP Listing Rules Filing, supra note 6), and establishes rules pertaining to discretion as to customer accounts for options trading.

Rule 924, the Exchange proposes to cross-reference to NYSE Arca Rule 9.18-E(e) in proposed Rule 8.6. The Exchange would apply the criteria set forth in this rule in determining whether an ETP Holder appropriately exercised discretion.[63] The Exchange proposes to reference NYSE Arca Rule 9.18-E(e) because the Exchange does not have options trading rules. In referencing such rule, the Exchange proposes to follow the established and approved rules of NYSE Rule 8.6 and NYSE Arca Rule 8.6-E, which also reference NYSE Arca Rule 9.18-E(e).[64]

Proposed Rule 8.7 (Supervision of Accounts)

The account supervision rules of NYSE American Rule 8.7E reference NYSE American Rule 922[65] in describing rules that apply to the supervision of customer accounts in which transactions in stock index, currency index or currency warrants are effected. Because the Exchange does not plan to trade options at this time and is not proposing to add rules that pertain to the supervision of customer accounts for options trading described in NYSE American Rule 922, the Exchange proposes to cross-reference to NYSE Arca Rule 9.18-E(d) in proposed Rule 8.7. The Exchange would apply the criteria set forth in NYSE Arca Rule 9.18-E(d)in supervising such accounts.[66]

The Exchange proposes to reference NYSE Arca Rule 9.18-E(d) because the Exchange does not have options trading rules. In referencing such rule, the Exchange proposes to follow the established and approved rules of NYSE Rule 8.7 and NYSE Arca Rule 8.7-E, which also reference NYSE Arca Rule 9.18-E(d).[67]

Proposed Rule 8.8 (Customer Complaints)

The customer complaint rules of NYSE American Rule 8.8E reference NYSE

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63 See supra note 42.

64 See NYSE ETP Listing Rules Filing, supra note 7.

65 NYSE American Rule 922 is substantially similar to NYSE Arca Rule 9.18-E(d) (NYSE Arca Rule 9.18-E(d) is cross-referenced in NYSE Arca Rule 8.7-E, on which NYSE American Rule 8.7E was originally based; see NYSE American ETP Listing Rules Filing, supra note 6), and establishes account supervision rules that apply to the supervision of customer accounts in which transactions in stock index, currency index and currency warrants are effected.

66 See supra note 42.

67 See NYSE ETP Listing Rules Filing, supra note 7.

American Rule 932[68] in describing rules that apply to customer complaints received regarding stock index, currency index or currency warrants. Because the Exchange does not plan to trade options at this time and is not proposing to add rules for doing a public business in options as described in NYSE American Rule 932, the Exchange proposes to cross-reference to NYSE Arca Rule 9.18-E(l) in proposed Rule 8.8. The Exchange would apply the criteria set forth in NYSE Arca Rule 9.18-E(l) to customer complaints.[69]

The Exchange proposes to reference NYSE Arca Rule 9.18-E(l) because the Exchange does not have options trading rules. In referencing such rule, the Exchange proposes to follow the established and approved rules of NYSE Rule 8.8 and NYSE Arca Rule 8.8-E, which also reference NYSE Arca Rule 9.18-E(l).[70]

Proposed Rule 8.9 (Prior Approval of Certain Communications to Customers)

The rules pertaining to communications to customers regarding stock index, currency index and currency warrants described in NYSE American 8.9E reference NYSE American Rule 991.[71] Because the Exchange does not plan to trade options at this time and is not proposing to add rules for advertisements, market letters and sales literature relating to options as described in NYSE American Rule 991, the Exchange proposes to cross-reference to the Commentaries to NYSE Arca Rule 9.28-E in proposed Rule 8.9. The Exchange would apply the criteria set forth in the Commentaries to NYSE Arca Rule 9.28-E to prior approvals of such communications to customers.[72]

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68 NYSE American Rule 932 is substantially similar to NYSE Arca Rule 9.18-E(l) (NYSE Arca Rule 9.18-E(l) is cross-referenced in NYSE Arca Rule 8.8-E, on which NYSE American Rule 8.8E was originally based; see NYSE American ETP Listing Rules Filing, supra note 6), and establishes rules that apply to customer complaints received regarding stock index, currency index or currency warrants.

69 See supra note 42.

70 See NYSE ETP Listing Rules Filing, supra note 7.

71 NYSE American Rule 991 is substantially similar to NYSE Arca Rule 9.28-E (NYSE Arca Rule 9.28-E is cross-referenced in NYSE Arca Rule 8.9-E, on which NYSE American Rule 8.9E was originally based; see NYSE American ETP Listing Rules Filing, supra note 6), and establishes rules regarding advertisements, sales literature and educational material issued to any customer or member of the public pertaining to stock index, currency index or currency warrants.

72 See supra note 42.

The Exchange proposes to reference to the Commentaries to NYSE Arca Rule 9.28-E because the Exchange does not have options trading rules. In referencing such rules, the Exchange proposes to follow the established and approved rules of NYSE Rule 8.9 and NYSE Arca Rule 8.9-E, which also reference Commentaries to NYSE Arca Rule 9.28-E.[73]

Proposed Rule 8.10 (Position Limits)

Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.10E.

Proposed Rule 8.11 (Exercise Limits)

Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.11E.

Proposed Rule 8.12 (Trading Halts or Suspensions)

Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.12E.

Proposed Rule 8.13 (Reporting of Warrant Positions)

Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.13E.

Proposed Rules 8.100 – 8.700

The Exchange is proposing:

- Rule 8.100 to provide rules for the trading pursuant to UTP of portfolio depositary receipts. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.100E.[74]

- Rule 8.200 to provide rules for the trading pursuant to UTP of trust issued

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73 See NYSE ETP Listing Rules Filing, supra note 7.

74 See NYSE American Rule 8.100E, which is based on NYSE Arca Rule 8.100-E. See also NYSE American ETP Listing Rules Filing, supra note 6 and Securities Exchange Act Release Nos. 39461 (December 17, 1997), 62 FR 67674 (December 29, 1997) (SR-PCX-97-35); 39188 (October 2, 1997), 62 FR 53373 (October 14, 1997) (SR-PCX-97-35); and 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR-PCX-2001-14).

receipts. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.200E.[75]

- Rule 8.201 to provide rules for the trading pursuant to UTP of commodity-based trust shares. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.201E.[76]

- Rule 8.202 to provide rules for the trading pursuant to UTP of currency trust shares. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.202E.[77]

- Rule 8.203 to provide rules for the trading pursuant to UTP of commodity index trust shares. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.203E.[78]

- Rule 8.204 to provide rules for the trading pursuant to UTP of commodity futures trust shares, so that they may be traded on the Exchange pursuant to UTP. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE

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75 See NYSE American Rule 8.200E, which is based on NYSE Arca Rule 8.200-E. See also NYSE American ETP Listing Rules Filing, supra note 6 and Securities Exchange Act Release Nos. 58162 (July 15, 2008), 73 FR 42391 (July 21, 2008) (SR-NYSEArca-2008-73) and 44182 (April 16, 2001), 66 FR 21798 (April 16, 2001) (SR-PCX-2001-01).

76 See NYSE American Rule 8.201E, which is based on NYSE Arca Rule 8.201-E. See also NYSE American ETP Listing Rules Filing, supra note 6 and Securities Exchange Act Release No. 51067 (January 21, 2005), 70 FR 3952 (January 27, 2005) (SR-PCX-2004-132).

77 See NYSE American Rule 8.202E, which is based on NYSE Arca Rule 8.202-E. See also NYSE American ETP Listing Rules Filing, supra note 6 and Securities Exchange Act Release Nos. 60065 (June 8, 2009), 74 FR 28310 (June 15, 2009) (SR-NYSEArca-2009-47) and 53253 (February 8, 2006), 71 FR 8029 (February 15, 2006) (SR-PCX-2005-123).

78 See NYSE American Rule 8.203E, which is based on NYSE Arca Rule 8.203-E. See also NYSE American ETP Listing Rules Filing, supra note 6 and Securities Exchange Act Release No. 54025 (June 21, 2006), 71 FR 36856 (June 28, 2006) (SR-NYSEArca-2006-12).

American Rule 8.204E.[79]

- Rule 8.300 to provide rules for the trading pursuant to UTP of partnership units. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.300E-Equities.[80]

- Rule 8.400 to provide rules for the trading pursuant to UTP of paired trust shares. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.400E.[81]

- Rule 8.500 to provide rules for the trading pursuant to UTP of trust units. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.500E.[82]

- Rule 8.600 to provide rules for the trading pursuant to UTP of managed fund shares. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.600E.[83]

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79 See NYSE American Rule 8.204E, which is based on NYSE Arca Rule 8.204-E. See also NYSE American ETP Listing Rules Filing, supra note 6 and Securities Exchange Act Release Nos. 57838 (May 20, 2008), 73 FR 30649 (May 28, 2008) (SR-NYSEArca-2008-09) and 57636 (April 8, 2008), 73 FR 20344 (April 15, 2008) (SR-NYSEArca-2008-09).

80 See NYSE American Rule 8.300E, which is based on NYSE Arca Rule 8.300-E. See also NYSE American ETP Listing Rules Filing, supra note 6 and Securities Exchange Act Release No. 53875 (May 25, 2006), 71 FR 32164 (January 2, 2006) (SR-NYSEArca-2006-11).

81 See NYSE American Rule 8.400E, which is based on NYSE Arca Rule 8.400-E. See also NYSE American ETP Listing Rules Filing, supra note 6 and Securities Exchange Act Release Nos. 55033 (December 29, 2006), 72 FR 1253 (January 10, 2007) (SR-NYSEArca-2006-75) and 58312 (August 5, 2008), 73 FR 46689 (August 11, 2008) (SR-NYSEArca-2008-63).

82 See NYSE American Rule 8.500E, which is based on NYSE Arca Rule 8.500-E. See also NYSE American ETP Listing Rules Filing, supra note 6 and Securities Exchange Act Release Nos. 57059 (December 28, 2007), 73 FR 909 (January 4, 2008) (SR-NYSEArca-2006-76) and 63129 (October 19, 2010), 75 FR 65539 (October 25, 2010) (SR-NYSEArca-2010-91).

83 See, NYSE American Rule 8.600E, which is based on NYSE Arca Rule 8.600-E. See also NYSE American ETP Listing Rules Filing, supra note 6 and Securities

- Rule 8.700 to provide rules for the trading pursuant to UTP of managed trust securities. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.700E.[84]

Rule 6 – Consolidated Audit Trail and Order Audit Trail System

Proposed Rule 6.6800 Series (Compliance Rules)

As noted above, the Exchange proposes to renumber its existing Compliance Rules relating to the CAT NMS Plan under Rule 6 without any substantive changes. The Compliance Rules require Industry Members to comply with the provisions of the CAT NMS Plan.[85] The Compliance Rule includes twelve rules covering the following areas: (1) Definitions; (2) clock synchronization; (3) Industry Member Data reporting; (4) Customer information reporting; (5) Industry Member information reporting; (6) time stamps; (7) clock synchronization rule violations; (8) connectivity and data transmission; (9) development and testing; (10) recordkeeping; (11) timely, accurate and complete data; and (12) compliance dates.

In moving the Compliance Rules to Rule 6, the Exchange proposes to renumber Rules 14.1 through 14.12 as proposed Rules 6.6800 through 6.6895, which is based in part on the NYSE Arca rule numbering for its Compliance Rules, but not make any substantive changes to those rules. The Exchange proposes non-substantive differences to the Compliance Rules to use a different sub-paragraph numbering format.[86] The proposed sub-numbering for the Compliance Rules (i.e., 6800-6895) mirrors the rule-numbering framework for the CAT NMS Plan Compliance Rules on FINRA, NYSE, and NYSE American and includes a sub-section rule heading of "Rule 6.6800 Consolidated Audit Trail Compliance Rule."

Exchange Act Release Nos. 57395 (February 28, 2008), 73 FR 11974 (March 5, 2008) (SR-NYSEArca-2008-25) and 57619 (April 4, 2008), 73 FR 19544 (April 10, 2008) (SR-NYSEArca-2008-25).

84 See, NYSE American Rule 8.700E, which is based on NYSE Arca Rule 8.700-E. See also NYSE American ETP Listing Rules Filing, supra note 6 and Securities Exchange Act Release Nos. 60064 (June 8, 2009), 74 FR 28315 (June 15, 2009) (SR-NYSEArca-2009-30) and 59835 (April 28, 2009), 74 FR 21041 (May 6, 2009) (SR-NYSEArca-2009-30).

85 Unless otherwise specified, capitalized terms used are defined as set forth herein, the CAT Compliance Rule Series or in the CAT NMS Plan.

86 Current Exchange rules use an "(a)(i)(A)(1)" sub-paragraph numbering convention and the Exchange proposes to use an "(a)(1)(A)(i)" sub-paragraph numbering convention.

Proposed Rule 6.6900 (Consolidated Audit Trail – Fee Dispute Resolution)

The Exchange proposes Rule 6.6900 to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. Section 11.5 of the CAT NMS Plan requires participants to that plan to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters will be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Commission has approved industry-wide rules that set forth such fee dispute procedures.[87] At the time when CAT NMS Plan Participants adopted the Fee Dispute Rule, the Exchange had ceased operations and therefore did not adopt the rule.

Proposed Rule 6.6900 would set forth the Exchange's proposed procedures to resolve disputes initiated by an Industry Member with respect to CAT fees and is based on NYSE Arca Rule 11.6900 specifically, and the rules of other exchanges generally, without any substantive differences.[88] Proposed Rule 6.6900(a) would set forth definitions used for purposes of the rule and proposed Rule 6.6900(b) would set forth the "Fee Dispute Resolution Procedures under the CAT NMS Plan." The proposed sub-numbering for the CAT NMS Plan Fee Dispute Rule (i.e., 6900) mirrors the rule-numbering framework for the CAT NMS Plan Fee Dispute Rule on FINRA, NYSE, and NYSE American.

Proposed Rule 6.7400 (Order Audit Trail System)

The Exchange proposes OATS rules based on NYSE Arca Rules 6.7400-E Series, which in turn are based on the FINRA Rules 7400 Series. The proposed NYSE National Rule 6.7400 Series would consist of proposed Rules 6.7410 through 6.7470, which are based on NYSE Arca Rules 6.7410-E through 6.7470-E

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87 See Securities Exchange Act Release No. 81500 (August 30, 2017), 82 FR 42143 (September 6, 2017) (SR-BatsBYX-2017-13; SR-BatsBZX-2017-39; SR-BatsEDGA-2017-14; SR-BatsEDGX-2017-24; SR-BOX-2017-19; SR-CBOE-2017-043; SR-IEX-2017-21; SR-ISE-2017-52; SR-MRX-2017-08; SR-MIAX-2017-24; SR-NASDAQ-2017-059; SR-BX-2017-029; SR-GEMX-2017-059; SR-PHLX-2017-47; SR-NYSE-2017-24; SR-NYSEArca-2017-60; SR-NYSEMKT-2017-31) (Order Approving Proposed Rule Changes to Adopt a CAT Fee Dispute Resolution Process) ("Fee Dispute Approval Order").

88 The Exchange will file a separate proposed rule change for Consolidated Audit Trail Funding Fees on the Exchange's Fee Schedule.

without any substantive differences. The Exchange proposes non-substantive differences throughout the Rule 6.7400 Series to refer to the Exchange instead of NYSE Arca and to use the defined term "Associated Person."

- Proposed Rule 6.7140 (Definitions) would set forth definitions used for purposes of the Rule 6.7400 Series and is based on NYSE Arca Rule 6.7410-E without any substantive differences.

- Proposed Rule 6.7420 (Applicability) would specify that the requirements of the Rule 6.7400 Series are applicable to all ETP Holders and their associated persons and to all NMS Stocks that trade on the Exchange, and is based on NYSE Arca Rule 6.720-E without any differences.

- Proposed Rule 6.7430 (Synchronization of ETP Holder Business Clocks) would require ETP Holders to synchronize business clocks used for purposes of recording the date and time of specified events, and is based on NYSE Arca Rule 6.7430 without any differences.

- Proposed Rule 6.7440 (Recording of Order Information) would require ETP Holders to comply with FINRA Rule 7440 as if such rule were part of the Exchange's rules and is based on NYSE Arca Rule 6.7440-E without any substantive differences.

- Proposed Rule 6.7450 (Order Data Transmission Requirements) would require ETP Holders to comply with FINRA Rule 7450 as if such rule were part of the Exchange's rules and is based on NYSE Arca Rule 6.7450-E without any substantive differences.

- Proposed Rule 6.7460 (Violation of Order Audit Trail System Rules) would provide that failure of an ETP Holder or associated person to comply with the requirements of proposed Rules 6.7410 through 6.7460 may be considered conduct that is inconsistent with high standards of commercial honor and just and equitable principles of trade. This proposed rule is based on NYSE Arca Rule 6.7460-E with a non-substantive difference to cross reference proposed Rule 11.3.1 instead of NYSE Arca Rule 9.2010.

- Proposed Rule 6.7470 (Exemption to the Order Recording and Data Transmission Requirements) would provide for how an ETP Holder may apply for an exemption from the Rule 6.7400 Series and is based on NYSE Arca Rule 6.7470-E without any differences.

At the time the Exchange ceased operations, it did not require its ETP Holders to maintain order information pursuant to an order tracking system and therefore, did not have the OATS rules or similar rules in its rulebook. The Exchange does not believe that requiring Exchange ETP Holders to comply with the OATS

requirements in connection with the re-launch of trading will impose an undue burden on such ETP Holders or its associated persons. Once the Exchange restarts operation, ETP Holders that are also FINRA members ("Dual Members") would already be subject to FINRA's OATS requirements. Similarly, because NYSE Arca, NYSE, and NYSE American each also have rules based on the FINRA OATS requirements, Exchange ETP Holders that are not members of FINRA, but are members of NYSE Arca, NYSE, or NYSE American, will already be subject to such OATS requirements.[89] To the extent an Exchange ETP Holder is not also a member of FINRA, one of the Exchange's affiliated exchanges, or Nasdaq (which also requires compliance with FINRA OATS requirements), the Exchange believes that the OATS requirements for non-FINRA members are not onerous, as order information pursuant to those rules need only be submitted upon request.[90]

The Exchange believes that requiring its members to comply with the OATS rules will further promote cross-market surveillance and enhance FINRA's ability to conduct surveillance and investigations for the Exchange under a Regulatory Services Agreement. The proposed sub-numbering of the OATS Rules (i.e., 7410-7470) mirrors the rule numbers for the OATS rules on FINRA, NYSE, and NYSE American.

Because Rule 6 would include the Compliance Rules, the Fee Dispute Rule, and the OATS rules, the Exchange proposes to delete the word "System" from the title of Rule 6. The Exchange further proposes to delete the rules in Chapter XIV in their entirety.

Rule 7 – Equities Trading

As noted above, the Exchange proposes trading rules based on the cash equities rules of NYSE Arca and, in some cases specified below, NYSE American. Accordingly, Proposed Rule 7 would include rules based on NYSE Arca Rule 7-E or NYSE American 7E, or both, including general provisions relating to trading, market makers, trading on the Exchange, operation of the routing broker, and the Plan to Implement a Tick Size Pilot Program. Proposed Rule 7 would therefore specify all aspects of trading on the Exchange, including the orders and modifiers that would be available and how orders would be ranked, displayed, and executed.

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89 The Exchange's affiliates, NYSE, NYSE Arca, and NYSE American, all have substantially similar requirements and the proposed rules are similar to the rules adopted by the Exchange's affiliates. See NYSE Rules 7410 through 7470; NYSE Arca Rule 6.7410-E through 6.7470-E.; and NYSE American Rule 7410 - Equities through 7470 - Equities. See also Nasdaq Rule 7400A Series.

90 See proposed Rule 6.7450-E(b). The Exchange is aware of only one former Exchange ETP Holder that is not also a member of FINRA, NYSE Arca, NYSE American, NYSE, or Nasdaq.

Similar to NYSE American, the Exchange proposes the following non-substantive differences throughout Rule 7:

- to use the term "Exchange" instead of "NYSE Arca Marketplace;"
- to use the term "Exchange Act," which is a proposed defined term;
- to use the term "Exchange Book" instead of "NYSE Arca Book;"
- to use the term "will" instead of "shall;"
- to use the term "ETP Holders" instead of "Users;" and
- to use the capitalized term "Associated Person."

In addition, because the Exchange will be using Pillar phase II protocols, the Exchange will not include rule text based on NYSE Arca's order behavior using Pillar phase I protocols, as described in NYSE Arca Rules 7.11-E, 7.31-E, and 7.34-E.

Section 1 of Rule 7 would specify the General Provisions relating to trading on the Pillar trading platform. The Exchange proposes the following rules:

- Proposed Rule 7.1 (Hours of Business) would specify that the Exchange would be open for the transaction of business on every business day. The proposed rule also sets forth when the President may take specified actions, such as halting or suspending trading in some or all securities on the Exchange. The proposed rule is based on NYSE Arca Rule 7.1-E and NYSE American Rule 7.1E without any differences.

- Proposed Rule 7.2 (Holidays) would establish the holidays when the Exchange would not be open for business. The proposed rule is based on NYSE American Rule 7.2E (which has updated rule text as compared to NYSE Arca Rule 7.2-E regarding when that exchange would be open for business if a holiday falls on a Sunday) without any differences.

- Proposed Rule 7.3 (Commissions) would establish that ETP Holders may not charge fixed commissions and must indicate whether acting as a broker or as principal. The proposed rule is based on NYSE Arca Rule 7.3-E and NYSE American Rule 7.3E with a non-substantive difference to reference "Associated Persons," which is a defined term on the Exchange, instead of the phrase "Allied Persons, partners, approved persons or stockholder associates" in paragraph (c) of proposed Rule 7.3.

- Proposed Rule 7.4 (Ex-Dividend or Ex-Right Dates) would establish the ex-dividend and ex-rights dates for stocks traded regular way. The proposed rule is based on NYSE Arca Rule 7.4-E and NYSE American Rule 7.4E without any differences.

- Proposed Rule 7.5 (Trading Units) would establish the unit of trading in stocks, including "round lot," "odd lot," and "mixed lot." The proposed

rule is based on NYSE Arca Rule 7.5-E and NYSE American Rule 7.5E without any differences.

- Proposed Rule 7.6 (Trading Differentials) would establish the minimum price variation for quoting and entry of orders for securities priced at $1.00 or more and for securities priced at less than $1.00. The proposed rule is based on NYSE Arca Rule 7.6-E and NYSE American Rule 7.6E without any substantive differences.

- Proposed Rule 7.7 (Transmission of Bids or Offers) would establish that all bids and offers on the Exchange would be anonymous unless otherwise specified by the ETP Holder. The proposed rule is based on NYSE Arca Rule 7.7-E and NYSE American Rule 7.7E without any differences.

- Proposed Rule 7.8 (Bid or Offer Deemed Regular Way) would establish that all bids and offers would be considered to be "regular way." This proposed rule text is based on NYSE Arca Rule 7.8-E and NYSE American Rule 7.8E.

- Proposed Rule 7.9 (Execution Price Binding) would establish that, notwithstanding Exchange rules on clearly erroneous executions, the price at which an order is executed is binding notwithstanding that an erroneous report is rendered. This proposed rule text is based on NYSE Arca Rule 7.9-E and NYSE American Rule 7.9E without any differences.

- Proposed Rule 7.10 (Clearly Erroneous Executions) would set forth the Exchange's rules on clearly erroneous executions. The proposed rule is based on NYSE Arca Rule 7.10-E and NYSE American Rule 7.10E with one substantive difference: because the Exchange would not be conducting any auctions, the Exchange does not propose text based on NYSE Arca Rule 7.10-E(a) and NYSE American Rule 7.10E(a) that provides that executions as a result of a Trading Halt Auction are not eligible for a request to review as clearly erroneous under paragraph (b) of such rule.

- Proposed Rule 7.11 (Limit Up – Limit Down Plan and Trading Pauses in Individual Securities Due to Extraordinary Market Volatility) would specify how the Exchange would comply with the Regulation NMS Plan to Address Extraordinary Market Volatility ("LULD Plan").[91] The proposed rule is based on NYSE Arca Rule 7.11-E and NYSE American Rule 7.11E with the following substantive differences. First, proposed Rule 7.11(a)(6) is based on NYSE American Rule 7.11E(a)(6) and NYSE

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91 See Securities Exchange Act Release No. 80455 (April 13, 2017), 82 FR 18519 (April 19, 2017) (Order approving thirteenth amendment to the LULD Plan).

Arca Rule 7.11-E(a)(7).[92] Next, because the Exchange will not be a listing exchange, the Exchange will not include rule text based on NYSE Arca Rule 7.11-E(a)(8) (relating to triggering a Straddle State under the LULD Plan), (a)(9) (relating to calculating Price Bands after NYSE Arca opens or re-opens an Exchange-listed security), or (b)(1) (relating to notifying the single plan processor if NYSE Arca is not able to reopen trading at the end of a Trading Pause due to a systems or technology issue). Finally, the Exchange proposes that Rule 7.11(b) would provide that if a primary listing market issues a Trading Pause, the Exchange would resume trading as provided for in proposed Rule 7.18, which is based on NYSE Arca Rule 7.11-E(b)(2).

- Proposed Rule 7.12 (Trading Halts Due to Extraordinary Market Volatility) would establish rules on halts in trading due to extraordinary market volatility and related reopening of trading. The proposed rule is based on NYSE Arca Rule 7.12-E and NYSE American Rule 7.12E without any substantive differences.

- Proposed Rule 7.13 (Trading Suspensions) would establish authority for the Chair or the President of the Exchange to suspend trading in any and all securities that trade on the Exchange if such suspension would be in the public interest. This proposed rule is based on NYSE Arca Rule 7.13-E and NYSE American Rule 7.13E without any substantive differences. Because this proposed rule covers the same subject matter as current Rule 12.11, as discussed below, the Exchange does not propose to move Rule 12.11 to Rule 11 and would delete Rule 12.11.

- Proposed Rule 7.14 (Clearance and Settlement) would establish the requirements regarding an ETP Holder's arrangements for clearing. Because all post-trade functions on the Exchange's Pillar trading platform would follow the NYSE Arca procedures for post-trade processing, the Exchange proposes rules that are based on NYSE Arca rules clearing rules. Accordingly, the proposed rule is based on NYSE Arca Rule 7.14-E and NYSE American Rule 7.14E without any substantive differences.

- Proposed Rule 7.15 (Stock Option Transactions) would establish requirements for Market Makers relating to pool dealing and having an interest in an option that is not issued by the Options Clearing Corporation. The proposed rule is based on NYSE Arca Rule 7.15-E and NYSE American Rule 7.15E without any substantive differences.

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92 As noted above, the Exchange will be on Pillar phase II protocols and therefore will not include rule text from NYSE Arca regarding functionality based on Pillar phase I protocols.

- Proposed Rule 7.16 (Short Sales) would establish requirements relating to short sales. The proposed rule is based on NYSE Arca Rule 7.16-E with the following substantive differences. Because the Exchange would not be a listing venue, the Exchange would not be evaluating whether the short sale price test restrictions of Rule 201 of Regulation SHO have been triggered. Accordingly, the Exchange does not propose rule text based on NYSE Arca Rule 7.16-E(f)(3) or NYSE American Rule 7.16E(f)(3) and would designate that sub-paragraph as "Reserved." For similar reasons, the Exchange proposes not to include rule text based on NYSE Arca Rule 7.16-E(f)(4)(A) and (B) or NYSE American Rule 7.16E(f)(4)(A) and (B).

- Proposed Rule 7.17 (Firm Orders and Quotes) would establish requirements that all orders and quotes must be firm. This proposed rule is based on NYSE Arca Rule 7.17-E without any differences.

- Proposed Rule 7.18 (Halts) would establish rules relating to trading halts of securities traded pursuant to UTP on the Exchange's Pillar platform. This proposed rule is based on NYSE Arca Rule 7.18-E(a), (b), and (d) and NYSE American Rule 7.18E(a), (b), and (d) . Proposed Rule 7.18(c) would be based on NYSE American Rule 7.18E(d) and would use the Exchange-defined terms of "Exchange Traded Product" and "UTP Exchange Traded Product." Because the Exchange will not be a listing venue, the Exchange does not proposed rule text based on NYSE Arca Rule 7.18-E(c) or NYSE American Rule 7.18E(c). In addition, the Exchange proposes to use the term "reopening auction" instead of "Trading Halt Auction" in proposed Rule 7.18(b).

Section 2 of proposed Rule 7 proposes rules for market makers on the Exchange. Specifically, for all securities that would trade on the Exchange, an ETP Holder could register as a Market Maker and be subject to obligations similar to the obligations of a Market Maker on NYSE Arca. The Exchange proposes the following rules, based on cash equities NYSE Arca and NYSE American rules of the same number with non-substantive differences:

- Proposed Rule 7.20 (Registration of Market Makers) would establish the registration requirements for market makers on the Exchange. This proposed rule is based on NYSE American Rule 7.20E without any substantive differences. The Exchange proposes non-substantive differences to cross reference the Rule 10.9500 and 10.9200 Series in proposed Rule 7.20(c) and (e), respectively.

- Proposed Rule 7.21 (Obligations of Market Maker Authorized Traders) would set forth the requirements that MMATs are permitted to enter orders only for the account of the Market Maker for which they are registered. The proposed rule would also specify the registration requirements for MMAT and the procedures for suspension and

withdrawal of registration. This proposed rule is based on NYSE Arca Rule 7.21-E and NYSE American Rule 7.21E without any substantive differences.

- Proposed Rule 7.22 (Registration of Market Makers in a Security) would set forth the process for Market Makers to become registered in a security and the factors the Exchange may consider in approving the registration of a Market Maker in a security. The proposed rule would also describe both the termination of a Market Maker's registration in a security by the Exchange and voluntary termination by a Market Maker. This proposed rule is based on NYSE Arca Rule 7.22-E and NYSE American Rule 7.22E without any substantive differences. The Exchange proposes non-substantive differences to cross reference proposed Rule 10.9200 and 10.9500 Series in proposed Rule 7.22(e) and (g), respectively.

- Proposed Rule 7.23 (Obligations of Market Makers) would set forth the obligation of all Market Makers to engage in a course of dealings for their own account to assist in the maintenance, insofar as reasonably practicable, of fair and orderly markets on the Exchange and would delineate the specific responsibilities and duties of Market Makers, including the obligation to maintain continuous, two-sided trading in registered securities and certain pricing obligations Market Makers are required to adhere to. This proposed rule is based on NYSE Arca Rule 7.23-E and NYSE American Rule 7.23E without any substantive differences. The Exchange proposes a non-substantive difference to cross reference proposed Rule 10.9200 Series in proposed Rule 7.23(c).

- Proposed Rule 7.28 (NMS Market Access) would implement the Exchange's obligations under Rule 610 of Regulation NMS and is based on NYSE Arca Rule 7.28-E without any differences.[93]

Section 3 of proposed Rule 7 would establish the Exchange's trading rules. Among other things, these rules would establish the orders and modifiers that would be available on the Exchange (proposed Rule 7.31), would describe order display and ranking (proposed Rule 7.36), and would describe how the Exchange would ensure that orders would not trade through either the PBBO (for Limit Orders) or NBBO (for Market Orders and Inside Limit Orders) and when orders would route (proposed Rules 7.37 and 7.34).

As noted above, the Exchange will not conduct any auctions, and therefore does not propose a rule based on NYSE Arca Rule 7.35-E or NYSE American Rule 7.35E. In addition, because the Exchange would not offer a retail liquidity program, the Exchange does not propose a rule based on NYSE Arca Rule 7.44-E and proposed Rules 7.36, 7.37, and 7.38 would not include cross references to

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93 Rules 7.24, 7.25, 7.26, and 7.27 would be designated as "Reserved."

Rule 7.44.

- Proposed Rule 7.29 (Access) would provide that the Exchange would be available for entry and cancellation of orders by ETP Holders with authorized access. To obtain authorized access to the Exchange, each ETP Holder would be required to enter into a User Agreement. Proposed Rule 7.29 is based on NYSE Arca Rule 7.29-E(a) and NYSE American Rule 7.29E, without any substantive differences. The Exchange does not propose to include rule text based on NYSE Arca Rule 7.29-E(b) because the Exchange would not offer sponsored access.

- Proposed Rule 7.30 (Authorized Traders) would provide for requirements relating to Authorized Traders and is based on NYSE Arca Rule 7.30-E and NYSE American Rule 7.30E without any differences.

- Proposed Rule 7.31 (Orders and Modifiers) would specify the orders and modifiers that would be available on the Exchange. The Exchange proposes to offer the same types of orders and modifiers that are available on NYSE Arca, with specified substantive differences. Accordingly, proposed Rule 7.31 is based on NYSE Arca Rule 7.31-E with the following substantive differences.

  First, in proposed Rule 7.31(a)(2)(B), in describing the Limit Order Price Protection, the Exchange proposes to provide that a Limit Order entered before the Core Trading Session that is designated for the Core Trading Session only will become subject to Limit Order Price Protection once it becomes eligible to trade. The Exchange proposes this difference because the Exchange would not be conducting any auctions on the Exchange.

  Second, the Exchange proposes that, similar to NYSE Arca, it would accept Auction-Only Orders (e.g., Limit-on-Open Order ("LOO Order"), Market-on-Open Order ("MOO Order"), Limit-on-Close Order ("LOC Order"), and Market-on-Close Order ("MOC Order"). However, because the Exchange would not be conducting auctions, it proposes to define an Auction-Only Order as a Limit or Market Order that is only to be routed pursuant to proposed Rule 7.34. Accordingly, on arrival, such orders would be routed to the primary listing market and would not be entered on the Exchange Book. The Exchange proposes to accept four types of Auction-Only Orders that would be routed to the primary listing market: MOO, LOO, MOC, and LOC Orders. As described in proposed Rules 7.31(f) and 7.34, such orders would be subject to the rule requirements of the respective primary listing exchange to which they are routed. In addition, because the Exchange would only accept and route Auction-Only Orders, it would not include rule text based on the second sentences of NYSE Arca Rules 7.31(c)(1) and (2) and would refer to such orders being traded in "an opening or re-opening auction" or "a closing auction," rather

than state that such orders would be traded during "the Core Open Auction or a Trading Halt Auction" or "the Closing Auction," which are defined terms in the NYSE Arca rules.

Third, because the Exchange would not be a listing venue, the Exchange does not propose to include rule text that provides that "[a] Primary Only Order instruction on a security listed on the Exchange will be ignored" in proposed Rule 7.31(f)(1).

Fourth, at this time, the Exchange is not proposing to offer a Discretionary Pegged Order and, therefore, proposes to designate Rule 7.31(h)(3) as "Reserved" and will not include a reference to Discretionary Pegged Orders in proposed Rule 7.34.

Finally, similar to NYSE American Rule 7.31E(e)(1), the Exchange proposes to refer to the order described in this rule text as a "Limit Non-Routable Order."

- Proposed Rule 7.32 (Order Entry) would establish requirements for order entry size. The proposed rule is based on NYSE Arca Rule 7.32-E and NYSE American Rule 7.32E without any substantive differences.

- Proposed Rule 7.33 (Capacity Codes) would establish requirements for capacity code information that ETP Holders must include with every order. The proposed rule is based on NYSE Arca Rule 7.33-E and NYSE American Rule 7.33E without any substantive differences.

- Proposed Rule 7.34 (Trading Sessions) would specify trading sessions on the Exchange. Similar to NYSE Arca, the Exchange proposes that on the Pillar trading platform, it would have Early, Core, and Late Trading Sessions. However, the Exchange proposes that the Early Trading Session would begin at 7:00 a.m. Eastern Time, which is when the NYSE American Early Trading Session begins.[94] Otherwise, the Exchange proposes Rule 7.34 based on NYSE Arca Rule 7.34-E with the following substantive differences to reflect that it would not operate any auctions:

    - To designate Rule 7.34-E(c)(1)(B) as "Reserved;"

    - In proposed Rule 7.34(c)(1)(C), to refer to orders being rejected "if entered before the Core Trading Session" instead of orders being rejected "if entered before the Auction Processing Period for the Core Open Auction;"

    - In proposed Rules 7.34(c)(1)(D), (c)(2)(A), and (c)(2)(B), to not

94 See NYSE American Rule 7.34E(a)(1).

include phrases referring to "securities that are not eligible for an auction on the Exchange" or "securities that are not eligible to the Core Open Auction" from NYSE Arca Rules 7.34-E(c)(1)(D), (c)(2)(A), and (c)(2)(B); and

- In proposed Rule 7.34(c)(2)(C), to refer to orders being rejected "if entered before the Late Trading Session" instead of being rejected "if entered before the Auction Processing Period for the Closing Auction."

- Proposed Rule 7.36 (Order Ranking and Display) would establish requirements for how orders would be ranked and displayed at the Exchange. The proposed rule is based on NYSE Arca Rule 7.36-E and NYSE American Rule 7.36E without any substantive differences.

- Proposed Rule 7.37 (Order Execution and Routing) would establish requirements for how orders would execute and route at the Exchange, the data feeds that the Exchange would use, and Exchange requirements under the Order Protection Rule and the prohibition on locking and crossing quotations in NMS Stocks. This proposed rule is based on NYSE Arca Rule 7.37-E without any substantive differences. The Exchange proposes a non-substantive difference to proposed Rule 7.37(e) to reflect the amended names of exchanges in the chart listing market centers.

- Proposed Rule 7.38 (Odd and Mixed Lot) would establish requirements relating to odd lot and mixed lot trading on the Exchange. The proposed rule is based on NYSE Arca Rule 7.38-E without any substantive differences.[95]

- Proposed Rule 7.40 (Trade Execution and Reporting) would establish the Exchange's obligation to report trades to an appropriate consolidated transaction reporting system. The proposed rule is based on NYSE Arca Rule 7.40-E and NYSE American Rule 7.40E without any substantive differences.

- Proposed Rule 7.41 (Clearance and Settlement) would establish requirements that all trades be processed for clearance and settlement on a locked-in and anonymous basis. The proposed rule is based on NYSE American Rule 7.41E without any differences.

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95 The Exchange does not propose a rule based on either NYSE Arca Rule 7.39-E (concerning adjustment of open orders, which relates to good-til-cancelled orders, which would not be available on the Exchange) or NYSE American Rule 7.39E (concerning an off-hours trading facility, which would not be offered on the Exchange) and will designate Rule 7.39 as "Reserved."

Section 4 of proposed Rule 7 would establish the Operation of a Routing Broker. Specifically, proposed Rule 7.45 (Operation of a Routing Broker) would establish the outbound and inbound function of the Exchange's routing broker and the cancellation of orders and the Exchange's error account. The proposed rule is based on NYSE Arca Rule 7.45-E and NYSE American Rule 7.45E without any substantive differences. As noted above, the Exchange's affiliation with Archipelago Securities LLC would be addressed in proposed Rule 7.45. The Exchange therefore proposes to delete current Rule 2.10.

Section 5 of proposed Rule 7 would establish requirements relating to the Plan to Implement a Tick Size Pilot Program. Proposed Rule 7.46 (Tick Size Pilot Plan) would specify such requirements. The proposed rule is based on NYSE Arca Rule 7.46-E with a proposed substantive difference not to include cross references to a Retail Liquidity Program as the Exchange would not adopt the Retail Liquidity Program on Pillar. The Exchange also proposes to designate proposed Rules 7.46(f)(4) as "Reserved" because the Exchange would not support Retail Price Improvement Orders on Pillar.

Section 6 of proposed Rule 7 would establish requirements for contracts in securities.

- Proposed Rule 7.60 (Definitions and General Provisions) would establish definitions used for purposes of Section 6 of Rule 7 and is based on NYSE Arca Rule 7.60-E without any differences.

- Proposed Rule 7.61 would provide for requirements relating to ETP contracts of the Exchange and that such contracts are binding. This proposed rule is based on NYSE Arca Rule 7.61-E without any differences.

- Proposed Rule 7.62 (Delivery of Securities) would establish requirements relating to the book entry settlement of transactions. This proposed rule text is based on NYSE Arca Rule 7.62-E(b). Because the Exchange is not a listing venue, the Exchange does not propose rule text based on NYSE Arca Rule 7.62-E(a) or (c) as these rules relate to requirements for securities listing on an exchange.

Because Rule 7 would set forth all rules relating to trading on the Exchange, the Exchange proposes to delete the rules in Chapter XI in their entirety. In addition, because Rule 7 would set forth rules relating to comparison and settlement, the Exchange proposes to delete the rules in Chapter XIII (Miscellaneous Provisions) in their entirety. Finally, because the Exchange would use its affiliate, Archipelago Securities LLC, as its routing broker, the Exchange also proposes to delete Rule 2.11 (NSX Securities, LLC).

Rule 10 – Disciplinary Proceedings, Other Hearings and Appeals

To facilitate the re-launch of trading on the Exchange and further facilitate rule harmonization among SROs, the Exchange proposes Rule 10.8000 and Rule 10.9000 Series based on NYSE American Rule 8000 and Rule 9000 Series of the Office Rules, with certain modifications, as described below.[96] NYSE American Rule 8000 and Rule 9000 Series are disciplinary rules that are, with certain exceptions, substantially the same as the Rule 8000 Series and Rule 9000 Series of the NYSE and FINRA.[97]

Unless otherwise specified below, the individual rules in the proposed Rule 10.8000 and 10.9000 Series are based on the individual rules of the counterpart NYSE American Rule 8000 and 9000 Series without any differences, except that the Exchange:

- would use the term "ETP Holder" rather than "member and member organization" or "member organization or ATP Holder" as is used by NYSE American, consistent with the Exchange's other proposed rules;

- would use the term "Associated Person" or "Person Associated with an ETP Holder," which are defined terms on the Exchange, rather than the term "covered person;"

- would not utilize Floor-Based Panelists referenced in NYSE American Rules 9120(q), 9212(a)(2)(B), 9221(a)(3), 9231(b)(2) and (c)(2), and 9232(c) because the Exchange will not have a trading floor;

- would not adopt NYSE American Rules 8001 and 9001, which describe the effective date of the NYSE American rules;

- would not retain the text of NYSE American's legacy minor rules; and

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96 The Exchange notes that all but one of its ETP Holders before it ceased trading operations in February 2017 were members of FINRA, and as such were subject to FINRA's Rule 8000 Series and Rule 9000 Series. As a result, virtually all former ETP Holders were already subject to the proposed rules described herein.

97 Securities Exchange Act Release Nos. 77241 (February 26, 2016), 81 FR 11311 (March 3, 2016) (SR-NYSEMKT-2016-30) ("2016 Notice"). See also Securities Exchange Act Release Nos. 78959 (September 28, 2016), 81 FR 68481 (October 4, 2016) (SR-NYSEMKT-2016-71) (Notice). The NYSE American disciplinary rules were implemented on April 15, 2016. See NYSE American Information Memorandum 16-02 (March 14, 2016).

- proposes non-substantive grammatical differences in specified rules, described below, which do not change the meaning of the proposed rule text as compared to the NYSE American version of the same rule.

Proposed Rule 10.8000 Series

The Proposed Rule 10.8000 Series would address Investigations and Sanctions. Proposed Rule 10.8100 (General Provisions) would include the following:

- Proposed Rule 10.8120 (Definitions) would provide that unless otherwise provided, terms used in the Rule 10.8000 Series would have the meaning as defined in applicable Exchange rules and that the terms "Adjudicator" and "Exchange" would have the meaning in proposed Rule 10.9120. The Exchange proposes non-substantive grammatical differences for paragraphs (a) and (b) as compared to NYSE American Rule 8120(a) and (b).

- Proposed Rule 10.8130 (Retention of Jurisdiction) would set forth retention of jurisdiction provisions that are the same as NYSE American Rule 8130, except for a non-substantive grammatical difference in paragraph (b) to add the word "who" and the cross-reference in paragraph (b)(1) that would be conformed to the Exchange's rules. Under the proposed rule change, the Exchange would retain jurisdiction to file a complaint against an ETP Holder or Associated Person for two years after such ETP Holder's or Associated Person's status is terminated.

Proposed Rule 10.8200 (Investigations) would set forth the following rules:[98]

- Proposed Rule 10.8210 (Provisions of Information and Testimony and Inspection and Copying of Books) would set forth procedures for the provision of information and testimony and inspection and copying books by the Exchange. In addition to describing requirements relating to the process for such inspection and copying, this proposed rule would provide authority for the Exchange to enter into regulatory cooperation agreements with other SROs and regulators (proposed Rule 10.8210(b)). The Exchange proposes non-substantive grammatical differences from NYSE American Rule 8210 in subsection (g) and Commentary .01.

- Proposed Rule 10.8211 (Automated Submission of Trading Data Requested by the Exchange) would set forth the procedures for electronic

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98 NYSE American Rules 8212, 8213, and 8312 are marked as "Reserved." To maintain consistency with NYSE American's rule numbering, the Exchange proposes to designate proposed Rules 10.8212, 10.8213, and 10.8312 as "Reserved."

blue sheets.

Proposed Rule 10.8300 (Sanctions) would set forth the following rules:

- Proposed Rule 10.8310 (Sanctions for Violations of the Rules) would set forth the range of sanctions that could be imposed in connection with disciplinary actions under the proposed rule change.

- Proposed Rule 10.8311 (Effect of a Suspension, Revocation, Cancellation, Bar or Other Disqualification) would provide that if the Commission or the Exchange imposed a suspension, revocation, cancellation or bar on an Associated Person, an ETP Holder may not permit such person to remain associated, and, in the case of a suspension, may not make any remuneration that results from any securities transaction.

- Proposed Rule 10.8313 (Release of Disciplinary Complaints, Decisions and Other Information) would provide that the Exchange would publish all final disciplinary decisions issued under the proposed Rule 9000 Series, other than minor rule violations, on its website.

- Proposed Rule 10.8320 (Payment of Fines, Other Monetary Sanctions, or Costs; Summary Action for Failure to Pay) would govern payment of fines and other monetary sanctions or costs and provide for a summary action for an ETP Holder's failure to pay.[99] The Exchange proposes a non-substantive grammatical difference from NYSE American Rule 8320 in paragraph (b)(1).

- Proposed Rule 10.8330 (Costs of Proceedings) would provide that a disciplined ETP Holder or Associated Person may be assessed the costs of a proceeding, which are determined by the Adjudicator.

Proposed Rule 10.9000 Series

Proposed Rule 10.9000 Series sets forth the Exchange's proposed Code of Procedure.

Proposed Rule 10.9100 Series (Application and Purpose)

Proposed Rule 10.9100 Series (Application and Purpose) would set forth the following rules:

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99 The Exchange does not propose to adopt NYSE American Rule 8320(d), which addresses transition from its legacy disciplinary rules. The Exchange does not currently have any pending disciplinary actions under its current disciplinary rules, and therefore does not need to retain those rules for a transition period.

- Proposed Rule 10.9110 (Application) would state the types of proceedings to which the proposed Rule 10.9000 Series would apply (each of which is described below) and the rights, duties, and obligations of ETP Holders and Associated Persons, and would set forth the defined terms and cross-references. The Exchange proposes a non-substantive grammatical difference from NYSE American Rule 9110 in paragraph (c).

- Proposed Rule 10.9120 (Definitions) would set forth definitions that would be applicable to the Rule 10.9000 Series. The definitions are based on definitions set forth in NYSE American Rule 9120, except that the Exchange would not define the terms "Board of Directors," "covered person," "Exchange, and "Floor-Based Panelist" in proposed Rule 10.9120 and would designate paragraphs (b), (g), (n), and (q) as "Reserved." The terms "Board of Directors" and "Exchange" would already be defined in proposed Rule 1.1, and therefore the Exchange does not need to separately define these terms in proposed Rule 10.9120. The Exchange does not believe that it needs to define the term "covered person" because the Exchange already has a defined term of "Person Associated with an ETP Holder" or "Associated Person," and use of that term would address all persons subject to Exchange jurisdiction under proposed Rule 10 Series. The term "Interested Staff" in paragraph (t) contains a non-substantive grammatical difference from the NYSE American version and the definition of "Party" in paragraph (w)(2) includes "or Associated Person" after "ETP Holder." Finally, the Exchange would not include the term "Floor-Based Panelist" because the Exchange would not have a trading floor.

Proposed Rule 10.9130 (Service; Filing of Papers)

Proposed Rule 10.9130, setting forth proposed Rules 10.9131 through 10.9138, would govern the service of a complaint or other procedural documents under the Rules.

Proposed Rule 10.9131 would set forth the requirements for serving a complaint or document initiating a proceeding. Proposed Rule 10.9132 would cover the service of orders, notices, and decisions by an Adjudicator. Proposed Rule 10.9133 would govern the service of papers other than complaints, orders, notices, or decisions. Proposed Rule 10.9134 would describe the methods of service and the procedures for service. Proposed Rule 10.9135 would set forth the procedure for filing papers with an Adjudicator. Proposed Rule 10.9136 would govern the form of papers filed in connection with any proceeding under the proposed Rule 10.9200 and 10.9300 Series. Proposed Rule 10.9137 would state the requirements for and the effect of a signature in connection with the filing of papers. Finally, proposed Rule 10.9138 would establish the computation of time.

Proposed Rule 10.9140 (Proceedings)

Proposed Rules 10.9140, setting forth proposed Rules 10.9141 through 10.9148, would govern the conduct of disciplinary proceedings.

Proposed Rule 10.9141 would govern appearances in a proceeding, notice of appearances, and representation. Proposed Rule 10.9141 would permit a Respondent to represent himself or be represented by a bar-admitted U.S. attorney. The proposed rule also permits a partnership to be represented by a partner and a corporation, trust, or association to be represented by an officer of such entity. Proposed Rule 10.9141 requires an attorney or representative to file a notice of appearance. Proposed Rule 10.9142 would require an attorney or representative to file a motion to withdraw.

Proposed Rule 10.9143 would set forth requirements relating to ex parte communications with an Adjudicator or Exchange employee involved in a proceeding. The Exchange proposes non-substantive grammatical differences from NYSE American Rule 9143 in paragraphs (c) and (e)(3).

Proposed Rule 10.9144 would establish the separation of functions for Interested Staff and Adjudicators and provide for waivers.

Proposed Rule 10.9145 would provide that formal rules of evidence would not apply in any proceeding brought under the proposed Rule 10.9000 Series.

Proposed Rule 10.9146 would govern motions a Party may make and requirements for responses and formatting. The Exchange proposes non-substantive grammatical differences from NYSE American Rule 9146 in paragraph (b)(2).

Proposed Rule 10.9147 would provide that Adjudicators may rule on procedural matters.

Finally, proposed Rule 10.9148 would generally prohibit interlocutory review, except as provided in proposed Rule 10.9280 for contemptuous conduct.

Proposed Rule 10.9150 (Exclusion from Rule 10.9000 Series Proceeding)

Proposed Rule 10.9150 would provide that a representative can be excluded by an Adjudicator for improper or unethical conduct. The Exchange proposes a non-substantive difference to refer to “improper conduct” in paragraph (a) rather than limiting term of “improper professional conduct,” which is in NYSE American Rule 9150.

Proposed Rule 10.9160 (Recusal or Disqualification)

Proposed Rule 10.9160 would provide that no person may act as an Adjudicator if he or she has a conflict of interest or bias, or circumstances exist where his or her fairness could reasonably be questioned. In such case, the person must recuse himself or may be disqualified. The proposed rule would cover the recusal or disqualification of an Adjudicator, the Board, or a Director. Proposed Rules 9160(b), (c), and (d) are designated as "Reserved" to maintain consistency with NYSE American's rule numbering.

Proposed Rules 10.9200 Series (Disciplinary Proceedings)

Proposed Rule 10.9200 would cover disciplinary proceedings.

Proposed Rule 10.9210 (Complaint and Answer) would set forth the following rules:

- Proposed Rule 10.9211 (Authorization of Complaint) would permit Enforcement to request the authorization of the Chief Regulatory Officer ("CRO") to issue a complaint against an ETP Holder or Associated Person, thereby commencing a disciplinary proceeding.

- Proposed Rule 10.9212 (Complaint Issuance – Requirements, Service, Amendment, Withdrawal, and Docketing) would set forth the requirements of the complaint, amendments to the complaint, withdrawal of the complaint, and service of the complaint. Unlike NYSE American Rule 9212, because the Exchange would not have a floor, the proposed rule would not provide for Enforcement to select one Floor-Based Panelist.

- Proposed Rule 10.9213 (Assignment of Hearing Officer and Appointment of Panelists to Hearing Panel or Extended Hearing Panel) would provide for the appointment of a Hearing Officer and Panelists by the Chief Hearing Officer.

- Proposed Rule 10.9214 (Consolidation or Severance of Disciplinary Proceedings) would permit the Chief Hearing Officer to sever or consolidate two or more disciplinary proceedings under certain circumstances and permit a Party to move for such action under certain circumstances. The Exchange proposes non-substantive grammatical differences from NYSE American Rule 9214 in paragraphs (b) and (e).

- Proposed Rule 10.9215 (Answer to Complaint) would set forth requirements for answering a complaint, including form, service, notice, content, defenses, amendments, default, and timing.

- Proposed Rule 10.9216 (Acceptance, Waiver, and Consent; Procedure for Imposition of Fines for Minor Violation(s) of Rules) would establish the acceptance, waiver, and consent ("AWC") procedures by which a Respondent, prior to the issuance of a complaint, may execute a letter accepting a finding of violation, consenting to the imposition of sanction(s), and agreeing to waive such Respondent's right to a hearing, appeal, and certain other procedures.[100] It also would establish procedures for executing a minor rule violation plan letter. The Exchange proposes non-substantive grammatical differences from NYSE American Rule 9216 in paragraph (a).

Together with proposed Rule 10.9216(b), proposed Rule 10.9217 would be the Exchange's Minor Rule Violation Plan ("MRVP") and would set forth the list of rules under which an ETP Holder or Associated Person may be subject to a fine under a MRVP as described in proposed Rule 10.9216(b).

The Exchange proposes to adopt the list of rules and associated fine levels for minor rule violations set forth in NYSE American Rule 9217, which sets forth NYSE American's MRVP. As noted above, the Exchange does not propose rule text based on the legacy trading rules contained in NYSE American Rule 9217(c), which are unique to NYSE American. The Exchange further would not include rule text based on NYSE American Rule 9217(e), which sets forth NYSE American's legacy MRVP and includes fines for options-related rules, which are not applicable on the Exchange. Finally, the Exchange does not propose rule text based on NYSE American's Rule 9217 "List of Reports Required to be Filed with the Exchange by ATP Holders and Filing Deadlines" as these relate to fines charged for failure to timely file financial reports by ETP Holders designated to the Exchange. Because the Exchange is not currently a designated examining authority ("DEA") for any ETP Holders, these fines would be inapplicable to the Exchange.

Proposed Rule 10.9217(a) titled "Trading Rule Violations" would set forth the following eligible trading rule violations:

- Short Sale Rules (Rule 7.16).

- Failure to maintain continuous, two-sided Q Orders in those securities in which the Market Maker is registered to trade (Rule 7.23(a)(1)).

- Failure to comply with Authorized Trader requirements (Rule 7.30).

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100 Proposed Rule 10.9270 would address settlement procedures after the issuance of a complaint.

- Acting as a Market Maker in a security without being registered as such as required by Rule 7.20(a).

Proposed Rule 10.9217(b), titled "Record Keeping and Other Minor Rule Violations," would set forth minor rule violations relating to recordkeeping. The proposed substantive rule violations are based on NYSE American Rule 9217(b) with non-substantive differences to cross-reference the applicable Exchange rule, as follows:[101]

- Failure to comply with the employee registration or other requirements of Rule 2.2.

- Failure to comply with the books and records requirements of Rule 11.4.1.

- Failure to comply with the requirements for preventing the misuse of material nonpublic information as set forth in Rule 11.5.5 and its Commentaries.

Proposed Rule 10.9217(c) is based on NYSE American Rule 9217(d) without any substantive differences and would set forth the fine schedule that would be applicable to the Exchange's MRVP. Proposed Rule 10.9217(c)(1) would set forth the fine levels for trading rule violations as follows:

- Violations of Rule 7.16 would be eligible for a $500 first level fine, a $1,000 second level fine, and a $2,500 third level fine;
- Violations of Rule 7.23(a)(1) would be eligible for a $250 first level fine, a $500 second level fine, and a $1,000 third level fine;
- Violations of Rule 7.30 would be eligible for a $1,000 first level fine, a $2,500 second level fine, and a $3,500 third level fine; and
- Violations of Rule 7.20(a) would be eligible for a $250 first level fine, a $500 second level fine, and a $1,000 third level fine.

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101 See NYSE American Rule 9217(a) (NYSE American Rules 7.16, 7.20, 7.23, 7.30). Proposed Rules 7.16 (Short Sales), 7.20 (Registration of Market Makers) and 7.23 (Obligations of Market Makers) are based on the NYSE American Rules (which were in turn based on analogous NYSE Arca rules) with the same numbers without any substantive differences. See also NYSE American Rule 9217(b) (NYSE American Rules 2.21E, 2.24E and 6.3E). Proposed NYSE National Rule 11.5.5 is based on NYSE American Rule 6.3E without any substantive differences. Proposed NYSE National Rules 2.2 (Obligations of ETP Holders and the Exchange) and 11.4.1 (Books and Records Requirements) address the same subject matter as NYSE American Rules 2.21E and 2.24E. Finally, proposed Rule 9217(a) would not incorporate an eligible rule based on NYSE American Rule 6.15E prohibiting prearranged trades, which the Exchange is not adopting.

Proposed Rule 10.9217(c)(2) would set forth the fine levels for the record keeping and other minor rule violations as follows:

- Violations of Rule 11.5.5 would be eligible for a $2,000 first level fine, a $4,000 second level fine, and a $5,000 third level fine;[102]

- Violations of Rule 11.4.1 would be eligible for a $2,000 first level fine, a $4,000 second level fine, and a $5,000 third level fine; and

- Violations of Rule 2 would be eligible for a $1,000 first level fine, a $2,500 second level fine, and a $3,500 third level fine.[103]

Proposed Rule 10.9220 (Request for Hearing; Extensions of Time, Postponements, Adjournments)

Proposed Rules 10.9221 through 10.9222 would describe how a Respondent can request a hearing, the notice of a hearing, and timing considerations. Proposed Rule 10.9221 provides that a Hearing Officer generally must provide at least 28 days' notice of the hearing.

Proposed Rule 10.9230 (Appointment of Hearing Panel, Extended Hearing Panel)

Proposed Rule 10.9230 would set forth proposed Rules 10.9231 through 10.9235, which would establish how Hearing Panels, Extended Hearing Panels, Replacement Hearing Officers, Panelists, and Replacement Panelists are appointed and their composition and criteria for selection.

- Proposed Rule 10.9231 would set forth the role of the Chief Hearing Officer to appoint a Hearing Panel or an Extended Hearing Panel.

- Proposed Rule 10.9232 would set forth the criteria for the selection of Panelists and Replacement Panelists. Because the Exchange would not have a Floor, the Exchange proposes a difference from NYSE American Rule 9232 by not referring to "Floor-based Panelists." The proposed rule would also replace the term "hearing board" with the terms "Business

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102 The proposed rule would adopt NYSE American's maximum $5,000 fine for minor rule violations. The Exchange's current maximum fine for minor rule violations is $2,500. See Rule 8.15(a).

103 The Exchange proposes to add a footnote 1 providing that, in addition to the specified fines, the Exchange may require a violator to remit all fees that it should have paid to the Exchange pursuant to Rule 2.2. The proposed footnote would be identical to footnote 1 in NYSE American Rule 9217(d)(2).

Conduct Committee" or "BCC" to reflect the Exchange's terminology as compared to NYSE American regarding who may be a Panelist.

- Proposed Rules 10.9233 and 10.9234 would establish the processes for recusal and disqualification of Hearing Officers, Hearing Panels, or Extended Hearing Panels.

- Proposed Rule 10.9235 would set forth the Hearing Officer's duties and authority in detail.

Proposed Rule 10.9240 (Pre-hearing Conference and Hearing)

Proposed Rules 10.9241 through 10.9242 would establish the substantive and procedural requirements for pre-hearing conferences and pre-hearing submissions.

Proposed Rule 10.9250 (Discovery)

Proposed Rule 10.9250 would set forth proposed Rules 10.9251 through 10.9253, which would address discovery, including the requirements and limitations relating to the inspection and copy of documents in the possession of Interested Staff, requests for information and limitations on such requests, and the production of witness statements and any harmless error relating to the production of such witness statements.

Proposed Rule 10.9251 would set forth requirements relating to inspection and copying of documents prepared or obtained by Interested Staff in connection with an investigation.

Under proposed Rule 10.9252, a Respondent could request that the Exchange invoke proposed Rule 10.8210 to compel the production of Documents or testimony at the hearing if the Respondent can show that certain standards are met, e.g., that the information sought is relevant, material, and non-cumulative.

Under proposed Rule 10.9253, a Respondent could file a motion to obtain certain witness statements.

Proposed Rule 10.9260 (Hearing and Decision)

Proposed Rule 10.9260 would set forth proposed Rules 10.9261 through 10.9269, which would relate to hearings and decisions.

- Proposed Rule 10.9261 would generally require the Parties to submit a list of documentary evidence and witnesses no later than 10 days before the hearing.

- Proposed Rule 10.9262 would require persons subject to the Exchange's jurisdiction to testify under oath or affirmation at a hearing.

- Proposed Rule 10.9263 would authorize the Hearing Officer to exclude irrelevant, immaterial, or unduly repetitious or prejudicial evidence and permit a Party to object to the admission of evidence; excluded evidence would be part of the record.

- Proposed Rule 10.9264 would allow Parties to file a motion for summary disposition under certain circumstances and would describe the procedures for filing and ruling on such motion.

- Proposed Rule 10.9265 would require that the hearing be recorded by a court reporter, that a transcript be prepared and made available for purchase, and that a Party be permitted to seek a correction of the transcript from the Hearing Officer.

- Proposed Rule 10.9266 would authorize the Hearing Officer to require a post-hearing brief or proposed finding of facts and conclusions of law and would outline the form and timing for such submissions.

- Proposed Rule 10.9267 would detail the required contents of the hearing record and the treatment of any supplemental documents attached to the record.

- Proposed Rule 10.9268 would set forth the timing and the contents of a decision of the Hearing Panel or Extended Hearing Panel and the procedures for a dissenting opinion, service of the decision, and any requests for review.

- Finally, proposed Rule 10.9269 would establish the process for the issuance and review of default decisions by a Hearing Officer when a Respondent fails to timely answer a complaint or fails to appear at a pre-hearing conference or hearing where due notice has been provided. A Party may, for good cause shown, file a motion to set aside a default decision.[104]

Proposed Rule 10.9270 (Settlement Procedure)

Proposed Rule 10.9270 would provide for a settlement procedure for a Respondent who has been notified that a proceeding has been instituted against

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104 Under the proposed rule change, if a respondent admits the charges or they are not in dispute, the parties could utilize the AWC procedure under proposed Rule 10.9216.

him or her. The proposed rule would set forth requirements relating to both contested and uncontested offers of settlement.

Proposed Rule 10.9280 (Contemptuous Conduct)

Proposed Rule 10.9280 would set forth sanctions for contemptuous conduct by a Party or attorney or other representative, which may include exclusion from a hearing or conference, and sets forth a process for reviewing such exclusions.

Proposed Rule 10.9290 (Expedited Disciplinary Proceedings)

Under proposed Rule 10.9290, for any disciplinary proceeding, the subject matter of which also is subject to a temporary cease and desist proceeding initiated pursuant to proposed Rule 10.9810 or a temporary cease and desist order, hearings would be required to be held and decisions rendered at the earliest possible time.

Proposed Rule 10.9291 (Permanent Cease and Desist Orders)

Proposed Rule 10.9291 would set forth the requirements for issuing a permanent cease and desist order under proposed Rules 10.9268, 10.9269, or 10.9270.

Proposed Rule 10.9300 Series (Review of Disciplinary Proceedings by Exchange Board of Directors)

Proposed Rule 10.9300 includes proposed Rule 10.9310, which would set forth the Exchange's Board review process, including the process for a request for review of any determination or penalty and review by the Exchange's Board.[105]

Proposed Rule 10.9500 Series (Other Proceedings)

The proposed Rule 10.9500 Series would set forth all other proceedings under the Exchange Rules

Proposed Rule 10.9520 (Eligibility Proceedings) would set forth proposed Rules 10.9521 through 10.9527, which would govern eligibility proceedings for persons subject to statutory disqualifications that are not FINRA members.

Proposed Rule 10.9521 would add certain definitions relating to eligibility proceedings, including "Application," "disqualified ETP Holder," "disqualified person," and "sponsoring ETP Holder." Proposed Rule 10.9522 would govern the initiation of an eligibility proceeding by the Exchange and the obligation for an

105 The Exchange does not trade options and therefore does not propose to distinguish between appeals panels for equity and options matters as in NYSE American Rule 9310(b).

ETP Holder to file an application to initiate an eligibility proceeding if it has been subject to certain disqualifications. Proposed Rule 10.9523 would allow the Department of Member Regulation to recommend a supervisory plan to which the disqualified ETP Holder, sponsoring ETP Holder, and/or disqualified person, as the case may be, may consent and by doing so, waive the right to hearing or appeal if the plan is accepted and the right to claim bias or prejudgment, or prohibited ex parte communications. If such a supervisory plan were rejected, proposed Rule 10.9524 would allow a request for review by the applicant to the Board. Proposed Rule 10.9527 would provide that a filing of an application for review would not stay the effectiveness of final action by the Exchange unless the Commission otherwise ordered. To maintain consistency with NYSE American's rule numbering, proposed Rules 10.9525 and 10.9526 would be designated "Reserved."

Proposed Rule 10.9550 (Expedited Proceedings)

Proposed Rule 10.9550 would set forth proposed Rule 10.9552 through 10.9560 and would govern expedited proceedings.

- Proposed Rule 10.9551 would be marked "Reserved" because the Exchange has not adopted a rule analogous to NYSE American Rules 2210 - Equities (Communications with the Public).

- Proposed Rule 10.9552 would establish procedures and consequences in the event that an ETP Holder or Associated Person failed to provide any information, report, material, data, or testimony requested or required to be filed under the Exchange's rules, or failed to keep its membership application or supporting documents current.

- Proposed Rule 10.9554[106] would contain similar procedures and consequences as proposed Rule 10.9552 relating to a failure to comply with an arbitration award or related settlement or an Exchange order of restitution or Exchange settlement agreement providing for restitution.

- Proposed Rule 10.9555 would govern the failure to meet the eligibility or qualification standards or prerequisites for access to services offered by the Exchange.

- Proposed Rule 10.9556 would provide procedures and consequences for a failure to comply with temporary and permanent cease and desist orders issued under proposed Rules 10.9200, 10.9300 or 10.9800 Series.

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106 Proposed Rule 10.9553 would be designated "Reserved" to maintain consistency with NYSE American's rule numbering.

- Proposed Rule 10.9557 would allow the Exchange to issue a notice directing an ETP Holder to comply with the net capital provisions of Exchange Act Rule 15c3-1.[107] As noted above, the Exchange is not currently the DEA for any ETP Holders, but proposes this rule should it become a DEA.

- Proposed Rule 10.9558 would allow the Exchange's CRO or such other senior officer as the CRO may designate to provide written authorization to the Exchange staff to issue a written notice for a summary proceeding for an action authorized by Section 6(d)(3) of the Exchange Act.

- Proposed Rule 10.9559 would set forth uniform hearing procedures for all expedited proceedings under the proposed Rule 10.9550 Series.

- Proposed Rule 10.9560 would set forth procedures for issuing suspension orders, immediately prohibiting a member organization or Associated Person from conducting continued disruptive quoting and trading activity on the Exchange in violation of proposed Rule 11.12.11 (discussed below).

Proposed Rule 10.9600 Series (Procedures for Exemptions)

Proposed Rule 10.9600, setting forth proposed Rules 10.9610 through 10.9630, would describe procedures by which an ETP Holder could seek exemptive relief from proposed Rule 10.8211 (Automated Submission of Trading Data).

Under proposed Rule 10.9610, an ETP Holder seeking exemptive relief would be required to file a written application with the appropriate department or staff of the Exchange and provide a copy of the application to the CRO. Under proposed Rule 10.9620, after considering the application, the Exchange staff would be required to issue a written decision setting forth its findings and conclusions. The decision would be served on the Applicant pursuant to proposed Rules 10.9132 and 10.9134. Proposed Rule 10.9630 would set forth the appeal process for a decision issued under proposed Rule 10.9620.

Proposed Rule 10.9700 Series

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107 See 17 CFR 240.15c3-1. The Exchange does not have rules analogous to NYSE American rules 4110 – Equities (Capital Compliance), 4120 – Equities (Regulatory Notification and Business Curtailment), or 4130 – Equities (Regulation of Activities of Section 15C Member Organizations Experiencing Financial and/or Operational Difficulties) referenced in NYSE American's version of proposed Rule 9557.

Rule 10.9700 would be marked "Reserved" to maintain consistency with NYSE American's rule numbering conventions.

Proposed Rule 10.9800 Series (Temporary Cease and Desist Orders)

Proposed Rule 10.9800, setting forth proposed Rule 10.9810 through 10.9870, would describe procedures for issuing temporary cease and desist orders.

- Proposed Rule 10.9810 would set forth the process for initiating a temporary cease and desist proceeding with respect to alleged violations of Section 10(b) of the Act, SEC Rules 10b-5 and 15g-1 through 15g-9, Rule 11.5 (if the alleged violation is unauthorized trading, or misuse or conversion of customer assets, or is based on violations of Section 17(a) of the Securities Act of 1933) or Rule 11.3.1 (Business Conduct of ETP Holders).[108]

- Proposed Rule 10.9820 would govern the appointment of a Hearing Officer and Panelists for a temporary cease and desist proceeding.

- Proposed Rule 10.9830 would set forth the procedures for a hearing relating to a temporary cease and desist proceeding.

- Proposed Rule 10.9840 would set forth the process for the Hearing Panel to issue a written decision stating whether a temporary cease and desist order would be imposed.

- Proposed Rule 10.9850 would set forth the process for a Respondent to apply to the Hearing Panel to have a temporary cease and desist order modified, set aside, limited, or suspended.

- Proposed Rule 10.9860 would authorize the initiation of a suspension or cancellation of a Respondent's association or membership under proposed Rule 10.9556 if the Respondent violated a temporary cease and desist order.

- Finally, proposed Rule 10.9870 would provide that temporary cease and desist orders issued under the proposed Rule 9800 Series would constitute final and immediately effective disciplinary sanctions imposed by the Exchange, and that the right to have any action under this rule series reviewed by the Commission would be governed by Section 19 of the Exchange Act.

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108 The Exchange does not have analogous rules to NYSE American rules 476(a)(5) or Rule 2020 - Equities referenced in NYSE American's version of proposed Rule 10.9810.

Because Rule 10 would set forth all rules relating to discipline, suspension of an ETP Holder, and adverse actions, the Exchange proposes to delete the rules in Chapters VII, VIII and X in their entirety.

Rule 11 – Rules of Fair Practice; Books and Records; Supervision; Extensions of Credit; Trading Practice Rules

The Exchange proposes to maintain current NYSE National rules regarding rules of fair practice, books and records, supervision, extensions of credit, and trading practices. These rules are currently found in Chapters III, IV, V, VI, and XII, respectively, of the Exchange's rulebook. The Exchange proposes to relocate these rules to Rule 11 which under the Framework Filing is titled Business Conduct. To reflect the content of Rule 11, the Exchange proposes to rename Rule 11 as "Rules of Fair Practice; Books and Records; Supervision; Extensions of Credit; Trading Practices." In moving the rules, the Exchange proposes non-substantive differences to change references from "Interpretations and Policies" to "Commentary," to use a different sub-paragraph numbering format, and to capitalize the term "Associated Person."[109]

Because all such rules would be relocated to Rule 11 and to maintain consistency with the current rulebook, the Exchange proposes that the sub-numbering of each such rule would be the same as the existing rule number. For example, current Rule 3.1 would be renumbered as Rule 11.3.1. By maintaining sub-numbering that aligns with existing rule numbers, ETP Holders that reference such rules in policies and procedures would not need to revise such policies and procedures because the rule requirements would map to the same number. Because the purpose of such sub-numbering is to align with existing rule numbers, the Exchange does not propose to designate any rules as "Reserved." Rather, the Exchange proposes to add sub-headings before each section of Rule 11 to describe which rules would be set forth in each set of sub-numbered rules.

The Exchange proposes to renumber the rules in Chapter III as follows and add a subheading before such rules that provides "Rules of Fair Practice":

- Rule 3.1 (Business Conduct of ETP Holders) would be renumbered as Rule 11.3.1 without any changes.

- Rule 3.2 (Violations Prohibited) would be renumbered as Rule 11.3.2 without any substantive changes.

- Rule 3.3 (Use of Fraudulent Devices) would be renumbered as Rule 11.3.3

109 Current Exchange rules use an "(a)(i)(A)(1)" sub-paragraph numbering convention and the Exchange proposes to use an "(a)(1)(A)(i)" sub-paragraph numbering convention.

without any changes.

- Rule 3.4 (False Statements) would be renumbered as Rule 11.3.4 without any changes.

- Rule 3.5 (Advertising Practices) would be renumbered as Rule 11.3.5 without any substantive changes.

- Rule 3.6 (Fair Dealing with Customers) would be renumbered as Rule 11.3.6 without any substantive changes.

- Rule 3.7 (Recommendations to Customers) would be renumbered as Rule 11.3.7. The Exchange proposes one substantive amendment to delete the Interpretation and Policy .01 because it references a rule that would not be included in the Exchange's proposed rulebook.

- Rule 3.8 (The Prompt Receipt and Delivery of Securities) would be renumbered as Rule 11.3.8 without any substantive changes.

- Rule 3.9 (Charges for Services Performed) would be renumbered as Rule 11.3.9 without any changes.

- Rule 3.10 (Use of Information) would be renumbered as Rule 11.3.10 without any changes.

- Rule 3.11 (Publication of Transactions and Quotations) would be renumbered as Rule 11.3.11 without any changes.

- Rule 3.12 (Offers at Stated Prices) would be renumbered as Rule 11.3.12 without any changes.

- Rule 3.13 (Payment Designed to Influence Market Prices, Other than Paid Advertising) would be renumbered as Rule 11.3.13 without any changes.

- Rule 3.14 (Disclosure on Confirmations) would be renumbered as Rule 11.3.14 without any changes.

- Rule 3.15 (Disclosure of Control) – would be renumbered as Rule 11.3.15 without any changes.

- Rule 3.16 (Discretionary Accounts) would be renumbered as Rule 11.3.16 without any substantive changes.

- Rule 3.17 (Customer's Securities or Funds) would be renumbered as Rule 11.3.17 without any changes.

- Rule 3.18 (Prohibition Against Guarantees) would be renumbered as Rule 11.3.18 without any changes.

- Rule 3.19 (Sharing in Accounts; Extent Permissible) would be renumbered as Rule 11.3.19 without any changes.

- Rule 3.20 (Installment or Partial Payment Sales) would be renumbered as Rule 11.3.20 without any substantive changes.

- Rule 3.21 (Telephone Solicitation) would be renumbered as Rule 11.3.21 without any substantive changes.

The Exchange proposes to renumber the rules in Chapter IV as follows and add a subheading before such rules that provides "Books and Records":

- Rule 4.1 (Requirements) would be renumbered as Rule 11.4.1 without any changes.

- Rule 4.2 (Furnishing of Records) would be renumbered as Rule 11.4.2 without any substantive changes.

- Rule 4.3 (Record of Written Complaints) would be renumbered as Rule 11.4.3 without any changes.

- Rule 4.4 (Disclosure of Financial Condition) would be renumbered as Rule 11.4.4 without any changes.

The Exchange proposes to replace current Rule 5.5, as described below, and renumber the rules in Chapter V as follows and add a subheading before such rules that provides "Supervision":

- Rule 5.1 (Written Procedures) would be renumbered as Rule 11.5.1 without any changes.

- Rule 5.2 (Responsibility of ETP Holders) would be renumbered as Rule 11.5.2 without any changes.

- Rule 5.3 (Records) would be renumbered as Rule 11.5.3 without any changes.

- Rule 5.4 (Review of Activities and Annual Inspection) would be renumbered as Rule 11.5.4 without any changes.

- Rule 5.5 (Chinese Wall Procedures) would be replaced with proposed Rule 11.5.5 (Prevention of the Misuse of Material, Nonpublic Information), which is based on NYSE Arca Rule 11.3 and NYSE

American Rule 6.3E. The proposed rule would provide for a principles-based approach to prevent the misuse of material non-public information. Because the Exchange would not trade options, the Exchange proposes that Commentary .01 to proposed Rule 11.5.5 would be based on Commentary .01 to NYSE American Rule 6.3E only. The Exchange's proposed Rule 5.5 would also include a non-substantive difference from the NYSE Arca and NYSE American rules on which it is based by not including rule text based on Commentary .02 to NYSE Arca Rule 11.3 or Commentary .02 to NYSE American Rule 6.3 because the Exchange already has a rule defining the term "associated person." Finally, Commentary .04 to proposed Rule 11.5.5 would have a non-substantive differences compared to NYSE Arca Rule 11.3 and NYSE American Rule 6.3E because it would refer to ETP Holders acting as a registered market maker in UTP Exchange Traded Products, rather than refer to securities listed on the Exchange under Rules 5 and 8.

Proposed Rule 11.5.5 would require every ETP Holder to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material, non-public information by such ETP Holders. For purposes of this requirement, the misuse of material, non-public information would include, without limitation, to the following:

> (a) Trading in any securities issued by a corporation, or in any related securities or related options or other derivatives securities while in possession of material, non-public information concerning that issuer; or
>
> (b) trading in a security or related options or other derivatives securities, while in possession of material, non-public information concerning imminent transactions in the security or related securities; or
>
> (c) disclosing to another person or entity any material, non-public information involving a corporation whose shares are publicly traded or an imminent transaction in an underlying security or related securities for the purpose of facilitating the possible misuse of such material, non-public information.

- Rule 5.6 (Anti-Money Laundering Compliance Program) would be renumbered as Rule 11.5.6 without any substantive changes.

- Rule 5.7 (Annual Certification of Compliance and Supervisory Processes) would be renumbered as Rule 11.5.7 without any substantive changes.

The Exchange proposes renumber the rules in Chapter VI as follows and add a subheading before such rules that provides "Extensions of Credit":

- Rule 6.1 (Extensions of Credit – Prohibitions and Exemptions) would be renumbered as Rule 11.6.1 without any substantive changes.

- Rule 6.2 (Day Trading Margin) would be renumbered as Rule 11.6.2 without any substantive changes. The Exchange proposes to update internal cross references in the rule to Rule 11.6.1(c) instead of Rule 4.2(c), which rule no longer exists.

The Exchange proposes to replace current Rule12.6, as described below, and proposes to renumber the rules in Chapter XII as follows and add a subheading before such rules that provides "Trading Practices":

- Rule 12.1 (Market Manipulation) would be renumbered as Rule 11.12.1 without any changes.

- Rule 12.2 (Fictitious Transactions) would be renumbered as Rule 11.12.2 without any substantive changes.

- Rule 12.3 (Excessive Sales by an ETP Holder) would be renumbered as Rule 11.12.3 without any changes.

- Rule 12.4 (Manipulative Transactions) would be renumbered as Rule 11.12.4 without any changes.

- Rule 12.5 (Dissemination of False Information) would be renumbered as Rule 11.12.5 without any changes.

- Current Rule 12.6 (Customer Priority) would be replaced with proposed Rule 11.12.6 (Prohibition of Trading Ahead of Customer Orders), which is based on NYSE Arca Rule 9.5320, NYSE American 5320- Equities, and NYSE Rule 5320. These rules are based on FINRA Rule 5320. The Exchange believes that replacing current Rule 12.6 with a rule based on the rules of FINRA, NYSE Arca, NYSE American, and NYSE would promote cross-market surveillance and enhance FINRA's ability to conduct surveillance and investigations on behalf of the Exchange under a regulatory services agreement.

- Rule 12.7 (Joint Activity) would be renumbered as Rule 11.12.7 without any changes.

- Rule 12.8 (Influencing the Consolidated Tape) would be renumbered as Rule 11.12.8 without any changes.

- Rule 12.9 (Options) would be renumbered as Rule 11.12.9 without any changes.

- Rule 12.10 (Best Execution) would be renumbered as Rule 11.12.10 without any substantive changes. The Exchange proposes to update the internal reference in the rule from Exchange Act Rule 11Ac1-4, which was the Order Display Rule, to Rule 604 of Regulation NMS, which is the current Order Display Rule.

- The Exchange does not propose to retain current Rules 12.11 or Rule 12.12. Rule 12.11, relating to trading suspensions, would be superseded by proposed Rule 7.13, which would provide authority for the Board or Exchange President to suspend trading in securities traded on the Exchange. Rule 12.12 relating to publication of transactions and changes, would be superseded by proposed Rule 7.40, as described above.

Because the current rules would be renumbered, the Exchange proposes to delete Chapters III, IV, V, VI, and XII of the current rulebook.

Finally, the Exchange proposes new Rule 11.12.11 based on NYSE American Rule 5220 – Equities, NYSE Rule 5220, and NYSE Arca Rule 11.21, which in turn are modeled on Commentary .03 to FINRA Rule 5210, that defines and prohibits two types of disruptive quoting and trading activity on the Exchange. The Exchange proposes to include this rule under Rule 11.12 sub-numbering because it is a trading practices rule.

Proposed Rule 11.12.11(a) would prohibit ETP Holders and Persons Associated with an ETP Holder from engaging in or facilitating disruptive quoting and trading activity on the Exchange, as described in proposed Rule 11.12.11(b)(1) and (2), including acting in concert with other persons to effect such activity. The Exchange believes that it is necessary to extend the prohibition to situations when persons are acting in concert to avoid a potential loophole where disruptive quoting and trading activity is simply split between several brokers or customers. The Exchange also believes that, with respect to persons acting in concert perpetrating an abusive scheme, it is important that the Exchange have authority to act against the parties perpetrating the abusive scheme, whether it is one person or multiple persons.

Proposed Rule 11.12.11(c) would provide that, unless otherwise indicated, the descriptions of disruptive quoting and trading activity do not require the facts to occur in a specific order in order for the Rule to apply. For instance, with respect to the pattern defined in proposed Rule 11.12.11(b)(1)(A)-(D), it is of no consequence whether a party first enters Displayed Orders and then Contra-side Orders or vice-versa. However, as proposed, it is required for supply and demand to change following the entry of the Displayed Orders.

The Exchange believes that the proposed descriptions of disruptive quoting and trading activity articulated in the rule are consistent with the activities that have

been identified and described in the client access cases described in the NYSE American notice and with the rules of other SROs.[110]

Rule 12 – Arbitration

The Exchange proposes new Rule 12 (Arbitration) to replace rules set forth in Chapter IX relating to arbitration. Proposed Rule 12 is based on NYSE Rule 600A and those portions of NYSE Arca Rule 12 that are based on NYSE Rule 600A. Because any arbitrations involving ETP Holders and/or Associated Persons would be arbitrated pursuant to the FINRA Code of Arbitration Procedures and the Exchange would not separately run an arbitration program, the Exchange proposes to simplify its rules on arbitration and eliminate legacy, non-operative rules.

Proposed Rule 12(a) would set forth an ETP Holder's duty to arbitrate under the FINRA Code of Arbitration Procedure (i) any dispute, claim or controversy by or among ETP Holders and/or Associated Persons; and (ii) any dispute, claim or controversy between a customer or non-member and an ETP Holder and/or Associated Person arising in connection with the business of such ETP Holder and/or in connection with the activities of an Associated Person. Proposed Rule 12(b) would also provide that if any matter comes to the attention of an arbitrator during and in connection with the arbitrator's participation in a proceeding, either from the record of the proceeding or from material or communications related to the proceeding, that the arbitrator has reason to believe may constitute a violation of the Exchange's rules or the federal securities laws, the arbitrator may refer the matter to the Exchange for disciplinary investigation. Proposed Rule 12(c) would also provide that any ETP Holder or Associated Person who fails to honor an award of arbitrators appointed in accordance with proposed Rule 12 would be subject to disciplinary proceedings under the Rule 10.8000 or 10.9000 Series, as applicable. Proposed Rule 12(d) would provide that the submission of any matter to arbitration would in no way limit or preclude any right, action or determination by the Exchange that it would otherwise be authorized to adopt, administer or enforce.

Because Rule 12 would set forth the Exchange's rules relating to arbitration, the Exchange proposes to delete the rules in Chapter IX in their entirety.

Rule 13 - Liability of Directors and Exchange

Proposed Rule 13 titled "Liability of Directors and Exchange" would establish requirements governing liability of directors and of the Exchange, including the

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110 See, e.g., BZX Rule 12.15; NASDAQ Rule 2170. See also Securities Exchange Release No. 80804 (May 30, 2017), 82 FR 25887, 25888-25890 (June 5, 2017) (SR-NYSEMKT-2017-25) (Notice of filing discussing matters involving Biremis Corp. and Hold Brothers On-Line Investment Services, Inc.).

limits on liability for specified circumstances.[111] The rules set forth in proposed Rule 13 are based on the rules set forth in NYSE Arca Rule 14, with non-substantive differences not to reference "OTP Holders" or "OTP Firms," and NYSE American Rule 13E.

Proposed Rule 13.1 (Liability of Directors) is based on NYSE Arca Rule 14.1 without any substantive differences. Proposed Rule 13.2 (Liability of the Exchange) is based on NYSE Arca Rule 14.2 without any substantive differences.

Proposed Rule 13.3 (Legal Proceedings Against Directors, Officers, Employees, or Agents) would establish requirements relating to legal proceedings against directors, officers, employees, agents, or other officials of the Exchange. The proposed rule is based on NYSE Arca Rule 14.3 and NYSE American Rule 13.3E without any substantive differences.

Proposed Rule 13.4 (Exchange's Costs of Defending Legal Proceedings) would establish the circumstances regarding who is responsible for the Exchange's costs in defending a legal proceeding brought against the Exchange. The proposed rule is based on NYSE Arca Rule 14.4 and NYSE American Rule 13.4E without any substantive differences.

4. Section 11(a) of the Act

Section 11(a)(l) of the Act[112] ("Section 11(a)(1)") prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion (collectively, "covered accounts") unless an exception to the prohibition applies. Rule 11a2-2(T) under the Act ("Rule 11a2-2(T)"),[113] known as the "effect versus execute" rule, provides exchange members with an exemption from the Section 11(a)(l) prohibition. Rule 11a2-2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute the transactions on the exchange. To comply with Rule 11a2-2(T)'s conditions, a member: (i) must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution (although the member may participate in

111 The Exchange proposes to delete the current heading of Rule 13 ("Cancellation, Suspension, and Reinstatement") established by the Framework Filing as well as "Rule 14." The current heading for Rule 14 ("Liability of Directors and Exchange") would thus become the heading for proposed Rule 13 and the Exchange would not have a Rule 14 in its rulebook.

112 15 U.S.C. 78k(a)(1).

113 17 CFR 240.11a2-2(T).

clearing and settling the transaction); (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member or its associated person has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule.

With the proposed re-launch of the Exchange as a fully automated electronic trading model that does not have a trading floor, the Exchange believes that the policy concerns Congress sought to address in Section 11(a)(1) – i.e., the time and place advantage that members on exchange trading floors have over non-members off the floor and the general public – would not be present. Specifically, on the Pillar trading system, buy and sell interest will be matching in a continuous, automated fashion. Liquidity will be derived from quotes as well as orders to buy and orders to sell submitted to the Exchange electronically by ETP Holders from remote locations. The Exchange further believes that ETP Holders entering orders into the Exchange will satisfy the requirements of Rule 11a2-2(T) under the Act, which provides an exception to Section 11(a)'s general prohibition on proprietary trading.

The four conditions imposed by the "effect versus execute" rule are designed to put members and non-members of an exchange on the same footing, to the extent practicable, in light of the purpose of Section 11(a). For the reasons set forth below, the Exchange believes the structure and characteristics of its proposed Pillar trading system do not result in disparate treatment of members and non-members and places them on the "same footing" as intended by Rule 11a2-2(T).

1. **Off-Floor Transmission**. Rule 11a2-2(T) requires orders for a covered account transaction to be transmitted from off the exchange floor. The Commission has considered this and other requirements of the rule in the context of automated trading and electronic order handling facilities operated by various national securities exchanges in a 1979 Release[114] as well as more applications of Rule 11a2-2(T) in connection with the approval of the registrations of national securities exchanges.[115] In the context

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114 See Securities Exchange Act Release No. 15533 (January 29, 1979) (regarding the Amex Post Execution Reporting System, the Amex Switching System, the lntermarket Trading System, the Multiple Dealer Trading Facility of the Cincinnati Stock Exchange, the PCX's Communications and Execution System ("COM EX"), and the Phlx's Automated Communications and Execution System ("PACE")) ("1979 Release").

115 Securities Exchange Act Release Nos. 53128 (January 13, 2006) 71 FR 3550 (January 23, 2006) (File No. 10-13 1) (order approving Nasdaq Exchange registration); 58375 (August 18, 2008) 73 FR 49498 (August 21, 2008) (order approving BATS Exchange registration); 61152 (December 10, 2009) 74 FR 66699 (December 16, 2009) (order approving C2 exchange registration); and

of these automated trading systems, the Commission has found that the off-floor transmission requirement is met if an order for a covered account is transmitted from a remote location directly to an exchange's floor by electronic means.[116] Because the Exchange would not have a physical trading floor when it re-launches trading, and like other all electronic exchanges, the Exchange's Pillar trading system would receive orders from ETP Holders electronically through remote terminals or computer-to-computer interfaces, the Exchange therefore believes that its trading system satisfies the off-floor transmission requirement.

2. **Non-Participation in Order Execution**. The "effect versus execute" rule further provides that neither the exchange member nor an associated person of such member participate in the execution of its order. This requirement was originally intended to prevent members from using their own brokers on an exchange floor to influence or guide the execution of their orders.[117] The rule, however, does not preclude members from cancelling or modifying orders, or from modifying instructions for executing orders, after they have been transmitted, provided such cancellations or modifications are transmitted from off an exchange floor.[118] In the 1979 Release discussing both the Pacific Stock Exchange's COM EX system and the Philadelphia Stock Exchange's PACE system, the Commission noted that a member relinquishes any ability to influence or guide the execution of its order at the time the order is transmitted into the systems, and although the execution is automatic, the design of such systems ensures that members do not possess any special or unique trading advantages in handling orders after transmission to the systems.[119]

78101 (June 17, 2016), 81 FR 41142, 41164 (June 23, 2016) (order approving Investors Exchange LLC registration).

116 See, e.g., Securities Exchange Act Release Nos. 49068 (January 13, 2004), 69 FR 2775 (January 20, 2004) (order approving the Boston Options Exchange as an options trading facility of the Boston Stock Exchange); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (order approving Archipelago Exchange ("ArcaEx") as electronic trading facility of the Pacific Exchange ("PCX")("Arca Ex Order")); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (regarding NYSE's Off-Hours Trading Facility); 15533 (January 29, 1979); and 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978) (regarding the NYSE's Designated Order Turnaround System ("1978 Release")).

117 Id. 1978 Release, supra note 116.

118 Id.

119 1979 Release, supra note 114.

The Exchange's Pillar trading system would at no time following the submission of an order allow an ETP Holder or an associated person of such member to acquire control or influence over the result or timing of an order's execution. The execution of an ETP Holder's order would be determined solely by what quotes and orders are present in the system at the time the member submits the order and the order priority based on Exchange rules. Therefore, the Exchange believes the non-participation requirement would be met through the submission and execution of orders in the Exchange's Pillar trading system.

3. **Execution Through an Unaffiliated Member**. Although Rule 11a2-2(T) contemplates having an order executed by an exchange member, unaffiliated with the member initiating the order, the Commission has recognized the requirement is satisfied where automated exchange facilities are used as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange. In the 1979 Release, the Commission noted that while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the systems. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2-2(T). Because the design of the Exchange's Pillar trading system ensures that no ETP Holder has any special or unique trading advantages over nonmembers in the handling of its orders after transmitting its orders to the Exchange, the Exchange believes that its Pillar trading system would satisfy this requirement.

4. **Non-Retention of Compensation for Discretionary Accounts**. Finally, Rule 11a2-2(T) states, in the case of a transaction effected for the account for which the initiating member or its associated person exercises investment discretion, in general, the member or its associated person may not retain compensation for effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to both Section 11(a) of the Exchange Act and Rule 11a2-2(T). The Exchange will advise its membership through the issuance of a Regulatory Bulletin that those ETP Holders trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the exemption in Rule 11a2-2(T) from the prohibition in Section 11(a)

of the Exchange Act.

In conclusion, the Exchange believes that its Pillar trading system would satisfy the four requirements of Rule 11a2-2(T) as well as the general policy objectives of Section 11(a). The Exchange's proposed Pillar trading system would place all users, members and non-members, on the "same footing" with respect to transactions on the Exchange for covered accounts as intended by Rule 11a2-2(T). As such, no Exchange ETP Holder would be able to engage in proprietary trading in a manner inconsistent with Section 11(a).

(b) Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),[120] in general, and furthers the objectives of Section 6(b)(5),[121] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

Generally, the Exchange believes that the proposed rules would support the re-launch of the Exchange as a fully automated cash equities trading market with a price-time priority model that is based on the rules of its affiliated exchanges, NYSE Arca and NYSE American. The Exchange is not proposing any new or novel rules. The proposed rule changes relating to trading would therefore remove impediments to and perfect the mechanism of a free and open market and a national market system because they are based on the approved rules of other exchanges.

In addition, the Exchange proposes to renumber its current rules relating to its ETP Holders, including the membership process described in Chapter II of the current rulebook, rules set forth in Chapters III, IV, V, VI, and XII of the current rulebook, and the CAT NMS Plan Compliance Rules, currently set forth in Chapter XIV of the rulebook. The Exchange believes that retaining such rules would remove impediments to and perfect the mechanism of a free and open market and a national market system because ETP Holders would not be required to change their internal procedures to be reinstated as ETP Holders of the Exchange, thus supporting the efficient re-launch of the Exchange. The Exchange further believes that renumbering such rules would remove impediments to and perfect the mechanism of a national market system because using the rule numbering framework that is based on the rules of NYSE Arca and NYSE

120 15 U.S.C. 78f(b).

121 15 U.S.C. 78f(b)(5).

American would promote transparency in Exchange rules by using consistent rule numbers with the rules of its affiliated exchanges that are also operating on the Pillar trading platform. The Exchange further believes that for proposed Rule 11, retaining sub-numbering for rules that are in the current rulebook would remove impediments to and perfect the mechanism of a free and open market for ETP Holders that have internal procedures that reference current Exchange rules; the proposed rule numbering would minimize the changes required by an ETP Holder to such policies and procedures.

Proposed Changes to the Bylaws

The Exchange believes that amending the Bylaws to change the name of the Appeals Committee to the Committee for Review would remove impediments to and perfect the mechanism of a free and open market by aligning the name used for the Exchange's committee that presides over appeals with the name used by the Exchange's national securities exchanges for their committees that play a similar role, ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Bylaws and, specifically, the role of the Committee for Review.

In addition, the Exchange believes that the proposed changes to the Bylaws to change the name of the Appeals Committee to the Committee for Review would contribute to the orderly operation of the Exchange by aligning the name used for the Exchange's committee that presides over appeals with the name used by the Exchange's national securities exchanges for their committees that play a similar role, and therefore would be consistent with Section 6(b)(1) of the Act.[122] The change to the Bylaws would be non-substantive, as the makeup and function of the Appeals Committee would not change.

Proposed Rules Based on the Rules of the Exchange's Affiliates

Regulation of the Exchange (Rule 0) and Definitions (Rule 1)

The Exchange believes that proposed Rule 0 would remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest because it would specify the role of FINRA, pursuant to a Regulatory Services Agreement, to perform certain regulatory functions of the Exchange on behalf of the Exchange.

The Exchange further believes that proposed Rule 1 would remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest because the proposed definitions are terms that would be used in the additional rules proposed by the Exchange. Proposed Rule 1 would therefore promote transparency in

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122 15 U.S.C. 78f(b)(1).

Exchange rules by providing for definitional terms that would be used throughout the rulebook.

Administration of the Exchange (Rule 3)

The Exchange believes that proposed Rule 3 would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would establish rules relating to the organization and administration of the Exchange that are based on the approved rules of NYSE Arca, including rules relating to liability for non-payment of assessments, dues, or other charges (proposed Rule 3.8), Exchange relationships with ETP Holders (proposed Rule 3.9), requirements to notify the Exchange of expulsion or suspension (proposed Rule 3.10), and requirements for fingerprint-based background checks of Exchange employees (proposed Rule 3.11).

Trading Securities on an Unlisted Trading Privileges Basis (Rules 5 and 8)

The Exchange believes that proposed Rules 5 and 8 would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest by providing for the trading of securities, including UTP Exchange Traded Products, on the Exchange pursuant to UTP, subject to consistent and reasonable standards. Accordingly, the proposed rule change would contribute to the protection of investors and the public interest because it may provide a better trading environment for investors and, generally, encourage greater competition between markets.

The proposal is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system by adopting rules that will lead ultimately to the trading pursuant to UTP of the proposed products on the Exchange, just as they are currently traded on other exchanges. The proposed changes do nothing more than match Exchange rules with what is currently available on other exchanges, and more specifically, NYSE American Rules 5E and 8E, NYSE Rules 5P and 8P, and NYSE Arca Rules 5 and 8. The Exchange believes that by conforming its rules and allowing trading opportunities on the Exchange that are already allowed by rule on another market, the proposal would offer another venue for trading Exchange Traded Products and thereby promote broader competition among exchanges. The Exchange believes that individuals and entities permitted to make markets on the Exchange in the proposed new products should enhance competition within the mechanism of a free and open market and a national market system, and customers and other investors in the national market system should benefit from more depth and liquidity in the market for the proposed new products.

The proposed change is not designed to address any competitive issue, but rather to adopt new rules that are word-for-word identical to the rules of NYSE

American, NYSE, and NYSE Arca (other than with respect to certain non-substantive and technical amendments described above), to support the Exchange's new Pillar trading platform. The Exchange believes that the proposed rule change would promote consistent use of terminology to support the Pillar trading platform on both the Exchange and its affiliates, NYSE American, NYSE, and NYSE Arca, thus making the Exchange's rules easier to navigate.

The Exchange believes the proposed rule change also supports the principals of Section 11A(a)(1)[123] of the Act in that it seeks to ensure the economically efficient execution of securities transactions and fair competition among brokers and dealers and among exchange markets. The proposed rule change also supports the principles of Section 12(f) of the Act, which govern the trading of securities pursuant to a grant of unlisted trading privileges consistent with the maintenance of fair and orderly markets, the protection of investors and the public interest, and the impact of extending the existing markets for such securities.

The Exchange believes that the proposed rule change is consistent with these principles. By providing for the trading of securities on the Exchange on a UTP basis, the Exchange believes its proposal will lead to the addition of liquidity to the broader market for these securities and to increased competition among the existing group of liquidity providers. The Exchange also believes that, by so doing, the proposed rule change would encourage the additional utilization of, and interaction with, the exchange market, and provide market participants with improved price discovery, increased liquidity, more competitive quotes and greater price improvement for securities traded pursuant to UTP.

The Exchange further believes that enhancing liquidity by trading securities on a UTP basis would help raise investors' confidence in the fairness of the market, generally, and their transactions in particular. As such, the general UTP trading rule would foster cooperation and coordination with persons engaged in facilitating securities transactions, enhance the mechanism of a free and open market, and promote fair and orderly markets in securities on the Exchange.

Order Audit Trail Rules (Proposed Rule 6)

The Exchange believes that moving the CAT NMS Plan Compliance Rules, currently set forth in Chapter XIV, to proposed Rule 6.6800 would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would consolidate all of the Exchange's order audit trail requirements in a single Rule, without any substantive differences to the Compliance Rules, and because it would follow the same rule-numbering convention as its affiliated exchanges and FINRA.

The Exchange believes that proposed Rule 6.6900 relating to Consolidated Audit

123 15 U.S.C 78k-1(a)(1).

Trail – Fee Dispute Resolution would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would harmonize the Exchange's rules with the approved rules of other exchanges relating to fee dispute resolution under the CAT NMS Plan.[124] The proposed CAT Fee Dispute Resolution Rule would therefore implement, interpret or clarify Section 11.5 of the CAT NMS Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan.

Finally, the Exchange believes that the proposed Rule 6.7400 Series, relating to Order Audit Trail System, would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule series is based on the approved rules of NYSE Arca, which are based on FINRA's OATS rules. The Exchange further believes that the proposed OATS rules would promote just and equitable principles of trade as such rules would further promote cross-market surveillance and enhance FINRA's ability to conduct surveillance and investigations for the Exchange under a Regulatory Services Agreement. The Exchange does not believe that adding the OATS rules to the Exchange would impose a burden on Exchange ETP Holders because with the exception of one Exchange ETP Holder, all former Exchange ETP Holders were members of either FINRA, NYSE Arca, or Nasdaq, and thus are already subject to OATS requirements under the rules of those SROs. The one ETP Holder that is not currently a member of FINRA, one of the Exchange's affiliates, or Nasdaq would not be subject to ongoing reporting requirements under the proposed OATS rules, and therefore it would not be onerous for such ETP Holder to comply if OATS information were requested in the course of a regulatory inquiry.

Equities Trading Rules (proposed Rule 7)

The Exchange believes that proposed Rule 7 would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would establish rules relating to trading on the Exchange, including post-trade requirements, that would support the re-launch of Exchange trading as a fully automated trading market with a price-time priority trading model. The proposed rules are based on the rules of NYSE Arca and NYSE American, as applicable, and include rules governing orders and modifiers, ranking and display, execution and routing, trading sessions, and market makers. The Exchange believes that because it would not be a listing venue, it would be consistent with the protection of investors and the public interest not to include rules relating to auctions or lead or designated market makers. Other than substantive differences to the proposed rules relating to the difference that the Exchange would not operate auctions, the Exchange is not proposing any novel rules in proposed Rule 7.

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[124] See Fee Dispute Approval Order, supra note 87.

Disciplinary Rules (proposed Rule 10)

The Exchange believes that the proposed Rule 10 Series would provide greater harmonization among SROs resulting in less burdensome and more efficient regulatory compliance for common members of the Exchange, the Exchange's affiliates, and FINRA. As previously noted, the proposed rule text is substantially the same as NYSE American's rule text. The proposed rule change would enhance the Exchange's ability to have a direct and meaningful impact on the end-to-end quality of its regulatory program once the Exchange relaunches, from detection and investigation of potential violations through the efficient initiation and completion of disciplinary measures where appropriate. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange further believes that the proposed processes for settling disciplinary matters both before and after the issuance of a complaint are fair and reasonable and provides adequate procedural protections to all parties in addition to promoting efficiency.

The Exchange believes that adopting its affiliates' appellate procedures, which provide for one level of review rather than two levels of review, would be fair and efficient and create consistency with its affiliates' practices. The proposed rule change would offer the members of Board, other than the CEO, the opportunity to call a case for review. This will provide the Board with authority to exercise appropriate oversight over disciplinary action taken by the Exchange and FINRA on the Exchange's behalf.

The Exchange notes that adopting the list of minor rule violations and associated fine levels based on the rules of its affiliate would promote fairness and consistency in the marketplace by harmonizing minor rule plan fines across affiliated exchanges for the same conduct. The Exchange further believes that adoption of its affiliates' minor rule violations is consistent with Section 6(b)(6) of the Act,[125] which provides that members and persons associated with members shall be appropriately disciplined for violation of the provisions of the rules of the exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction.

Arbitration (proposed Rule 12)

The Exchange believes that proposed Rule 12 relating to arbitration would

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125 15 U.S.C. 78f(b)(6).

remove impediments to and perfect the mechanism of a free and open market and a national market system because it would update the Exchange's rules governing arbitration to reflect that any such arbitrations would be processed by FINRA pursuant to the FINRA Code of Arbitration Procedures. The proposed rule is not novel as it is based on NYSE Rule 600A and NYSE Arca Rule 12. In addition, the proposed rule change would delete obsolete arbitration procedures that are not supported by the Exchange. The Exchange believes the proposed rule change fosters uniformity and consistency in arbitration proceedings and, as a result, would enhance the administration and operation of the arbitration process, thereby protecting investors and the public interest. The proposed rule change would therefore promote consistency among the Exchange and its affiliates and make its rules easier to navigate for the public, the Commission, and members.

Liability of Directors and Exchange (proposed Rule 13)

The Exchange believes that proposed Rule 13 would remove impediments to and perfect the mechanism of a free and open market and a national market system by harmonizing the Exchange's rules governing liability of directors, liability of exchange, legal proceedings against Exchange directors, officers, employees, or agents, and Exchange's costs of defending legal proceedings with the approved rules of its affiliated exchanges NYSE Arca and NYSE American. The Exchange believes that the proposed rules would further promote just and equitable principles of trade by providing for consistent methodology relating to liability for trading on affiliated exchanges that would be using the same trading platform. The proposed rule change would therefore promote consistency among the Exchange and its affiliates and make its rules easier to navigate for the public, the Commission, and ETP Holders.

Proposed Renumbering of Rules in Chapters II, III, IV, V, VI, and XII

The Exchange believes that renumbering rules currently set forth in Chapters II to Rule 2 and rules currently set forth in Chapters III, IV, V, VI, and XII to Rule 11 would remove impediments to and perfect the mechanism of a free and open market because the proposed rule set would maintain existing rules relating to ETP Holders. The Exchange believes that relocating existing rules set forth in Chapters II, III, IV, V, VI, and XII to proposed Rules 2 and 11 would remove impediments to and perfect the mechanism of a free and open market and a national market system because using the rule numbering framework that is based on the rules of NYSE Arca would promote transparency in Exchange rules by using consistent rule numbers with the equities market of NYSE Arca, which is the first market that migrated to the Pillar trading platform. In addition, the Exchange believes that the proposed sub-numbers for rules set forth in Rule 11, which are identical to the current rule numbers for such rules, would remove impediments to and perfect the mechanism of a free and open market and a national market system by providing current ETP Holders, who are familiar with the current rulebook, with rule numbers that are consistent with the current

rulebook for rules that are not changing.

The Exchange further believes that updating Exchange rules as follows would remove impediments to and perfect the mechanism of a free and open market and a national market system by harmonizing the Exchange's rules with those of other SROs:

- The Exchange believes that the proposed amendment to Rule 2.5 to update proposed Commentary .01 to add the date February 1, 2017 would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would facilitate the efficient reinstatement of Exchange ETP Holders that are in good standing pursuant to the Exchange's existing rules, which would support the re-launch of trading on the Exchange.

- The Exchange believes that proposed Rule 2.13 (Exchange Backup Systems and Mandatory Testing) would remove impediments to and perfect the mechanism of a free and open market because it would maintain consistency across all exchanges operated by NYSE Group regarding mandatory participation in the testing of backup systems. The proposed rule is based on NYSE Arca Rule 2.27 and is not novel.

- The Exchange believes that proposed Rule 2.18 (Activity Assessment Fee) furthers the objectives of Section 6(b)(4) of the Act,[126] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers. Specifically, proposed Rule 2.18 does not establish a new fee. Rather, the proposed rule is based on existing provisions of current 16.1 relating to "Regulatory Transaction Fees" without any substantive differences. The Exchange proposes to move the rule text to Rule 2.18 to use rule numbering for Pillar that is consistent with the Framework Filing, with non-substantive differences to use Pillar terminology, and not move obsolete rule text

- The Exchange believes that proposed Rule 11.5.5 (Prevention of the Misuse of Material, Nonpublic Information), which is based on NYSE Arca Rule 11.3 and NYSE American Rule 6.3E and would replace current Rule 5.5, would remove impediments to and perfect the mechanism of a free and open market and a national market system by providing for a principles-based approach to prevent the misuse of material non-public information. The proposed rule change would therefore harmonize the Exchange's rules with those of its affiliated exchanges.

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126 15 U.S.C. 78f(b)(4).

- The Exchange believes that proposed Rule 11.12.6 (Prohibition of Trading Ahead of Customer Orders), which is based on NYSE Arca Rule 9.5320, NYSE American 5320- Equities, and NYSE Rule 5320, and would replace current Rule 12.6 would remove impediments to and perfect the mechanism of a free and open market and a national market system and is designed to prevent fraudulent and manipulative acts and practices because it would promote cross-market surveillance and enhance FINRA's ability to conduct surveillance and investigations on behalf of the Exchange under a regulatory services agreement.

- The Exchange believes that proposed Rule 11.12.11 (Disruptive Quoting and Trading Activity Prohibited), which is modeled on NYSE American Rule 5220 – Equities, NYSE Rule 5220, and NYSE Arca Rule 11.21, which in turn are modeled on Commentary .03 to FINRA Rule 5210, would remove impediments to and perfect the mechanism of a free and open market and a national market system by harmonizing the Exchange's rules with those of other SROs, including its affiliated exchanges. In addition, the Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest by providing the Exchange with authority to prohibit specified disruptive quoting and trading activity on the Exchange. More specifically, the Exchange believes that the proposed rule is consistent with the public interest and the protection of investors and otherwise furthers the purposes of the Act because the proposal strengthens the Exchange's ability to carry out its oversight and enforcement responsibilities as an SRO in cases where awaiting the conclusion of a full disciplinary proceeding is unsuitable in view of the potential harm to other member organization and their customers. The Exchange notes that if this type of conduct is allowed to continue on the Exchange, the Exchange's reputation could be harmed because it may appear to the public that the Exchange is not acting to address the behavior. The proposed expedited process would enable the Exchange to address the behavior with greater speed. For the same reasons, the Exchange believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,[127] which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of the Commission and Exchange rules.

Section 11(a) of the Act

For reasons described above, the Exchange believes that the proposal for the Exchange to operate on a fully automated trading market without a Floor is

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127 15 U.S.C. 78f(b)(5).

consistent with Section 11(a) of the Act and Rule 11a2-2(T) thereunder.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather to provide for rules to support the re-launch of trading on the Exchange on the Pillar trading platform and to renumber current rules relating to ETP Holders consistent with the Framework Filing, but also maintaining current rule numbers as part of a sub-numbering scheme for rules that are not changing. The Exchange operates in a highly competitive environment in which its unaffiliated exchanges competitors operate multiple affiliated exchanges that operate under common rules. By proposing rules based on the rules of its affiliated exchanges, the Exchange believes that it will be able to compete on a more level playing field with its exchange competitors that similarly trade NMS Stocks on fully automated trading models. In addition, by basing its rules on those of its affiliated exchanges, the Exchange will provide its ETP Holders with consistency across affiliated exchanges, thereby enabling the Exchange to compete with unaffiliated exchange competitors that similarly operate multiple exchanges on the same trading platforms.

In addition, the Exchange does not believe that the proposed rule change will impose any burden on competition on its ETP Holders that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange proposes to retain rules governing ETP Holder conduct and therefore such ETP Holders would not need to update internal procedures in connection with the re-launch of the Exchange. To the extent the Exchange has proposed non-trading rules based on those of its affiliates, e.g., OATS rules, disciplinary rules, and certain conduct rules, the Exchange believes that because all but one of its former ETP Holders are already members of FINRA, an affiliated exchange, or Nasdaq, Exchange ETP Holders are already familiar with such rules in connection with their membership on those SROs. Moreover, these proposed rules would provide for greater harmonization among SROs of the rules for investigations and disciplinary matters, resulting in less burdensome and more efficient regulatory compliance for common members and facilitating the Exchange's performance of its regulatory functions. The Exchange further believes that the proposed rule change would promote consistency and transparency on both the Exchange and its affiliated exchanges, thus making the Exchange's rules easier to navigate.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

6. Extension of Time Period for Commission Action

The Exchange does not consent at this time to an extension of any time period for Commission action.

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

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The following rules are based on the rules of another SRO (with certain substantive and non-substantive differences as described in more detail above):

- Proposed Rule 1 is based in part on NYSE Arca Rule 1.1 and NYSE American Rule 1.1E.
- Proposed Rule 2.13 is based on NYSE Arca Rule 2.13.
- Proposed Rule 2.18 is based on NYSE Arca Rule 2.18 and NYSE American Rule 2.17E.
- Proposed Rules 3.8, 3.9, 3.10, and 3.11 are based on NYSE Arca Rules 3.8, 3.9, 3.10, and 3.11.
- Proposed Rules 5 and 8 are based on NYSE American Rules 5E and 8E and NYSE Rules 5P and 8P, which are modeled on NYSE Arca Rules 5-E and 8-E.
- Proposed Rule 6.6900 is based on NYSE Arca Rule 11.6900.[128]
- Proposed Rule 6.7400 Series is based on the NYSE Arca Rule 6.7400-E Series, which are modeled on the FINRA Rule 7400 Series.
- Proposed Rule 7 is based on NYSE Arca Rule 7-E and NYSE American Rule 7E.
- Proposed Rule 10 Series is based on the NYSE American Rule 8000 and 9000 Series, which are modeled on the FINRA Rule 8000 and 9000 Series.
- Proposed Rule 11.5.5 is based on NYSE Arca Rule 11.3 and NYSE American Rule 6.3E.
- Proposed Rule 11.12.6 is based on NYSE Arca Rule 9.5320, NYSE American 5320- Equities, and NYSE Rule 5320, which are modeled on FINRA Rule 5320.
- Proposed Rule 11.12.11 is based on NYSE American Rule 5220 – Equities, NYSE Rule 5220, NYSE Arca Rule 11.21, Commentary .03 to FINRA Rule 5210, BZX Rule 12.15, and NASDAQ Rule 2170.
- Proposed Rule 12 is based on NYSE Rule 600A and NYSE Arca Rule 12.

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128 See also Fee Dispute Approval Order, supra note 87.

- Proposed Rule 13 is based on NYSE Arca Rule 14.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Federal Register

Exhibit 5A – Text of Proposed Rule Changes to be Added

Exhibit 5B – Text of Current Rules to be Deleted

Exhibit 5C – Text of ByLaws to be amended

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NYSENAT-2018-02)

[Date]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing of Proposed Rule Change to Support the Re-launch of the Exchange on the Pillar trading Platform

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b-4 thereunder,[3] notice is hereby given that, on February 21, 2018, NYSE National, Inc. (the "Exchange" or "NYSE National") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes the following rules and rule changes to support the re-launch of the Exchange on the Pillar trading platform: (1) amendments to Article V, Sections 5.01 and 5.8 of the Fourth Amended and Restated Bylaws of NYSE National ("Bylaws"); (2) new rules based on the rules of the Exchange's affiliates relating to (a) trading securities on an unlisted trading privileges basis (Rules 5 and 8), (b) trading on the Pillar trading platform (Rules 1 and 7), (c) disciplinary rules (Rule 10), and (d) administration of the Exchange (Rules 3, 12, and 13); (3) rule changes that renumber

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1 15 U.S.C.78s(b)(1).

2 15 U.S.C. 78a.

3 17 CFR 240.19b-4.

current Exchange rules relating to (a) membership (Rule 2), (b) order audit trail requirements (Rule 6), and (c) business conduct, books and records, supervision, extensions of credit, and trading practices (Rule 11); and (4) deletion of Chapters I – XVI and the rules contained therein. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

1. Background

On February 1, 2017, the Exchange ceased trading operations.[4] The Exchange proposes to re-launch trading operations on Pillar, which is an integrated trading

[4] See Securities Exchange Act Release No. 80018 (February 10, 2017), 82 FR 10947 (February 16, 2017) (SR-NSX-2017-04) ("Termination Filing"). On January 31, 2017, Intercontinental Exchange, Inc. ("ICE"), through its wholly-owned subsidiary NYSE Group, acquired all of the outstanding capital stock of the Exchange (the "Acquisition"). See Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017) (SR-NSX-2016-16). Prior to the Acquisition, the Exchange was named "National Stock Exchange, Inc."

technology platform designed to use a single specification for connecting to the equities and options markets operated by the Exchange and its affiliates, NYSE Arca, Inc. ("NYSE Arca"), NYSE American LLC ("NYSE American"), and New York Stock Exchange LLC ("NYSE").[5] Subject to rule approvals, the Exchange anticipates re-launching trading operations on Pillar in the second quarter of 2018.

In the Spring of 2016, NYSE Arca's cash equities market was the first trading system to migrate to Pillar.[6] NYSE American's cash equities market transitioned to Pillar on July 24, 2017.[7] NYSE has filed proposed rule changes to launch trading on Pillar.[8] In

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5 See www.nyse.com/pillar.

6 In connection with the NYSE Arca implementation of Pillar, NYSE Arca filed four rule proposals relating to Pillar. See Securities Exchange Act Release Nos. 74951 (May 13, 2015), 80 FR 28721 (May 19, 2015) (Notice) and 75494 (July 20, 2015), 80 FR 44170 (July 24, 2015) (SR-NYSEArca-2015-38) (Approval Order of NYSE Arca Pillar I Filing, adopting rules for Trading Sessions, Order Ranking and Display, and Order Execution); Securities Exchange Act Release Nos. 75497 (July 21, 2015), 80 FR 45022 (July 28, 2015) (Notice) and 76267 (October 26, 2015), 80 FR 66951 (October 30, 2015) (SR-NYSEArca-2015-56) (Approval Order of NYSE Arca Pillar II Filing, adopting rules for Orders and Modifiers and the Retail Liquidity Program); Securities Exchange Act Release Nos. 75467 (July 16, 2015), 80 FR 43515 (July 22, 2015) (Notice) and 76198 (October 20, 2015), 80 FR 65274 (October 26, 2015) (SR-NYSEArca-2015-58) (Approval Order of NYSE Arca Pillar III Filing, adopting rules for Trading Halts, Short Sales, Limit Up-Limit Down, and Odd Lots and Mixed Lots); and Securities Exchange Act Release Nos. 76085 (October 6, 2015), 80 FR 61513 (October 13, 2015) (Notice) and 76869 (January 11, 2016), 81 FR 2276 (January 15, 2016) (Approval Order of NYSE Arca Pillar IV Filing, adopting rules for Auctions). NYSE Arca Equities, Inc., which was a wholly-owned subsidiary of NYSE Arca, has been merged with and into NYSE Arca and as a result, former NYSE Arca Equities rules are now the rules of NYSE Arca. NYSE Arca rules that only apply to its cash equities market have a suffix of "-E" in the rule number. See Securities Exchange Act Release No. 81419 (August 17, 2017), 82 FR 40044 (August 23, 2017) (SR-NYSEArca-2017-40) (Approval Order).

7 In connection with the NYSE American implementation of Pillar, NYSE American filed several rule changes. See Securities Exchange Act Release Nos. 79242 (November 4, 2016), 81 FR 79081 (November 10, 2016) (SR-NYSEMKT-2016-97) (Notice and Filing of Immediate Effectiveness of Proposed Rule Change

each case, NYSE Arca, NYSE American, and NYSE have proposed trading rules that are substantially similar and that are based on the rule numbering framework of NYSE Arca. As described in the rule filings for NYSE American and NYSE, those exchanges proposed specified differences to certain trading rules as compared to NYSE Arca to differentiate their respective trading models. For example, NYSE American has a delay mechanism and does not offer specified order types[9] and NYSE has proposed a parity allocation model.[10]

With Pillar, the Exchange proposes to re-launch trading in all Tape A, Tape B, and Tape C securities on an unlisted trading privileges ("UTP") basis on a fully automated price-time priority allocation model. As proposed, the Exchange's trading

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of framework rules); 81038 (June 28, 2017), 82 FR 31118 (July 5, 2017) (SR-NYSEMKT-2016-103) (Approval Order) ("NYSE American ETP Listing Rules Filing"); 80590 (May 4, 2017), 82 FR 21843 (May 10, 2017) (SR-NYSEMKT-2017-01) (Approval Order) ("NYSE American Trading Rules Filing"); 80577 (May 2, 2017), 82 FR 21446 (May 8, 2017) (SR-NYSEMKT-2017-04) (Approval Order) ("NYSE American Market Maker Filing"); 80700 (May 16, 2017), 82 FR 23381 (May 22, 2017) (SR-NYSEMKT-2017-05) (Approval Order) ("NYSE American Delay Mechanism Filing"). NYSE American was previously known as NYSE MKT LLC. See Securities Exchange Act Release No. 80748 (May 23, 2017), 82 FR 24764, 24765 (SR-NYSEMKT-2017-20) (Notice of filing and immediate effectiveness of proposed rule change to change the name of NYSE MKT to NYSE American).

8 See Securities Exchange Act Release Nos. Securities Exchange Act Release Nos. 76803 (December 30, 2015), 81 FR 536 (January 6, 2016) (SR-NYSE-2015-67) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change); 80214 (March 10, 2017), 82 FR 14050 (March 16, 2017) (SR-NYSE-2016-44) (Approval Order) ("NYSE ETP Listing Rules Filing"); 81225 (July 27, 2017), 82 FR 36033 (August 2, 2017) (SR-NYSE-2017-35) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change); and 81310 (August 3, 2017), 82 FR 37257 (August 9, 2017) (SR-NYSE-2017-36) (Notice of Filing) ("NYSE Trading Rules Filing").

9 See NYSE American Delay Mechanism Filing, supra, note 7.

10 See NYSE Trading Rules Filing, supra note 8.

rules would be based on the rules and trading model of the cash equities platform of NYSE Arca, which operates as a fully automated price-time priority allocation exchange, without any substantive differences. Accordingly, the Exchange proposes rules relating to orders and modifiers, ranking and display of orders, execution and routing of orders, and all other trading functionality that are based on the rules of NYSE Arca. In addition, in specified circumstances, described in more detail below, the Exchange proposes rules based on NYSE American as well, which was a more recent exchange to transition to the Pillar trading platform. In short, the Exchange is not proposing any new or novel rules for how trading would operate on the Exchange.

However, unlike its affiliated exchanges, the Exchange would not be a listing venue. Because the Exchange would trade securities on a UTP basis only, the Exchange proposes to operate in the same manner that NYSE Arca operates with respect to securities that trade on a UTP basis on that exchange. For example, the Exchange would not operate any auctions and therefore would not propose rules to provide for auction functionality on the Exchange. However, the Exchange would make available order types that already exist on NYSE Arca and NYSE American for securities that trade on a UTP basis and that route directly to the primary listing market, including orders designated to participate in an auction on the primary listing market. In addition, because the Exchange would not be a listing venue, the Exchange would not provide for either "lead" or "designated" market makers, which are available on NYSE Arca and NYSE American, respectively, for securities listed on those exchanges only. As with NYSE Arca and NYSE American, proposed Exchange rules would provide that ETP Holders may register as a market maker in securities that trade on a UTP basis on the Exchange.

And as with NYSE Arca and NYSE American, Exchange rules would not require a market maker for a security to trade on a UTP basis on the Exchange. Similar to NYSE American, the Exchange would not operate a retail liquidity program.

While the trading rules for the Exchange's re-launch would be based on the rules of its affiliated exchanges, the Exchange proposes to retain its existing rules relating to membership and ETP Holder conduct. As described in more detail below, the Exchange proposes to renumber such rules and make minor modifications to certain rules. However, the Exchange is not proposing any new rules; all such rules would be either existing Exchange rules that have been renumbered or updated rules based on an existing rule of another exchange.

Because the Exchange is not proposing new or different rules to qualify as a member of the Exchange, for the re-launch, the Exchange proposes to reinstate ETP Holder status[11] using the existing process described in Interpretation and Policies .01 to current Rule 2.5, which sets forth the expedited process for reinstatement as an ETP Holder and to register associated persons when the Exchange re-launched operations in 2015.[12] Pursuant to that rule, approved ETP Holders that were in good standing as of the close of business on May 30, 2014, when the Exchange previously ceased trading operations, had their ETP Holder status reinstated and associated persons registered pursuant to that expedited process.

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11 When the Exchange ceased operations, the Exchange terminated the ETP status of all ETP Holders as of the close of business on February 1, 2017. See Termination Filing, supra note 4.

12 See Securities Exchange Act Release No. 75098 (June 3, 2015), 80 FR 32644 (June 9, 2015) (Notice of filing and immediate effectiveness of proposed rule change to establish expedited process to reinstate ETP Holder status).

Because the Exchange proposes to use an established process to reinstate ETP Holder status, the Exchange is not proposing any substantive differences to this rule. The Exchange proposes to amend Interpretation and Policies .01 to Rule 2.5 to replace the date of May 30, 2014, with the date of February 1, 2017, which was when the Exchange last terminated ETP Holder status. This proposed rule change would therefore provide for the reinstatement of ETP Holders whose status was terminated on February 1, 2017 in the exact same manner that the Exchange reinstated ETP Holders whose status had previously been terminated on May 30, 2014.

In short, for the re-launch of Exchange operations, the trading experience for reinstated ETP Holders on the Exchange would be identical to how trading functions on NYSE Arca for securities trading on a UTP basis. The Exchange proposes to differentiate itself from its affiliated exchanges through a different pricing model, which the Exchange will establish in a separate proposed rule change.[13]

2. Summary of Proposed Rule Changes

In preparation for the re-launch, the Exchange adopted the rule numbering framework of the NYSE Arca rules, which are organized in 14 Rules.[14] This framework replaces the Exchange's current rule numbering framework.

With this filing, and as described in greater detail below, the Exchange proposes to expand on the Framework Filing by making the following changes to its rulebook:

- Adding new rules based on the rules of the Exchange's affiliates relating

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13 The Exchange also proposes to file separate proposed rule changes to establish market data products that will be available for the Exchange and related fees.

14 See Securities Exchange Act Release No. 81782 (September 29, 2017), 82 FR 81782 (October 5, 2017) (SR-NYSENat-2017-04) (Notice of Filing and Immediate Effectiveness) ("Framework Filing").

to:

- trading securities on an unlisted trading privileges basis (Rules 5 and 8)
- trading on the Pillar trading platform (Rules 1 and 7)
- disciplinary rules (Rule 10)
- administration of the Exchange (Rules 3, 12, and 13)

- Moving and renumbering current rules set forth in Chapters II, III, IV, V, VI and XII to the new framework:
  - ETP Holder[15] membership (Rule 2)
  - order audit trail requirements (Rule 6)
  - rules of fair practice, books and records, supervision, extensions of credit, and trading practices (Rule 11)
- Because Rules 4 and 9 would not include any rules, designating those rules as "Reserved"

In addition, the Exchange proposes to amend Article V, Section 5.01 and 5.8 of the Bylaws.

Because the current rulebook would be replaced with both new and renumbered rules under the new framework, the Exchange proposes to delete current Chapters I – XVI and the rules contained therein.

The following summarizes the proposed rule changes and Part 3, below, provides additional detail regarding the specific proposed rule changes.

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15 The Exchange proposes to define the term "ETP Holder" in Rule 1.1 to mean an Exchange-approved holder of an ETP. This proposed rule is based on current Rule 1.5(E)(2).

A. Bylaws

The Exchange proposes to amend Article V, Sections 5.01 and 5.8 of the Bylaws to conform the Exchange's name for its existing "Appeals Committee" to "Committee for Review." The proposed change would more closely align the Bylaws of the Exchange with the governing documents of its affiliates, NYSE, NYSE American, and NYSE Arca, which all have "committees for review," rather than appeals committees.

B. Definitions

Rule 1 would set forth definitions that would be used in Exchange rules. As described below, except for membership and conduct rules, the Exchange's proposed definitions are based on the rules for the NYSE Arca or NYSE American cash equities markets, or both. Accordingly, the definitions in proposed Rule 1.1 are based on definitions set forth in NYSE Arca Rule 1.1 and NYSE American Rule 1.1E, as applicable. The definitions set forth in proposed Rule 1.1 would also include current definitions set forth in Chapter I that relate to membership.

C. Membership Rules

To facilitate the expedited process to reinstate ETP Holders for the re-launch of trading operations, the Exchange proposes to retain its existing rules relating to membership and the registration of associated persons, which are currently set forth in Chapter II of the Exchange's rulebook. Consistent with the Framework Filing, the Exchange proposes to move the membership rules to Rule 2, but would retain the current individual rule numbers. As described in greater detail below, the Exchange proposes amendments to certain of those membership rules.

D. *Unlisted Trading Privileges Rules*

Proposed Rules 5 and 8 would provide for rules to trade all Tape A, Tape B, and Tape C securities, including Exchange Traded Products, on a UTP basis.[16] Because NYSE American is the latest affiliate of the Exchange to add rules for trading securities on a UTP basis on the Pillar trading platform, the Exchange is proposing rules that are based on the rules of NYSE American with only non-substantive and technical differences, as described in greater detail below. As described in NYSE American ETP Listing Rules Filing, the NYSE American rules are based on NYSE Rules 5P and 8P, which in turn are modeled on NYSE Arca Rules 5-E and 8-E.[17] The NYSE American and NYSE rules are differentiated from the NYSE Arca rules because they are intended for trading on a UTP basis only. Those rules therefore include a preamble explaining that such rules are for trading on a UTP basis only and not for listing purposes, even though individual NYSE American and NYSE rules reference listing requirements. The Exchange proposes to follow this established and approved process for its proposed Rules 5 and 8 without any differences. Accordingly, proposed Rules 5 and 8 are based on the approved rules of NYSE American and NYSE, including proposed preambles to such

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16 As described below, the term "Exchange Traded Product" will be defined in Rule 1.1 and would include Equity Linked Notes ("ELNs"), Investment Company Units, Index-Linked Exchangeable Notes, Equity Gold Shares, Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed-Income Index-Linked Securities, Futures-Linked Securities, Multifactor-Index-Linked Securities, Trust Certificates, Currency and Index Warrants, Portfolio Depository Receipts, Trust Issued Receipts, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Paired Trust Shares, Trust Units, Managed Fund Shares, and Managed Trust Securities.

17 See NYSE American ETP Listing Rules Filing, supra note 7 and NYSE ETP Listing Rules Filing, supra note 8.

rules explaining that such rules would govern trading on a UTP basis only and would not govern the listing of securities, even though individual rules may include references to listing requirements. In addition, proposed Rules 5 and 8 are based on the approved rules of NYSE, which cross reference options-related rules of NYSE Arca.

E. Consolidated Audit Trail and Order Audit Trail Rules

Rule 6 would set forth rules relating to (i) compliance with the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan"),[18] which are currently set forth in Chapter XIV (the "Compliance Rules"), (ii) new Rule 6.6900 to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members ("Fee Dispute Rule"); and (iii) new rules based on NYSE Arca Order Audit Trail System ("OATS") rules relating to order audit trail system requirements. None of these are novel rules and are either renumbered Exchange rules (the Compliance Rules) or new rules based on the approved rules of other exchanges (the Fee Dispute Rule and OATS rules).

F. Trading Rules

Rule 7 would establish rules for trading on the Exchange. As noted above, the Exchange will re-launch on the same trading platform as NYSE Arca's cash equities trading platform, and proposes trading rules based on the rules of NYSE Arca. Rule 7 would include rules based on NYSE Arca Rule 7-E, including general provisions relating

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[18] The CAT NMS Plan is designed to create, implement and maintain a consolidated audit trail ("CAT") that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Each Participant of the Plan is required to enforce compliance by its Industry Members, as applicable, with the provisions of the Plan, by adopting a Compliance Rule applicable to their Industry Members.

to trading, market makers, trading on the Exchange, operation of the routing broker, and the Plan to Implement a Tick Size Pilot Program. Rule 7 would therefore specify all aspects of trading on the Exchange, including the orders and modifiers that would be available and how orders would be ranked, displayed, and executed.

Because the Exchange will not be a listing venue, the Exchange does not propose to have either lead or designated market makers assigned to securities trading on the Exchange. The Exchange therefore does not propose a rule based on NYSE Arca Rule 7.24-E (Designated Market Maker Performance Standards). In addition, because the Exchange would not operate auctions, the Exchange does not propose a rule based on NYSE Arca Rule 7.35-E (Auctions).

G. Disciplinary Rules

Rule 10 would set forth the Exchange's rules relating to investigation, discipline, sanction, and other procedural rules that are modeled on the rules of the Exchange's affiliate NYSE American, which in turn, are modeled on the rules of the Financial Industry Regulatory Authority, Inc. ("FINRA").

H. Rules of Fair Practice, Books and Records, Supervision, Extensions of Credit, and Trading Practice Rules

The Exchange proposes to retain its existing rules relating to rules of fair practice, books and records, supervision, extensions of credit, and trading practices, which are set forth in Chapters III, IV, V, VI, and XII, and move and renumber them to Rule 11. The Exchange believes that retaining existing rules relating to rules of fair practice, books and records, supervision, extensions of credit, and trading practices would facilitate the expedited process for ETP Holders and their associated persons to be reinstated as members because such ETP Holders would not be required to change their internal

procedures to be reinstated as ETP Holders of the Exchange. However, because the Exchange has established a new numbering framework, the Exchange proposes to renumber these existing rules under Rule 11, but with sub-numbering that is the same as the existing Exchange rule numbers for such rules. Accordingly, these rules would all begin as "Rule 11", but then would have a sub-number assigned that is identical to the existing rule number. For example, Rule 3.1 would be renumbered as Rule 11.3.1.

The Exchange proposes to rename Rule 11 as "Rules of Fair Practice; Books and Records; Supervision; Extensions of Credit; Trading Practice Rules." Because Rules 4 and 9 will not include any rules, the Exchange proposes to delete the current titles associated with those rules and designate them as "Reserved."

I. *Organizational, Administration, Business Conduct, Books and Records and Supervisory Rules*

In addition to the above categories of rules, the Exchange proposes rules based on NYSE Arca Rules 3 (Organization and Administration), 12 (Arbitration), and 13 (Liability of Directors and the Exchange).

3. Proposed Rule Changes

Proposed Changes to the Bylaws

The Exchange has an Appeals Committee, which presides over appeals related to disciplinary and adverse action determinations in accordance with the Exchange rules.[19] The Exchange proposes to change the name of the committee, from "Appeals Committee" to "Committee for Review." In order to make the change, the Exchange

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19 See Securities Exchange Release No. 79684 (December 23, 2016), 81 FR 96552 (December 30, 2016) (SR-NSX-2016-16, at 96557 (proposal). See also Securities Exchange Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017) (SR-NSX-2016-16) (approval).

proposes to replace "Appeals Committee" with "Committee for Review" in Article V, Sections 5.01 and 5.8 of the Bylaws, as well as in the table of contents of the Bylaws. The change would be non-substantive, as the makeup and function of the committee would not change.

The proposed change would conform the Exchange's name for the Appeals Committee to that of its affiliates, NYSE, NYSE American, and NYSE Arca, which all have committees for review, rather than appeals committees.[20] The change would thereby more closely align the Bylaws of the Exchange with the governing documents of its national securities exchange affiliates.

In addition, "Fourth" would be replaced with "Fifth" on the cover page heading, the table of contents, and first page of the Bylaws.

No other changes are proposed to the Bylaws.

Rule 0 – Regulation of the Exchange and ETP Holders

As described in the Framework Filing, Rule 0 establishes the regulation of the Exchange and ETP Holders. As proposed, Rule 0 would provide that:

> The Exchange and FINRA are parties to a Regulatory Services Agreement ("RSA") pursuant to which FINRA has agreed to perform certain regulatory functions of the Exchange on behalf of the Exchange. Exchange Rules that refer to Exchange staff and Exchange departments should be understood as also referring to FINRA staff and FINRA

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20 See the Eleventh Amended and Restated Operating Agreement of New York Stock Exchange LLC, Article II, Section 2.03(h)(iii); Eleventh Amended and Restated Operating Agreement of NYSE American LLC, Article II, Section 2.03(h)(iii); Amended and Restated NYSE Arca, Inc. Bylaws, Article IV, Section 4.01(a).

departments acting on behalf of the Exchange pursuant to the RSA, as applicable. Notwithstanding the fact that the Exchange has entered into an RSA with FINRA to perform certain of the Exchange's functions, the Exchange shall retain ultimate legal responsibility for, and control of, such functions.

This proposed rule is based on NYSE Arca Rule 0 without any substantive differences. This Exchange does not currently have a rule that addresses the same topics as proposed Rule 0 and therefore this would be a new Exchange rule.

Rule 1 - Definitions

As described in the Framework Filing, Rule 1 would establish definitions applicable to trading on the Exchange's Pillar trading platform. Proposed Rule 1.1 includes definitions that are based on NYSE Arca Rule 1.1 definitions, NYSE American Rule 1.1E definitions, and definitions currently set forth in Rule 1.5 in Chapter I of the Exchange's rulebook. Because definitions would be specified in Rule 1.1, the Exchange proposes to delete Chapter I of the current rulebook.

Proposed Rule 1.1 would provide that as used in Exchange rules, unless the context requires otherwise, the terms in proposed Rule 1.1 would have the meanings indicated. This rule is based on NYSE American Rule 1.1E. Throughout proposed Rule 1.1, where applicable, the Exchange proposes non-substantive differences as compared to the NYSE Arca rules to use the term "Exchange" instead of the term "NYSE Arca Marketplace." In addition, the Exchange proposes sub-paragraph numbering for Rule 1.1 that aligns to the alphabetical ordering of the proposed definitions. The Exchange proposes the following definitions:

- Proposed Rule 1.1(a) would define the terms “Authorized Trader” or “AT” to mean a person who may submit orders to the Exchange’s Trading Facilities on behalf of his or her ETP Holder. This proposed rule is based on NYSE American Rule 1.1E(g) without any differences.
- Proposed Rule 1.1(b) would define the term “Away Market” to mean any exchange, alternative trading system ("ATS") or other broker-dealer (1) with which the Exchange maintains an electronic linkage and (2) that provides instantaneous responses to orders routed from the Exchange. The Exchange will designate from time to time those ATSs or other broker-dealers that qualify as Away Markets. This proposed rule is based on NYSE Arca Rule 1.1(f) and NYSE American Rule 1.1E(ff) without any substantive differences.
- Proposed Rule 1.1(c) would define the term “BBO” to mean the best bid or offer that is a protected quotation on the Exchange and that the term "BB" means the best bid on the Exchange and the term "BO" means the best offer on the Exchange. This proposed rule is based on NYSE Arca Rule 1.1(g) and NYSE American Rule 1.1E(h).
- Proposed Rule 1.1(d) would define the term “Board and Board of Directors” to mean the Board of Directors of NYSE National, Inc. This proposed rule is based on NYSE Arca Rule 1.1(h).
- Proposed Rule 1.1(e) would define the term “Core Trading Hours” to mean the hours of 9:30 am Eastern Time through 4:00 pm Eastern Time or such other hours as may be determined by the Exchange from time to

time. This proposed rule is based on NYSE Arca Rule 1.1(j) and NYSE American Rule 1.1E(j).

- Proposed Rule 1.1(f) would define the terms "effective national market system plan" and "regular trading hours" to have the meanings set forth in Rule 600(b) of Regulation NMS under the Exchange Act. This proposed rule is based on NYSE Arca Rule 1.1(l) and NYSE American Rule 1.1E(hhh).
- Proposed Rule 1.1(g) would define the term "Eligible Security" to mean any equity security (i) traded on the Exchange pursuant to a grant of unlisted trading privileges under Section 12(f) of the Exchange Act and (ii) specified by the Exchange to be traded on the Exchange or other facility, as the case may be. This proposed rule is based on NYSE American Rule 1.1E(l) with a non-substantive difference not to reference securities listed on the Exchange.
- Proposed Rule 1.1(h) would define the term "ETP" to refer to an Equity Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange. This proposed rule is based on current NYSE National Rule 1.5(E)(1), which has been renumbered as Rule 1.1(h).
- Proposed Rule 1.1(i) would define the term "ETP Holder" to mean the Exchange-approved holder of an ETP. This proposed rule is based on current NYSE National Rule 1.5(E)(2), which has been renumbered as Rule 1.1(i).

- Proposed Rule 1.1(j) would define the term "Exchange" to mean NYSE National, Inc. This proposed rule is based on NYSE American Rule 1.1E(k).
- Proposed Rule 1.1(k) would define the term "Exchange Act" to mean the Securities Exchange Act of 1934, as amended. This proposed rule is based on NYSE Arca Rule 1.1(q).
- Proposed Rule 1.1(l) would define the term "Exchange Book" to mean the Exchange's electronic file of orders. This proposed rule is based on NYSE American Rule 1.1E(a).
- Proposed Rule 1.1(m) would define the term "Exchange Traded Product" to mean a security that meets the definition of "derivative securities product" in Rule 19b-4(e) under the Exchange Act and would define the term "UTP Exchange Traded Product" to mean an Exchange Traded Product that trades on the Exchange pursuant to unlisted trading privileges. This proposed rule is based on NYSE American Rule 1.1E(bbb).
- Proposed Rule 1.1(n) would define the term "FINRA" to mean the Financial Industry Regulatory Authority, Inc. This proposed rule is based on NYSE Arca Rule 1.1(r).
- Proposed Rule 1.1(o) would define the terms "General Authorized Trader" or "GAT" to mean an authorized trader who performs only non-market making activities on behalf of an ETP Holder. This proposed rule is based on NYSE Arca Rule 1.1(u) and NYSE American Rule 1.1E(p).

- Proposed Rule 1.1(p) would define the term "Good Standing" to mean an ETP Holder who is not in violation of any of its agreements with the Exchange or any of the provisions of the Rules or Bylaws of the Exchange, and who has maintained all of the conditions for approval of the ETP. This proposed rule is based on NYSE Arca Rule 1.1(v) with one substantive difference to exclude references to OTP, OTP Holder or OTP Firm from the proposed rule as NYSE National would not trade any options and therefore would not have OTPs, OTP Holders or OTP Firms on the Exchange.
- Proposed Rule 1.1(q) would define the term "Marketable" to mean, for a Limit Order, an order that can be immediately executed or routed and that Market Orders are always considered marketable. This proposed rule is based on NYSE Arca Rule 1.1(y) and NYSE American Rule 1.1E(u).
- Proposed Rule 1.1(r) would define the term "Market Maker" to mean an ETP Holder that acts as a Market Maker pursuant to Rule 7. This proposed rule is based on NYSE Arca Rule 1.1(z) and NYSE American Rule 1.1E(v).
- Proposed Rule 1.1(s) would define the terms "Market Maker Authorized Trader" or "MMAT" to mean an Authorized Trader who performs market making activities pursuant to Rule 7 on behalf of a Market Maker. This proposed rule is based on NYSE Arca Rule 1.1(aa) and NYSE American Rule 1.1E(w).
- Proposed Rule 1.1(t) would define the term "Market Participant" to

include electronic communications networks ("ECN"), dealer-specialists registered with a national securities exchange, and market makers registered with a national securities association. This proposed rule is based on NYSE Arca Rule 1.1(bb).

- Proposed Rule 1.1(u) would define the term "Nasdaq" to mean The Nasdaq Stock Market LLC. This proposed rule is based on NYSE Arca Rule 1.1(cc).
- Proposed Rule 1.1(v) would define the terms "NBBO, Best Protected Bid, Best Protected Offer, and Protected Best Bid and Offer (PBBO)". The term "NBBO" would mean the national best bid or offer. The terms "NBB" would mean the national best bid and "NBO" would mean the national best offer. The terms "Best Protected Bid" or "PBB" would mean the highest Protected Bid, and "Best Protected Offer" or "PBO" would mean the lowest Protected Offer, and the term "Protected Best Bid and Offer" ("PBBO") would mean the Best Protected Bid and the Best Protected Offer. This proposed rule is based on NYSE Arca Rule 1.1(dd) and NYSE American Rule 1.1E(dd).
- Proposed Rule 1.1(w) would define the term "NMS Stock" to mean any security, other than an option, for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan. This proposed rule is based on NYSE Arca Rule 1.1(ee) and NYSE American Rule 1.1E(ddd).
- Proposed Rule 1.1(x) would define the term "NYSE National" to have the

same meaning as the term "Exchange" as that term is defined in proposed Rule 1.1. This proposed rule is based on NYSE Arca Rule 1.1(i), but with reference to "NYSE National" instead of "NYSE Arca."

- Proposed Rule 1.1(y) would define the term "NYSE National Marketplace" to mean the electronic securities communications and trading facility of the Exchange through which orders are processed or are consolidated for execution and/or display. This proposed rule is based on NYSE American Rule 1.1E(e).
- Proposed Rule 1.1(z) would define the term "Person" to mean a natural person, corporation, partnership, limited liability company, association, joint stock company, trustee of a trust fund, or any organized group of persons whether incorporated or not. This proposed rule is based on current NYSE National Rule 1.5(P)(1), which has been renumbered as Rule 1.1(z) without any changes.
- Proposed Rule 1.1(aa) would define the terms "Person Associated with an ETP Holder," Associated Person of an ETP Holder" or "Associated Person" to mean any partner, officer, director, or branch manager of an ETP Holder (or any Person occupying a similar status or performing similar functions), any Person directly or indirectly controlling, controlled by, or under common control with an ETP Holder, or any employee of such ETP Holder, except that any Person Associated with an ETP Holder whose functions are solely clerical or ministerial shall not be included in the meaning of such terms. This proposed rule is based on current NYSE

National Rule 1.5(P)(2), which has been renumbered as Rule 1.1(aa) with a non-substantive difference to add the short-hand definition of "Associated Person" to mean the same thing as "Person Associated with an ETP Holder."

- Proposed Rule 1.1(bb) would define the term "Principal" to mean any Person Associated with an ETP Holder actively engaged in the management of the ETP Holder's securities business, including supervision, solicitation, conduct of the ETP Holder's business, or the training of Authorized Traders and Persons Associated with an ETP Holder for any of these functions and that such Persons include Sole Proprietors, Officers, Partners, and Directors of Corporations. This proposed rule is based on current NYSE National Rule 1.5(P)(3), which has been renumbered as Rule 1.1(bb) with a non-substantive difference to change "shall include" to "include."
- Proposed Rule 1.1(cc) would define the term "Principal – Financial and Operations" to mean a Person Associated with an ETP Holder whose duties include: final approval and responsibility for the accuracy of financial reports submitted to any duly established securities industry regulatory body; final preparation of such reports; supervision of individuals who assist in the preparation of such reports; supervision of and responsibility for individuals who are involved in the actual maintenance of the ETP Holder's books and records from which such reports are derived; supervision and/or performance of the ETP Holder's

responsibilities under all financial responsibility rules promulgated pursuant to the provisions of the Act; overall supervision of and responsibility for the individuals who are involved in the administration and maintenance of the ETP Holder's back office operations; or any other matter involving the financial and operational management of the ETP Holder. This proposed rule is based on current NYSE National Rule 1.5(P)(4), which has been renumbered as Rule 1.1(cc) without any changes.

- Proposed Rule 1.1(dd) would define the term "Protected Bid" or "Protected Offer" to mean a quotation in an NMS stock that is (i) displayed by an Automated Trading Center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an Automated Quotation that is the best bid or best offer of a national securities exchange or the best bid or best offer of a national securities association. The term "Protected Quotation" would mean a quotation that is a Protected Bid or Protected Offer. For purposes of the foregoing definitions, the terms "Automated Trading Center," "Automated Quotation," "Manual Quotation," "Best Bid," and "Best Offer," would have the meanings ascribed to them in Rule 600(b) of Regulation NMS under the Securities Exchange Act. This proposed rule is based on NYSE Arca Rule 1.1(ss) and NYSE American Rule 1.1E(eee) without any substantive differences.
- Proposed Rule 1.1(ee) would define the term "Security" and "Securities" to mean any security as defined in Rule 3(a)(10) under the Exchange Act,

provided, that for purposes of Rule 7, such term would mean any NMS stock. This proposed rule is based on NYSE Arca Rule 1.1(vv) and NYSE American Rule 1.1E(rr).

- Proposed Rule 1.1(ff) would define the term "Securities Trader" to mean any Person engaged in the purchase or sale of securities or other similar instruments for the account of an ETP Holder with which such Person is associated, as an employee or otherwise, and who does not transact any business with the public. This proposed rule is based on current NYSE National Rule 1.5(S)(1), which has been renumbered as Rule 1.1(ff) without any changes.
- Proposed Rule 1.1(gg) would define the term "Securities Trader Principal" to mean a Person who has become qualified and registered as a Securities Trader and passes the General Securities Principal qualification examination. Each Principal with responsibility over securities trading activities on the Exchange shall become qualified and registered as a Securities Trader Principal. This proposed rule is based on current NYSE National Rule 1.5(S)(2), which has been renumbered as Rule 1.1(gg) without any changes.
- Proposed Rule 1.1(hh) would define the term "Self-Regulatory Organization" and "SRO" to have the same meaning as set forth in the provisions of the Exchange Act relating to national securities exchanges. This proposed rule is based on NYSE Arca Rule 1.1(ww) and NYSE American Rule 1.1E(ss) without any substantive differences.

- Proposed Rule 1.1(ii) would define the term “Trade-Through” to mean the purchase or sale of an NMS stock during regular trading hours, either as principal or agent, at a price that is lower than a Protected Bid or higher than a Protected Offer. This proposed rule is based on NYSE Arca Rule 1.1(bbb) and NYSE American Rule 1.1E(fff) without any substantive differences.
- Proposed Rule 1.1(jj) would define the term “Trading Center” to mean, for purposes of Rule 7, a national securities exchange or a national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent. For purposes of this definition, the terms "SRO trading facility," "alternative trading system," "exchange market maker" and "OTC market maker" would have the meanings ascribed to them in Rule 600(b) of Regulation NMS under the Exchange Act. This proposed rule is based on NYSE Arca Rule 1.1(ccc) without any substantive differences.
- Proposed Rule 1.1(kk) would define the term “Trading Facilities” to mean any and all electronic or automatic trading systems provided by the Exchange to ETP Holders. This proposed rule is based on NYSE American Rule 1.1E(xx) without any differences.
- Proposed Rule 1.1(ll) would define the term “UTP Security” to mean a security that is listed on a national securities exchange other than the

Exchange and that trades on the Exchange pursuant to unlisted trading privileges. This proposed rule is based on NYSE Arca Rule 1.1(iii) and NYSE American Rule 1.1E(ii) without any substantive differences.

- Proposed Rule 1.1(mm) would define the term "UTP Listing Market" to mean the primary listing market for a UTP Security. This proposed rule is based on NYSE Arca Rule 1.1(ggg) and NYSE American Rule 1.1E(jj) without any substantive differences.
- Proposed Rule 1.1(nn) would define the term "UTP Regulatory Halt" to mean a trade suspension, halt, or pause called by the UTP Listing Market in a UTP Security that requires all market centers to halt trading in that security. This proposed rule is based on NYSE Arca Rule 1.1(hhh) and NYSE American Rule 1.1E(kk) without any substantive differences.

Rule 2 – ETP Holders of the Exchange

The Exchange proposes to retain its existing rules relating to membership, which are currently set forth in Chapter II. Consistent with the Framework Filing, the Exchange proposes to move those rules, as amended, to new Rule 2. For consistency and clarity, the Exchange proposes to retain the same individual rule numbers. When moving the rules, the Exchange proposes non-substantive differences to (i) use a different sub-paragraph numbering format;[21] (ii) use the term "Commentary" instead of "Interpretation and Policies;" and (iii) update internal rule cross references to replace references to the

[21] Current Exchange rules use an "(a)(i)(A)(1)" sub-paragraph numbering convention and the Exchange proposes to use an "(a)(1)(A)(i)" sub-paragraph numbering convention.

term "Chapter" with the term "Rule."[22]

Subject to these non-substantive differences, the Exchange proposes to move Rules 2.1 (Rights, Privileges and Duties of ETP Holders), 2.2 (Obligations of ETP Holders and the Exchange), 2.3 (ETP Holder Eligibility), 2.4 (Restrictions), 2.5 (Application Procedures for an ETP Holder), 2.6 (Revocation of an ETP or an Association with an ETP Holder), 2.7 (Voluntary Termination of Rights as an ETP Holder), 2.8 (Transfer or Sale of an ETP), and 2.9 (Dues, Assessments and Other Charges) to Rule 2 without any additional differences.

In addition to the non-substantive differences described above, the Exchange proposes to amend Commentary .01 to Rule 2.5 to facilitate the efficient reinstatement of ETP Holders by replacing the date "May 30, 2014" with the date "February 1, 2017," which was when the Exchange ceased operations and terminated ETP Holder status. This amendment will allow the use of the existing expedited process – without any substantive changes – to facilitate the reinstatement, subject to certain conditions, of former ETP Holders of the Exchange and to register Associated Persons. The Exchange proposes non-substantive differences to update the rule cross references in Commentary .01 from Rule 2.4 to Rule 2.2.[23]

The Exchange proposes to delete the following rules currently set forth in Chapter II and not move them to Rule 2:

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22 See proposed Rules 2.5(c) (replacing "Chapter" with "Rule") and 2.5(d) and (e)(2) (replacing "Chapter X" with "Rule 10").

23 See Securities Exchange Act Release No. 78676 (August 25, 2016), 81 FR 60083 (August 31, 2016) (SR-NSX-2016-07) (Notice of filing of amendments to Chapter II, including moving rule text relating to requirements for Associated Persons from Rule 2.4 to Rule 2.2).

- Rule 2.10 (No Affiliation between Exchange and any ETP Holder). Proposed Rule 3.9, described in greater detail below, would establish the permitted relationships between ETP Holders and Exchange affiliates. Accordingly, current Rule 2.10 is not necessary. The Exchange proposes to designate Rule 2.10 as "Reserved."
- Rule 2.11 (NSX Securities LLC). The Exchange will no longer use NSX Securities LLC as a routing broker and is now affiliated with Archipelago Securities LLC. Proposed Rule 7.45, described in greater detail below and which is based on NYSE Arca Rule 7.45-E, would establish rules for both the inbound and outbound routing of orders. The Exchange proposes to designate Rule 2.11 as "Reserved."
- Rule 2.12 (Back-Up Order Routing Services). By its terms, current Rule 2.12 expired on September 30, 2008. Moreover, proposed Rule 7.45 would address all routing services on behalf of the Exchange. The Exchange proposes to designate Rule 2.12 as "Reserved."

The Exchange proposes that Rule 2.13 (Exchange Backup Systems and Mandatory Testing) would address mandatory participation in the testing of backup systems. To maintain consistency across all exchanges operated by NYSE Group, the Exchange proposes that Rule 2.13 would be based on NYSE Arca Rule 2.27 instead of current Rule 2.13 (Mandatory Participation in Testing of Backup Systems), with the following minor substantive differences to reflect the differences between the Exchange and NYSE Arca. First, because the Exchange does not have any OTP Holders, proposed Rule 2.13 would not reference OTP Holders. Second, because the Exchange would not

have lead market makers, proposed Rule 2.13 would not include text based on Rule 2.27(c). The Exchange would delete current Rule 2.13 in its entirety.

The Exchange also proposes new Rule 2.18 (Activity Assessment Fees) to be included in Rule 2, which is based on NYSE Arca Rule 2.18 and NYSE American Rule 2.17E. Proposed Rule 2.18 would provide authority for the Exchange to impose fees, assessments, and other charges, for example, in connection with securities transaction fees required under Section 31 of the Act.[24] The Exchange proposes to delete current Rule 16.1, which similarly addresses the Exchange's authority to prescribe dues, fees, assessments and other charges.

To maintain rule numbering consistency, the Exchange proposes to add Rules 2.14 through and including Rule 2.17 and designate each rule "Reserved."

Because Rule 2 would set forth rules on membership, the Exchange proposes to delete the rules in Chapter II in their entirety. In addition, because Rule 2 would include rules authorizing the Exchange to prescribe dues, fees, assessments, and other charges, the Exchange proposes to delete the rules in Chapter XVI in their entirety.

Rule 3 – Organization and Administration

The Exchange proposes new Rule 3 titled "Organization and Administration," which would include specified rules set forth in NYSE Arca Rule 3 and NYSE Arca Rule 13.1.

To maintain the same rule numbers as NYSE Arca, proposed Rules 3.1 through 3.7 would be designated as "Reserved".[25]

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[24] The Exchange does not propose rule text based on Commentary .01 to NYSE Arca 2.18, which has expired on its own terms.

[25] NYSE Arca Rules 3.1 (Overview), 3.2 (Exchange Committees), 3.3 (Board

Proposed Rule 3.8 (Liability for Payment) provides that an ETP Holder failing to pay any assessments, dues or other charges to the Exchange for thirty days after the same shall become payable, may be suspended by the Exchange in accordance with Rule 10.9555, except that failure to pay any fine levied in connection with a disciplinary action would be governed by Rule 10.8320. The proposed Rule is based on NYSE Arca Rule 3.8 (Liability for Payment) with non-substantive differences to reference the applicable disciplinary rules on the Exchange, described in greater detail below.

Proposed Rule 3.9 (Certain Relationships) would preclude an ETP Holder from being affiliated with NYSE Group, Inc., unless the Commission otherwise approves. The proposed Rule further provides that any failure by an ETP Holder to comply with Rule 3.9 would subject it to the disciplinary actions prescribed by Rule 10.9555, which provides for non-summary suspensions and other actions. The proposed Rule is based on NYSE Arca Rule 3.10 (Certain Relationships), with non-substantive differences to reference the applicable disciplinary rule on the Exchange, described in greater detail below. As discussed above, proposed Rule 3.9 obviates the need for current Rule 2.10 to be maintained.

Committees) relate to board committees, which are described in the Exchange's Fourth Amended and Restated By-Laws, which is available here: https://www.nyse.com/publicdocs/nyse/regulation/nyse/NYSE_National_Inc_Fourth_Amended_and_Restated_Bylaws.pdf. Proposed Rules 3.4 and 3.5 would be designated as "Reserved" like the analogous NYSE Arca rules. NYSE Arca Rule 3.6 authorizes the exchange to enter into surveillance agreements with domestic and foreign SROs, although it does not cover domestic agencies and foreign regulators. As discussed below, proposed Rule 8210(b) would authorize Exchange staff to enter into regulatory cooperation agreements with a domestic federal agency or subdivision thereof, a foreign regulator, or a domestic or foreign SRO. The authority to adopt and prescribe fines in NYSE Arca Rule 3.7 (Dues, Fees and Charges) would be encompassed in proposed Rule 2.9 (Dues, Assessments and Other Charges).

Proposed Rule 3.10 (Notice of Expulsion or Suspension) would require an ETP Holder to provide prompt written notification to the Exchange whenever such ETP Holder is expelled or suspended from any SRO, encounters financial difficulty or operating inadequacies, or fails to perform contracts or becomes insolvent. The proposed Rule would further require an ETP Holder to give prompt written notification to the Exchange with respect to the expulsion or suspension of any ETP Holder or any other Associated Person of such ETP Holder by any SRO. The proposed Rule is based on NYSE Arca Rule 13.1 without any differences.[26]

Proposed Rule 3.11 (Fingerprint-Based Background Checks of Exchange Employees and Others) would establish the Exchange's requirements for fingerprint-based background checks of Exchange employees and others. The proposed rule is based on NYSE Arca Rule 3.11 with non-substantive differences to use the term "will" instead of "shall" and number the Commentary as ".01" instead of ".10."

Rule 5 - Securities Traded and Rule 8 - Trading of Certain Exchange Traded Products

Rules 5 and 8 would set forth the Exchange's rules to: (1) allow the Exchange to trade, pursuant to UTP, any NMS Stock listed on another national securities exchange, and (2) establish rules for the trading pursuant to UTP of certain Exchange Traded Products. Since NYSE American was the most recent exchange in the NYSE Group to add rules for the trading pursuant to UTP of Exchange Traded Products, the Exchange

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[26] As discussed below, proposed Rule 10.9555 would govern suspensions, cancellations, bars, limitations and prohibitions on access to the Exchange's services for failure to meet the eligibility or qualification standards or prerequisites for access to services offered by the Exchange.

proposes rules that are based on current NYSE American Rules 5E and 8E.[27]

As noted above, because the Exchange will not be a listing venue, the Exchange proposes to include introductory language to both Rules 5 and 8 that would provide that these rules would apply only to the trading pursuant to UTP of Exchange Traded Products, and would not apply to the listing of Exchange Traded Products on the Exchange. The Exchange is proposing this language to clarify that the rules incorporated in Rules 5 and 8 should not be interpreted to be either initial or continued listing requirements of the Exchange, but rather, requirements that pertain solely to the trading of Exchange Traded Products pursuant to UTP on the Pillar platform. Accordingly, references to securities listed on the Exchange in proposed Rule 5 and 8 are not designed to be listing standards. Rather, similar to NYSE American Rules 5 and 8 and NYSE Rules 5P and 8P, proposed Rules 5 and 8 are intended only to address trading of securities on a UTP basis. The Exchange therefore proposes rules that are virtually identical to established and approved rules of NYSE American and NYSE that are for the same purpose.

To further clarify this point, proposed Rule 5.1(a)(1) would provide that the Exchange would not list any Exchange Traded Products unless it filed a proposed rule change under Section 19(b)(2)[28] under the Act. Therefore, the provisions of proposed Rules 5 and 8 described below, which permit the listing of Exchange Traded Products, would not be effective until the Exchange files a proposed rule change to amend its rules

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27 See NYSE American ETP Listing Rules Filing, supra note 7. The proposed rules are also based on NYSE Rules 5P and 8P. See NYSE ETP Listing Rules Filing, supra note 8. Both the NYSE American and NYSE rules are modeled on NYSE Arca Rules 5-E and 8-E.

28 15 U.S.C. 78s(b)(2).

to comply with Rules 10A-3 and 10C-1 under the Act and to incorporate qualitative listing criteria, and such proposed rule change is approved by the Commission. This change would require the Exchange to add rules relating to the independence of compensation committees and their advisors.[29]

In addition, the Exchange proposes the following non-substantive differences in its proposed rules as compared to the NYSE American Rules 5E and 8E that would be applied throughout Rules 5 and 8 (collectively, the "General Definitional Term Changes"):

- Because the Exchange uses the term "Commentary" to refer to commentaries to its Rules, the Exchange proposes to substitute this term where "Supplementary Material" is used in the rules of NYSE American.
- Because the Exchange uses the defined term "Exchange Act" to refer to the Securities Exchange Act of 1934, as amended, the Exchange proposes to substitute this defined term where "Securities Exchange Act of 1934," "Securities Act of 1934," "Securities Exchange Act," or "1934 Act" is used in the rules of NYSE American.
- Because the Exchange does not need to distinguish these proposed rules from other rules with the same numbering on the Exchange, the Exchange

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29 On June 20, 2012, the Commission adopted Rule 10C-1 to implement Section 10C of the Act, as added by Section 952 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Rule 10C-1 under the Act directs each national securities exchange to prohibit the listing of any equity security of an issuer, with certain exceptions, that does not comply with the rule's requirements regarding compensation committees of listed issuers and related requirements regarding compensation advisers. See, CFR 240.10C-1; Securities Act Release No. 9199, Securities Exchange Act Release No. 64149 (March 30, 2011), 76 FR 18966 (April 6, 2011) and Securities Exchange Act Release No. 67220 (June 20, 2012), 77 FR 38422 (June 27, 2012).

will not denote these proposed rules with the letter "E" at the end of each rule.

- Because the Exchange's rules regarding the production of books and records would be described in proposed Rule 11.4.1[30] the Exchange proposes to refer to Rule 11.4.1 wherever NYSE American Rule 440-Equities is referenced in the rules of NYSE American.
- Because the Exchange proposes to define the term "Exchange Traded Product" in Rule 1.1, described above, to use this term instead of "Derivative Securities Product."

Because Rules 5 and 8 would address all rules relating to trading securities on a UTP basis, the Exchange proposes to delete the rules in Chapter XV in their entirety.

Rule 5 – Securities Traded

The Exchange proposes that Rule 5 would include rules based on NYSE American Rule 5E. Rule 5 would establish the Exchange's authority to extend UTP to all Tape A, B, and C securities. These proposed rules would also permit the Exchange to trade pursuant to UTP the following: ELNs, Investment Company Units, Index-Linked Exchangeable Notes, Equity Gold Shares, Equity Index Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities, Multifactor Index-Linked Securities, and Trust Certificates.

Proposed Rule 5.1(a)

Proposed Rule 5.1(a)(1) would provide that the Exchange may extend UTP to any

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30 In addition to the existing obligations under the Exchange's rules regarding the production of books and records, proposed Rule 11.4.1 provides restrictions on ETP Holder activities pertaining to books and records.

security that is an NMS Stock (as defined in Rule 600 to Regulation NMS under the Exchange Act) that is listed on another national securities exchange or with respect to which UTP may otherwise be extended in accordance with Section 12(f) of the Exchange Act.[31] This proposed text is identical to NYSE American Rule 5.1E(a), NYSE Rule 5.1(a), and Rules 14.1 of both Cboe BYX Exchange, Inc. and Cboe EDGA Exchange, Inc. ("EDGA"). The proposed rule is also substantially similar to NYSE Arca Rule 5.1-E(a).[32]

Proposed Rule 5.1(a)(2) would establish rules for trading of UTP Exchange Traded Products, which are defined in Rule 1.1 (described above). Specifically, the requirements in subparagraphs (A)-(F) of proposed Rule 5.1(a)(2) would apply to UTP Exchange Traded Products traded on the Exchange. Proposed Rule 5.1(a)(2) and its sub-paragraphs are based on NYSE American Rule 5.1E(a)(2) and its sub-paragraphs and NYSE Rule 5.1(a)(2) and its subparagraphs with a non-substantive difference to use the defined term of "UTP Exchange Traded Product," which is defined in Rule 1.1.

Under proposed Rule 5.1(a)(2)(A), the Exchange would file a Form 19b-4(e) with the Commission with respect to each Exchange Traded Product[33] the Exchange trades

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31 15 U.S.C. 78l(f). See also 17 CFR 242.600.

32 See NYSE Arca Rule 5.1-E(a)(1) and Securities Exchange Act Release No. 67066 (May 29, 2012), 77 FR 33010 (June 4, 2012) (SR-NYSEArca-2012-46). See also Cboe BZX Exchange, Inc. ("BZX") Rule 14.11 and Securities Exchange Act Release No. 58623 (September 23, 2008), 73 FR 57169 (October 1, 2008) (SR-BATS-2008-004); Nasdaq PHLX LLC ("Phlx") Rule 803(o) and Securities Exchange Act Release No. 57806 (May 9, 2008), 73 FR 28541 (May 16, 2008) (SR-Phlx2008-34); and Nasdaq ISE, LLC ("ISE") Rule 2101 and Securities Exchange Act Release No. 57387 (February 27, 2008), 73 FR 11965 (March 5, 2008) (SR-ISE-2007-99).

33 Although Rule 19b-4(e) of the Act defines any type of option, warrant, hybrid securities product or any other security, other than a single equity option or

pursuant to UTP within five days after commencement of trading.

Proposed Rule 5.1(a)(2)(B) would provide that the Exchange would distribute an information circular prior to the commencement of trading in an Exchange Traded Product that generally would include the same information as the information circular provided by the listing exchange, including (a) the special risks of trading the Exchange Traded Product, (b) the Exchange's rules that will apply to the Exchange Traded Product, including Rules 8.4 and 8.5,[34] and (c) information about the dissemination of value of the underlying assets or indices.

Under proposed Rule 5.1(a)(2)(D), the Exchange would halt trading in a UTP Exchange Traded Product as provided for in proposed Rule 7.18. The Exchange proposes different rule text from NYSE American Rule 5.1(a)(2)(D) to streamline its rules and eliminate duplication in requirements relating to the halting of trading of UTP Exchange Traded Products, which are addressed in proposed Rule 7.18, described below.

Proposed Rule 5.1(a)(2)(F) provides that the Exchange's surveillance procedures for Exchange Traded Products traded on the Exchange pursuant to UTP would be similar to the procedures used for equity securities traded on the Exchange and would incorporate and rely upon existing Exchange surveillance systems.

Proposed Rules 5.1(a)(2)(C) and (E) would establish the following requirements for ETP Holders that have customers that trade UTP Exchange Traded Products:

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a security futures product, whose value is based, in whole or in part, upon the performance of, or interest in, an underlying instrument, as a "new derivative securities product," the Exchange prefers to refer to these types of products that it will be trading as "exchange traded products," so as not to confuse investors with a term that can be deemed to imply such products are futures or options related.

[34] See proposed Rules 8.4 (Account Approval) and 8.5 (Suitability).

- Prospectus Delivery Requirements. Proposed Rule 5.1(a)(2)(C)(i) would remind ETP Holders that they are subject to the prospectus delivery requirements under the Securities Act of 1933, as amended (the "Securities Act"), unless the Exchange Traded Product is the subject of an order by the Commission exempting the product from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940, as amended (the "1940 Act"), and the product is not otherwise subject to prospectus delivery requirements under the Securities Act. ETP Holders would also be required to provide a prospectus to a customer requesting a prospectus.[35]
- Written Description of Terms and Conditions. Proposed Rule 5.1(a)(2)(C)(ii) would require ETP Holders to provide a written description of the terms and characteristics of UTP Exchange Traded Products to purchasers of such securities, not later than the time of confirmation of the first transaction, and with any sales materials relating to UTP Exchange Traded Products.
- Market Maker Restrictions. Proposed Rule 5.1(a)(E) would establish certain restrictions for any ETP Holder registered as a market maker in an Exchange Traded Product listed on the exchange that derives its value from one or more currencies, commodities, or derivatives based on one or more currencies or commodities, or is based on a basket or index composed of currencies or commodities (collectively, "Reference

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[35] Proposed Rule 5.1(a)(2)(C)(iii).

Assets"). Specifically, such an ETP Holder must file with the Exchange and keep current a list identifying all accounts for trading the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, which the ETP Holder acting as registered market maker may have or over which it may exercise investment discretion.[36] If an account in which an ETP Holder acting as a registered market maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, has not been reported to the Exchange as required by this Rule, an ETP Holder acting as registered market maker in the Exchange Traded Product would be permitted to trade in the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives. Finally, a market maker could not use any material nonpublic information in connection with trading a related instrument.

Proposed Rule 5.1(b)

As noted above, the terms "Exchange Traded Product" and "UTP Exchange Traded Product" would be defined in Rule 1.1. The Exchange proposes to set forth additional definitions that would be relevant to the rules for the trading pursuant to UTP

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[36] The proposed rule would also, more specifically, require a market maker to file with the Exchange and keep current a list identifying any accounts ("Related Instrument Trading Accounts") for which related instruments are traded (1) in which the market maker holds an interest, (2) over which it has investment discretion, or (3) in which it shares in the profits and/or losses. In addition, a market maker would not be permitted to have an interest in, exercise investment discretion over, or share in the profits and/or losses of a Related Instrument Trading Account that has not been reported to the Exchange as required by the proposed rule.

of the Exchange Traded Products in proposed Rule 5.1(b). Proposed Rule 5.1(b) is based on NYSE American Rule 5.1E(b). To maintain consistency in rule references between the Exchange's proposed rules and NYSE American's rules, the Exchange proposes to Reserve the same subparagraphs in the definitions of proposed Rule 5.1(b) as those that are Reserved in the subparagraphs of NYSE American Rule 5.1E(b).[37]

Proposed Rule 5.2(j)(2) – (j)(7)

The Exchange proposes to add Rules 5.2(j)(2) – (j)(7), which would be substantially identical to NYSE American Rules 5.2E(j)(2)-(j)(7) and substantially similar to NYSE Rules 5.2(j)(2)-(j)(7) and NYSE Arca Rules 5.2-E(j)(2)-(j)(7). These proposed rules would permit the Exchange to trade pursuant to UTP the following:

- ELNs that meet the rules for the trading pursuant to UTP that are contained in proposed Rule 5.2(j)(2);
- Investment Company Units that meet the rules for the trading pursuant to UTP that are contained in proposed Rule 5.2(j)(3);
- Index-Linked Exchangeable Notes that meet the rules for the trading pursuant to UTP that are contained in proposed Rule 5.2(j)(4);
- Equity Gold Shares that meet the rules for the trading pursuant to UTP that are contained in proposed Rule 5.2(j)(5);
- Equity Index Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities, and Multifactor Index-Linked Securities that meet the rules for

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37 The Exchange is proposing to designate paragraphs (b)(3), (b)(7), (b)(8), (b)(10), (b)(17) and (b)(19) of proposed Rule 5.1(b) as "Reserved" because they are Reserved in NYSE American Rule 5.1E(b).

the trading pursuant to UTP that are contained in proposed Rule 5.2(j)(6); and

- Trust Certificates that meet the rules for the trading pursuant to UTP that are contained in proposed Rule 5.2(j)(7).

The text of these proposed rules is identical to NYSE American Rules 5.2E(j)(2)-5.2(j)(7), other than certain non-substantive and technical differences explained below.

The Exchange proposes to Reserve paragraphs 5.2(a)-(i)[38] and (j)(1),[39] to maintain

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38 NYSE American adopted rules for the trading pursuant to UTP of ETPs that are substantially identical to the rules of NYSE Arca. See NYSE American ETP Listing Rules Filing, supra note 7. In order to maintain the same rule numbers as NYSE Arca, NYSE American reserved paragraphs 5.2E(a)-(i) as these rules pertain to specific listing criteria for NYSE Arca and not trading ETPs pursuant to UTP, and NYSE American was not proposing similar rules at the time. Because the Exchange will not be a listing venue, the Exchange similarly proposes to designate these rules as "Reserved."

NYSE Arca Rule 5.2-E(a) pertains to applications for admitting securities to list on NYSE Arca and NYSE Arca Rule 5.2-E(b) pertains to NYSE Arca's unique two-tier listing structure.

NYSE Arca Rules 5.2-E(c)-(g) relate to listing standards for securities that are not ETPs, and NYSE American did not propose rule changes related to such securities.

NYSE Arca Rule 5.2-E(h) pertains to Unit Investment Trusts ("UITs"). NYSE American trades UITs pursuant to UTP under proposed Rule 5.2(j)(3) (Investment Company Units) or proposed Rule 8.100 (Portfolio Depository Receipts), and the Exchange is proposing the same.

39 NYSE American added rules for the trading pursuant to UTP of ETPs that are substantially identical to the rules of NYSE Arca. See id. and NYSE American ETP Listing Rules Filing, supra note 7. In order to maintain the same rule numbers as NYSE Arca, NYSE American reserved paragraph 5.2E(j)(1) as NYSE Arca Rule 5.2-E(j)(1) pertains to "Other Securities" that are not otherwise covered by the requirements contained in the other listing rules of NYSE Arca. As NYSE American added only the rules that were necessary for the exchange to trade ETPs pursuant to UTP, NYSE American did not propose a rule comparable to NYSE Arca Rule 5.2-E(j)(1) at that time. The Exchange similarly does not propose rules comparable to that NYSE Arca rule.

the same rule numbers as the NYSE American rules with which it conforms.

Proposed Rule 5.2(j)(2) (ELNs)

The Exchange is proposing Rule 5.2(j)(2) to provide rules for the trading pursuant to UTP of ELNs, so that they may be traded on the Exchange pursuant to UTP. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 5.2E(j)(2).[40]

Proposed Rule 5.2(j)(3) (Investment Company Units)

The Exchange proposes Rule 5.2(j)(3) to establish rules for the trading pursuant to UTP of investment company units, so that they may be traded on the Exchange pursuant to UTP. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 5.2E(j)(3).[41]

Proposed Rule 5.2(j)(4) (Index-Linked Exchangeable Notes)

The Exchange proposes Rule 5.2(j)(4) to establish rules for the trading pursuant to UTP of index-linked exchangeable notes, so that they may be traded on the Exchange pursuant to UTP.

In addition to the General Definitional Term Changes described above, the Exchange is proposing the following non-substantive differences between this proposed

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40 See NYSE American Rule 5.2E(j)(2), which is based on NYSE Arca Rule 5.2-E(j)(2). See also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release Nos. 50319 (September 7, 2004), 69 FR 55204 (September 13, 2004) (SR-PCX-2004-75); 56924 (December 7, 2007), 72 FR 70918 (December 13, 2007) (SR-NYSEArca-2007-98); 58745 (October 7, 2008), 73 FR 60745 (October 14, 2008) (SR-NYSEArca-2008-94).

41 See NYSE American Rule 5.2E(j)(3), which is based on NYSE Arca Rule 5.2-E(j)(3). See also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release Nos. 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR-PCX-2001-14) and 40603 (November 3, 1998), 63 FR 59354 (November 3, 1998) (SR-PCX-98-29).

rule and NYSE American Rule 5.2E(j)(4):[42]

- To qualify for listing and trading under NYSE American Rule 5.2E(j)(4), an index-linked exchangeable note and its issuer must meet the criteria in NYSE Arca Rule 5.2-E(j)(1) (Other Securities), except that the minimum public distribution will be 150,000 notes with a minimum of 400 public note-holders, except, if traded in thousand dollar denominations then there is no minimum public distribution and number of holders.

  Because neither NYSE American nor the Exchange have and are not proposing a rule for "Other Securities" comparable to NYSE Arca Rule 5.2-E(j)(1), the Exchange, like NYSE American, proposes to reference NYSE Arca Rule 5.2-E(j)(1) in subparagraphs (a) and (c) of proposed Rule 5.2(j)(4) in establishing the criteria that an issuer and issue must satisfy.[43]

- To qualify for listing and trading under NYSE American Rule 5.2E(j)(4), an index to which an exchangeable note is linked and its underlying securities must meet (i) the procedures and criteria set forth in

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42 See NYSE American Rule 5.2E(j)(4), which is based on NYSE Arca Rule 5.2-E(j)(4). See also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release No. 49532 (April 7, 2004), 69 FR 19593 (April 13, 2004) (SR-PCX-2004-01).

43 The Exchange will monitor for any changes to the rules of NYSE Arca, and will amend its rules accordingly to conform to the rules of NYSE Arca. The Exchange notes that it is proposing to cross-reference to the rules of an affiliate of the Exchange, which will facilitate monitoring for changes to such rules. The Exchange also notes that it is proposing to follow the established and approved rules of NYSE, which also reference the rules of NYSE Arca. See NYSE ETP Listing Rules Filing, supra note 8.

Supplementary Material .03 to NYSE American Rule 901C;[44] or (ii) the criteria set forth in subsections (C) and (D) of NYSE American Rule 5.2E(j)(2), the index concentration limits set forth in Supplementary Material .03(a)(7) to NYSE American Rule 901C, and Supplementary Material .03(b)(iii) to NYSE American Rule 901C insofar as it relates to Supplementary Material .03(a)(7) to NYSE American Rule 901C. Because the Exchange does not plan to trade options at this time and is not proposing rules for listing of index options contracts, the Exchange is proposing to refer to NYSE Arca Rule 5.13-O in proposed Rule 5.2(j)(4)(d)(i) and (ii), which has the same requirements as NYSE American Rule 901C. The Exchange would apply the criteria set forth in NYSE Arca Rule 5.13-O in determining whether an index underlying an index-linked exchangeable note satisfies the requirements of Rule 5.2(j)(4)(d).[45]

The Exchange proposes to reference NYSE Arca Rule 5.13-O because the Exchange does not have options trading rules. In referencing such rules, the Exchange proposes to follow the established and approved rules of

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44 Supplementary Material .03 to NYSE American Rule 901C is substantially identical to NYSE Arca Rule 5.13-O (NYSE Arca Rule 5.13-O is cross-referenced in NYSE Arca Rule 5.2-E(j)(4), on which NYSE American Rule 5.2E(j)(4) was originally based; see NYSE American ETP Listing Rules Filing, supra note 7, and sets forth criteria for narrow-based and micro narrow-based indexes on which an options contract may be listed without filing a proposed rule change under Section 19(b) of the Exchange Act.

45 See supra note 43.

NYSE Rule 5.2(j)(4), which also references NYSE Arca Rule 5.13-O.[46]

Proposed Rule 5.2(j)(5) (Equity Gold Shares)

The Exchange is proposing Rule 5.2(j)(5) to provide rules for the trading pursuant to UTP of equity gold shares, so that they may be traded on the Exchange pursuant to UTP. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 5.2E(j)(5).[47]

Proposed Rule 5.2(j)(6) (Index-Linked Securities)

The Exchange is proposing Rule 5.2(j)(6) to provide rules for the trading pursuant to UTP of equity index-linked securities, so that they may be traded on the Exchange pursuant to UTP.

In addition to the General Definitional Term Changes described above, the Exchange is proposing the following non-substantive changes between this proposed rule and NYSE American Rule 5.2E(j)(6):[48]

- To qualify for listing and trading under NYSE American Rule 5.2E(j)(6), both the issue and issuer of an index-linked security must meet the criteria in NYSE Arca Rule 5.2-E(j)(1) (Other Securities), with certain specified

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46 See NYSE ETP Listing Rules Filing, supra note 8.

47 See NYSE American Rule 5.2E(j)(5), which is based on NYSE Arca Rule 5.2-E(j)(5). See also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release No. 51245 (February 23, 2005), 70 FR 10731 (March 4, 2005) (SR-PCX-2004-117).

48 See NYSE American Rule 5.2E(j)(6), which is based on NYSE Arca Rule 5.2-E(j)(6). See also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release Nos. 54231 (July 27, 2006), 71 FR 44339 (August 4, 2006) (SR-NYSEArca-2006-19); 59332 (January 30, 2009), 74 FR 6338 (February 6, 2009) (SR-NYSEArca-2008-136); and 52204 (August 3, 2005), 70 FR 46559 (August 10, 2005) (SR-PCX-2005-63).

exceptions. Because neither NYSE American nor the Exchange have and are not proposing a rule for "Other Securities" comparable to NYSE Arca Rule 5.2-E(j)(1), the Exchange, like NYSE American, proposes to reference NYSE Arca Rule 5.1-E(j)(1) in proposed Rule 5.2(j)(6)(A)(a) establishing the criteria that an issue and issuer must satisfy.[49]

- The listing standards for Equity Index-Linked Securities in NYSE American Rule 5.2E(j)(6) reference NYSE American Rule 915 in describing the criteria for securities that compose 90% of an index's numerical value and at least 80% of the total number of components. Because the Exchange does not plan to trade options at this time and is not proposing rules for establishing the criteria for underlying securities of put and call options contracts described in NYSE American Rule 915,[50] the Exchange is proposing to refer to NYSE Arca Rule 5.3-O in paragraph (B)(I)(1)(b)(iv) of proposed Rule 5.2(j)(6), to establish the initial listing criteria that an index must meet to trade pursuant to UTP. The Exchange would apply the criteria set forth in NYSE Arca Rule 5.3-O in determining whether an index's numerical value meets the then current criteria for standardized option trading.[51]

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49 See supra note 43.

50 NYSE American Rule 915 is substantially identical to NYSE Arca Rule 5.3-O (NYSE Arca Rule 5.3-O is cross-referenced in NYSE Arca Rule 5.2-E(j)(6), on which NYSE American Rule 5.2E(j)(6) was originally based; see NYSE American ETP Listing Rules Filing, supra note 7), and establishes the criteria for underlying securities of put and call option contracts listed on the exchange.

51 See supra note 43.

The Exchange proposes to reference NYSE Arca Rule 5.3-O because the Exchange does not have options trading rules. In referencing such rules, the Exchange proposes to follow the established and approved rules of NYSE Rule 5.2(j)(6), which also references NYSE Arca Rule 5.3-O.[52]

Proposed Rule 5.2(j)(7) (Trust Certificates)

The Exchange is proposing Rule 5.2(j)(7) to provide rules for the trading pursuant to UTP of trust certificates, so that they may be traded on the Exchange pursuant to UTP. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 5.2E(j)(7).[53]

Rule 8 – Trading of Certain Exchange Traded Products

The Exchange proposes that the rules set forth in Rule 8 would be based on Sections 1 and 2 of NYSE American Rule 8E, NYSE Rule 8P, and NYSE Arca Rule 8-E. These proposed rules would permit the Exchange to trade pursuant to UTP the following: Currency and Index Warrants, Portfolio Depositary Receipts, Trust Issued Receipts, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Paired Trust Shares, Trust Units, Managed Fund Shares, and Managed Trust Securities.[54]

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52 See NYSE ETP Listing Rules Filing, supra note 8.

53 See NYSE American Rule 5.2E(j)(7), which is based on NYSE Arca Rule 5.2-E(j)(7). See also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release Nos. 59051 (December 4, 2008), 73 FR 75155 (December 10, 2008) (SR-NYSEArca-2008-123) and 58920 (November 7, 2008), 73 FR 68479 (November 18, 2008) (SR-NYSEArca-2008-123).

54 The Exchange is only proposing listing and trading rules necessary to trade ETPs pursuant to UTP. Accordingly, the Exchange, like NYSE American and NYSE LLC, is not proposing a rule comparable to NYSE Arca Rule 8.100-E(g).

The Exchange proposes to designate Rule 8.100(g) as Reserved to maintain the same rule numbers as the NYSE American rules with which it conforms.

The text of proposed Rule 8 is based on Sections 1 and 2 of NYSE American Rule 8E, with only specified non-substantive and technical differences explained below and the General Definitional Term Changes described above. In addition, as described above, proposed Rule 8 would apply only to the trading pursuant to UTP of Exchange Traded Products on the Exchange would not apply to the listing of Exchange Traded Products on the Exchange.

Proposed Rules 8.1 – 8.13 – Currency and Index Warrants

The Exchange is proposing Rules 8.1-8.13 to provide rules for the trading pursuant to UTP (including sales-practice rules such as those relating to suitability and supervision of accounts) of currency and index warrants.[55] Proposed Rules 8.1 – 8.13 are based on NYSE American rules 8.1E – 8.13E. The Exchange is proposing the following non-substantive differences between these proposed rules and NYSE American Rules 8.1E-8.13E (Currency and Index Warrants):

Proposed Rule 8.1 (General)

Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.1E.

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55 NYSE American Rules 8.1E-8.13E, which are based on NYSE Arca Rules 8.1-E – 8.13-E, all pertain to the listing and trading requirements (including sales-practice rules such as those relating to suitability and supervision of accounts) for Currency and Index Warrants. See Section 1 of NYSE American Rule 8E; see also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release Nos. 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR-PCX-00-25) and 59886 (May 7, 2009), 74 FR 22779 (May 14, 2009) (SR-NYSEArca-2009-39).

Proposed Rule 8.2 (Definitions)

Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.2E.

Proposed Rule 8.3 (Listing of Currency and Index Warrants)

Other than with respect to the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.3E.

Proposed Rule 8.4 (Account Approval)

The account approval rules of NYSE American Rule 8.4E reference NYSE American Rule 921[56] in describing the criteria that must be met for opening up a customer account for options trading. Because the Exchange does not plan to trade options at this time and is not proposing to add rules that pertain to the opening of accounts that are approved for options trading, the Exchange proposes to require an ETP Holder to ensure its account is approved for options trading pursuant to NYSE Arca Rule 9.18-E(b).[57]

The Exchange proposes to reference NYSE Arca Rule 9.18-E(b) because the Exchange does not have options trading rules. In referencing such rule, the Exchange proposes to follow the established and approved rules of NYSE Rule 8.4 and NYSE Arca

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56 NYSE American Rule 921 is substantially similar to NYSE Arca Rule 9.18-E(b) (NYSE Arca Rule 9.18-E(b) is cross-referenced in NYSE Arca Rule 8.4-E, on which NYSE American Rule 8.4E was originally based; see NYSE American ETP Listing Rules Filing, supra note 7), and establishes criteria that must be met to open up a customer account for options trading.

57 See supra note 43.

Rule 8.4-E, which also reference NYSE Arca Rule 9.18-E(b).[58]

Proposed Rule 8.5 (Suitability)

The account suitability rules of NYSE American Rule 8.5E reference NYSE American Rule 923[59] in describing rules that apply to recommendations made in stock index, currency index and currency warrants. Because the Exchange does not plan to trade options at this time and is not proposing to add rules that pertain to account suitability for options trading described in NYSE American Rule 923, the Exchange proposes to cross-reference NYSE Arca Rule 9.18-E(c) in proposed Rule 8.5. The Exchange would apply the criteria set forth in NYSE Arca Rule 9.18-E(c) in determining account suitability.[60]

The Exchange proposes to reference NYSE Arca Rule 9.18-E(c) because the Exchange does not have options trading rules. In referencing such rule, the Exchange proposes to follow the established and approved rules of NYSE Rule 8.5 and NYSE Arca Rule 8.5-E, which also reference NYSE Arca Rule 9.18-E(c).[61]

Proposed Rule 8.6 (Discretionary Accounts)

The rules of NYSE American Rule 8.6E state that NYSE American Rule 408-Equities[62] will not apply to customer accounts insofar as they may relate to discretion to

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58 See NYSE ETP Listing Rules Filing, supra note 8.

59 Rule 923 is substantially similar to NYSE Arca Rule 9.18-E(c) (NYSE Arca Rule 9.18-E(c) is cross-referenced in NYSE Arca Rule 8.5-E, on which NYSE American Rule 8.5E was originally based; see NYSE American ETP Listing Rules Filing, supra note 7), and establishes suitability rules that pertain to recommendations in stock index, currency index and currency warrants.

60 See supra note 42.

61 See NYSE ETP Listing Rules Filing, supra note 8.

62 NYSE American Rule 408-Equities is substantially similar to NYSE Arca Rule

trade in stock index, currency index and currency warrants, and that NYSE American Rule 924[63] will apply to such discretionary accounts instead. Because the Exchange does not plan to trade options at this time and is not proposing a rule specific to the Exchange's discretionary accounts for equity trading as described in NYSE American Rule 408-Equitites, nor a rule that pertains to exercising discretion for options trading described in NYSE American Rule 924, the Exchange proposes to cross-reference to NYSE Arca Rule 9.18-E(e) in proposed Rule 8.6. The Exchange would apply the criteria set forth in this rule in determining whether an ETP Holder appropriately exercised discretion.[64]

The Exchange proposes to reference NYSE Arca Rule 9.18-E(e) because the Exchange does not have options trading rules. In referencing such rule, the Exchange proposes to follow the established and approved rules of NYSE Rule 8.6 and NYSE Arca Rule 8.6-E, which also reference NYSE Arca Rule 9.18-E(e).[65]

Proposed Rule 8.7 (Supervision of Accounts)

The account supervision rules of NYSE American Rule 8.7E reference NYSE

9.6-E(a) (NYSE Arca Rule 9.6-E(a) is cross-referenced in NYSE Arca Rule 8.6-E, on which NYSE American Rule 8.6E was originally based; see NYSE American ETP Listing Rules Filing, supra note 7), and pertains to the rules of the exchange with regard to discretionary power in customer accounts for equity trading.

63 NYSE American Rule 924 is substantially similar to NYSE Arca Rule 9.18-E(e) (NYSE Arca Rule 9.18-E(e) is cross-referenced in NYSE Arca Rule 8.6-E, on which NYSE American Rule 8.6E was originally based; see NYSE American ETP Listing Rules Filing, supra note 7), and establishes rules pertaining to discretion as to customer accounts for options trading.

64 See supra note 43.

65 See NYSE ETP Listing Rules Filing, supra note 8.

American Rule 922[66] in describing rules that apply to the supervision of customer accounts in which transactions in stock index, currency index or currency warrants are effected. Because the Exchange does not plan to trade options at this time and is not proposing to add rules that pertain to the supervision of customer accounts for options trading described in NYSE American Rule 922, the Exchange proposes to cross-reference to NYSE Arca Rule 9.18-E(d) in proposed Rule 8.7. The Exchange would apply the criteria set forth in NYSE Arca Rule 9.18-E(d)in supervising such accounts.[67]

The Exchange proposes to reference NYSE Arca Rule 9.18-E(d) because the Exchange does not have options trading rules. In referencing such rule, the Exchange proposes to follow the established and approved rules of NYSE Rule 8.7 and NYSE Arca Rule 8.7-E, which also reference NYSE Arca Rule 9.18-E(d).[68]

Proposed Rule 8.8 (Customer Complaints)

The customer complaint rules of NYSE American Rule 8.8E reference NYSE American Rule 932[69] in describing rules that apply to customer complaints received regarding stock index, currency index or currency warrants. Because the Exchange does

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66 NYSE American Rule 922 is substantially similar to NYSE Arca Rule 9.18-E(d) (NYSE Arca Rule 9.18-E(d) is cross-referenced in NYSE Arca Rule 8.7-E, on which NYSE American Rule 8.7E was originally based; see NYSE American ETP Listing Rules Filing, supra note 7), and establishes account supervision rules that apply to the supervision of customer accounts in which transactions in stock index, currency index and currency warrants are effected.

67 See supra note 43.

68 See NYSE ETP Listing Rules Filing, supra note 8.

69 NYSE American Rule 932 is substantially similar to NYSE Arca Rule 9.18-E(l) (NYSE Arca Rule 9.18-E(l) is cross-referenced in NYSE Arca Rule 8.8-E, on which NYSE American Rule 8.8E was originally based; see NYSE American ETP Listing Rules Filing, supra note 7), and establishes rules that apply to customer complaints received regarding stock index, currency index or currency warrants.

not plan to trade options at this time and is not proposing to add rules for doing a public business in options as described in NYSE American Rule 932, the Exchange proposes to cross-reference to NYSE Arca Rule 9.18-E(l) in proposed Rule 8.8. The Exchange would apply the criteria set forth in NYSE Arca Rule 9.18-E(l) to customer complaints.[70]

The Exchange proposes to reference NYSE Arca Rule 9.18-E(l) because the Exchange does not have options trading rules. In referencing such rule, the Exchange proposes to follow the established and approved rules of NYSE Rule 8.8 and NYSE Arca Rule 8.8-E, which also reference NYSE Arca Rule 9.18-E(l).[71]

Proposed Rule 8.9 (Prior Approval of Certain Communications to Customers)

The rules pertaining to communications to customers regarding stock index, currency index and currency warrants described in NYSE American 8.9E reference NYSE American Rule 991.[72] Because the Exchange does not plan to trade options at this time and is not proposing to add rules for advertisements, market letters and sales literature relating to options as described in NYSE American Rule 991, the Exchange proposes to cross-reference to the Commentaries to NYSE Arca Rule 9.28-E in proposed Rule 8.9. The Exchange would apply the criteria set forth in the Commentaries to NYSE

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70 See supra note 43.

71 See NYSE ETP Listing Rules Filing, supra note 8.

72 NYSE American Rule 991 is substantially similar to NYSE Arca Rule 9.28-E (NYSE Arca Rule 9.28-E is cross-referenced in NYSE Arca Rule 8.9-E, on which NYSE American Rule 8.9E was originally based; see NYSE American ETP Listing Rules Filing, supra note 7), and establishes rules regarding advertisements, sales literature and educational material issued to any customer or member of the public pertaining to stock index, currency index or currency warrants.

Arca Rule 9.28-E to prior approvals of such communications to customers.[73]

The Exchange proposes to reference to the Commentaries to NYSE Arca Rule 9.28-E because the Exchange does not have options trading rules. In referencing such rules, the Exchange proposes to follow the established and approved rules of NYSE Rule 8.9 and NYSE Arca Rule 8.9-E, which also reference Commentaries to NYSE Arca Rule 9.28-E.[74]

Proposed Rule 8.10 (Position Limits)

Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.10E.

Proposed Rule 8.11 (Exercise Limits)

Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.11E.

Proposed Rule 8.12 (Trading Halts or Suspensions)

Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.12E.

Proposed Rule 8.13 (Reporting of Warrant Positions)

Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.13E.

Proposed Rules 8.100 – 8.700

The Exchange is proposing:

- Rule 8.100 to provide rules for the trading pursuant to UTP of portfolio

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73 See supra note 43.

74 See NYSE ETP Listing Rules Filing, supra note 8.

depositary receipts. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.100E.[75]

- Rule 8.200 to provide rules for the trading pursuant to UTP of trust issued receipts. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.200E.[76]
- Rule 8.201 to provide rules for the trading pursuant to UTP of commodity-based trust shares. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.201E.[77]
- Rule 8.202 to provide rules for the trading pursuant to UTP of currency trust shares. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE

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75 See NYSE American Rule 8.100E, which is based on NYSE Arca Rule 8.100-E. See also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release Nos. 39461 (December 17, 1997), 62 FR 67674 (December 29, 1997) (SR-PCX-97-35); 39188 (October 2, 1997), 62 FR 53373 (October 14, 1997) (SR-PCX-97-35); and 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR-PCX-2001-14).

76 See NYSE American Rule 8.200E, which is based on NYSE Arca Rule 8.200-E. See also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release Nos. 58162 (July 15, 2008), 73 FR 42391 (July 21, 2008) (SR-NYSEArca-2008-73) and 44182 (April 16, 2001), 66 FR 21798 (April 16, 2001) (SR-PCX-2001-01).

77 See NYSE American Rule 8.201E, which is based on NYSE Arca Rule 8.201-E. See also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release No. 51067 (January 21, 2005), 70 FR 3952 (January 27, 2005) (SR-PCX-2004-132).

American Rule 8.202E.[78]

- Rule 8.203 to provide rules for the trading pursuant to UTP of commodity index trust shares. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.203E.[79]
- Rule 8.204 to provide rules for the trading pursuant to UTP of commodity futures trust shares, so that they may be traded on the Exchange pursuant to UTP. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.204E.[80]
- Rule 8.300 to provide rules for the trading pursuant to UTP of partnership units. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.300E-Equities.[81]

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78 See NYSE American Rule 8.202E, which is based on NYSE Arca Rule 8.202-E. See also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release Nos. 60065 (June 8, 2009), 74 FR 28310 (June 15, 2009) (SR-NYSEArca-2009-47) and 53253 (February 8, 2006), 71 FR 8029 (February 15, 2006) (SR-PCX-2005-123).

79 See NYSE American Rule 8.203E, which is based on NYSE Arca Rule 8.203-E. See also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release No. 54025 (June 21, 2006), 71 FR 36856 (June 28, 2006) (SR-NYSEArca-2006-12).

80 See NYSE American Rule 8.204E, which is based on NYSE Arca Rule 8.204-E. See also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release Nos. 57838 (May 20, 2008), 73 FR 30649 (May 28, 2008) (SR-NYSEArca-2008-09) and 57636 (April 8, 2008), 73 FR 20344 (April 15, 2008) (SR-NYSEArca-2008-09).

81 See NYSE American Rule 8.300E, which is based on NYSE Arca Rule 8.300-E.

- Rule 8.400 to provide rules for the trading pursuant to UTP of paired trust shares. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.400E.[82]
- Rule 8.500 to provide rules for the trading pursuant to UTP of trust units. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.500E.[83]
- Rule 8.600 to provide rules for the trading pursuant to UTP of managed fund shares. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.600E.[84]

See also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release No. 53875 (May 25, 2006), 71 FR 32164 (January 2, 2006) (SR-NYSEArca-2006-11).

82 See NYSE American Rule 8.400E, which is based on NYSE Arca Rule 8.400-E. See also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release Nos. 55033 (December 29, 2006), 72 FR 1253 (January 10, 2007) (SR-NYSEArca-2006-75) and 58312 (August 5, 2008), 73 FR 46689 (August 11, 2008) (SR-NYSEArca-2008-63).

83 See NYSE American Rule 8.500E, which is based on NYSE Arca Rule 8.500-E. See also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release Nos. 57059 (December 28, 2007), 73 FR 909 (January 4, 2008) (SR-NYSEArca-2006-76) and 63129 (October 19, 2010), 75 FR 65539 (October 25, 2010) (SR-NYSEArca-2010-91).

84 See, NYSE American Rule 8.600E, which is based on NYSE Arca Rule 8.600-E. See also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release Nos. 57395 (February 28, 2008), 73 FR 11974 (March 5, 2008) (SR-NYSEArca-2008-25) and 57619 (April 4, 2008), 73 FR 19544 (April 10, 2008) (SR-NYSEArca-2008-25).

- Rule 8.700 to provide rules for the trading pursuant to UTP of managed trust securities. Other than the General Definitional Term Changes described above, there are no differences between this proposed rule and NYSE American Rule 8.700E.[85]

Rule 6 – Consolidated Audit Trail and Order Audit Trail System

Proposed Rule 6.6800 Series (Compliance Rules)

As noted above, the Exchange proposes to renumber its existing Compliance Rules relating to the CAT NMS Plan under Rule 6 without any substantive changes. The Compliance Rules require Industry Members to comply with the provisions of the CAT NMS Plan.[86] The Compliance Rule includes twelve rules covering the following areas: (1) Definitions; (2) clock synchronization; (3) Industry Member Data reporting; (4) Customer information reporting; (5) Industry Member information reporting; (6) time stamps; (7) clock synchronization rule violations; (8) connectivity and data transmission; (9) development and testing; (10) recordkeeping; (11) timely, accurate and complete data; and (12) compliance dates.

In moving the Compliance Rules to Rule 6, the Exchange proposes to renumber Rules 14.1 through 14.12 as proposed Rules 6.6800 through 6.6895, which is based in part on the NYSE Arca rule numbering for its Compliance Rules, but not make any substantive changes to those rules. The Exchange proposes non-substantive differences

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85 See, NYSE American Rule 8.700E, which is based on NYSE Arca Rule 8.700-E. See also NYSE American ETP Listing Rules Filing, supra note 7 and Securities Exchange Act Release Nos. 60064 (June 8, 2009), 74 FR 28315 (June 15, 2009) (SR-NYSEArca-2009-30) and 59835 (April 28, 2009), 74 FR 21041 (May 6, 2009) (SR-NYSEArca-2009-30).

86 Unless otherwise specified, capitalized terms used are defined as set forth herein, the CAT Compliance Rule Series or in the CAT NMS Plan.

to the Compliance Rules to use a different sub-paragraph numbering format.[87] The proposed sub-numbering for the Compliance Rules (i.e., 6800-6895) mirrors the rule-numbering framework for the CAT NMS Plan Compliance Rules on FINRA, NYSE, and NYSE American and includes a sub-section rule heading of "Rule 6.6800 Consolidated Audit Trail Compliance Rule."

Proposed Rule 6.6900 (Consolidated Audit Trail – Fee Dispute Resolution)

The Exchange proposes Rule 6.6900 to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. Section 11.5 of the CAT NMS Plan requires participants to that plan to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters will be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Commission has approved industry-wide rules that set forth such fee dispute procedures.[88] At the time when CAT NMS Plan Participants adopted the

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87 Current Exchange rules use an "(a)(i)(A)(1)" sub-paragraph numbering convention and the Exchange proposes to use an "(a)(1)(A)(i)" sub-paragraph numbering convention.

88 See Securities Exchange Act Release No. 81500 (August 30, 2017), 82 FR 42143 (September 6, 2017) (SR-BatsBYX-2017-13; SR-BatsBZX-2017-39; SR-BatsEDGA-2017-14; SR-BatsEDGX-2017-24; SR-BOX-2017-19; SR-CBOE-2017-043; SR-IEX-2017-21; SR-ISE-2017-52; SR-MRX-2017-08; SR-MIAX-2017-24; SR-NASDAQ-2017-059; SR-BX-2017-029; SR-GEMX-2017-059; SR-PHLX-2017-47; SR-NYSE-2017-24; SR-NYSEArca-2017-60; SR-NYSEMKT-2017-31) (Order Approving Proposed Rule Changes to Adopt a CAT Fee Dispute Resolution Process) ("Fee Dispute Approval Order").

Fee Dispute Rule, the Exchange had ceased operations and therefore did not adopt the rule.

Proposed Rule 6.6900 would set forth the Exchange's proposed procedures to resolve disputes initiated by an Industry Member with respect to CAT fees and is based on NYSE Arca Rule 11.6900 specifically, and the rules of other exchanges generally, without any substantive differences.[89] Proposed Rule 6.6900(a) would set forth definitions used for purposes of the rule and proposed Rule 6.6900(b) would set forth the "Fee Dispute Resolution Procedures under the CAT NMS Plan." The proposed sub-numbering for the CAT NMS Plan Fee Dispute Rule (i.e., 6900) mirrors the rule-numbering framework for the CAT NMS Plan Fee Dispute Rule on FINRA, NYSE, and NYSE American.

Proposed Rule 6.7400 (Order Audit Trail System)

The Exchange proposes OATS rules based on NYSE Arca Rules 6.7400-E Series, which in turn are based on the FINRA Rules 7400 Series. The proposed NYSE National Rule 6.7400 Series would consist of proposed Rules 6.7410 through 6.7470, which are based on NYSE Arca Rules 6.7410-E through 6.7470-E without any substantive differences. The Exchange proposes non-substantive differences throughout the Rule 6.7400 Series to refer to the Exchange instead of NYSE Arca and to use the defined term "Associated Person."

- Proposed Rule 6.7140 (Definitions) would set forth definitions used for purposes of the Rule 6.7400 Series and is based on NYSE Arca Rule 6.7410-E without any substantive differences.

89 The Exchange will file a separate proposed rule change for Consolidated Audit Trail Funding Fees on the Exchange's Fee Schedule.

- Proposed Rule 6.7420 (Applicability) would specify that the requirements of the Rule 6.7400 Series are applicable to all ETP Holders and their associated persons and to all NMS Stocks that trade on the Exchange, and is based on NYSE Arca Rule 6.720-E without any differences.
- Proposed Rule 6.7430 (Synchronization of ETP Holder Business Clocks) would require ETP Holders to synchronize business clocks used for purposes of recording the date and time of specified events, and is based on NYSE Arca Rule 6.7430 without any differences.
- Proposed Rule 6.7440 (Recording of Order Information) would require ETP Holders to comply with FINRA Rule 7440 as if such rule were part of the Exchange's rules and is based on NYSE Arca Rule 6.7440-E without any substantive differences.
- Proposed Rule 6.7450 (Order Data Transmission Requirements) would require ETP Holders to comply with FINRA Rule 7450 as if such rule were part of the Exchange's rules and is based on NYSE Arca Rule 6.7450-E without any substantive differences.
- Proposed Rule 6.7460 (Violation of Order Audit Trail System Rules) would provide that failure of an ETP Holder or associated person to comply with the requirements of proposed Rules 6.7410 through 6.7460 may be considered conduct that is inconsistent with high standards of commercial honor and just and equitable principles of trade. This proposed rule is based on NYSE Arca Rule 6.7460-E with a non-substantive difference to cross reference proposed Rule 11.3.1 instead of

NYSE Arca Rule 9.2010.

- Proposed Rule 6.7470 (Exemption to the Order Recording and Data Transmission Requirements) would provide for how an ETP Holder may apply for an exemption from the Rule 6.7400 Series and is based on NYSE Arca Rule 6.7470-E without any differences.

At the time the Exchange ceased operations, it did not require its ETP Holders to maintain order information pursuant to an order tracking system and therefore, did not have the OATS rules or similar rules in its rulebook. The Exchange does not believe that requiring Exchange ETP Holders to comply with the OATS requirements in connection with the re-launch of trading will impose an undue burden on such ETP Holders or its associated persons. Once the Exchange restarts operation, ETP Holders that are also FINRA members ("Dual Members") would already be subject to FINRA's OATS requirements. Similarly, because NYSE Arca, NYSE, and NYSE American each also have rules based on the FINRA OATS requirements, Exchange ETP Holders that are not members of FINRA, but are members of NYSE Arca, NYSE, or NYSE American, will already be subject to such OATS requirements.[90] To the extent an Exchange ETP Holder is not also a member of FINRA, one of the Exchange's affiliated exchanges, or Nasdaq (which also requires compliance with FINRA OATS requirements), the Exchange believes that the OATS requirements for non-FINRA members are not onerous, as order

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90 The Exchange's affiliates, NYSE, NYSE Arca, and NYSE American, all have substantially similar requirements and the proposed rules are similar to the rules adopted by the Exchange's affiliates. See NYSE Rules 7410 through 7470; NYSE Arca Rule 6.7410-E through 6.7470-E.; and NYSE American Rule 7410 - Equities through 7470 - Equities. See also Nasdaq Rule 7400A Series.

information pursuant to those rules need only be submitted upon request.[91]

The Exchange believes that requiring its members to comply with the OATS rules will further promote cross-market surveillance and enhance FINRA's ability to conduct surveillance and investigations for the Exchange under a Regulatory Services Agreement. The proposed sub-numbering of the OATS Rules (i.e., 7410-7470) mirrors the rule numbers for the OATS rules on FINRA, NYSE, and NYSE American.

Because Rule 6 would include the Compliance Rules, the Fee Dispute Rule, and the OATS rules, the Exchange proposes to delete the word "System" from the title of Rule 6. The Exchange further proposes to delete the rules in Chapter XIV in their entirety.

Rule 7 – Equities Trading

As noted above, the Exchange proposes trading rules based on the cash equities rules of NYSE Arca and, in some cases specified below, NYSE American. Accordingly, Proposed Rule 7 would include rules based on NYSE Arca Rule 7-E or NYSE American 7E, or both, including general provisions relating to trading, market makers, trading on the Exchange, operation of the routing broker, and the Plan to Implement a Tick Size Pilot Program. Proposed Rule 7 would therefore specify all aspects of trading on the Exchange, including the orders and modifiers that would be available and how orders would be ranked, displayed, and executed. Similar to NYSE American, the Exchange proposes the following non-substantive differences throughout Rule 7:

- to use the term "Exchange" instead of "NYSE Arca Marketplace;"

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91 See proposed Rule 6.7450-E(b). The Exchange is aware of only one former Exchange ETP Holder that is not also a member of FINRA, NYSE Arca, NYSE American, NYSE, or Nasdaq.

- to use the term "Exchange Act," which is a proposed defined term;
- to use the term "Exchange Book" instead of "NYSE Arca Book;"
- to use the term "will" instead of "shall;"
- to use the term "ETP Holders" instead of "Users;" and
- to use the capitalized term "Associated Person."

In addition, because the Exchange will be using Pillar phase II protocols, the Exchange will not include rule text based on NYSE Arca's order behavior using Pillar phase I protocols, as described in NYSE Arca Rules 7.11-E, 7.31-E, and 7.34-E.

Section 1 of Rule 7 would specify the General Provisions relating to trading on the Pillar trading platform. The Exchange proposes the following rules:

- Proposed Rule 7.1 (Hours of Business) would specify that the Exchange would be open for the transaction of business on every business day. The proposed rule also sets forth when the President may take specified actions, such as halting or suspending trading in some or all securities on the Exchange. The proposed rule is based on NYSE Arca Rule 7.1-E and NYSE American Rule 7.1E without any differences.
- Proposed Rule 7.2 (Holidays) would establish the holidays when the Exchange would not be open for business. The proposed rule is based on NYSE American Rule 7.2E (which has updated rule text as compared to NYSE Arca Rule 7.2-E regarding when that exchange would be open for business if a holiday falls on a Sunday) without any differences.
- Proposed Rule 7.3 (Commissions) would establish that ETP Holders may not charge fixed commissions and must indicate whether acting as a

broker or as principal. The proposed rule is based on NYSE Arca Rule 7.3-E and NYSE American Rule 7.3E with a non-substantive difference to reference "Associated Persons," which is a defined term on the Exchange, instead of the phrase "Allied Persons, partners, approved persons or stockholder associates" in paragraph (c) of proposed Rule 7.3.

- Proposed Rule 7.4 (Ex-Dividend or Ex-Right Dates) would establish the ex-dividend and ex-rights dates for stocks traded regular way. The proposed rule is based on NYSE Arca Rule 7.4-E and NYSE American Rule 7.4E without any differences.
- Proposed Rule 7.5 (Trading Units) would establish the unit of trading in stocks, including "round lot," "odd lot," and "mixed lot." The proposed rule is based on NYSE Arca Rule 7.5-E and NYSE American Rule 7.5E without any differences.
- Proposed Rule 7.6 (Trading Differentials) would establish the minimum price variation for quoting and entry of orders for securities priced at $1.00 or more and for securities priced at less than $1.00. The proposed rule is based on NYSE Arca Rule 7.6-E and NYSE American Rule 7.6E without any substantive differences.
- Proposed Rule 7.7 (Transmission of Bids or Offers) would establish that all bids and offers on the Exchange would be anonymous unless otherwise specified by the ETP Holder. The proposed rule is based on NYSE Arca Rule 7.7-E and NYSE American Rule 7.7E without any differences.
- Proposed Rule 7.8 (Bid or Offer Deemed Regular Way) would establish

that all bids and offers would be considered to be "regular way." This proposed rule text is based on NYSE Arca Rule 7.8-E and NYSE American Rule 7.8E.

- Proposed Rule 7.9 (Execution Price Binding) would establish that, notwithstanding Exchange rules on clearly erroneous executions, the price at which an order is executed is binding notwithstanding that an erroneous report is rendered. This proposed rule text is based on NYSE Arca Rule 7.9-E and NYSE American Rule 7.9E without any differences.
- Proposed Rule 7.10 (Clearly Erroneous Executions) would set forth the Exchange's rules on clearly erroneous executions. The proposed rule is based on NYSE Arca Rule 7.10-E and NYSE American Rule 7.10E with one substantive difference: because the Exchange would not be conducting any auctions, the Exchange does not propose text based on NYSE Arca Rule 7.10-E(a) and NYSE American Rule 7.10E(a) that provides that executions as a result of a Trading Halt Auction are not eligible for a request to review as clearly erroneous under paragraph (b) of such rule.
- Proposed Rule 7.11 (Limit Up – Limit Down Plan and Trading Pauses in Individual Securities Due to Extraordinary Market Volatility) would specify how the Exchange would comply with the Regulation NMS Plan to Address Extraordinary Market Volatility ("LULD Plan").[92] The proposed rule is based on NYSE Arca Rule 7.11-E and NYSE American

[92] See Securities Exchange Act Release No. 80455 (April 13, 2017), 82 FR 18519 (April 19, 2017) (Order approving thirteenth amendment to the LULD Plan).

Rule 7.11E with the following substantive differences. First, proposed Rule 7.11(a)(6) is based on NYSE American Rule 7.11E(a)(6) and NYSE Arca Rule 7.11-E(a)(7).[93] Next, because the Exchange will not be a listing exchange, the Exchange will not include rule text based on NYSE Arca Rule 7.11-E(a)(8) (relating to triggering a Straddle State under the LULD Plan), (a)(9) (relating to calculating Price Bands after NYSE Arca opens or re-opens an Exchange-listed security), or (b)(1) (relating to notifying the single plan processor if NYSE Arca is not able to reopen trading at the end of a Trading Pause due to a systems or technology issue). Finally, the Exchange proposes that Rule 7.11(b) would provide that if a primary listing market issues a Trading Pause, the Exchange would resume trading as provided for in proposed Rule 7.18, which is based on NYSE Arca Rule 7.11-E(b)(2).

- Proposed Rule 7.12 (Trading Halts Due to Extraordinary Market Volatility) would establish rules on halts in trading due to extraordinary market volatility and related reopening of trading. The proposed rule is based on NYSE Arca Rule 7.12-E and NYSE American Rule 7.12E without any substantive differences.
- Proposed Rule 7.13 (Trading Suspensions) would establish authority for the Chair or the President of the Exchange to suspend trading in any and all securities that trade on the Exchange if such suspension would be in the

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93 As noted above, the Exchange will be on Pillar phase II protocols and therefore will not include rule text from NYSE Arca regarding functionality based on Pillar phase I protocols.

public interest. This proposed rule is based on NYSE Arca Rule 7.13-E and NYSE American Rule 7.13E without any substantive differences. Because this proposed rule covers the same subject matter as current Rule 12.11, as discussed below, the Exchange does not propose to move Rule 12.11 to Rule 11 and would delete Rule 12.11.

- Proposed Rule 7.14 (Clearance and Settlement) would establish the requirements regarding an ETP Holder's arrangements for clearing. Because all post-trade functions on the Exchange's Pillar trading platform would follow the NYSE Arca procedures for post-trade processing, the Exchange proposes rules that are based on NYSE Arca rules clearing rules. Accordingly, the proposed rule is based on NYSE Arca Rule 7.14-E and NYSE American Rule 7.14E without any substantive differences.
- Proposed Rule 7.15 (Stock Option Transactions) would establish requirements for Market Makers relating to pool dealing and having an interest in an option that is not issued by the Options Clearing Corporation. The proposed rule is based on NYSE Arca Rule 7.15-E and NYSE American Rule 7.15E without any substantive differences.
- Proposed Rule 7.16 (Short Sales) would establish requirements relating to short sales. The proposed rule is based on NYSE Arca Rule 7.16-E with the following substantive differences. Because the Exchange would not be a listing venue, the Exchange would not be evaluating whether the short sale price test restrictions of Rule 201 of Regulation SHO have been triggered. Accordingly, the Exchange does not propose rule text based on

NYSE Arca Rule 7.16-E(f)(3) or NYSE American Rule 7.16E(f)(3) and would designate that sub-paragraph as "Reserved." For similar reasons, the Exchange proposes not to include rule text based on NYSE Arca Rule 7.16-E(f)(4)(A) and (B) or NYSE American Rule 7.16E(f)(4)(A) and (B).

- Proposed Rule 7.17 (Firm Orders and Quotes) would establish requirements that all orders and quotes must be firm. This proposed rule is based on NYSE Arca Rule 7.17-E without any differences.
- Proposed Rule 7.18 (Halts) would establish rules relating to trading halts of securities traded pursuant to UTP on the Exchange's Pillar platform. This proposed rule is based on NYSE Arca Rule 7.18-E(a), (b), and (d) and NYSE American Rule 7.18E(a), (b), and (d) . Proposed Rule 7.18(c) would be based on NYSE American Rule 7.18E(d) and would use the Exchange-defined terms of "Exchange Traded Product" and "UTP Exchange Traded Product." Because the Exchange will not be a listing venue, the Exchange does not proposed rule text based on NYSE Arca Rule 7.18-E(c) or NYSE American Rule 7.18E(c). In addition, the Exchange proposes to use the term "reopening auction" instead of "Trading Halt Auction" in proposed Rule 7.18(b).

Section 2 of proposed Rule 7 proposes rules for market makers on the Exchange. Specifically, for all securities that would trade on the Exchange, an ETP Holder could register as a Market Maker and be subject to obligations similar to the obligations of a Market Maker on NYSE Arca. The Exchange proposes the following rules, based on cash equities NYSE Arca and NYSE American rules of the same number with non-

substantive differences:

- Proposed Rule 7.20 (Registration of Market Makers) would establish the registration requirements for market makers on the Exchange. This proposed rule is based on NYSE American Rule 7.20E without any substantive differences. The Exchange proposes non-substantive differences to cross reference the Rule 10.9500 and 10.9200 Series in proposed Rule 7.20(c) and (e), respectively.
- Proposed Rule 7.21 (Obligations of Market Maker Authorized Traders) would set forth the requirements that MMATs are permitted to enter orders only for the account of the Market Maker for which they are registered. The proposed rule would also specify the registration requirements for MMAT and the procedures for suspension and withdrawal of registration. This proposed rule is based on NYSE Arca Rule 7.21-E and NYSE American Rule 7.21E without any substantive differences.
- Proposed Rule 7.22 (Registration of Market Makers in a Security) would set forth the process for Market Makers to become registered in a security and the factors the Exchange may consider in approving the registration of a Market Maker in a security. The proposed rule would also describe both the termination of a Market Maker's registration in a security by the Exchange and voluntary termination by a Market Maker. This proposed rule is based on NYSE Arca Rule 7.22-E and NYSE American Rule 7.22E without any substantive differences. The Exchange proposes non-

substantive differences to cross reference proposed Rule 10.9200 and 10.9500 Series in proposed Rule 7.22(e) and (g), respectively.

- Proposed Rule 7.23 (Obligations of Market Makers) would set forth the obligation of all Market Makers to engage in a course of dealings for their own account to assist in the maintenance, insofar as reasonably practicable, of fair and orderly markets on the Exchange and would delineate the specific responsibilities and duties of Market Makers, including the obligation to maintain continuous, two-sided trading in registered securities and certain pricing obligations Market Makers are required to adhere to. This proposed rule is based on NYSE Arca Rule 7.23-E and NYSE American Rule 7.23E without any substantive differences. The Exchange proposes a non-substantive difference to cross reference proposed Rule 10.9200 Series in proposed Rule 7.23(c).
- Proposed Rule 7.28 (NMS Market Access) would implement the Exchange's obligations under Rule 610 of Regulation NMS and is based on NYSE Arca Rule 7.28-E without any differences.[94]

Section 3 of proposed Rule 7 would establish the Exchange's trading rules. Among other things, these rules would establish the orders and modifiers that would be available on the Exchange (proposed Rule 7.31), would describe order display and ranking (proposed Rule 7.36), and would describe how the Exchange would ensure that orders would not trade through either the PBBO (for Limit Orders) or NBBO (for Market Orders and Inside Limit Orders) and when orders would route (proposed Rules 7.37 and

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[94] Rules 7.24, 7.25, 7.26, and 7.27 would be designated as "Reserved."

7.34).

As noted above, the Exchange will not conduct any auctions, and therefore does not propose a rule based on NYSE Arca Rule 7.35-E or NYSE American Rule 7.35E. In addition, because the Exchange would not offer a retail liquidity program, the Exchange does not propose a rule based on NYSE Arca Rule 7.44-E and proposed Rules 7.36, 7.37, and 7.38 would not include cross references to Rule 7.44.

- Proposed Rule 7.29 (Access) would provide that the Exchange would be available for entry and cancellation of orders by ETP Holders with authorized access. To obtain authorized access to the Exchange, each ETP Holder would be required to enter into a User Agreement. Proposed Rule 7.29 is based on NYSE Arca Rule 7.29-E(a) and NYSE American Rule 7.29E, without any substantive differences. The Exchange does not propose to include rule text based on NYSE Arca Rule 7.29-E(b) because the Exchange would not offer sponsored access.
- Proposed Rule 7.30 (Authorized Traders) would provide for requirements relating to Authorized Traders and is based on NYSE Arca Rule 7.30-E and NYSE American Rule 7.30E without any differences.
- Proposed Rule 7.31 (Orders and Modifiers) would specify the orders and modifiers that would be available on the Exchange. The Exchange proposes to offer the same types of orders and modifiers that are available on NYSE Arca, with specified substantive differences. Accordingly, proposed Rule 7.31 is based on NYSE Arca Rule 7.31-E with the following substantive differences.

First, in proposed Rule 7.31(a)(2)(B), in describing the Limit Order Price Protection, the Exchange proposes to provide that a Limit Order entered before the Core Trading Session that is designated for the Core Trading Session only will become subject to Limit Order Price Protection once it becomes eligible to trade. The Exchange proposes this difference because the Exchange would not be conducting any auctions on the Exchange. Second, the Exchange proposes that, similar to NYSE Arca, it would accept Auction-Only Orders (e.g., Limit-on-Open Order ("LOO Order"), Market-on-Open Order ("MOO Order"), Limit-on-Close Order ("LOC Order"), and Market-on-Close Order ("MOC Order"). However, because the Exchange would not be conducting auctions, it proposes to define an Auction-Only Order as a Limit or Market Order that is only to be routed pursuant to proposed Rule 7.34. Accordingly, on arrival, such orders would be routed to the primary listing market and would not be entered on the Exchange Book. The Exchange proposes to accept four types of Auction-Only Orders that would be routed to the primary listing market: MOO, LOO, MOC, and LOC Orders. As described in proposed Rules 7.31(f) and 7.34, such orders would be subject to the rule requirements of the respective primary listing exchange to which they are routed. In addition, because the Exchange would only accept and route Auction-Only Orders, it would not include rule text based on the second sentences of NYSE Arca Rules 7.31(c)(1) and (2) and would refer to such orders being traded in "an opening or re-opening auction" or "a closing auction," rather

than state that such orders would be traded during "the Core Open Auction or a Trading Halt Auction" or "the Closing Auction," which are defined terms in the NYSE Arca rules.

Third, because the Exchange would not be a listing venue, the Exchange does not propose to include rule text that provides that "[a] Primary Only Order instruction on a security listed on the Exchange will be ignored" in proposed Rule 7.31(f)(1).

Fourth, at this time, the Exchange is not proposing to offer a Discretionary Pegged Order and, therefore, proposes to designate Rule 7.31(h)(3) as "Reserved" and will not include a reference to Discretionary Pegged Orders in proposed Rule 7.34.

Finally, similar to NYSE American Rule 7.31E(e)(1), the Exchange proposes to refer to the order described in this rule text as a "Limit Non-Routable Order."

- Proposed Rule 7.32 (Order Entry) would establish requirements for order entry size. The proposed rule is based on NYSE Arca Rule 7.32-E and NYSE American Rule 7.32E without any substantive differences.
- Proposed Rule 7.33 (Capacity Codes) would establish requirements for capacity code information that ETP Holders must include with every order. The proposed rule is based on NYSE Arca Rule 7.33-E and NYSE American Rule 7.33E without any substantive differences.
- Proposed Rule 7.34 (Trading Sessions) would specify trading sessions on the Exchange. Similar to NYSE Arca, the Exchange proposes that on the

Pillar trading platform, it would have Early, Core, and Late Trading Sessions. However, the Exchange proposes that the Early Trading Session would begin at 7:00 a.m. Eastern Time, which is when the NYSE American Early Trading Session begins.[95] Otherwise, the Exchange proposes Rule 7.34 based on NYSE Arca Rule 7.34-E with the following substantive differences to reflect that it would not operate any auctions:

- To designate Rule 7.34-E(c)(1)(B) as "Reserved;"
- In proposed Rule 7.34(c)(1)(C), to refer to orders being rejected "if entered before the Core Trading Session" instead of orders being rejected "if entered before the Auction Processing Period for the Core Open Auction;"
- In proposed Rules 7.34(c)(1)(D), (c)(2)(A), and (c)(2)(B), to not include phrases referring to "securities that are not eligible for an auction on the Exchange" or "securities that are not eligible to the Core Open Auction" from NYSE Arca Rules 7.34-E(c)(1)(D), (c)(2)(A), and (c)(2)(B); and
- In proposed Rule 7.34(c)(2)(C), to refer to orders being rejected "if entered before the Late Trading Session" instead of being rejected "if entered before the Auction Processing Period for the Closing Auction."

- Proposed Rule 7.36 (Order Ranking and Display) would establish requirements for how orders would be ranked and displayed at the

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95 See NYSE American Rule 7.34E(a)(1).

Exchange. The proposed rule is based on NYSE Arca Rule 7.36-E and NYSE American Rule 7.36E without any substantive differences.

- Proposed Rule 7.37 (Order Execution and Routing) would establish requirements for how orders would execute and route at the Exchange, the data feeds that the Exchange would use, and Exchange requirements under the Order Protection Rule and the prohibition on locking and crossing quotations in NMS Stocks. This proposed rule is based on NYSE Arca Rule 7.37-E without any substantive differences. The Exchange proposes a non-substantive difference to proposed Rule 7.37(e) to reflect the amended names of exchanges in the chart listing market centers.
- Proposed Rule 7.38 (Odd and Mixed Lot) would establish requirements relating to odd lot and mixed lot trading on the Exchange. The proposed rule is based on NYSE Arca Rule 7.38-E without any substantive differences.[96]
- Proposed Rule 7.40 (Trade Execution and Reporting) would establish the Exchange's obligation to report trades to an appropriate consolidated transaction reporting system. The proposed rule is based on NYSE Arca Rule 7.40-E and NYSE American Rule 7.40E without any substantive differences.
- Proposed Rule 7.41 (Clearance and Settlement) would establish

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96 The Exchange does not propose a rule based on either NYSE Arca Rule 7.39-E (concerning adjustment of open orders, which relates to good-til-cancelled orders, which would not be available on the Exchange) or NYSE American Rule 7.39E (concerning an off-hours trading facility, which would not be offered on the Exchange) and will designate Rule 7.39 as "Reserved."

requirements that all trades be processed for clearance and settlement on a locked-in and anonymous basis. The proposed rule is based on NYSE American Rule 7.41E without any differences.

Section 4 of proposed Rule 7 would establish the Operation of a Routing Broker. Specifically, proposed Rule 7.45 (Operation of a Routing Broker) would establish the outbound and inbound function of the Exchange's routing broker and the cancellation of orders and the Exchange's error account. The proposed rule is based on NYSE Arca Rule 7.45-E and NYSE American Rule 7.45E without any substantive differences. As noted above, the Exchange's affiliation with Archipelago Securities LLC would be addressed in proposed Rule 7.45. The Exchange therefore proposes to delete current Rule 2.10.

Section 5 of proposed Rule 7 would establish requirements relating to the Plan to Implement a Tick Size Pilot Program. Proposed Rule 7.46 (Tick Size Pilot Plan) would specify such requirements. The proposed rule is based on NYSE Arca Rule 7.46-E with a proposed substantive difference not to include cross references to a Retail Liquidity Program as the Exchange would not adopt the Retail Liquidity Program on Pillar. The Exchange also proposes to designate proposed Rules 7.46(f)(4) as "Reserved" because the Exchange would not support Retail Price Improvement Orders on Pillar.

Section 6 of proposed Rule 7 would establish requirements for contracts in securities.

- Proposed Rule 7.60 (Definitions and General Provisions) would establish definitions used for purposes of Section 6 of Rule 7 and is based on NYSE Arca Rule 7.60-E without any differences.

- Proposed Rule 7.61 would provide for requirements relating to ETP contracts of the Exchange and that such contracts are binding. This proposed rule is based on NYSE Arca Rule 7.61-E without any differences.
- Proposed Rule 7.62 (Delivery of Securities) would establish requirements relating to the book entry settlement of transactions. This proposed rule text is based on NYSE Arca Rule 7.62-E(b). Because the Exchange is not a listing venue, the Exchange does not propose rule text based on NYSE Arca Rule 7.62-E(a) or (c) as these rules relate to requirements for securities listing on an exchange.

Because Rule 7 would set forth all rules relating to trading on the Exchange, the Exchange proposes to delete the rules in Chapter XI in their entirety. In addition, because Rule 7 would set forth rules relating to comparison and settlement, the Exchange proposes to delete the rules in Chapter XIII (Miscellaneous Provisions) in their entirety. Finally, because the Exchange would use its affiliate, Archipelago Securities LLC, as its routing broker, the Exchange also proposes to delete Rule 2.11 (NSX Securities, LLC).

Rule 10 – Disciplinary Proceedings, Other Hearings and Appeals

To facilitate the re-launch of trading on the Exchange and further facilitate rule harmonization among SROs, the Exchange proposes Rule 10.8000 and Rule 10.9000 Series based on NYSE American Rule 8000 and Rule 9000 Series of the Office Rules, with certain modifications, as described below.[97] NYSE American Rule 8000 and Rule

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97 The Exchange notes that all but one of its ETP Holders before it ceased trading operations in February 2017 were members of FINRA, and as such were subject to FINRA's Rule 8000 Series and Rule 9000 Series. As a result, virtually all

9000 Series are disciplinary rules that are, with certain exceptions, substantially the same as the Rule 8000 Series and Rule 9000 Series of the NYSE and FINRA.[98]

Unless otherwise specified below, the individual rules in the proposed Rule 10.8000 and 10.9000 Series are based on the individual rules of the counterpart NYSE American Rule 8000 and 9000 Series without any differences, except that the Exchange:

- would use the term "ETP Holder" rather than "member and member organization" or "member organization or ATP Holder" as is used by NYSE American, consistent with the Exchange's other proposed rules;
- would use the term "Associated Person" or "Person Associated with an ETP Holder," which are defined terms on the Exchange, rather than the term "covered person;"
- would not utilize Floor-Based Panelists referenced in NYSE American Rules 9120(q), 9212(a)(2)(B), 9221(a)(3), 9231(b)(2) and (c)(2), and 9232(c) because the Exchange will not have a trading floor;
- would not adopt NYSE American Rules 8001 and 9001, which describe the effective date of the NYSE American rules;
- would not retain the text of NYSE American's legacy minor rules; and
- proposes non-substantive grammatical differences in specified rules, described below, which do not change the meaning of the proposed rule

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former ETP Holders were already subject to the proposed rules described herein.

98 Securities Exchange Act Release Nos. 77241 (February 26, 2016), 81 FR 11311 (March 3, 2016) (SR-NYSEMKT-2016-30) ("2016 Notice"). See also Securities Exchange Act Release Nos. 78959 (September 28, 2016), 81 FR 68481 (October 4, 2016) (SR-NYSEMKT-2016-71) (Notice). The NYSE American disciplinary rules were implemented on April 15, 2016. See NYSE American Information Memorandum 16-02 (March 14, 2016).

text as compared to the NYSE American version of the same rule.

Proposed Rule 10.8000 Series

The Proposed Rule 10.8000 Series would address Investigations and Sanctions. Proposed Rule 10.8100 (General Provisions) would include the following:

- Proposed Rule 10.8120 (Definitions) would provide that unless otherwise provided, terms used in the Rule 10.8000 Series would have the meaning as defined in applicable Exchange rules and that the terms "Adjudicator" and "Exchange" would have the meaning in proposed Rule 10.9120. The Exchange proposes non-substantive grammatical differences for paragraphs (a) and (b) as compared to NYSE American Rule 8120(a) and (b).
- Proposed Rule 10.8130 (Retention of Jurisdiction) would set forth retention of jurisdiction provisions that are the same as NYSE American Rule 8130, except for a non-substantive grammatical difference in paragraph (b) to add the word "who" and the cross-reference in paragraph (b)(1) that would be conformed to the Exchange's rules. Under the proposed rule change, the Exchange would retain jurisdiction to file a complaint against an ETP Holder or Associated Person for two years after such ETP Holder's or Associated Person's status is terminated.

Proposed Rule 10.8200 (Investigations) would set forth the following rules:[99]

- Proposed Rule 10.8210 (Provisions of Information and Testimony and

[99] NYSE American Rules 8212, 8213, and 8312 are marked as "Reserved." To maintain consistency with NYSE American's rule numbering, the Exchange proposes to designate proposed Rules 10.8212, 10.8213, and 10.8312 as "Reserved."

Inspection and Copying of Books) would set forth procedures for the provision of information and testimony and inspection and copying books by the Exchange. In addition to describing requirements relating to the process for such inspection and copying, this proposed rule would provide authority for the Exchange to enter into regulatory cooperation agreements with other SROs and regulators (proposed Rule 10.8210(b)). The Exchange proposes non-substantive grammatical differences from NYSE American Rule 8210 in subsection (g) and Commentary .01.

- Proposed Rule 10.8211 (Automated Submission of Trading Data Requested by the Exchange) would set forth the procedures for electronic blue sheets.

Proposed Rule 10.8300 (Sanctions) would set forth the following rules:

- Proposed Rule 10.8310 (Sanctions for Violations of the Rules) would set forth the range of sanctions that could be imposed in connection with disciplinary actions under the proposed rule change.
- Proposed Rule 10.8311 (Effect of a Suspension, Revocation, Cancellation, Bar or Other Disqualification) would provide that if the Commission or the Exchange imposed a suspension, revocation, cancellation or bar on an Associated Person, an ETP Holder may not permit such person to remain associated, and, in the case of a suspension, may not make any remuneration that results from any securities transaction.
- Proposed Rule 10.8313 (Release of Disciplinary Complaints, Decisions and Other Information) would provide that the Exchange would publish all

final disciplinary decisions issued under the proposed Rule 9000 Series, other than minor rule violations, on its website.

- Proposed Rule 10.8320 (Payment of Fines, Other Monetary Sanctions, or Costs; Summary Action for Failure to Pay) would govern payment of fines and other monetary sanctions or costs and provide for a summary action for an ETP Holder's failure to pay.[100] The Exchange proposes a non-substantive grammatical difference from NYSE American Rule 8320 in paragraph (b)(1).
- Proposed Rule 10.8330 (Costs of Proceedings) would provide that a disciplined ETP Holder or Associated Person may be assessed the costs of a proceeding, which are determined by the Adjudicator.

Proposed Rule 10.9000 Series

Proposed Rule 10.9000 Series sets forth the Exchange's proposed Code of Procedure.

Proposed Rule 10.9100 Series (Application and Purpose)

Proposed Rule 10.9100 Series (Application and Purpose) would set forth the following rules:

- Proposed Rule 10.9110 (Application) would state the types of proceedings to which the proposed Rule 10.9000 Series would apply (each of which is described below) and the rights, duties, and obligations of ETP Holders and Associated Persons, and would set forth the defined terms and cross-

[100] The Exchange does not propose to adopt NYSE American Rule 8320(d), which addresses transition from its legacy disciplinary rules. The Exchange does not currently have any pending disciplinary actions under its current disciplinary rules, and therefore does not need to retain those rules for a transition period.

references. The Exchange proposes a non-substantive grammatical difference from NYSE American Rule 9110 in paragraph (c).

- Proposed Rule 10.9120 (Definitions) would set forth definitions that would be applicable to the Rule 10.9000 Series. The definitions are based on definitions set forth in NYSE American Rule 9120, except that the Exchange would not define the terms "Board of Directors," "covered person," "Exchange, and "Floor-Based Panelist" in proposed Rule 10.9120 and would designate paragraphs (b), (g), (n), and (q) as "Reserved." The terms "Board of Directors" and "Exchange" would already be defined in proposed Rule 1.1, and therefore the Exchange does not need to separately define these terms in proposed Rule 10.9120. The Exchange does not believe that it needs to define the term "covered person" because the Exchange already has a defined term of "Person Associated with an ETP Holder" or "Associated Person," and use of that term would address all persons subject to Exchange jurisdiction under proposed Rule 10 Series. The term "Interested Staff" in paragraph (t) contains a non-substantive grammatical difference from the NYSE American version and the definition of "Party" in paragraph (w)(2) includes "or Associated Person" after "ETP Holder." Finally, the Exchange would not include the term "Floor-Based Panelist" because the Exchange would not have a trading floor.

Proposed Rule 10.9130 (Service; Filing of Papers)

Proposed Rule 10.9130, setting forth proposed Rules 10.9131 through 10.9138,

would govern the service of a complaint or other procedural documents under the Rules.

Proposed Rule 10.9131 would set forth the requirements for serving a complaint or document initiating a proceeding. Proposed Rule 10.9132 would cover the service of orders, notices, and decisions by an Adjudicator. Proposed Rule 10.9133 would govern the service of papers other than complaints, orders, notices, or decisions. Proposed Rule 10.9134 would describe the methods of service and the procedures for service. Proposed Rule 10.9135 would set forth the procedure for filing papers with an Adjudicator. Proposed Rule 10.9136 would govern the form of papers filed in connection with any proceeding under the proposed Rule 10.9200 and 10.9300 Series. Proposed Rule 10.9137 would state the requirements for and the effect of a signature in connection with the filing of papers. Finally, proposed Rule 10.9138 would establish the computation of time.

Proposed Rule 10.9140 (Proceedings)

Proposed Rules 10.9140, setting forth proposed Rules 10.9141 through 10.9148, would govern the conduct of disciplinary proceedings.

Proposed Rule 10.9141 would govern appearances in a proceeding, notice of appearances, and representation. Proposed Rule 10.9141 would permit a Respondent to represent himself or be represented by a bar-admitted U.S. attorney. The proposed rule also permits a partnership to be represented by a partner and a corporation, trust, or association to be represented by an officer of such entity. Proposed Rule 10.9141 requires an attorney or representative to file a notice of appearance. Proposed Rule 10.9142 would require an attorney or representative to file a motion to withdraw.

Proposed Rule 10.9143 would set forth requirements relating to ex parte communications with an Adjudicator or Exchange employee involved in a proceeding.

The Exchange proposes non-substantive grammatical differences from NYSE American Rule 9143 in paragraphs (c) and (e)(3).

Proposed Rule 10.9144 would establish the separation of functions for Interested Staff and Adjudicators and provide for waivers.

Proposed Rule 10.9145 would provide that formal rules of evidence would not apply in any proceeding brought under the proposed Rule 10.9000 Series.

Proposed Rule 10.9146 would govern motions a Party may make and requirements for responses and formatting. The Exchange proposes non-substantive grammatical differences from NYSE American Rule 9146 in paragraph (b)(2).

Proposed Rule 10.9147 would provide that Adjudicators may rule on procedural matters.

Finally, proposed Rule 10.9148 would generally prohibit interlocutory review, except as provided in proposed Rule 10.9280 for contemptuous conduct.

Proposed Rule 10.9150 (Exclusion from Rule 10.9000 Series Proceeding)

Proposed Rule 10.9150 would provide that a representative can be excluded by an Adjudicator for improper or unethical conduct. The Exchange proposes a non-substantive difference to refer to "improper conduct" in paragraph (a) rather than limiting term of "improper professional conduct," which is in NYSE American Rule 9150.

Proposed Rule 10.9160 (Recusal or Disqualification)

Proposed Rule 10.9160 would provide that no person may act as an Adjudicator if he or she has a conflict of interest or bias, or circumstances exist where his or her fairness could reasonably be questioned. In such case, the person must recuse himself or may be disqualified. The proposed rule would cover the recusal or disqualification of an

Adjudicator, the Board, or a Director. Proposed Rules 9160(b), (c), and (d) are designated as "Reserved" to maintain consistency with NYSE American's rule numbering.

Proposed Rules 10.9200 Series (Disciplinary Proceedings)

Proposed Rule 10.9200 would cover disciplinary proceedings.

Proposed Rule 10.9210 (Complaint and Answer) would set forth the following rules:

- Proposed Rule 10.9211 (Authorization of Complaint) would permit Enforcement to request the authorization of the Chief Regulatory Officer ("CRO") to issue a complaint against an ETP Holder or Associated Person, thereby commencing a disciplinary proceeding.
- Proposed Rule 10.9212 (Complaint Issuance – Requirements, Service, Amendment, Withdrawal, and Docketing) would set forth the requirements of the complaint, amendments to the complaint, withdrawal of the complaint, and service of the complaint. Unlike NYSE American Rule 9212, because the Exchange would not have a floor, the proposed rule would not provide for Enforcement to select one Floor-Based Panelist.
- Proposed Rule 10.9213 (Assignment of Hearing Officer and Appointment of Panelists to Hearing Panel or Extended Hearing Panel) would provide for the appointment of a Hearing Officer and Panelists by the Chief Hearing Officer.
- Proposed Rule 10.9214 (Consolidation or Severance of Disciplinary

Proceedings) would permit the Chief Hearing Officer to sever or consolidate two or more disciplinary proceedings under certain circumstances and permit a Party to move for such action under certain circumstances. The Exchange proposes non-substantive grammatical differences from NYSE American Rule 9214 in paragraphs (b) and (e).

- Proposed Rule 10.9215 (Answer to Complaint) would set forth requirements for answering a complaint, including form, service, notice, content, defenses, amendments, default, and timing.
- Proposed Rule 10.9216 (Acceptance, Waiver, and Consent; Procedure for Imposition of Fines for Minor Violation(s) of Rules) would establish the acceptance, waiver, and consent ("AWC") procedures by which a Respondent, prior to the issuance of a complaint, may execute a letter accepting a finding of violation, consenting to the imposition of sanction(s), and agreeing to waive such Respondent's right to a hearing, appeal, and certain other procedures.[101] It also would establish procedures for executing a minor rule violation plan letter. The Exchange proposes non-substantive grammatical differences from NYSE American Rule 9216 in paragraph (a).

Together with proposed Rule 10.9216(b), proposed Rule 10.9217 would be the Exchange's Minor Rule Violation Plan ("MRVP") and would set forth the list of rules under which an ETP Holder or Associated Person may be subject to a fine under a MRVP as described in proposed Rule 10.9216(b).

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[101] Proposed Rule 10.9270 would address settlement procedures after the issuance of a complaint.

The Exchange proposes to adopt the list of rules and associated fine levels for minor rule violations set forth in NYSE American Rule 9217, which sets forth NYSE American's MRVP. As noted above, the Exchange does not propose rule text based on the legacy trading rules contained in NYSE American Rule 9217(c), which are unique to NYSE American. The Exchange further would not include rule text based on NYSE American Rule 9217(e), which sets forth NYSE American's legacy MRVP and includes fines for options-related rules, which are not applicable on the Exchange. Finally, the Exchange does not propose rule text based on NYSE American's Rule 9217 "List of Reports Required to be Filed with the Exchange by ATP Holders and Filing Deadlines" as these relate to fines charged for failure to timely file financial reports by ETP Holders designated to the Exchange. Because the Exchange is not currently a designated examining authority ("DEA") for any ETP Holders, these fines would be inapplicable to the Exchange.

Proposed Rule 10.9217(a) titled "Trading Rule Violations" would set forth the following eligible trading rule violations:

- Short Sale Rules (Rule 7.16).
- Failure to maintain continuous, two-sided Q Orders in those securities in which the Market Maker is registered to trade (Rule 7.23(a)(1)).
- Failure to comply with Authorized Trader requirements (Rule 7.30).
- Acting as a Market Maker in a security without being registered as such as required by Rule 7.20(a).

Proposed Rule 10.9217(b), titled "Record Keeping and Other Minor Rule Violations," would set forth minor rule violations relating to recordkeeping. The

proposed substantive rule violations are based on NYSE American Rule 9217(b) with non-substantive differences to cross-reference the applicable Exchange rule, as follows:[102]

- Failure to comply with the employee registration or other requirements of Rule 2.2.
- Failure to comply with the books and records requirements of Rule 11.4.1.
- Failure to comply with the requirements for preventing the misuse of material nonpublic information as set forth in Rule 11.5.5 and its Commentaries.

Proposed Rule 10.9217(c) is based on NYSE American Rule 9217(d) without any substantive differences and would set forth the fine schedule that would be applicable to the Exchange's MRVP. Proposed Rule 10.9217(c)(1) would set forth the fine levels for trading rule violations as follows:

- Violations of Rule 7.16 would be eligible for a $500 first level fine, a $1,000 second level fine, and a $2,500 third level fine;

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102 See NYSE American Rule 9217(a) (NYSE American Rules 7.16, 7.20, 7.23, 7.30). Proposed Rules 7.16 (Short Sales), 7.20 (Registration of Market Makers) and 7.23 (Obligations of Market Makers) are based on the NYSE American Rules (which were in turn based on analogous NYSE Arca rules) with the same numbers without any substantive differences. See also NYSE American Rule 9217(b) (NYSE American Rules 2.21E, 2.24E and 6.3E). Proposed NYSE National Rule 11.5.5 is based on NYSE American Rule 6.3E without any substantive differences. Proposed NYSE National Rules 2.2 (Obligations of ETP Holders and the Exchange) and 11.4.1 (Books and Records Requirements) address the same subject matter as NYSE American Rules 2.21E and 2.24E. Finally, proposed Rule 9217(a) would not incorporate an eligible rule based on NYSE American Rule 6.15E prohibiting prearranged trades, which the Exchange is not adopting.

- Violations of Rule 7.23(a)(1) would be eligible for a $250 first level fine, a $500 second level fine, and a $1,000 third level fine;
- Violations of Rule 7.30 would be eligible for a $1,000 first level fine, a $2,500 second level fine, and a $3,500 third level fine; and
- Violations of Rule 7.20(a) would be eligible for a $250 first level fine, a $500 second level fine, and a $1,000 third level fine.

Proposed Rule 10.9217(c)(2) would set forth the fine levels for the record keeping and other minor rule violations as follows:

- Violations of Rule 11.5.5 would be eligible for a $2,000 first level fine, a $4,000 second level fine, and a $5,000 third level fine;[103]
- Violations of Rule 11.4.1 would be eligible for a $2,000 first level fine, a $4,000 second level fine, and a $5,000 third level fine; and
- Violations of Rule 2 would be eligible for a $1,000 first level fine, a $2,500 second level fine, and a $3,500 third level fine.[104]

Proposed Rule 10.9220 (Request for Hearing; Extensions of Time, Postponements, Adjournments)

Proposed Rules 10.9221 through 10.9222 would describe how a Respondent can request a hearing, the notice of a hearing, and timing considerations. Proposed Rule 10.9221 provides that a Hearing Officer generally must provide at least 28 days' notice of

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103 The proposed rule would adopt NYSE American's maximum $5,000 fine for minor rule violations. The Exchange's current maximum fine for minor rule violations is $2,500. See Rule 8.15(a).

104 The Exchange proposes to add a footnote 1 providing that, in addition to the specified fines, the Exchange may require a violator to remit all fees that it should have paid to the Exchange pursuant to Rule 2.2. The proposed footnote would be identical to footnote 1 in NYSE American Rule 9217(d)(2).

the hearing.

Proposed Rule 10.9230 (Appointment of Hearing Panel, Extended Hearing Panel)

Proposed Rule 10.9230 would set forth proposed Rules 10.9231 through 10.9235, which would establish how Hearing Panels, Extended Hearing Panels, Replacement Hearing Officers, Panelists, and Replacement Panelists are appointed and their composition and criteria for selection.

- Proposed Rule 10.9231 would set forth the role of the Chief Hearing Officer to appoint a Hearing Panel or an Extended Hearing Panel.
- Proposed Rule 10.9232 would set forth the criteria for the selection of Panelists and Replacement Panelists. Because the Exchange would not have a Floor, the Exchange proposes a difference from NYSE American Rule 9232 by not referring to "Floor-based Panelists." The proposed rule would also replace the term "hearing board" with the terms "Business Conduct Committee" or "BCC" to reflect the Exchange's terminology as compared to NYSE American regarding who may be a Panelist.
- Proposed Rules 10.9233 and 10.9234 would establish the processes for recusal and disqualification of Hearing Officers, Hearing Panels, or Extended Hearing Panels.
- Proposed Rule 10.9235 would set forth the Hearing Officer's duties and authority in detail.

Proposed Rule 10.9240 (Pre-hearing Conference and Hearing)

Proposed Rules 10.9241 through 10.9242 would establish the substantive and procedural requirements for pre-hearing conferences and pre-hearing submissions.

Proposed Rule 10.9250 (Discovery)

Proposed Rule 10.9250 would set forth proposed Rules 10.9251 through 10.9253, which would address discovery, including the requirements and limitations relating to the inspection and copy of documents in the possession of Interested Staff, requests for information and limitations on such requests, and the production of witness statements and any harmless error relating to the production of such witness statements.

Proposed Rule 10.9251 would set forth requirements relating to inspection and copying of documents prepared or obtained by Interested Staff in connection with an investigation

Under proposed Rule 10.9252, a Respondent could request that the Exchange invoke proposed Rule 10.8210 to compel the production of Documents or testimony at the hearing if the Respondent can show that certain standards are met, e.g., that the information sought is relevant, material, and non-cumulative.

Under proposed Rule 10.9253, a Respondent could file a motion to obtain certain witness statements.

Proposed Rule 10.9260 (Hearing and Decision)

Proposed Rule 10.9260 would set forth proposed Rules 10.9261 through 10.9269, which would relate to hearings and decisions.

- Proposed Rule 10.9261 would generally require the Parties to submit a list of documentary evidence and witnesses no later than 10 days before the hearing.
- Proposed Rule 10.9262 would require persons subject to the Exchange's jurisdiction to testify under oath or affirmation at a hearing.

- Proposed Rule 10.9263 would authorize the Hearing Officer to exclude irrelevant, immaterial, or unduly repetitious or prejudicial evidence and permit a Party to object to the admission of evidence; excluded evidence would be part of the record.
- Proposed Rule 10.9264 would allow Parties to file a motion for summary disposition under certain circumstances and would describe the procedures for filing and ruling on such motion.
- Proposed Rule 10.9265 would require that the hearing be recorded by a court reporter, that a transcript be prepared and made available for purchase, and that a Party be permitted to seek a correction of the transcript from the Hearing Officer.
- Proposed Rule 10.9266 would authorize the Hearing Officer to require a post-hearing brief or proposed finding of facts and conclusions of law and would outline the form and timing for such submissions.
- Proposed Rule 10.9267 would detail the required contents of the hearing record and the treatment of any supplemental documents attached to the record.
- Proposed Rule 10.9268 would set forth the timing and the contents of a decision of the Hearing Panel or Extended Hearing Panel and the procedures for a dissenting opinion, service of the decision, and any requests for review.
- Finally, proposed Rule 10.9269 would establish the process for the issuance and review of default decisions by a Hearing Officer when a

> Respondent fails to timely answer a complaint or fails to appear at a pre-hearing conference or hearing where due notice has been provided. A Party may, for good cause shown, file a motion to set aside a default decision.[105]

Proposed Rule 10.9270 (Settlement Procedure)

Proposed Rule 10.9270 would provide for a settlement procedure for a Respondent who has been notified that a proceeding has been instituted against him or her. The proposed rule would set forth requirements relating to both contested and uncontested offers of settlement.

Proposed Rule 10.9280 (Contemptuous Conduct)

Proposed Rule 10.9280 would set forth sanctions for contemptuous conduct by a Party or attorney or other representative, which may include exclusion from a hearing or conference, and sets forth a process for reviewing such exclusions.

Proposed Rule 10.9290 (Expedited Disciplinary Proceedings)

Under proposed Rule 10.9290, for any disciplinary proceeding, the subject matter of which also is subject to a temporary cease and desist proceeding initiated pursuant to proposed Rule 10.9810 or a temporary cease and desist order, hearings would be required to be held and decisions rendered at the earliest possible time.

Proposed Rule 10.9291 (Permanent Cease and Desist Orders)

Proposed Rule 10.9291 would set forth the requirements for issuing a permanent cease and desist order under proposed Rules 10.9268, 10.9269, or 10.9270.

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105 Under the proposed rule change, if a respondent admits the charges or they are not in dispute, the parties could utilize the AWC procedure under proposed Rule 10.9216.

Proposed Rule 10.9300 Series (Review of Disciplinary Proceedings by Exchange Board of Directors)

Proposed Rule 10.9300 includes proposed Rule 10.9310, which would set forth the Exchange's Board review process, including the process for a request for review of any determination or penalty and review by the Exchange's Board.[106]

Proposed Rule 10.9500 Series (Other Proceedings)

The proposed Rule 10.9500 Series would set forth all other proceedings under the Exchange Rules

Proposed Rule 10.9520 (Eligibility Proceedings) would set forth proposed Rules 10.9521 through 10.9527, which would govern eligibility proceedings for persons subject to statutory disqualifications that are not FINRA members.

Proposed Rule 10.9521 would add certain definitions relating to eligibility proceedings, including "Application," "disqualified ETP Holder," "disqualified person," and "sponsoring ETP Holder." Proposed Rule 10.9522 would govern the initiation of an eligibility proceeding by the Exchange and the obligation for an ETP Holder to file an application to initiate an eligibility proceeding if it has been subject to certain disqualifications. Proposed Rule 10.9523 would allow the Department of Member Regulation to recommend a supervisory plan to which the disqualified ETP Holder, sponsoring ETP Holder, and/or disqualified person, as the case may be, may consent and by doing so, waive the right to hearing or appeal if the plan is accepted and the right to claim bias or prejudgment, or prohibited ex parte communications. If such a supervisory plan were rejected, proposed Rule 10.9524 would allow a request for review by the

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106 The Exchange does not trade options and therefore does not propose to distinguish between appeals panels for equity and options matters as in NYSE American Rule 9310(b).

applicant to the Board. Proposed Rule 10.9527 would provide that a filing of an application for review would not stay the effectiveness of final action by the Exchange unless the Commission otherwise ordered. To maintain consistency with NYSE American's rule numbering, proposed Rules 10.9525 and 10.9526 would be designated "Reserved."

Proposed Rule 10.9550 (Expedited Proceedings)

Proposed Rule 10.9550 would set forth proposed Rule 10.9552 through 10.9560 and would govern expedited proceedings.

- Proposed Rule 10.9551 would be marked "Reserved" because the Exchange has not adopted a rule analogous to NYSE American Rules 2210 - Equities (Communications with the Public).
- Proposed Rule 10.9552 would establish procedures and consequences in the event that an ETP Holder or Associated Person failed to provide any information, report, material, data, or testimony requested or required to be filed under the Exchange's rules, or failed to keep its membership application or supporting documents current.
- Proposed Rule 10.9554[107] would contain similar procedures and consequences as proposed Rule 10.9552 relating to a failure to comply with an arbitration award or related settlement or an Exchange order of restitution or Exchange settlement agreement providing for restitution.
- Proposed Rule 10.9555 would govern the failure to meet the eligibility or

[107] Proposed Rule 10.9553 would be designated "Reserved" to maintain consistency with NYSE American's rule numbering.

qualification standards or prerequisites for access to services offered by the Exchange.

- Proposed Rule 10.9556 would provide procedures and consequences for a failure to comply with temporary and permanent cease and desist orders issued under proposed Rules 10.9200, 10.9300 or 10.9800 Series.
- Proposed Rule 10.9557 would allow the Exchange to issue a notice directing an ETP Holder to comply with the net capital provisions of Exchange Act Rule 15c3-1.[108] As noted above, the Exchange is not currently the DEA for any ETP Holders, but proposes this rule should it become a DEA.
- Proposed Rule 10.9558 would allow the Exchange's CRO or such other senior officer as the CRO may designate to provide written authorization to the Exchange staff to issue a written notice for a summary proceeding for an action authorized by Section 6(d)(3) of the Exchange Act.
- Proposed Rule 10.9559 would set forth uniform hearing procedures for all expedited proceedings under the proposed Rule 10.9550 Series.
- Proposed Rule 10.9560 would set forth procedures for issuing suspension orders, immediately prohibiting a member organization or Associated Person from conducting continued disruptive quoting and trading activity

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108 See 17 CFR 240.15c3-1. The Exchange does not have rules analogous to NYSE American rules 4110 – Equities (Capital Compliance), 4120 – Equities (Regulatory Notification and Business Curtailment), or 4130 – Equities (Regulation of Activities of Section 15C Member Organizations Experiencing Financial and/or Operational Difficulties) referenced in NYSE American's version of proposed Rule 9557.

on the Exchange in violation of proposed Rule 11.12.11 (discussed below).

Proposed Rule 10.9600 Series (Procedures for Exemptions)

Proposed Rule 10.9600, setting forth proposed Rules 10.9610 through 10.9630, would describe procedures by which an ETP Holder could seek exemptive relief from proposed Rule 10.8211 (Automated Submission of Trading Data).

Under proposed Rule 10.9610, an ETP Holder seeking exemptive relief would be required to file a written application with the appropriate department or staff of the Exchange and provide a copy of the application to the CRO. Under proposed Rule 10.9620, after considering the application, the Exchange staff would be required to issue a written decision setting forth its findings and conclusions. The decision would be served on the Applicant pursuant to proposed Rules 10.9132 and 10.9134. Proposed Rule 10.9630 would set forth the appeal process for a decision issued under proposed Rule 10.9620.

Proposed Rule 10.9700 Series

Rule 10.9700 would be marked "Reserved" to maintain consistency with NYSE American's rule numbering conventions.

Proposed Rule 10.9800 Series (Temporary Cease and Desist Orders)

Proposed Rule 10.9800, setting forth proposed Rule 10.9810 through 10.9870, would describe procedures for issuing temporary cease and desist orders.

- Proposed Rule 10.9810 would set forth the process for initiating a temporary cease and desist proceeding with respect to alleged violations of Section 10(b) of the Act, SEC Rules 10b-5 and 15g-1 through 15g-9, Rule

11.5 (if the alleged violation is unauthorized trading, or misuse or conversion of customer assets, or is based on violations of Section 17(a) of the Securities Act of 1933) or Rule 11.3.1 (Business Conduct of ETP Holders).[109]

- Proposed Rule 10.9820 would govern the appointment of a Hearing Officer and Panelists for a temporary cease and desist proceeding.
- Proposed Rule 10.9830 would set forth the procedures for a hearing relating to a temporary cease and desist proceeding.
- Proposed Rule 10.9840 would set forth the process for the Hearing Panel to issue a written decision stating whether a temporary cease and desist order would be imposed.
- Proposed Rule 10.9850 would set forth the process for a Respondent to apply to the Hearing Panel to have a temporary cease and desist order modified, set aside, limited, or suspended.
- Proposed Rule 10.9860 would authorize the initiation of a suspension or cancellation of a Respondent's association or membership under proposed Rule 10.9556 if the Respondent violated a temporary cease and desist order.
- Finally, proposed Rule 10.9870 would provide that temporary cease and desist orders issued under the proposed Rule 9800 Series would constitute final and immediately effective disciplinary sanctions imposed by the

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109 The Exchange does not have analogous rules to NYSE American rules 476(a)(5) or Rule 2020 - Equities referenced in NYSE American's version of proposed Rule 10.9810.

Exchange, and that the right to have any action under this rule series reviewed by the Commission would be governed by Section 19 of the Exchange Act.

Because Rule 10 would set forth all rules relating to discipline, suspension of an ETP Holder, and adverse actions, the Exchange proposes to delete the rules in Chapters VII, VIII and X in their entirety.

Rule 11 – Rules of Fair Practice; Books and Records; Supervision; Extensions of Credit; Trading Practice Rules

The Exchange proposes to maintain current NYSE National rules regarding rules of fair practice, books and records, supervision, extensions of credit, and trading practices. These rules are currently found in Chapters III, IV, V, VI, and XII, respectively, of the Exchange's rulebook. The Exchange proposes to relocate these rules to Rule 11 which under the Framework Filing is titled Business Conduct. To reflect the content of Rule 11, the Exchange proposes to rename Rule 11 as "Rules of Fair Practice; Books and Records; Supervision; Extensions of Credit; Trading Practices." In moving the rules, the Exchange proposes non-substantive differences to change references from "Interpretations and Policies" to "Commentary," to use a different sub-paragraph numbering format, and to capitalize the term "Associated Person."[110]

Because all such rules would be relocated to Rule 11 and to maintain consistency with the current rulebook, the Exchange proposes that the sub-numbering of each such rule would be the same as the existing rule number. For example, current Rule 3.1 would be renumbered as Rule 11.3.1. By maintaining sub-numbering that aligns with existing

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[110] Current Exchange rules use an "(a)(i)(A)(1)" sub-paragraph numbering convention and the Exchange proposes to use an "(a)(1)(A)(i)" sub-paragraph numbering convention.

rule numbers, ETP Holders that reference such rules in policies and procedures would not need to revise such policies and procedures because the rule requirements would map to the same number. Because the purpose of such sub-numbering is to align with existing rule numbers, the Exchange does not propose to designate any rules as "Reserved." Rather, the Exchange proposes to add sub-headings before each section of Rule 11 to describe which rules would be set forth in each set of sub-numbered rules.

The Exchange proposes to renumber the rules in Chapter III as follows and add a subheading before such rules that provides "Rules of Fair Practice":

- Rule 3.1 (Business Conduct of ETP Holders) would be renumbered as Rule 11.3.1 without any changes.
- Rule 3.2 (Violations Prohibited) would be renumbered as Rule 11.3.2 without any substantive changes.
- Rule 3.3 (Use of Fraudulent Devices) would be renumbered as Rule 11.3.3 without any changes.
- Rule 3.4 (False Statements) would be renumbered as Rule 11.3.4 without any changes.
- Rule 3.5 (Advertising Practices) would be renumbered as Rule 11.3.5 without any substantive changes.
- Rule 3.6 (Fair Dealing with Customers) would be renumbered as Rule 11.3.6 without any substantive changes.
- Rule 3.7 (Recommendations to Customers) would be renumbered as Rule 11.3.7. The Exchange proposes one substantive amendment to delete the Interpretation and Policy .01 because it references a rule that would not be

included in the Exchange's proposed rulebook.

- Rule 3.8 (The Prompt Receipt and Delivery of Securities) would be renumbered as Rule 11.3.8 without any substantive changes.
- Rule 3.9 (Charges for Services Performed) would be renumbered as Rule 11.3.9 without any changes.
- Rule 3.10 (Use of Information) would be renumbered as Rule 11.3.10 without any changes.
- Rule 3.11 (Publication of Transactions and Quotations) would be renumbered as Rule 11.3.11 without any changes.
- Rule 3.12 (Offers at Stated Prices) would be renumbered as Rule 11.3.12 without any changes.
- Rule 3.13 (Payment Designed to Influence Market Prices, Other than Paid Advertising) would be renumbered as Rule 11.3.13 without any changes.
- Rule 3.14 (Disclosure on Confirmations) would be renumbered as Rule 11.3.14 without any changes.
- Rule 3.15 (Disclosure of Control) – would be renumbered as Rule 11.3.15 without any changes.
- Rule 3.16 (Discretionary Accounts) would be renumbered as Rule 11.3.16 without any substantive changes.
- Rule 3.17 (Customer's Securities or Funds) would be renumbered as Rule 11.3.17 without any changes.
- Rule 3.18 (Prohibition Against Guarantees) would be renumbered as Rule 11.3.18 without any changes.

- Rule 3.19 (Sharing in Accounts; Extent Permissible) would be renumbered as Rule 11.3.19 without any changes.
- Rule 3.20 (Installment or Partial Payment Sales) would be renumbered as Rule 11.3.20 without any substantive changes.
- Rule 3.21 (Telephone Solicitation) would be renumbered as Rule 11.3.21 without any substantive changes.

The Exchange proposes to renumber the rules in Chapter IV as follows and add a subheading before such rules that provides "Books and Records":

- Rule 4.1 (Requirements) would be renumbered as Rule 11.4.1 without any changes.
- Rule 4.2 (Furnishing of Records) would be renumbered as Rule 11.4.2 without any substantive changes.
- Rule 4.3 (Record of Written Complaints) would be renumbered as Rule 11.4.3 without any changes.
- Rule 4.4 (Disclosure of Financial Condition) would be renumbered as Rule 11.4.4 without any changes.

The Exchange proposes to replace current Rule 5.5, as described below, and renumber the rules in Chapter V as follows and add a subheading before such rules that provides "Supervision":

- Rule 5.1 (Written Procedures) would be renumbered as Rule 11.5.1 without any changes.
- Rule 5.2 (Responsibility of ETP Holders) would be renumbered as Rule 11.5.2 without any changes.

- Rule 5.3 (Records) would be renumbered as Rule 11.5.3 without any changes.
- Rule 5.4 (Review of Activities and Annual Inspection) would be renumbered as Rule 11.5.4 without any changes.
- Rule 5.5 (Chinese Wall Procedures) would be replaced with proposed Rule 11.5.5 (Prevention of the Misuse of Material, Nonpublic Information), which is based on NYSE Arca Rule 11.3 and NYSE American Rule 6.3E. The proposed rule would provide for a principles-based approach to prevent the misuse of material non-public information. Because the Exchange would not trade options, the Exchange proposes that Commentary .01 to proposed Rule 11.5.5 would be based on Commentary .01 to NYSE American Rule 6.3E only. The Exchange's proposed Rule 5.5 would also include a non-substantive difference from the NYSE Arca and NYSE American rules on which it is based by not including rule text based on Commentary .02 to NYSE Arca Rule 11.3 or Commentary .02 to NYSE American Rule 6.3 because the Exchange already has a rule defining the term "associated person." Finally, Commentary .04 to proposed Rule 11.5.5 would have a non-substantive differences compared to NYSE Arca Rule 11.3 and NYSE American Rule 6.3E because it would refer to ETP Holders acting as a registered market maker in UTP Exchange Traded Products, rather than refer to securities listed on the Exchange under Rules 5 and 8.

  Proposed Rule 11.5.5 would require every ETP Holder to establish,

maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material, non-public information by such ETP Holders. For purposes of this requirement, the misuse of material, non-public information would include, without limitation, to the following:

(a) Trading in any securities issued by a corporation, or in any related securities or related options or other derivatives securities while in possession of material, non-public information concerning that issuer; or

(b) trading in a security or related options or other derivatives securities, while in possession of material, non-public information concerning imminent transactions in the security or related securities; or

(c) disclosing to another person or entity any material, non-public information involving a corporation whose shares are publicly traded or an imminent transaction in an underlying security or related securities for the purpose of facilitating the possible misuse of such material, non-public information.

- Rule 5.6 (Anti-Money Laundering Compliance Program) would be renumbered as Rule 11.5.6 without any substantive changes.
- Rule 5.7 (Annual Certification of Compliance and Supervisory Processes) would be renumbered as Rule 11.5.7 without any substantive changes.

The Exchange proposes renumber the rules in Chapter VI as follows and add a subheading before such rules that provides “Extensions of Credit”:

- Rule 6.1 (Extensions of Credit – Prohibitions and Exemptions) would be renumbered as Rule 11.6.1 without any substantive changes.
- Rule 6.2 (Day Trading Margin) would be renumbered as Rule 11.6.2 without any substantive changes. The Exchange proposes to update internal cross references in the rule to Rule 11.6.1(c) instead of Rule 4.2(c), which rule no longer exists.

The Exchange proposes to replace current Rule12.6, as described below, and proposes to renumber the rules in Chapter XII as follows and add a subheading before such rules that provides "Trading Practices":

- Rule 12.1 (Market Manipulation) would be renumbered as Rule 11.12.1 without any changes.
- Rule 12.2 (Fictitious Transactions) would be renumbered as Rule 11.12.2 without any substantive changes.
- Rule 12.3 (Excessive Sales by an ETP Holder) would be renumbered as Rule 11.12.3 without any changes.
- Rule 12.4 (Manipulative Transactions) would be renumbered as Rule 11.12.4 without any changes.
- Rule 12.5 (Dissemination of False Information) would be renumbered as Rule 11.12.5 without any changes.
- Current Rule 12.6 (Customer Priority) would be replaced with proposed Rule 11.12.6 (Prohibition of Trading Ahead of Customer Orders), which is based on NYSE Arca Rule 9.5320, NYSE American 5320- Equities, and NYSE Rule 5320. These rules are based on FINRA Rule 5320. The

Exchange believes that replacing current Rule 12.6 with a rule based on the rules of FINRA, NYSE Arca, NYSE American, and NYSE would promote cross-market surveillance and enhance FINRA's ability to conduct surveillance and investigations on behalf of the Exchange under a regulatory services agreement.

- Rule 12.7 (Joint Activity) would be renumbered as Rule 11.12.7 without any changes.
- Rule 12.8 (Influencing the Consolidated Tape) would be renumbered as Rule 11.12.8 without any changes.
- Rule 12.9 (Options) would be renumbered as Rule 11.12.9 without any changes.
- Rule 12.10 (Best Execution) would be renumbered as Rule 11.12.10 without any substantive changes. The Exchange proposes to update the internal reference in the rule from Exchange Act Rule 11Ac1-4, which was the Order Display Rule, to Rule 604 of Regulation NMS, which is the current Order Display Rule.
- The Exchange does not propose to retain current Rules 12.11 or Rule 12.12. Rule 12.11, relating to trading suspensions, would be superseded by proposed Rule 7.13, which would provide authority for the Board or Exchange President to suspend trading in securities traded on the Exchange. Rule 12.12 relating to publication of transactions and changes, would be superseded by proposed Rule 7.40, as described above.

Because the current rules would be renumbered, the Exchange proposes to delete

Chapters III, IV, V, VI, and XII of the current rulebook.

Finally, the Exchange proposes new Rule 11.12.11 based on NYSE American Rule 5220 – Equities, NYSE Rule 5220, and NYSE Arca Rule 11.21, which in turn are modeled on Commentary .03 to FINRA Rule 5210, that defines and prohibits two types of disruptive quoting and trading activity on the Exchange. The Exchange proposes to include this rule under Rule 11.12 sub-numbering because it is a trading practices rule.

Proposed Rule 11.12.11(a) would prohibit ETP Holders and Persons Associated with an ETP Holder from engaging in or facilitating disruptive quoting and trading activity on the Exchange, as described in proposed Rule 11.12.11(b)(1) and (2), including acting in concert with other persons to effect such activity. The Exchange believes that it is necessary to extend the prohibition to situations when persons are acting in concert to avoid a potential loophole where disruptive quoting and trading activity is simply split between several brokers or customers. The Exchange also believes that, with respect to persons acting in concert perpetrating an abusive scheme, it is important that the Exchange have authority to act against the parties perpetrating the abusive scheme, whether it is one person or multiple persons.

Proposed Rule 11.12.11(c) would provide that, unless otherwise indicated, the descriptions of disruptive quoting and trading activity do not require the facts to occur in a specific order in order for the Rule to apply. For instance, with respect to the pattern defined in proposed Rule 11.12.11(b)(1)(A)-(D), it is of no consequence whether a party first enters Displayed Orders and then Contra-side Orders or vice-versa. However, as proposed, it is required for supply and demand to change following the entry of the Displayed Orders.

The Exchange believes that the proposed descriptions of disruptive quoting and trading activity articulated in the rule are consistent with the activities that have been identified and described in the client access cases described in the NYSE American notice and with the rules of other SROs.[111]

Rule 12 – Arbitration

The Exchange proposes new Rule 12 (Arbitration) to replace rules set forth in Chapter IX relating to arbitration. Proposed Rule 12 is based on NYSE Rule 600A and those portions of NYSE Arca Rule 12 that are based on NYSE Rule 600A. Because any arbitrations involving ETP Holders and/or Associated Persons would be arbitrated pursuant to the FINRA Code of Arbitration Procedures and the Exchange would not separately run an arbitration program, the Exchange proposes to simplify its rules on arbitration and eliminate legacy, non-operative rules.

Proposed Rule 12(a) would set forth an ETP Holder's duty to arbitrate under the FINRA Code of Arbitration Procedure (i) any dispute, claim or controversy by or among ETP Holders and/or Associated Persons; and (ii) any dispute, claim or controversy between a customer or non-member and an ETP Holder and/or Associated Person arising in connection with the business of such ETP Holder and/or in connection with the activities of an Associated Person. Proposed Rule 12(b) would also provide that if any matter comes to the attention of an arbitrator during and in connection with the arbitrator's participation in a proceeding, either from the record of the proceeding or from material or communications related to the proceeding, that the arbitrator has reason to

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111 See, e.g., BZX Rule 12.15; NASDAQ Rule 2170. See also Securities Exchange Release No. 80804 (May 30, 2017), 82 FR 25887, 25888-25890 (June 5, 2017) (SR-NYSEMKT-2017-25) (Notice of filing discussing matters involving Biremis Corp. and Hold Brothers On-Line Investment Services, Inc.).

believe may constitute a violation of the Exchange's rules or the federal securities laws, the arbitrator may refer the matter to the Exchange for disciplinary investigation. Proposed Rule 12(c) would also provide that any ETP Holder or Associated Person who fails to honor an award of arbitrators appointed in accordance with proposed Rule 12 would be subject to disciplinary proceedings under the Rule 10.8000 or 10.9000 Series, as applicable. Proposed Rule 12(d) would provide that the submission of any matter to arbitration would in no way limit or preclude any right, action or determination by the Exchange that it would otherwise be authorized to adopt, administer or enforce.

Because Rule 12 would set forth the Exchange's rules relating to arbitration, the Exchange proposes to delete the rules in Chapter IX in their entirety.

Rule 13 - Liability of Directors and Exchange

Proposed Rule 13 titled "Liability of Directors and Exchange" would establish requirements governing liability of directors and of the Exchange, including the limits on liability for specified circumstances.[112] The rules set forth in proposed Rule 13 are based on the rules set forth in NYSE Arca Rule 14, with non-substantive differences not to reference "OTP Holders" or "OTP Firms," and NYSE American Rule 13E.

Proposed Rule 13.1 (Liability of Directors) is based on NYSE Arca Rule 14.1 without any substantive differences. Proposed Rule 13.2 (Liability of the Exchange) is based on NYSE Arca Rule 14.2 without any substantive differences.

Proposed Rule 13.3 (Legal Proceedings Against Directors, Officers, Employees,

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[112] The Exchange proposes to delete the current heading of Rule 13 ("Cancellation, Suspension, and Reinstatement") established by the Framework Filing as well as "Rule 14." The current heading for Rule 14 ("Liability of Directors and Exchange") would thus become the heading for proposed Rule 13 and the Exchange would not have a Rule 14 in its rulebook.

or Agents) would establish requirements relating to legal proceedings against directors, officers, employees, agents, or other officials of the Exchange. The proposed rule is based on NYSE Arca Rule 14.3 and NYSE American Rule 13.3E without any substantive differences.

Proposed Rule 13.4 (Exchange's Costs of Defending Legal Proceedings) would establish the circumstances regarding who is responsible for the Exchange's costs in defending a legal proceeding brought against the Exchange. The proposed rule is based on NYSE Arca Rule 14.4 and NYSE American Rule 13.4E without any substantive differences.

4. Section 11(a) of the Act

Section 11(a)(l) of the Act[113] ("Section 11(a)(1)") prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion (collectively, "covered accounts") unless an exception to the prohibition applies. Rule 11a2-2(T) under the Act ("Rule 11a2-2(T)"),[114] known as the "effect versus execute" rule, provides exchange members with an exemption from the Section 11(a)(l) prohibition. Rule 11a2-2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute the transactions on the exchange. To comply with Rule 11a2-2(T)'s conditions, a member: (i) must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has

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113 15 U.S.C. 78k(a)(1).

114 17 CFR 240.11a2-2(T).

been transmitted to the member performing the execution (although the member may participate in clearing and settling the transaction); (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member or its associated person has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule.

With the proposed re-launch of the Exchange as a fully automated electronic trading model that does not have a trading floor, the Exchange believes that the policy concerns Congress sought to address in Section 11(a)(1) – i.e., the time and place advantage that members on exchange trading floors have over non-members off the floor and the general public – would not be present. Specifically, on the Pillar trading system, buy and sell interest will be matching in a continuous, automated fashion. Liquidity will be derived from quotes as well as orders to buy and orders to sell submitted to the Exchange electronically by ETP Holders from remote locations. The Exchange further believes that ETP Holders entering orders into the Exchange will satisfy the requirements of Rule 11a2-2(T) under the Act, which provides an exception to Section 11(a)'s general prohibition on proprietary trading.

The four conditions imposed by the "effect versus execute" rule are designed to put members and non-members of an exchange on the same footing, to the extent practicable, in light of the purpose of Section 11(a). For the reasons set forth below, the Exchange believes the structure and characteristics of its proposed Pillar trading system do not result in disparate treatment of members and non-members and places them on the "same footing" as intended by Rule 11a2-2(T).

1. **Off-Floor Transmission**. Rule 11a2-2(T) requires orders for a covered account transaction to be transmitted from off the exchange floor. The Commission has considered this and other requirements of the rule in the context of automated trading and electronic order handling facilities operated by various national securities exchanges in a 1979 Release[115] as well as more applications of Rule 11a2-2(T) in connection with the approval of the registrations of national securities exchanges.[116] In the context of these automated trading systems, the Commission has found that the off-floor transmission requirement is met if an order for a covered account is transmitted from a remote location directly to an exchange's floor by electronic means.[117] Because the Exchange

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115 See Securities Exchange Act Release No. 15533 (January 29, 1979) (regarding the Amex Post Execution Reporting System, the Amex Switching System, the lntermarket Trading System, the Multiple Dealer Trading Facility of the Cincinnati Stock Exchange, the PCX's Communications and Execution System ("COM EX"), and the Phlx's Automated Communications and Execution System ("PACE")) ("1979 Release").

116 Securities Exchange Act Release Nos. 53128 (January 13, 2006) 71 FR 3550 (January 23, 2006) (File No. 10-13 1) (order approving Nasdaq Exchange registration); 58375 (August 18, 2008) 73 FR 49498 (August 21, 2008) (order approving BATS Exchange registration); 61152 (December 10, 2009) 74 FR 66699 (December 16, 2009) (order approving C2 exchange registration); and 78101 (June 17, 2016), 81 FR 41142, 41164 (June 23, 2016) (order approving Investors Exchange LLC registration).

117 See, e.g., Securities Exchange Act Release Nos. 49068 (January 13, 2004), 69 FR 2775 (January 20, 2004) (order approving the Boston Options Exchange as an options trading facility of the Boston Stock Exchange); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (order approving Archipelago Exchange ("ArcaEx") as electronic trading facility of the Pacific Exchange ("PCX")("Arca Ex Order")); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (regarding NYSE's Off-Hours Trading Facility); 15533 (January 29, 1979); and 14563

would not have a physical trading floor when it re-launches trading, and like other all electronic exchanges, the Exchange's Pillar trading system would receive orders from ETP Holders electronically through remote terminals or computer-to-computer interfaces, the Exchange therefore believes that its trading system satisfies the off-floor transmission requirement.

2. **Non-Participation in Order Execution**. The "effect versus execute" rule further provides that neither the exchange member nor an associated person of such member participate in the execution of its order. This requirement was originally intended to prevent members from using their own brokers on an exchange floor to influence or guide the execution of their orders.[118] The rule, however, does not preclude members from cancelling or modifying orders, or from modifying instructions for executing orders, after they have been transmitted, provided such cancellations or modifications are transmitted from off an exchange floor.[119] In the 1979 Release discussing both the Pacific Stock Exchange's COM EX system and the Philadelphia Stock Exchange's PACE system, the Commission noted that a member relinquishes any ability to influence or guide the execution of its

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(March 14, 1978), 43 FR 11542 (March 17, 1978) (regarding the NYSE's Designated Order Turnaround System ("1978 Release")).

118 Id. 1978 Release, supra note 117.

119 Id.

order at the time the order is transmitted into the systems, and although the execution is automatic, the design of such systems ensures that members do not possess any special or unique trading advantages in handling orders after transmission to the systems.[120] The Exchange's Pillar trading system would at no time following the submission of an order allow an ETP Holder or an associated person of such member to acquire control or influence over the result or timing of an order's execution. The execution of an ETP Holder's order would be determined solely by what quotes and orders are present in the system at the time the member submits the order and the order priority based on Exchange rules. Therefore, the Exchange believes the non-participation requirement would be met through the submission and execution of orders in the Exchange's Pillar trading system.

3. **Execution Through an Unaffiliated Member**. Although Rule 11a2-2(T) contemplates having an order executed by an exchange member, unaffiliated with the member initiating the order, the Commission has recognized the requirement is satisfied where automated exchange facilities are used as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange. In the 1979 Release, the

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120 1979 Release, supra note 115.

Commission noted that while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the systems. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2-2(T). Because the design of the Exchange's Pillar trading system ensures that no ETP Holder has any special or unique trading advantages over nonmembers in the handling of its orders after transmitting its orders to the Exchange, the Exchange believes that its Pillar trading system would satisfy this requirement.

4. **Non-Retention of Compensation for Discretionary Accounts**. Finally, Rule 11a2-2(T) states, in the case of a transaction effected for the account for which the initiating member or its associated person exercises investment discretion, in general, the member or its associated person may not retain compensation for effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to both Section 11(a) of the Exchange Act and Rule 11a2-2(T). The Exchange will advise its membership through the issuance of a Regulatory Bulletin that those ETP Holders trading

for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the exemption in Rule 11a2-2(T) from the prohibition in Section 11(a) of the Exchange Act.

In conclusion, the Exchange believes that its Pillar trading system would satisfy the four requirements of Rule 11a2-2(T) as well as the general policy objectives of Section 11(a). The Exchange's proposed Pillar trading system would place all users, members and non-members, on the "same footing" with respect to transactions on the Exchange for covered accounts as intended by Rule 11a2-2(T). As such, no Exchange ETP Holder would be able to engage in proprietary trading in a manner inconsistent with Section 11(a).

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),[121] in general, and furthers the objectives of Section 6(b)(5),[122] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

Generally, the Exchange believes that the proposed rules would support the re-launch of the Exchange as a fully automated cash equities trading market with a price-

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121 15 U.S.C. 78f(b).

122 15 U.S.C. 78f(b)(5).

time priority model that is based on the rules of its affiliated exchanges, NYSE Arca and NYSE American. The Exchange is not proposing any new or novel rules. The proposed rule changes relating to trading would therefore remove impediments to and perfect the mechanism of a free and open market and a national market system because they are based on the approved rules of other exchanges.

In addition, the Exchange proposes to renumber its current rules relating to its ETP Holders, including the membership process described in Chapter II of the current rulebook, rules set forth in Chapters III, IV, V, VI, and XII of the current rulebook, and the CAT NMS Plan Compliance Rules, currently set forth in Chapter XIV of the rulebook. The Exchange believes that retaining such rules would remove impediments to and perfect the mechanism of a free and open market and a national market system because ETP Holders would not be required to change their internal procedures to be reinstated as ETP Holders of the Exchange, thus supporting the efficient re-launch of the Exchange. The Exchange further believes that renumbering such rules would remove impediments to and perfect the mechanism of a national market system because using the rule numbering framework that is based on the rules of NYSE Arca and NYSE American would promote transparency in Exchange rules by using consistent rule numbers with the rules of its affiliated exchanges that are also operating on the Pillar trading platform. The Exchange further believes that for proposed Rule 11, retaining sub-numbering for rules that are in the current rulebook would remove impediments to and perfect the mechanism of a free and open market for ETP Holders that have internal procedures that reference current Exchange rules; the proposed rule numbering would minimize the changes required by an ETP Holder to such policies and procedures.

Proposed Changes to the Bylaws

The Exchange believes that amending the Bylaws to change the name of the Appeals Committee to the Committee for Review would remove impediments to and perfect the mechanism of a free and open market by aligning the name used for the Exchange's committee that presides over appeals with the name used by the Exchange's national securities exchanges for their committees that play a similar role, ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Bylaws and, specifically, the role of the Committee for Review.

In addition, the Exchange believes that the proposed changes to the Bylaws to change the name of the Appeals Committee to the Committee for Review would contribute to the orderly operation of the Exchange by aligning the name used for the Exchange's committee that presides over appeals with the name used by the Exchange's national securities exchanges for their committees that play a similar role, and therefore would be consistent with Section 6(b)(1) of the Act.[123] The change to the Bylaws would be non-substantive, as the makeup and function of the Appeals Committee would not change.

Proposed Rules Based on the Rules of the Exchange's Affiliates

Regulation of the Exchange (Rule 0) and Definitions (Rule 1)

The Exchange believes that proposed Rule 0 would remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest because it would specify the role of

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123 15 U.S.C. 78f(b)(1).

FINRA, pursuant to a Regulatory Services Agreement, to perform certain regulatory functions of the Exchange on behalf of the Exchange.

The Exchange further believes that proposed Rule 1 would remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest because the proposed definitions are terms that would be used in the additional rules proposed by the Exchange. Proposed Rule 1 would therefore promote transparency in Exchange rules by providing for definitional terms that would be used throughout the rulebook.

Administration of the Exchange (Rule 3)

The Exchange believes that proposed Rule 3 would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would establish rules relating to the organization and administration of the Exchange that are based on the approved rules of NYSE Arca, including rules relating to liability for non-payment of assessments, dues, or other charges (proposed Rule 3.8), Exchange relationships with ETP Holders (proposed Rule 3.9), requirements to notify the Exchange of expulsion or suspension (proposed Rule 3.10), and requirements for fingerprint-based background checks of Exchange employees (proposed Rule 3.11).

Trading Securities on an Unlisted Trading Privileges Basis (Rules 5 and 8)

The Exchange believes that proposed Rules 5 and 8 would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest by providing for the trading of securities, including UTP Exchange Traded Products, on the Exchange pursuant to UTP, subject to consistent and reasonable standards. Accordingly, the proposed rule change would contribute to the protection of investors and the public interest because it may provide a better trading environment for investors and, generally, encourage greater competition between markets.

The proposal is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system by adopting rules that will lead ultimately to the trading pursuant to UTP of the proposed products on the Exchange, just as they are currently traded on other exchanges. The proposed changes do nothing more than match Exchange rules with what is currently available on other exchanges, and more specifically, NYSE American Rules 5E and 8E, NYSE Rules 5P and 8P, and NYSE Arca Rules 5 and 8. The Exchange believes that by conforming its rules and allowing trading opportunities on the Exchange that are already allowed by rule on another market, the proposal would offer another venue for trading Exchange Traded Products and thereby promote broader competition among exchanges. The Exchange believes that individuals and entities permitted to make markets on the Exchange in the proposed new products should enhance competition within the mechanism of a free and open market and a national market system, and customers and other investors in the national market system should benefit from more depth and liquidity in the market for the proposed new products.

The proposed change is not designed to address any competitive issue, but rather to adopt new rules that are word-for-word identical to the rules of NYSE American, NYSE, and NYSE Arca (other than with respect to certain non-substantive and technical amendments described above), to support the Exchange's new Pillar trading platform. The Exchange believes that the proposed rule change would promote consistent use of terminology to support the Pillar trading platform on both the Exchange and its affiliates, NYSE American, NYSE, and NYSE Arca, thus making the Exchange's rules easier to navigate.

The Exchange believes the proposed rule change also supports the principals of Section 11A(a)(1)[124] of the Act in that it seeks to ensure the economically efficient execution of securities transactions and fair competition among brokers and dealers and among exchange markets. The proposed rule change also supports the principles of Section 12(f) of the Act, which govern the trading of securities pursuant to a grant of unlisted trading privileges consistent with the maintenance of fair and orderly markets, the protection of investors and the public interest, and the impact of extending the existing markets for such securities.

The Exchange believes that the proposed rule change is consistent with these principles. By providing for the trading of securities on the Exchange on a UTP basis, the Exchange believes its proposal will lead to the addition of liquidity to the broader market for these securities and to increased competition among the existing group of liquidity providers. The Exchange also believes that, by so doing, the proposed rule change would encourage the additional utilization of, and interaction with, the exchange

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[124] 15 U.S.C 78k-1(a)(1).

market, and provide market participants with improved price discovery, increased liquidity, more competitive quotes and greater price improvement for securities traded pursuant to UTP.

The Exchange further believes that enhancing liquidity by trading securities on a UTP basis would help raise investors' confidence in the fairness of the market, generally, and their transactions in particular. As such, the general UTP trading rule would foster cooperation and coordination with persons engaged in facilitating securities transactions, enhance the mechanism of a free and open market, and promote fair and orderly markets in securities on the Exchange.

Order Audit Trail Rules (Proposed Rule 6)

The Exchange believes that moving the CAT NMS Plan Compliance Rules, currently set forth in Chapter XIV, to proposed Rule 6.6800 would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would consolidate all of the Exchange's order audit trail requirements in a single Rule, without any substantive differences to the Compliance Rules, and because it would follow the same rule-numbering convention as its affiliated exchanges and FINRA.

The Exchange believes that proposed Rule 6.6900 relating to Consolidated Audit Trail – Fee Dispute Resolution would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would harmonize the Exchange's rules with the approved rules of other exchanges relating to fee dispute resolution under the CAT NMS Plan.[125] The proposed CAT Fee Dispute Resolution

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125 See Fee Dispute Approval Order, supra note 88.

Rule would therefore implement, interpret or clarify Section 11.5 of the CAT NMS Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan.

Finally, the Exchange believes that the proposed Rule 6.7400 Series, relating to Order Audit Trail System, would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule series is based on the approved rules of NYSE Arca, which are based on FINRA's OATS rules. The Exchange further believes that the proposed OATS rules would promote just and equitable principles of trade as such rules would further promote cross-market surveillance and enhance FINRA's ability to conduct surveillance and investigations for the Exchange under a Regulatory Services Agreement. The Exchange does not believe that adding the OATS rules to the Exchange would impose a burden on Exchange ETP Holders because with the exception of one Exchange ETP Holder, all former Exchange ETP Holders were members of either FINRA, NYSE Arca, or Nasdaq, and thus are already subject to OATS requirements under the rules of those SROs. The one ETP Holder that is not currently a member of FINRA, one of the Exchange's affiliates, or Nasdaq would not be subject to ongoing reporting requirements under the proposed OATS rules, and therefore it would not be onerous for such ETP Holder to comply if OATS information were requested in the course of a regulatory inquiry.

Equities Trading Rules (proposed Rule 7)

The Exchange believes that proposed Rule 7 would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would establish rules relating to trading on the Exchange, including post-trade

requirements, that would support the re-launch of Exchange trading as a fully automated trading market with a price-time priority trading model. The proposed rules are based on the rules of NYSE Arca and NYSE American, as applicable, and include rules governing orders and modifiers, ranking and display, execution and routing, trading sessions, and market makers. The Exchange believes that because it would not be a listing venue, it would be consistent with the protection of investors and the public interest not to include rules relating to auctions or lead or designated market makers. Other than substantive differences to the proposed rules relating to the difference that the Exchange would not operate auctions, the Exchange is not proposing any novel rules in proposed Rule 7.

Disciplinary Rules (proposed Rule 10)

The Exchange believes that the proposed Rule 10 Series would provide greater harmonization among SROs resulting in less burdensome and more efficient regulatory compliance for common members of the Exchange, the Exchange's affiliates, and FINRA. As previously noted, the proposed rule text is substantially the same as NYSE American's rule text. The proposed rule change would enhance the Exchange's ability to have a direct and meaningful impact on the end-to-end quality of its regulatory program once the Exchange relaunches, from detection and investigation of potential violations through the efficient initiation and completion of disciplinary measures where appropriate. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange further believes that the proposed processes for settling

disciplinary matters both before and after the issuance of a complaint are fair and reasonable and provides adequate procedural protections to all parties in addition to promoting efficiency.

The Exchange believes that adopting its affiliates' appellate procedures, which provide for one level of review rather than two levels of review, would be fair and efficient and create consistency with its affiliates' practices. The proposed rule change would offer the members of Board, other than the CEO, the opportunity to call a case for review. This will provide the Board with authority to exercise appropriate oversight over disciplinary action taken by the Exchange and FINRA on the Exchange's behalf.

The Exchange notes that adopting the list of minor rule violations and associated fine levels based on the rules of its affiliate would promote fairness and consistency in the marketplace by harmonizing minor rule plan fines across affiliated exchanges for the same conduct. The Exchange further believes that adoption of its affiliates' minor rule violations is consistent with Section 6(b)(6) of the Act,[126] which provides that members and persons associated with members shall be appropriately disciplined for violation of the provisions of the rules of the exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction.

Arbitration (proposed Rule 12)

The Exchange believes that proposed Rule 12 relating to arbitration would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would update the Exchange's rules governing

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126 15 U.S.C. 78f(b)(6).

arbitration to reflect that any such arbitrations would be processed by FINRA pursuant to the FINRA Code of Arbitration Procedures. The proposed rule is not novel as it is based on NYSE Rule 600A and NYSE Arca Rule 12. In addition, the proposed rule change would delete obsolete arbitration procedures that are not supported by the Exchange. The Exchange believes the proposed rule change fosters uniformity and consistency in arbitration proceedings and, as a result, would enhance the administration and operation of the arbitration process, thereby protecting investors and the public interest. The proposed rule change would therefore promote consistency among the Exchange and its affiliates and make its rules easier to navigate for the public, the Commission, and members.

Liability of Directors and Exchange (proposed Rule 13)

The Exchange believes that proposed Rule 13 would remove impediments to and perfect the mechanism of a free and open market and a national market system by harmonizing the Exchange's rules governing liability of directors, liability of exchange, legal proceedings against Exchange directors, officers, employees, or agents, and Exchange's costs of defending legal proceedings with the approved rules of its affiliated exchanges NYSE Arca and NYSE American. The Exchange believes that the proposed rules would further promote just and equitable principles of trade by providing for consistent methodology relating to liability for trading on affiliated exchanges that would be using the same trading platform. The proposed rule change would therefore promote consistency among the Exchange and its affiliates and make its rules easier to navigate for the public, the Commission, and ETP Holders.

Proposed Renumbering of Rules in Chapters II, III, IV, V, VI, and XII

The Exchange believes that renumbering rules currently set forth in Chapters II to Rule 2 and rules currently set forth in Chapters III, IV, V, VI, and XII to Rule 11 would remove impediments to and perfect the mechanism of a free and open market because the proposed rule set would maintain existing rules relating to ETP Holders. The Exchange believes that relocating existing rules set forth in Chapters II, III, IV, V, VI, and XII to proposed Rules 2 and 11 would remove impediments to and perfect the mechanism of a free and open market and a national market system because using the rule numbering framework that is based on the rules of NYSE Arca would promote transparency in Exchange rules by using consistent rule numbers with the equities market of NYSE Arca, which is the first market that migrated to the Pillar trading platform. In addition, the Exchange believes that the proposed sub-numbers for rules set forth in Rule 11, which are identical to the current rule numbers for such rules, would remove impediments to and perfect the mechanism of a free and open market and a national market system by providing current ETP Holders, who are familiar with the current rulebook, with rule numbers that are consistent with the current rulebook for rules that are not changing.

The Exchange further believes that updating Exchange rules as follows would remove impediments to and perfect the mechanism of a free and open market and a national market system by harmonizing the Exchange's rules with those of other SROs:

- The Exchange believes that the proposed amendment to Rule 2.5 to update proposed Commentary .01 to add the date February 1, 2017 would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would facilitate the efficient

reinstatement of Exchange ETP Holders that are in good standing pursuant to the Exchange's existing rules, which would support the re-launch of trading on the Exchange.

- The Exchange believes that proposed Rule 2.13 (Exchange Backup Systems and Mandatory Testing) would remove impediments to and perfect the mechanism of a free and open market because it would maintain consistency across all exchanges operated by NYSE Group regarding mandatory participation in the testing of backup systems. The proposed rule is based on NYSE Arca Rule 2.27 and is not novel.
- The Exchange believes that proposed Rule 2.18 (Activity Assessment Fee) furthers the objectives of Section 6(b)(4) of the Act,[127] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers. Specifically, proposed Rule 2.18 does not establish a new fee. Rather, the proposed rule is based on existing provisions of current 16.1 relating to "Regulatory Transaction Fees" without any substantive differences. The Exchange proposes to move the rule text to Rule 2.18 to use rule numbering for Pillar that is consistent with the Framework Filing, with non-substantive differences to use Pillar terminology, and not move obsolete rule text.
- The Exchange believes that proposed Rule 11.5.5 (Prevention of the

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127 15 U.S.C. 78f(b)(4).

Misuse of Material, Nonpublic Information), which is based on NYSE Arca Rule 11.3 and NYSE American Rule 6.3E and would replace current Rule 5.5, would remove impediments to and perfect the mechanism of a free and open market and a national market system by providing for a principles-based approach to prevent the misuse of material non-public information. The proposed rule change would therefore harmonize the Exchange's rules with those of its affiliated exchanges.

- The Exchange believes that proposed Rule 11.12.6 (Prohibition of Trading Ahead of Customer Orders), which is based on NYSE Arca Rule 9.5320, NYSE American 5320- Equities, and NYSE Rule 5320, and would replace current Rule 12.6 would remove impediments to and perfect the mechanism of a free and open market and a national market system and is designed to prevent fraudulent and manipulative acts and practices because it would promote cross-market surveillance and enhance FINRA's ability to conduct surveillance and investigations on behalf of the Exchange under a regulatory services agreement.
- The Exchange believes that proposed Rule 11.12.11 (Disruptive Quoting and Trading Activity Prohibited), which is modeled on NYSE American Rule 5220 – Equities, NYSE Rule 5220, and NYSE Arca Rule 11.21, which in turn are modeled on Commentary .03 to FINRA Rule 5210, would remove impediments to and perfect the mechanism of a free and open market and a national market system by harmonizing the Exchange's rules with those of other SROs, including its affiliated exchanges. In

addition, the Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest by providing the Exchange with authority to prohibit specified disruptive quoting and trading activity on the Exchange. More specifically, the Exchange believes that the proposed rule is consistent with the public interest and the protection of investors and otherwise furthers the purposes of the Act because the proposal strengthens the Exchange's ability to carry out its oversight and enforcement responsibilities as an SRO in cases where awaiting the conclusion of a full disciplinary proceeding is unsuitable in view of the potential harm to other member organization and their customers. The Exchange notes that if this type of conduct is allowed to continue on the Exchange, the Exchange's reputation could be harmed because it may appear to the public that the Exchange is not acting to address the behavior. The proposed expedited process would enable the Exchange to address the behavior with greater speed. For the same reasons, the Exchange believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,[128] which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of the Commission and Exchange rules.

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128 15 U.S.C. 78f(b)(5).

Section 11(a) of the Act

For reasons described above, the Exchange believes that the proposal for the Exchange to operate on a fully automated trading market without a Floor is consistent with Section 11(a) of the Act and Rule 11a2-2(T) thereunder.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather to provide for rules to support the re-launch of trading on the Exchange on the Pillar trading platform and to renumber current rules relating to ETP Holders consistent with the Framework Filing, but also maintaining current rule numbers as part of a sub-numbering scheme for rules that are not changing. The Exchange operates in a highly competitive environment in which its unaffiliated exchanges competitors operate multiple affiliated exchanges that operate under common rules. By proposing rules based on the rules of its affiliated exchanges, the Exchange believes that it will be able to compete on a more level playing field with its exchange competitors that similarly trade NMS Stocks on fully automated trading models. In addition, by basing its rules on those of its affiliated exchanges, the Exchange will provide its ETP Holders with consistency across affiliated exchanges, thereby enabling the Exchange to compete with unaffiliated exchange competitors that similarly operate multiple exchanges on the same trading platforms.

In addition, the Exchange does not believe that the proposed rule change will impose any burden on competition on its ETP Holders that is not necessary or appropriate

in furtherance of the purposes of the Act because the Exchange proposes to retain rules governing ETP Holder conduct and therefore such ETP Holders would not need to update internal procedures in connection with the re-launch of the Exchange. To the extent the Exchange has proposed non-trading rules based on those of its affiliates, e.g., OATS rules, disciplinary rules, and certain conduct rules, the Exchange believes that because all but one of its former ETP Holders are already members of FINRA, an affiliated exchange, or Nasdaq, Exchange ETP Holders are already familiar with such rules in connection with their membership on those SROs. Moreover, these proposed rules would provide for greater harmonization among SROs of the rules for investigations and disciplinary matters, resulting in less burdensome and more efficient regulatory compliance for common members and facilitating the Exchange's performance of its regulatory functions. The Exchange further believes that the proposed rule change would promote consistency and transparency on both the Exchange and its affiliated exchanges, thus making the Exchange's rules easier to navigate.

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

No written comments were solicited or received with respect to the proposed rule change.

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

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

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSENAT-2018-02 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NYSENAT-2018-02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for

website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSENAT-2018-02 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[129]

Robert W. Errett
Deputy Secretary

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129 17 CFR 200.30-3(a)(12).

EXHIBIT 5A

Additions underlined
Deletions [bracketed]

Rules of NYSE National, Inc.

RULE 0 REGULATION OF THE EXCHANGE AND ETP HOLDERS

Rule 0. Regulation of the Exchange and ETP Holders

The Exchange and FINRA are parties to a Regulatory Services Agreement ("RSA") pursuant to which FINRA has agreed to perform certain regulatory functions of the Exchange on behalf of the Exchange. Exchange Rules that refer to Exchange staff and Exchange departments should be understood as also referring to FINRA staff and FINRA departments acting on behalf of the Exchange pursuant to the RSA, as applicable. Notwithstanding the fact that the Exchange has entered into an RSA with FINRA to perform certain of the Exchange's functions, the Exchange shall retain ultimate legal responsibility for, and control of, such functions.

RULE 1 DEFINITIONS

Rule 1.1. Definitions

As used in Exchange rules, unless the context requires otherwise, the terms below will mean the following:

Authorized Trader

(a) The term "Authorized Trader" or "AT" means a person who may submit orders to the Exchange's Trading Facilities on behalf of his or her ETP Holder.

Away Market

(b) The term "Away Market" means any exchange, alternative trading system ("ATS") or other broker-dealer (1) with which the Exchange maintains an electronic linkage and (2) that provides instantaneous responses to orders routed from the Exchange. The Exchange will designate from time to time those ATS's or other broker-dealers that qualify as Away Markets.

BBO

(c) The term "BBO" means the best bid or offer that is a protected quotation on the Exchange. The term "BB" means the best bid on the Exchange and the term "BO" means the best offer on the Exchange.

Board and Board of Directors

(d) The terms "Board" and "Board of Directors" shall mean the Board of Directors of NYSE National, Inc.

Core Trading Hours

(e) The term "Core Trading Hours" means the hours of 9:30 am Eastern Time through 4:00 pm Eastern Time or such other hours as may be determined by the Exchange from time to time.

Effective National Market System Plan, Regular Trading Hours

(f) The terms "effective national market system plan" and "regular trading hours," have the meanings set forth in Rule 600(b) of Regulation NMS under the Exchange Act.

Eligible Security

(g) The term "Eligible Security" means any equity security (i) traded on the Exchange pursuant to a grant of unlisted trading privileges under Section 12(f) of the Exchange Act and (ii) specified by the Exchange to be traded on the Exchange or other facility, as the case may be.

ETP

(h) The term "ETP" refers to an Equity Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange.

ETP Holder

(i) The term "ETP Holder" means the Exchange-approved holder of an ETP.

Exchange

(j) The term "Exchange" means the NYSE National, Inc.

Exchange Act

(k) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

Exchange Book

(l) The term “Exchange Book” refers to the Exchange’s electronic file of orders.

Exchange Traded Product and UTP Exchange Traded Product

(m) The term "Exchange Traded Product" means a security that meets the definition of "derivative securities product" in Rule 19b-4(e) under the Exchange Act and a "UTP

Exchange Traded Product" means an Exchange Traded Product that trades on the Exchange pursuant to unlisted trading privileges.

FINRA

(n) The term "FINRA" means the Financial Industry Regulatory Authority, Inc.

General Authorized Trader

(o) The term "General Authorized Trader" or "GAT" means an authorized trader who performs only non-market making activities on behalf of an ETP Holder.

Good Standing

(p) The term "good standing" refers to an ETP Holder who is not in violation of any of its agreements with the Exchange or any of the provisions of the Rules or Bylaws of the Exchange, and who has maintained all of the conditions for approval of the ETP.

Marketable

(q) The term "Marketable" means, for a Limit Order, an order that can be immediately executed or routed. Market Orders are always considered marketable.

Market Maker

(r) The term "Market Maker" refers to an ETP Holder that acts as a Market Maker pursuant to Rule 7.

Market Maker Authorized Trader

(s) The term "Market Maker Authorized Trader" or "MMAT" means an authorized trader who performs market making activities pursuant to Rule 7 on behalf of a Market Maker.

Market Participant

(t) For the purposes of Rule 7, the term "Market Participant" includes electronic communications networks ("ECN"), dealer-specialists registered with a national securities exchange, and market makers registered with a national securities association.

Nasdaq

(u) The term "Nasdaq" means The Nasdaq Stock Market LLC.

NBBO, Best Protected Bid, Best Protected Offer, Protected Best Bid and Offer (PBBO)

(v) The term "NBBO" means the national best bid or offer. The terms "NBB" mean the national best bid and "NBO" means the national best offer. The terms "Best Protected Bid" or "PBB" means the highest Protected Bid, and "Best Protected Offer" or "PBO" means the lowest Protected Offer, and the term "Protected Best Bid and Offer" ("PBBO") means the Best Protected Bid and the Best Protected Offer.

NMS Stock

(w) The term "NMS stock" means any security, other than an option, for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan.

NYSE National

(x) The term "NYSE National" shall have the same meaning as "Exchange" as that term is defined in Rule 1.1.

NYSE National Marketplace

(y) "NYSE National Marketplace" means the electronic securities communications and trading facility of the Exchange through which orders are processed or are consolidated for execution and/or display.

Person

(z) The term "Person" refers to a natural person, corporation, partnership, limited liability company, association, joint stock company, trustee of a trust fund, or any organized group of persons whether incorporated or not.

Person Associated with an ETP Holder

(aa) The terms "Person Associated with an ETP Holder," "Associated Person of an ETP Holder" or “Associated Person” means any partner, officer, director, or branch manager of an ETP Holder (or any Person occupying a similar status or performing similar functions), any Person directly or indirectly controlling, controlled by, or under common control with an ETP Holder, or any employee of such ETP Holder, except that any Person Associated with an ETP Holder whose functions are solely clerical or ministerial shall not be included in the meaning of such terms.

Principal

(bb) The term “Principal” means any Person Associated with an ETP Holder actively engaged in the management of the ETP Holder’s securities business, including supervision, solicitation, conduct of the ETP Holder’s business, or the training of Authorized Traders and Persons Associated with an ETP Holder for any of these

functions. Such Persons include Sole Proprietors, Officers, Partners, and Directors of Corporations.

Principal – Financial and Operations

(cc) The term “Principal - Financial and Operations” means a Person Associated with an ETP Holder whose duties include: final approval and responsibility for the accuracy of financial reports submitted to any duly established securities industry regulatory body; final preparation of such reports; supervision of individuals who assist in the preparation of such reports; supervision of and responsibility for individuals who are involved in the actual maintenance of the ETP Holder’s books and records from which such reports are derived; supervision and/or performance of the ETP Holder’s responsibilities under all financial responsibility rules promulgated pursuant to the provisions of the Act; overall supervision of and responsibility for the individuals who are involved in the administration and maintenance of the ETP Holder’s back office operations; or any other matter involving the financial and operational management of the ETP Holder.

Protected Bid, Protected Offer, Protected Quotation

(dd) The term "Protected Bid" or "Protected Offer" means a quotation in an NMS stock that is (i) displayed by an Automated Trading Center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an Automated Quotation that is the best bid or best offer of a national securities exchange or the best bid or best offer of a national securities association. The term "Protected Quotation" means a quotation that is a Protected Bid or Protected Offer. For purposes of the foregoing definitions, the terms "Automated Trading Center," "Automated Quotation," "Manual Quotation," "Best Bid," and "Best Offer," have the meanings ascribed to them in Rule 600(b) of Regulation NMS under the Exchange Act.

Security

(ee) The terms "Security" and “Securities” means any security as defined in Rule 3(a)(10) under the Exchange Act, provided, however, that for purposes of Rule 7, such term means any NMS stock.

Securities Trader

(ff) The term “Securities Trader” means any Person engaged in the purchase or sale of securities or other similar instruments for the account of an ETP Holder with which such Person is associated, as an employee or otherwise, and who does not transact any business with the public.

Securities Trader Principal

(gg) The term “Securities Trader Principal” means a Person who has become qualified and registered as a Securities Trader and passes the General Securities Principal

qualification examination. Each Principal with responsibility over securities trading activities on the Exchange shall become qualified and registered as a Securities Trader Principal.

Self-Regulatory Organization ("SRO")

(hh) The terms "self-regulatory organization" and "SRO" have the same meaning as set forth in the provisions of the Exchange Act relating to national securities exchanges.

Trade-Through

(ii) The term "trade-through" means the purchase or sale of an NMS stock during regular trading hours, either as principal or agent, at a price that is lower than a Protected Bid or higher than a Protected Offer.

Trading Center

(jj) For purposes of Rule 7, the term "Trading Center" means a national securities exchange or a national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent. For purposes of this definition, the terms "SRO trading facility," "alternative trading system," "exchange market maker" and "OTC market maker" have the meanings ascribed to them in Rule 600(b) of Regulation NMS under the Exchange Act.

Trading Facilities

(kk) The term "Trading Facilities" means any and all electronic or automatic trading systems provided by the Exchange to ETP Holders.

UTP Security

(ll) The term “UTP Security” means a security that is listed on a national securities exchange other than the Exchange and that trades on the Exchange pursuant to unlisted trading privileges.

UTP Listing Market

(mm) The term "UTP Listing Market" means the primary listing market for a UTP Security.

UTP Regulatory Halt

(nn) The term "UTP Regulatory Halt" means a trade suspension, halt, or pause called by the UTP Listing Market in a UTP Security that requires all market centers to halt trading in that security.

RULE 2 TRADING PERMITS

Rule 2.1. Rights, Privileges and Duties of ETP Holders

Unless otherwise provided in the Exchange Rules or the By-Laws, each ETP Holder shall have the rights, privileges and duties of any other ETP Holder.

Rule 2.2. Obligations of ETP Holders and the Exchange

(a) In addition to all other obligations imposed by the Exchange in its By-Laws or the Exchange Rules, all ETP Holders, as a condition of effecting approved securities transactions on the Exchange's trading facilities, shall agree to be regulated by the Exchange and shall recognize that the Exchange is obligated to undertake to enforce compliance with the provisions of the Exchange Rules, its By-Laws, its interpretations and policies and with the provisions of the Exchange Act and regulations thereunder, and that, subject to orders and rules of the Commission, the Exchange is required to discipline ETP Holders and Persons Associated with ETP Holders for violations of the provisions of the Exchange Rules, its By-Laws, its interpretations and policies and the Exchange Act and regulations thereunder, by expulsion, suspension, limitation of activities, functions, and operations, fines, censure, being suspended or barred from being associated with an ETP Holder, or any other fitting sanction.

(b) Each ETP Holder shall require that each Person Associated with an ETP Holder as defined in Rule 1.1 agree:

(1) to supply the Exchange with such information with respect to such Person's business relationship and dealings with the ETP Holder as may be specified by the Exchange;

(2) to permit examination of such Person's books and records by the Exchange to verify the accuracy of any information so supplied; and

(3) to be regulated by the Exchange and to recognize that the Exchange is obligated to enforce compliance with the provisions of the Exchange Rules, the By-Laws, the interpretations and policies of the Exchange and the provisions of the Exchange Act and the regulations thereunder.

(c) (1) An ETP Holder shall register with the Exchange as a Principal any Person who meets the definition of a "Principal" as described in Rule 1.1. A "Principal" includes any individual responsible for supervising the activities of the ETP Holder's Authorized Traders, and any individual designated as a Chief Compliance Officer on Schedule A of the ETP Holder's Form BD. Each of these Principals must be registered as such through

the FINRA Central Registration Depository System ("CRD"), and must pass the General Securities Principal (Series 24) Examination. With the exception of Commentary .04, below, a Principal must pass the Series 7 examination or an equivalent foreign examination module as a prerequisite to taking the Series 24 examination.

(2) Each ETP Holder, other than a sole proprietorship or a proprietary trading firm, which is an entity that only trades using the firm's capital and does not trade on behalf of customers and has 25 or fewer Authorized Traders ("Limited Size Proprietary Firm"), is required to register at least two Principals with the Exchange. A Person registered solely as a Principal-Financial and Operations ("FINOP") as defined in Rule 1.1 does not count toward the two-Principal requirement and shall not be qualified to function in a Principal capacity with responsibility over any area of business activity not described in Rule 1.1. A Limited Size Proprietary Firm is required to register at least one Principal with the Exchange. The Exchange may waive the provisions of this subparagraph in situations that indicate conclusively that only one Person associated with an applicant for membership should be required to register as a Principal.

(3) For purposes of this Rule 2.2, a "proprietary trading firm" shall mean an ETP Holder meeting the following characteristics: it trades its own capital, does not have customers, excluding broker-dealers, and is not a FINRA member. To qualify for this definition, the funds used by a proprietary trading firm must be exclusively firm funds, all trading must be in the firm's accounts, and traders must be owners of, employees of, or contractors to the firm.

(d) Each ETP Holder shall designate and register with the Exchange, through the CRD System, a FINOP as defined in Rule 1.1, who shall successfully complete the Financial and Operations Principal (Series 27) qualification examination. The registered FINOP shall be responsible for performing the duties described in Exchange Rule 1.1. The FINOP of an ETP Holder may be an employee of the ETP Holder or an independent contractor.

(e) Continuing Education Requirements**.** This Rule prescribes requirements regarding the continuing education of certain Registered Persons subsequent to their initial qualification and registration with the Exchange. For purposes of this Rule 2.2(e), the term "Registered Person" shall mean any Person registered with the Exchange as a General Securities Representative, Securities Trader, Principal, FINOP, Person Associated with an ETP Holder, Authorized Trader or Market Maker Authorized Trader pursuant to Exchange Rules. The requirements shall consist of a Regulatory Element and a Firm Element as set forth below.

(1) Regulatory Element.

(A) Requirements. No ETP Holder shall permit any Registered Person to continue to, and no Registered Person shall continue to, perform duties as a Registered Person unless such Person has complied with the requirements of this Rule 2.2(e).

Each Registered Person shall complete the Regulatory Element on the occurrence of their second registration anniversary date and every three years thereafter, or as otherwise prescribed by the Exchange. On each occasion, the Regulatory Element must be completed within 120 days after the Person's registration anniversary date. A Person's initial registration date, also known as the “base date”, shall establish the cycle of anniversary dates for purposes of this Rule. The content of the Regulatory Element shall be determined by the Exchange and shall be appropriate to the status of the Person subject to this Rule.

(B) Failure to Complete. Unless otherwise determined by the Exchange, any Registered Person who has not completed the Regulatory Element within the prescribed timeframes will have their registrations deemed inactive until such time as the requirements of the program have been satisfied. Any Person whose registration has been deemed inactive under this Rule shall cease all activities as a Registered Person and is prohibited from performing any duties and functioning in any capacity requiring registration. A registration that is inactive for a period of two years will be administratively terminated. A Person whose registration is so terminated may reactivate the registration only by reapplying for registration and meeting the qualification requirements of the applicable provisions of these Rules. The Exchange may, upon application and a showing of good cause, allow for additional time for a Registered Person to satisfy the program requirements.

(C) Disciplinary Actions. Unless otherwise determined by the Exchange, a Registered Person will be required to retake the Regulatory Element and satisfy all of its requirements in the event such Person:

(i) is subject to any statutory disqualification as defined in Section 3(a)(39) of the Exchange Act;

(ii) is subject to suspension or to the imposition of a fine of $5,000 or more for violation of any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any governmental securities regulatory agency, securities industry self-regulatory organization, or as imposed by any such regulatory or self-regulatory organization in connection with a disciplinary proceeding; or

(iii) is ordered as a sanction in a disciplinary action to retake the Regulatory Element by any governmental securities regulatory agency or by any self-regulatory organization.

The retaking of the Regulatory Element shall commence with participation within 120 days of the Registered Person becoming subject to the statutory disqualification, in the case of (i) above, or the disciplinary action becoming final, in the case of (ii) and (iii) above. The date of the disciplinary action shall be treated as such Person's

new base date with the Exchange.

(D) Reassociation in a Registered Capacity. Any Registered Person who has terminated association with an ETP Holder and who has, within two years of the date of termination, become reassociated in a registered capacity with an ETP Holder shall participate in the Regulatory Element at such intervals that may apply (second anniversary and every three years thereafter) based on the initial registration anniversary date rather than based on the date of reassociation in a registered capacity.

(2) Firm Element

(A) Persons Subject to the Firm Element. The requirements of this Rule 2.2(e)(2) shall apply to any Person registered with an ETP Holder who has direct contact with customers in the conduct of the ETP Holder’s securities sales, trading and investment banking activities and to the immediate supervisors of such Persons (collectively, "Covered Registered Persons"). "Customer" shall mean any natural person and any organization, other than another broker or dealer, executing securities transactions with or through or receiving investment banking services from an ETP Holder.

(B) Standards for the Firm Element

(i) Each ETP Holder must maintain a continuing and current education program for its covered Registered Persons to enhance their securities knowledge, skill, and professionalism. At a minimum, each ETP Holder shall at least annually evaluate and prioritize its training needs and develop a written training plan. The plan must take into consideration the ETP Holder's size, organizational structure, and scope of business activities, as well as regulatory developments and the performance of Covered Registered Persons in the Regulatory Element. If an ETP Holder's analysis establishes the need for supervisory training for Persons with supervisory responsibilities, such training must be included in the ETP Holder's training plan.

(ii) Minimum Standards for Training Programs. Programs used to implement an ETP Holder's training plan must be appropriate for the business of the ETP Holder and, at a minimum must cover the following matters concerning securities products, services, and strategies offered by the ETP Holder: general investment features and associated risk factors; suitability and sales practice considerations; and applicable regulatory requirements.

(iii) Administration of Continuing Education Program. An ETP Holder must administer its continuing education programs in

accordance with its annual evaluation and written plan and must maintain records documenting the content of the programs and completion of the programs by Covered Registered Persons.

(C) Participation in the Firm Element. Covered Registered Persons included in an ETP Holder's plan must take all appropriate and reasonable steps to participate in continuing education programs as required by the ETP Holder.

(D) Specific Training Requirements. The Exchange may require an ETP Holder, individually or as part of a larger group, to provide specific training to its Covered Registered Persons in such areas as the Exchange deems appropriate. Such a requirement may stipulate the class of Covered Registered Persons for which it is applicable, the time period in which the requirement must be satisfied and, where appropriate, the actual training content.

Commentary:

.01 The Exchange requires the General Securities Representative Examination ("Series 7") or an equivalent foreign examination module approved by the Exchange in qualifying Persons seeking registration as general securities representatives.

.02 The Exchange will accept the New York Stock Exchange ("NYSE") Chief Compliance Officer Examination ("NYSE Series 14") as an alternative qualification to the Series 24 to register as a Principal an individual identified as the Chief Compliance Officer on ETP Holder's Form BD.

.03 Each Person Associated with an ETP Holder meeting the definition of a Securities Trader under Rule 1.1 must pass the Securities Trader Qualification examination ("Series 57") and register as such in CRD. A Person registered as a Securities Trader shall not function in any other registration category unless he/she is also qualified in such other registration category.

.04 Person Associated with an ETP Holder who meets the definition of a Securities Trader Principal as defined in Rule 1.1 and who has supervisory responsibility for Securities Trading activity as described in NASD Rule 1032(f)(1) must become qualified and registered as a Securities Trader Principal. To qualify as a Securities Trader Principal, such Person must first qualify and register as a Securities Trader as provided in Commentary .03, above. A Person who is qualified and registered as a Securities Trader Principal may only have supervisory responsibilities for the trading activity described in NASD Rule 1032(f)(1), unless such Person is separately qualified and registered in another appropriate principal registration category. A Person who is registered as a General Securities Principal shall not be qualified to supervise the trading activities described in NASD Rule 1032(f)(1), unless such Person has also become qualified and registered as a Securities Trader under NASD Rule 1032(f) by passing the Securities Trader qualification examination and registered as a Securities Trader Principal.

.05 The Exchange requires the Uniform Application for Securities Industry Registration or Transfer ("Form U4") and the Uniform Termination Notice for Securities Industry Registration ("Form U5") submitted through CRD as part of its procedure for registration of ETP Holder personnel. The Form U4 shall be amended by the ETP Holder no later than 30 days after an event that would require an amendment to Form U4.

.06 The Exchange may, in exceptional cases and where good cause is shown, waive a proficiency examination and accept other standards as evidence of an applicant's qualifications for registration. Advanced age or physical infirmity will not individually of themselves constitute sufficient grounds to waive a qualification examination. Experience in fields ancillary to the investment banking or securities business may constitute sufficient grounds to waive a qualification examination.

.07 The Exchange may pass through the reasonable costs associated with such examinations and qualifications to ETP Holders.

Rule 2.3. ETP Holder Eligibility

An ETP may be issued to a sole proprietor, partnership, corporation, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Exchange Act, and is a member of another registered national securities exchange or national securities association. Any Person may become a Person Associated with an ETP Holder.

Rule 2.4. Restrictions

(a) No person may become an ETP Holder or continue as an ETP Holder in any capacity on the Exchange unless:

(1) such person is a registered broker or dealer; and

(2) such person is not subject to a statutory disqualification, except that a person may become an ETP Holder or continue as an ETP Holder where, pursuant to Rules 19d-1, 19d-2, 19d-3 and 19h-1 of the Exchange Act, the Commission has issued an order providing relief from such a disqualification and permitting such a person to become an ETP Holder.

(b) No natural person or registered broker or dealer shall be admitted as, or be entitled to continue as, an ETP Holder or Person Associated with an ETP Holder, unless such natural person or broker or dealer meets the standards of training, experience and competence as the Exchange may prescribe. Each ETP Holder shall have the responsibility and duty to ascertain by investigation the good character, business repute, qualifications and experience of any person applying for registration with the Exchange as a Person Associated with an ETP Holder.

(c) No registered broker or dealer shall be admitted as, or be entitled to continue as, an

ETP Holder if such broker or dealer:

(1) fails to comply with either the financial responsibility requirements established by Rule 15c3-1 under the Exchange Act, or such other financial responsibility and operational capability requirements as may be established by the Exchange Rules; or

(2) fails to adhere to the Exchange Rules relating to the maintenance of books and records or those rules of other self-regulatory organizations of which such broker or dealer is or was a member; or

(3) is subject to any unsatisfied liens, judgments or unsubordinated creditor claims of a material nature, which, in the absence of a reasonable explanation therefor, remain outstanding for more than six months; or

(4) has been subject to any bankruptcy proceeding, receivership or arrangement for the benefit of creditors within the past three years; or

(5) has engaged in an established pattern of failure to pay just debts or has defaulted, without a reasonable explanation, on an obligation to a self-regulatory organization, any ETP Holder, or any member of a self-regulatory organization.

(d) No person shall be admitted as an ETP Holder or as a Person Associated with an ETP Holder where it appears that such person has engaged, and there is a reasonable likelihood that such person again may engage, in acts or practices inconsistent with just and equitable principles of trade.

Rule 2.5. Application Procedures for an ETP Holder

(a) Applications for an ETP shall be made to the Exchange and shall contain the following:

(1) An agreement to abide by, comply with, and adhere to the provisions of the Exchange's Amended Certificate of Incorporation, its By-Laws, the Exchange Rules, the policies, interpretations and guidelines of the Exchange and all orders and decisions of the Exchange's Board and penalties imposed by the Board, and any duly authorized committee; provided, however, that such agreement shall not be construed as a waiver by the applicant of any right to appeal as provided in the Exchange Act.

(2) An agreement to pay such dues, assessments, and other charges in the manner and amount as shall from time to time be fixed by the Exchange.

(3) An agreement that the Exchange and its officers, employees and members of its Board and of any committee shall not be liable, except for willful malfeasance, to the applicant or to any other person, for any action taken by such director, officer or member in his official capacity, or by any employee of the Exchange while acting

within the scope of his employment, in connection with the administration or enforcement of any of the provisions of its By-Laws, Exchange Rules, policies, interpretations or guidelines of the Exchange or any penalty imposed by the Exchange, its Board or any duly authorized committee.

(4) An agreement to maintain and make available to the Exchange, its authorized employees and its Board or committee members such books and records as may be required to be maintained by the Commission or the Exchange Rules.

(5) Such other reasonable information with respect to the applicant as the Exchange may require.

(b) Reserved.

(c) If the Exchange is satisfied that the applicant is qualified to hold an ETP pursuant to the provisions of this Rule, the Exchange shall promptly notify, in writing, the applicant of such determination, and the applicant shall be issued an ETP.

(d) If the Exchange is not satisfied that the applicant is qualified to hold an ETP pursuant to the provisions of this Rule, the Exchange shall promptly notify the applicant of the grounds for denying the ETP. The Board on its own motion may reverse the determination that the applicant is not qualified to hold an ETP. If a majority of the Board specifically determines to reverse the determination to deny the issuance of an ETP, the Board shall promptly notify Exchange staff, who shall promptly notify the applicant of the Board's decision and shall issue an ETP to the applicant. An applicant who has been denied an ETP may appeal such decision under Rule 10 of the Exchange Rules governing adverse action.

(e) In considering applications for an ETP, the Exchange shall adhere to the following procedures:

(1) Where an application is granted by the Board, the Exchange shall promptly notify the applicant.

(2) The applicant shall be afforded an opportunity to be heard on the denial of an ETP pursuant to Rule 10 of the Exchange Rules governing adverse action.

(f) Reserved.

Commentary:

.01 Expedited Process for Reinstatement as an ETP Holder: Beginning on the date that this Commentary .01 becomes effective and ending 90 calendar days after such date, any ETP Holder in good standing as of the close of business on February 1, 2017 may apply to reinstate its status as an ETP Holder, and register with the Exchange each Person Associated with such ETP Holder, by submitting a short form application as prescribed

by the Exchange, provided that:

(i) the ETP Holder is a current member of another self-regulatory organization; and

(ii) each proposed Person Associated with such ETP Holder holds an active and recognized securities industry registration and meets the requirements of Rule 2.2(b).

Such short-form application shall include an agreement conforming with Rule 2.5(a)(1) through (a)(5). The Exchange may request further documentation, in addition to the short-form application, in order to determine that the applicant using the expedited process meets the qualification standards set forth in Rule 2.2.

Rule 2.6. Revocation of an ETP or an Association with an ETP Holder

ETP Holders or Persons Associated with an ETP Holders may effect approved securities transactions on the Exchange's trading facilities only so long as they possess all the qualifications set forth in the Exchange Rules. Except where, pursuant to Section 17(d) of the Exchange Act, the Exchange has been relieved of its responsibility to monitor the continued qualifications of an ETP Holder or Person Associated with an ETP Holder, when the Exchange has reason to believe that an ETP Holder or Person Associated with an ETP Holder fails to meet such qualifications, the Exchange may act to revoke such Person's ETP or association. Such action shall be instituted under, and governed by, Rule 10 of the Exchange Rules and may be appealed under Rule 10 of the Exchange Rules governing adverse action. In connection with any revocation of an ETP, the ETP shall be cancelled.

Rule 2.7. Voluntary Termination of Rights as an ETP Holder

An ETP Holder may voluntarily terminate its rights as an ETP Holder only by a written resignation addressed to the Exchange or another officer designated by the Exchange. Such resignation shall not take effect until 30 days after all of the following conditions have been satisfied: (i) receipt of such written resignation; (ii) all indebtedness due the Exchange shall have been paid in full; (iii) any Exchange investigations or disciplinary action brought against the ETP Holder has reached a final disposition; and (iv) any examination of such ETP Holder in process is completed and all exceptions noted have been reasonably resolved; provided, however, that the Board may declare a resignation effective at any time. In connection with any voluntary termination of an ETP pursuant to this Rule, the ETP shall be cancelled.

Rule 2.8. Transfer or Sale of an ETP

ETP Holders may not transfer or sell or encumber their ETPs or any interest therein.

Rule 2.9. Dues, Assessments and Other Charges

The Exchange may prescribe such reasonable assessments, dues or other charges as it may, in its discretion, deem appropriate. Such assessments and charges shall be equitably allocated among ETP Holders, issuers and other persons using the Exchange's facilities.

Rule 2.10. Reserved

Rule 2.11. Reserved

Rule 2.12. Reserved

Rule 2.13. Mandatory Participation in Testing of Backup Systems

(a) The Exchange will establish standards for the designation of ETP Holders it reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of the Exchange's business continuity and disaster recovery plans.

(b) An ETP Holder designated pursuant to standards established in paragraph (a) of this Rule will be required to participate in scheduled functional and performance testing of the Exchange's business continuity and disaster recovery plans in the manner and frequency specified by the Exchange, which shall not be less than once every 12 months.

(c) Reserved.

(d) At least three (3) months prior to a scheduled functional and performance testing of the Exchange's business continuity and disaster recovery plans, the Exchange will publish the criteria to be used by the Exchange to determine which ETP Holders will be required to participate in such testing, and notify those ETP Holders that are required to participate based on such criteria.

(e) ETP Holders not designated pursuant to standards established in paragraph (a) of this Rule are permitted to connect to the Exchange's backup systems and may participate in scheduled functional and performance testing of the Exchange's business continuity and disaster recovery plans.

Rule 2.14. Reserved

Rule 2.15. Reserved

Rule 2.16. Reserved

Rule 2.17. Reserved

Rule 2.18 Activity Assessment Fees

(a) Section 31 of the Exchange Act, as amended, requires national securities exchanges and associations to pay to the Commission certain fees and assessments on specified securities transactions. Each ETP Holder that effects securities transactions upon the Exchange that are defined in Section 31 of the Exchange Act as "covered sales" of securities shall pay Activity Assessment Fees based upon all of their covered sales. The Activity Assessment Fees are calculated by multiplying the aggregate dollar amount of covered sales effected on the Exchange by the ETP Holder during the appropriate computational period by the Section 31(b) fee rate in effect during that computational period. Activity Assessment Fees shall be due and payable from ETP Holders at such times and intervals as prescribed by the Exchange. ETP Holders that cease to effect securities transactions upon the Exchange shall promptly pay to the Exchange any sum due pursuant to this rule.

(b) Other Charges: In addition to transaction fees and the Commission registration fee, the Board of Directors may from time to time fix and impose other charges or fees to be paid to the Exchange or its subsidiaries by ETP Holders for the use of equipment or facilities or for services or privileges granted.

(c) To the extent that there may be excess monies collected under paragraph (a) above, the Exchange may retain those monies to help fund its regulatory expenses.

RULE 3 ORGANIZATION AND ADMINISTRATION

Rule 3.1. Reserved

Rule 3.2. Reserved

Rule 3.3. Reserved

Rule 3.4. Reserved

Rule 3.5. Reserved

Rule 3.6. Reserved

Rule 3.7. Reserved

Rule 3.8. Liability for Payment

An ETP Holder failing to pay any assessments, dues or other charges to the Exchange for thirty days after the same shall become payable, may be suspended by the Exchange in accordance with Rule 10.9555, except that failure to pay any fine levied in connection with a disciplinary action shall be governed by Rule 10.8320.

Rule 3.9. Certain Relationships

(a) Unless approved by the Securities and Exchange Commission, no ETP Holder shall be affiliated (as such term is defined in Rule 12b-2 under the Exchange Act) with NYSE Group, Inc. (or any successors thereto) or any of its affiliated entities.

(b) Unless approved by the Securities and Exchange Commission, neither NYSE Group, Inc. nor any of its affiliates (as such term is defined in Rule 12b-2 under the Exchange Act) shall hold, directly or indirectly, an ownership interest in any ETP Holder.

(c) Any person who fails to meet the requirements of this Rule 3.9 shall not be eligible to become an ETP Holder. Any failure by an ETP Holder to comply with this Rule 3.9 shall be subject to the disciplinary actions prescribed by Rule 10.9555.

Rule 3.10. Notice of Expulsion or Suspension

(a) An ETP Holder which is expelled or suspended from any self-regulatory organization as defined in the Exchange, encounters financial difficulty or operating inadequacies, fails to perform contracts or becomes insolvent, shall give prompt written notification to the Exchange of any such occurrence.

(b) An ETP Holder shall give prompt written notification to the Exchange with respect to the expulsion or suspension of any ETP Holder or any other Associated Person of such ETP Holder by any self-regulatory organization.

Rule 3.11. Fingerprint-Based Background Checks of Exchange Employees and Others

(a) In order to enhance the security of the respective facilities, systems, data, and/or records of the Exchange (collectively, "facilities and records"), the Exchange will obtain fingerprints from, and conduct a fingerprint-based background check of, all prospective and current employees, temporary personnel, independent contractors, and service providers of each of the Exchange and its principal subsidiaries. However, the Exchange may determine not to obtain fingerprints from, or to seek fingerprint-based background information with respect to, a person due to that person's limited, supervised, or restricted access to facilities and records; or the nature or location of his or her work or services. The Exchange will apply this rule in all circumstances where permitted by applicable law.

(b) The Exchange will submit fingerprints obtained pursuant to this rule to the Attorney General of the United States or his or her designee for identification and processing. The Exchange will at all times maintain the security of all fingerprints provided to, and all criminal history record information received from, the Attorney General or his or her designee. The Exchange, however, may provide a subsidiary with access to information from background checks based on fingerprints obtained from that subsidiary. The Exchange shall not redisseminate fingerprints or information to the extent prohibited by applicable law.

(c) The Exchange will evaluate information received from the Attorney General or his or her designee and otherwise administer this rule in accordance with Exchange fingerprint procedures as in effect from time to time and the provisions of applicable law. Fingerprint-based background information, such as a felony or serious misdemeanor conviction, will be a factor in making employment decisions; engaging or retaining any temporary personnel, independent contractors, or service providers; or permitting any fingerprinted person access to facilities and records.

Commentary:

.01 Fingerprints and the Issuance of Identification Badges.—The Exchange intends, with limited exceptions, to obtain fingerprints from, and fingerprint-based background information with respect to, all employees, temporary personnel, independent contractors, and service providers who receive Exchange-issued photo badges or other identification permitting them access to facilities and records for more than one day ("Long-Term Badges"). The Exchange has the capacity electronically to immediately limit or terminate the access to facilities and records that Long-Term Badges permit, and reserves the right to do so. On a case-by-case basis, the Exchange may determine not to obtain fingerprints from a person to whom a Long-Term Badge is issued, based on the decision of a committee of Exchange officers who oversee application of the rule that there exists an exception to obtaining the fingerprints, as contemplated by the rule.

RULE 4 RESERVED[CAPITAL REQUIREMENTS, FINANCIAL REPORTS, MARGIN]

RULE 5 EQUITIES LISTINGS

The provisions of this Rule 5 shall apply to the trading pursuant to UTP of Exchange Traded Products on the Exchange. This Rule 5 shall not apply to the listing of Exchange Traded Products on the Exchange.

Rule 5.1

(a) General Provisions and Unlisted Trading Privileges.

(1) Notwithstanding the requirements for listing set forth in these Rules, the Exchange may extend unlisted trading privileges ("UTP") to any security that is an NMS Stock (as defined in Rule 600 of Regulation NMS under the Exchange Act) that is listed on another national securities exchange or with respect to which unlisted trading privileges may otherwise be extended in accordance with Section 12(f) of the Exchange Act. The provisions of Rules 5 and 8 that permit the listing of Exchange Traded Products will not be effective until the Exchange files a proposed rule change to amend its rules to comply with Rules 10A-3 and 10C-1 under the Exchange Act and to incorporate qualitative listing criteria, and such proposed rule change is approved by the Commission.

(2) UTP Exchange Traded Product. Any UTP security that is a UTP Exchange Traded

Product, as defined in Rule 1.1, will be subject to the additional following rules:

(A) Form 19b-4(e). The Exchange will file with the Securities and Exchange Commission a Form 19b-4(e) with respect to each UTP Exchange Traded Product within five business days after commencement of trading.

(B) Information Circular. The Exchange will distribute an information circular prior to the commencement of trading in each such UTP Exchange Traded Product that generally includes the same information as is contained in the information circular provided by the listing exchange, including (a) the special risks of trading the new Exchange Traded Product, (b) the Exchange Rules that will apply to the new Exchange Traded Product, including Rules 8.4 and 8.5, and (c) information about the dissemination of value of the underlying assets or indices.

(C) Product Description.

(i) Prospectus Delivery Requirements. ETP Holders are subject to the prospectus delivery requirements under the Securities Act of 1933, unless the UTP Exchange Traded Product is the subject of an order by the Securities and Exchange Commission exempting the product from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 and the product is not otherwise subject to prospectus delivery requirements under the Securities Act of 1933.

(ii) Written Description of Terms and Conditions. The Exchange will inform ETP Holders of the application of the provisions of this subparagraph to UTP Exchange Traded Products by means of an information circular. The Exchange requires that ETP Holders provide each purchaser of UTP Exchange Traded Products a written description of the terms and characteristics of those securities, in a form approved by the Exchange or prepared by the open-ended management company issuing such securities, not later than the time a confirmation of the first transaction in such securities is delivered to such purchaser. In addition, ETP Holders will include a written description with any sales material relating to UTP Exchange Traded Products that is provided to customers or the public. Any other written materials provided by an ETP Holder to customers or the public making specific reference to the UTP Exchange Traded Products as an investment vehicle must include a statement substantially in the following form:

> "A circular describing the terms and characteristics of [the UTP Exchange Traded Products] has been prepared by the [open-ended management investment company name] and is available from your broker. It is recommended that you obtain and review such circular before purchasing [the UTP Exchange Traded Products]."

An ETP Holder carrying an omnibus account for a non-ETP Holder is required to inform such non-ETP Holder that execution of an order to purchase UTP

Exchange Traded Products for such omnibus account will be deemed to constitute an agreement by the non-ETP Holder to make such written description available to its customers on the same terms as are directly applicable to the ETP Holder under this Rule.

(iii) Customer Requests for a Prospectus. Upon request of a customer, an ETP Holder will also provide a prospectus for the particular UTP Exchange Traded Product.

(D) Trading Halts. The Exchange will halt trading in a UTP Exchange Traded Product as provided for in Rule 7.18. Nothing in this rule will limit the power of the Exchange under the Rules or procedures of the Exchange with respect to the Exchange's ability to suspend trading in any securities if such suspension is necessary for the protection of investors or in the public interest.

(E) Market Maker Restrictions. The following restrictions will apply to each ETP Holder acting as a registered Market Maker on the Exchange in a UTP Exchange Traded Product that derives its value from one or more currencies, commodities, or derivatives based on one or more currencies or commodities, or is based on a basket or index composed of currencies or commodities (collectively, "Reference Assets"):

(i) The ETP Holder acting as a registered Market Maker on the Exchange in a UTP Exchange Traded Product must file with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, which the ETP Holder acting as a registered Market Maker on the Exchange may have or over which it may exercise investment discretion. No ETP Holder acting as a registered Market Maker on the Exchange in the UTP Exchange Traded Product will trade in the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, in an account in which an ETP Holder acting as a registered Market Maker on the Exchange, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule.

(ii) A Market Maker on the Exchange will, in a manner prescribed by the Exchange, file with the Exchange and keep current a list identifying any accounts ("Related Instrument Trading Accounts") for which related instruments are traded:

(a) in which the Market Maker holds an interest;

(b) over which it has investment discretion; or

(c) in which it shares in the profits and/or losses.

A Market Maker on the Exchange may not have an interest in, exercise investment

discretion over, or share in the profits and/or losses of a Related Instrument Trading Account that has not been reported to the Exchange as required by this Rule.

(iii) In addition to the existing obligations under Exchange rules regarding the production of books and records, a Market Maker on the Exchange will, upon request by the Exchange, make available to the Exchange any books, records, or other information pertaining to any Related Instrument Trading Account or to the account of any registered or non-registered employee affiliated with the Market Maker on the Exchange for which related instruments are traded.

(iv) A Market Maker on the Exchange will not use any material nonpublic information in connection with trading a related instrument.

(F) Surveillance. The Exchange will enter into comprehensive surveillance sharing agreements with markets that trade components of the index or portfolio on which the UTP Exchange Traded Product is based to the same extent as the listing exchange's rules require the listing exchange to enter into comprehensive surveillance sharing agreements with such markets.

(b) Definitions

The following terms used in Rules 5.2 through 5.5 will, unless otherwise indicated, have the meanings herein specified:

(1) The term "security" means any security as defined in Rule 3(a)(10) under the Exchange Act.

(2) The term "equity security" will include any equity security defined as such pursuant to Rule 3a11-1 under the Exchange Act.

(3) Reserved.

(4) The term "listed" and the phrase "listed on the Exchange" mean a security that has been listed on the Exchange pursuant to Section 12(b) of the Exchange Act. Such security will be listed pursuant to a formal application and request for such listing filed by the issuing company.

(5) The term "beneficial holder" means any person who, directly or indirectly through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) voting power that includes the power to vote or to direct the voting of, such securities; and/or

(ii) investment power that includes the power to dispose, or to direct the disposition of such security.

(6) The term "public beneficial holder" means a beneficial holder, who, with respect to the issuer, is not a director or officer or member of the immediate family thereof or an affiliate or associate thereof, and whose ownership of an equity security is less than 5% of the total number of shares issued and outstanding.

(7) Reserved.

(8) Reserved.

(9) The term "net worth" means the total assets (excluding the value of goodwill) less total liabilities.

(10) Reserved.

(11) The term "publicly held shares" means the total number of shares issued and outstanding exclusive of any shares held by directors, officers, or their immediate families and other concentrated holdings of 5% or more.

(12) The term "common stock" will include any security of an issuer designated as common stock and any security of an issuer, however designated, which by statute or by its terms, is a common stock (e.g., a security which entitles the holders thereof to vote generally on matters submitted to the issuer's security holders for a vote).

(13) A "unit investment trust interest" means an interest in a trust consisting of or otherwise based upon the following:

(i) a portfolio of stocks included in a domestic broad-based stock market index, which is of the type the Securities and Exchange Commission has previously reviewed and approved for index products; and/or

(ii) a portfolio of money market instruments or other debt securities that may be listed on the Exchange.

(14) Equity Linked Notes ("ELNs") are notes that are linked, in whole or in part, to the market performance of a common stock, non-convertible preferred stock or sponsored American Depository Receipts ("ADRs") overlying such equity securities.

(15) A Unit is a security that represents an interest in a registered investment company ("Investment Company") that could be organized as a unit investment trust, an open-end management investment company, or a similar entity.

(16) The term "Reporting Authority" in respect of a particular series of Investment Company Units ("Units") means the Exchange, a subsidiary of the Exchange, or an institution or reporting service designated by the Exchange or its subsidiary as the official source for calculating and reporting information relating to such series,

including, but not limited to, any current index or portfolio value; the current value of the portfolio of any securities required to be deposited in connection with issuance of Units; the amount of any dividend equivalent payment or cash distribution to holders of Units, net asset value, or other information relating to the issuance, redemption or trading of Units. Nothing in Rule 5.2(j)(3) implies that an institution or reporting service that is the source for calculating and reporting information relating to ICUs must be designated by the Exchange. The term "Reporting Authority" will not refer to an institution or reporting service not so designated.

(17) Reserved.

(18) The term Exchange-Traded Funds ("ETFs") include unit investment trusts, portfolio depository receipts and trust issued receipts designed to track the performance of the broad stock or bond market, stock industry sector, and U.S. Treasury and corporate bonds, among other things.

(19) Reserved.

Rule 5.2

(a)-(i) Reserved

(j) Exchange Traded Products

(1) Reserved.

(2) Equity Linked Notes ("ELNs")

The Exchange may approve for listing and trading ELNs pursuant to Rule 19b-4(e) under the Exchange Act. The following listing requirements must be met on an initial and continued listing basis (except that the requirements in Rule 5.2(j)(2)(B)(i)(c)-(d) must only be met on an initial basis):

(A) Issuer Listing Standards.

The issuer of ELNs must be an entity that:

(i) has assets in excess of $100 million and stockholders' equity of at least $10 million;

(ii) has one of the following: (1) pre-tax income from continuing operations of at least $750,000 in its last fiscal year, or in two of its last three fiscal years, (2) assets in excess of $200 million and stockholders' equity of at least $10 million; or (3) assets in excess of $100 million and stockholders' equity of at least $20 million; and

(iii) has a minimum tangible net worth in excess of $250 million, and otherwise substantially exceeds the income requirements set forth above in paragraph (A)(ii)(1). In the alternative, the issuer must: (1) have a minimum tangible net worth of $150 million and to otherwise substantially exceed the income requirements set forth in paragraph (A)(ii)(1), and (2) not have issued such securities where the original issue price of all the issuer's other ELN offerings (combined with ELN offerings of the issuer's affiliates) listed on a national securities exchange exceeds 25% of the issuer's net worth.

(B) ELN Listing Standards.

(i) The issue must have:

(a) a minimum public distribution of one million ELNs (provided, however, that if the ELN is traded in $1,000 denominations, there is no minimum public distribution);

(b) a minimum of 400 public holders of the ELNs (provided, however, that if the ELN is traded in $1,000 denominations, or if the ELNs are redeemable at the option of the holders thereof on at least a weekly basis, there is no minimum number of holders);

(c) a minimum market value of $4 million; and

(d) a minimum term of one year.

(C) Minimum Standards Applicable to the Linked Securities.

(i) Each underlying security must have:

(a) a market capitalization of at least $3 billion and trading volume in the United States of at least 2.5 million shares in the one-year period preceding the listing of the ELNs; or

(b) a market capitalization of at least $1.5 billion and trading volume in the United States of at least 10 million shares in the one-year period preceding the listing of the ELNs; or

(c) a market capitalization of at least $500 million and trading volume in the United States of at least 15 million shares in the one-year period preceding the listing of the ELNs.

(ii) Each issuer of an underlying security to which the ELN is to be linked will be either a Exchange Act reporting company or an Investment Company Act of 1940 registered investment company. In either case, any underlying security to which the ELN is to be linked will be listed on a national securities exchange. In

addition, if any underlying security to which the ELN is to be linked is the stock of a non-U.S. company which is traded in the U.S. market as sponsored American Depositary Shares ("ADS"), ordinary shares or otherwise, then for each such security, one of the following conditions must be met:

(1) the Exchange has a comprehensive surveillance sharing agreement in place with the primary exchange on which each non-U.S. security is traded (in the case of an ADS, the primary exchange on which the security underlying the ADS is traded);

(2) the combined trading volume of each non-U.S. security (a security issued by a non-U.S. company) and other related non-U.S. securities occurring in the U.S. market or in markets with which the Exchange has in place a comprehensive surveillance sharing agreement represents (on a share equivalent basis for any ADSs) at least 50% of the combined world-wide trading volume in each non-U.S. security, other related non-U.S. securities, and other classes of shares related to each non-U.S. security over the six month period preceding the date of listing; or

(3) the combined trading volume of each non-U.S. security and other related non-U.S. securities occurring in the U.S. market represents (on a share equivalent basis) at least 20% of the combined world-wide trading volume in each non-U.S. security and in other related non-U.S. securities over the six-month period preceding the date of selection of the non-U.S. security for an ELN listing; (B) the average daily trading volume for each non- U.S. security in the U.S. markets over the six-month period preceding the date of selection of each non-U.S. security for an ELN listing is 100,000 or more shares; and (C) the trading volume for each non-U.S. security in the U.S. market is at least 60,000 shares per day for a majority of the trading days for the six-month period preceding the date of selection of the non-U.S. security for an ELN listing.

(iii) If any underlying security to which the ELN is to be linked is the stock of a non-U.S. company that is traded in the U.S. market as a sponsored ADS, ordinary shares or otherwise, then the minimum number of holders of the underlying security will be 2,000.

(D) Limits on the Number of ELNs Linked to a Particular Security.

(i) The issuance of ELNs relating to any underlying U.S. security may not exceed five percent of the total outstanding shares of such underlying security. In addition, the issuance of ELNs relating to any underlying non-U.S. security represented by ADSs, shares, or otherwise, may not exceed:

(a) two percent of the total shares outstanding worldwide if at least 20 percent of the worldwide trading volume in each non-U.S. security and related non-U.S. security occurs in the U.S. market during the six-month period preceding the

date of listing; or

(b) three percent of the total shares outstanding worldwide if at least 50 percent of the worldwide trading volume in each non-U.S. security and related non-U.S. security occurs in the U.S. market during the six-month period preceding the date of listing; and

(c) five percent of the total shares outstanding worldwide if at least 70 percent of the worldwide trading volume in each non-U.S. security and related non-U.S. security occurs in the U.S. market during the six-month period preceding the date of listing.

If any non-U.S. security and related securities has less than 20% of the worldwide trading volume occurring in the U.S. market during the six month period preceding the date of listing, then the ELN may not be linked to that non-U.S. security.

If an issuer proposes to list ELNs that relate to more than the allowable percentages specified above, then the Exchange, with the concurrence of the staff of the Division of Trading and Markets of the Securities and Exchange Commission, will evaluate the maximum percentage of ELNs that may be issued on a case-by-case basis.

(E) Prior to the commencement of trading of particular ELNs listing pursuant to this Rule, the Exchange will evaluate the nature and complexity of the issue and, if appropriate, distribute a circular to the ETP Holder providing guidance regarding compliance responsibilities (including suitability recommendations and account approval) when handling transactions in ELNs.

(F) ELNs will be treated as equity instruments.

(G) The Exchange may submit a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of ELNs that do not otherwise meet the standards set forth in this Rule 5.2(j)(2). All statements or representations contained in such rule filing regarding (a) the underlying linked-stock or portfolio, (b) limitations on the underlying linked-stock or portfolio, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements. If a series of ELNs does not satisfy these requirements, the Exchange may halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m).

(3) Investment Company Units

The Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, units of trading ("Units") that meet the criteria of this Rule. A Unit is a security that represents an interest in a registered investment company ("Investment Company") that could be organized as a unit investment trust, an open-end management

investment company, or a similar entity. The term "US Component Stock" will mean an equity security that is registered under Sections 12(b) or 12(g) of the Exchange Act or an American Depositary Receipt, the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Exchange Act. The term "Non-US Component Stock" will mean an equity security that is not registered under Sections 12(b) or 12(g) of the Exchange Act and that is issued by an entity that (a) is not organized, domiciled or incorporated in the United States, and (b) is an operating company (including Real Estate Investment Trusts (REITS) and income trusts, but excluding investment trusts, unit trusts, mutual funds, and derivatives).

The Exchange may submit a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of Units that do not otherwise meet the standards set forth below. All statements or representations contained in such rule filing regarding (a) the description of the index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements. If a series of Units does not satisfy these requirements, the Exchange may halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m).

(A) *Unit Listing Standards*

(i) The Investment Company must:

(a) hold securities (including fixed income securities) comprising, or otherwise based on or representing an interest in, an index or portfolio or securities; or

(b) hold securities in another registered investment company that holds securities as described in (a) above.

An index or portfolio may be revised as necessary or appropriate to maintain the quality and character of the index or portfolio.

(ii) The Investment Company must issue Units in a specified aggregate number in return for a deposit (the "Deposit") consisting of either:

(a) a specified number of shares of securities (and, if applicable, a specified portfolio of fixed income securities) that comprise the index or portfolio, or are otherwise based on or represent an investment in securities comprising such index or portfolio, and/or a cash amount; or

(b) shares of a registered investment company, as described in subsection (A)(i)(a) above, and/or a cash amount.

(iii) Units must be redeemable, directly or indirectly, from the Investment Company

for securities (including fixed income securities) and/or cash then comprising the Deposit. Units must pay holders periodic cash payments corresponding to the regular cash dividends or distributions declared with respect to the securities held by the Investment Company, less applicable expenses and charges.

(iv) The minimum number of Units required to be outstanding at the commencement of trading is set forth in Commentary .01 paragraph (d) of this Rule.

(v) The Exchange will obtain a representation from the issuer of each series of Units that the net asset value per share for the series will be calculated daily and will be made available to all market participants at the same time.

(B) *Underlying Indices and Portfolios*. The Exchange may trade, whether by listing or pursuant to unlisted trading privileges, specified series of Units, with each Series based on a specified index or portfolio of securities. The value of the index or portfolio must be calculated and disseminated to the public at least once per business day; provided that, if the securities representing at least half the value of the index or portfolio are securities of a single country other than the United States, then the value of the index or portfolio may be calculated and disseminated to the public at least once per business day in that country.

(C) *Form of Certificates*. Units may be either certified or issued in the form of a single global certificate.

(D) *Limitation of Liability of the Exchange*. Neither the Exchange, the Reporting Authority nor any agent of the Exchange will have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current index or portfolio value the current value of the portfolio of securities required to be deposited to the open-end management investment company; the amount of any dividend equivalent payment or cash distribution to holders of Units; net asset value; or other information relating to the creation, redemption or trading of Units, resulting from any negligent act or omission by the Exchange, or the Reporting Authority, or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange or its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reporting of transactions in one or more underlying securities. The Exchange makes no warranty, express or implied, as to results to be obtained by any person or entity from the use of Units or any underlying index or data included therein and the Exchange makes no express or implied warranties, and disclaims all warranties of merchantability or fitness for a particular purpose with respect to Units or any underlying index or data included therein. This limitation of liability will be in addition to any other limitation contained in the Exchange's Bylaws and Rules.

Commentary:

.01 Equity. The Exchange may approve a series of Units for listing and/or trading (including pursuant to unlisted trading privileges) pursuant to Rule 19b-4(e) under the Exchange Act. Units listed pursuant to Rule 19b-4(e) will satisfy the criteria set forth in (a)(A), (B) or (C) and (b), (c) and (f) through (h) below on an initial and continued listing basis, provided further, that the Exchange may not so approve a series of Units that are issued by an open-end management investment company that seeks to provide investment results, before fees and expenses, in an amount that exceeds -300% of the percentage performance on a given day of a particular domestic equity, international or global equity securities index.

(a) *Eligibility Criteria for Index Components*.

(A) US index or portfolio. Components of an index or portfolio of (a) only US Component Stocks or (b) US Component Stocks and cash underlying a series of Units listed pursuant to Rule 19b-4(e) under the Exchange Act will meet the following criteria on an initial and continued listing basis:

(1) Component stocks (excluding Units and securities defined in Section 2 of Rule 8, collectively, "Exchange Traded Products") that in the aggregate account for at least 90% of the weight of the US Component Stocks portion of the index or portfolio (excluding such Exchange Traded Products) each will have a minimum market value of at least $75 million;

(2) Component stocks (excluding Exchange Traded Products) that in the aggregate account for at least 70% of the US Component Stocks portion of the weight of the index or portfolio (excluding such Exchange Traded Products) each will have a minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the last six months;

(3) The most heavily weighted component stock (excluding Exchange Traded Products) will not exceed 30% of the US Component Stocks portion of the weight of the index or portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Exchange Traded Products) will not exceed 65% of the U.S. Component Stocks portion of the weight of the index or portfolio;

(4) The index or portfolio will include a minimum of 13 component stocks; provided, however, that there will be no minimum number of component stocks if (a) one or more series of Units or Portfolio Depositary Receipts (as defined in Section 2 of Rule 8) constitute, at least in part, components underlying a series of Units, or (b) one or more series of Exchange Traded Products account for

100% of the US Component Stocks portion of the weight of the index or portfolio; and

(5) All securities in the index or portfolio will be US Component Stocks listed on a national securities exchange and will be NMS Stocks as defined in Rule 600 of Regulation NMS under the Exchange Act.

(B) International or global index or portfolio. Components of an index or portfolio underlying a series of Units listed pursuant to Rule 19b-4(e) under the Exchange Act that consist of (a) only Non-US Component Stocks, (b) Non-US Component Stocks and cash, (c) both US Component Stocks and Non-US Component Stocks, or (d) US Component Stocks, Non-US Component Stocks and cash will meet the following criteria on an initial and continued listing basis:

(1) Component stocks (excluding Exchange Traded Products) that in the aggregate account for at least 90% of the weight of the combined US and Non-US Component Stocks portions of the index or portfolio (excluding such Exchange Traded Products) each will have a minimum market value of at least $100 million;

(2) Component stocks (excluding Exchange Traded Products) that in the aggregate account for at least 70% of the combined US and Non-US Component Stocks portions of the weight of the index or portfolio (excluding such Exchange Traded Products) each will have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months;

(3) The most heavily weighted component stock (excluding Exchange Traded Products) will not exceed 25% of the combined US and Non-US Component Stocks portions of the weight of the index or portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Exchange Traded Products) will not exceed 60% of the combined US and Non-US Component Stocks portions of the weight of the index or portfolio;

(4) The index or portfolio will include a minimum of 20 component stocks; provided, however, that there will be no minimum number of component stocks if (a) one or more series of Units or Portfolio Depositary Receipts constitute, at least in part, components underlying a series of Units, or (b) one or more series of Exchange Traded Products account for 100% of the weight of the combined US and Non-US Component Stocks portions of the index or portfolio; and

(5) Each US Component Stock will be listed on a national securities exchange and will be an NMS Stock as defined in Rule 600 of Regulation NMS under the Exchange Act, and each Non-US Component Stock will be listed and traded on an exchange that has last-sale reporting.

(C) Index or portfolio approved in connection with options or other derivative securities. For the initial and continued listing of a series of Units pursuant to Rule 19b-4(e) under the Exchange Act, the index or portfolio underlying the series of Units will have been reviewed and approved for trading of options, Portfolio Depositary Receipts, Units, Index-Linked Exchangeable Notes or Index-Linked Securities by the Securities and Exchange Commission under Section 19(b) of the Exchange Act and rules thereunder and the conditions set forth in the Securities and Exchange Commission's approval order, including comprehensive surveillance sharing agreements with respect to Non-US Component Stocks and the requirements regarding dissemination of information, must continue to be satisfied. On an initial and continued listing basis, each component stock of the index or portfolio will be either (i) a US Component Stock that is listed on a national securities exchange and is an NMS Stock as defined in Rule 600 of Regulation NMS under the Exchange Act, or (ii) a Non-US Component Stock that is listed and traded on an exchange that has last-sale reporting.

(b) *Index Methodology and Calculation*.

(1) If the index is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor will erect and maintain a "firewall" around the personnel who have access to information concerning changes and adjustments to the index and the index will be calculated by a third party who is not a broker-dealer or fund advisor. In addition, any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the index or portfolio composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index; and

(2) The current index value for Units listed pursuant to (a) Commentary .01(a)(A) above will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session (as defined in Rule 7.34); (b) Commentary .01(a)(B) above will be widely disseminated by one or more major market data vendors at least every 60 seconds during the Core Trading Session; or (c) Commentary .01(a)(C) above will be widely disseminated during the Core Trading Session by one or more major market data vendors at least every 15 seconds with respect to indexes containing only US Component Stocks and at least every 60 seconds with respect to indexes containing Non-US Component Stocks. If the official index value does not change during some or all of the period when trading is occurring on the Exchange (for example, for indexes of Non-US Component Stocks because of time zone differences or holidays in the countries where such indexes' component stocks trade), then the last calculated official index value must remain available throughout the Exchange's normal trading hours described in Rule 7.34.

(c) *Disseminated Information*. One or more major market data vendors will

disseminate for each series of Units listed or traded on the Exchange an estimate, updated at least every 15 seconds during the Core Trading Session, of the value in U.S. dollars of a share of each series (the "Intraday Indicative Value"). The "Intraday Indicative Value" may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value. The Intraday Indicative Value will be updated at least every 15 seconds during the Core Trading Session to reflect changes in the exchange rate between the U.S. dollar and the currency in which any component stock is denominated. If the Intraday Indicative Value does not change during some or all of the period when trading is occurring on the Exchange, then the last official calculated Intraday Indicative Value must remain available throughout the Exchange's normal trading hours described in Rule 7.34.

(d) *Initial Shares Outstanding*. A minimum of 100,000 shares of a series of Units is required to be outstanding at commencement of trading.

(e) *Hours of Trading*. The hours of trading for series of Units are the same as those provided in Rule 7.34(a).

(f) *Surveillance Procedures*. The Exchange will implement written surveillance procedures for Units.

(g) *Disclosures*. The provisions of this subparagraph apply only to series of Units that are the subject of an order by the Securities and Exchange Commission exempting such series from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 and are not otherwise subject to prospectus delivery requirements under the Securities Act of 1933. The Exchange will inform ETP Holders regarding application of these provisions of this subparagraph to a particular series of Units by means of an information circular prior to commencement of trading in such series.

The Exchange requires that ETP Holders provide to all purchasers of a series of Units a written description of the terms and characteristics of those securities, in a form approved by the Exchange or prepared by the open-end management investment company issuing such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, ETP Holders will include such a written description with any sales material relating to a series of Units that is provided to customers or the public. Any other written materials provided by an ETP Holder to customers or the public making specific reference to a series of Units as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of (the series of Units) has been prepared by the (open-end management investment company name) and is available from your broker. It is recommended that you obtain and review such circular before purchasing (the series of Units)."

An ETP Holder carrying an omnibus account for a non-ETP Holder is required to

inform such non-ETP Holder that execution of an order to purchase a series of Units for such omnibus account will be deemed to constitute agreement by the non-ETP Holder to make such written description available to its customers on the same terms as are directly applicable to ETP Holders under this rule.

Upon request of a customer, an ETP Holder will also provide a prospectus for the particular series of Units.

(h) Creation and Redemption. For Units listed pursuant to Commentary .01(a)(B) or (C) above, the statutory prospectus or the application for exemption from provisions of the Investment Company Act of 1940 for the series of Units must state that the series of Units must comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933.

.02 Fixed Income. Fixed Income Securities are debt securities that are notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities ("Treasury Securities"), government-sponsored entity securities ("GSE Securities"), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof. The Exchange may approve a series of Units based on Fixed Income Securities for listing and pursuant to Rule 19b-4(e) under the Exchange Act provided such portfolio or index (i) has been reviewed and approved for the trading of options, Units, Portfolio Depository Receipts, Index-Linked Exchangeable Notes or Index-Linked Securities by the Commission under Section 19(b) of the Exchange Act and rules thereunder and the conditions set forth in the Commission's approval order, continue to be satisfied or (ii) satisfy the following criteria, and provided further, that the Exchange may not so approve a series of Units that are issued by an open-end management investment company that seeks to provide investment results, before fees and expenses, in an amount that exceeds -300% of the percentage performance on a given day of a particular Fixed Income Securities index. Units listed pursuant to Rule 19b-4(e) will satisfy the criteria set forth in (a) through (c), (f) and (g) below on an initial and continued listing basis.

(a) *Eligibility Criteria for Index Components*. Components of an index or portfolio underlying a series of Units listed pursuant to Rule 19b-4(e) under the Exchange Act will meet the following criteria on an initial and continued listing basis:

(1) The index or portfolio must consist of (a) only Fixed Income Securities or (b) Fixed Income Securities and cash;

(2) Fixed Income Security components that in aggregate account for at least 75% of the Fixed Income Securities portion of the weight of the index or portfolio each will have a minimum original principal amount outstanding of $100 million or more;

(3) A component may be a convertible security, however, once the convertible security component converts to the underlying equity security, the component is removed from the index or portfolio;

(4) No component fixed-income security (excluding Treasury Securities and GSE Securities) will represent more than 30% of the Fixed Income Securities portion of the weight of the index or portfolio, and the five most heavily weighted component fixed-income securities in the index or portfolio will not in the aggregate account for more than 65% of the Fixed Income Securities portion of the weight of the index or portfolio;

(5) An underlying index or portfolio (excluding one consisting entirely of exempted securities) must include a minimum of 13 non-affiliated issuers; and

(6) Component securities that in aggregate account for at least 90% of the Fixed Income Securities portion of the weight of the index or portfolio must be either a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Exchange Act; b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; d) exempted securities as defined in Section 3(a)(12) of the Exchange Act; or e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

(b) *Index Methodology and Calculation*.

(i) If the index is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor will erect and maintain a "firewall" around the personnel who have access to information concerning changes and adjustments to the index;

(ii) The current index value for Units listed pursuant to Commentary .02(a) above will be widely disseminated by one or more major market data vendors at least once per day and if the index value does not change during some or all of the period when trading is occurring on the Exchange, the last official calculated index value must remain available throughout the Exchange's normal trading hours described in Rule 7.34; and

(iii) Any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the index composition, methodology and related matters, must implement and maintain, or be subject to,

procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index.

(c) *Disseminated Information*. One or more major market data vendors will disseminate for each series of Units listed pursuant to Commentary .02(a) above an estimate, updated at least every 15 seconds during the Core Trading Session, of the value of a share of each series (the "Intraday Indicative Value"). The Intraday Indicative Value may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value. The Intraday Indicative Value may be calculated by the Exchange or by an independent third party throughout the day using prices obtained from independent market data providers or other independent pricing sources such as a broker-dealer or price evaluation services. If the Intraday Indicative Value does not change during some or all of the period when trading is occurring on the Exchange, then the last official calculated Intraday Indicative Value must remain available throughout the Exchange's normal trading hours described in Rule 7.34.

(d) *Initial Shares Outstanding*. The provisions of Commentary .01(d) above will apply to series of Units listed pursuant to Commentary .02(a) above.

(e) *Hours of Trading*. The provisions of Commentary .01(e) above will apply to series of Units listed pursuant to Commentary .02(a) above.

(f) *Surveillance Procedures*. The provisions of Commentary .01(f) above will apply to series of Units based on Fixed Income Securities that are listed and/or traded pursuant to UTP.

(g) *Disclosures*. The provisions of Commentary .01(g) above will apply to series of Units based on Fixed Income Securities.

.03 The Exchange may approve a series of Units based on a combination of indexes or an index or portfolio of component securities representing the U.S. or domestic equity market, the international equity market, and the fixed income market for listing and trading pursuant to Rule 19b-4(e) under the Exchange Act provided (i) such portfolio or combination of indexes have been reviewed and approved for the trading of options, Units, Portfolio Depository Receipts, Index-Linked Exchangeable Notes or Index-Linked Securities by the Commission under Section 19(b) of the Exchange Act and rules thereunder and the conditions set forth in the Commission's approval order continue to be satisfied or (ii) each index or portfolio of equity and fixed income component securities separately meet either the criteria set forth in Commentary .01(a) or .02(a) above, and provided further, that the Exchange may not so approve a series of Units that is issued by an open-end management

investment company that seeks to provide investment results, before fees and expenses, in an amount that exceeds -300% of the percentage performance on a given day of a particular domestic equity, international or global equity securities index or Fixed Income Securities index or a combination thereof. Units listed pursuant to Rule 19b-4(e) shall satisfy the criteria set forth in (a) below and in Commentary .01(c) and (f)-(g) on an initial and continued listing basis.

(a) *Index Methodology and Calculation*

(i) If the index is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor will erect and maintain a "firewall" around the personnel who have access to information concerning changes and adjustments to the index;

(ii) The current composite index value for Units listed pursuant to Commentary .01(a) or .02(a) above will be widely disseminated by one or more major market data vendors at least once every 15 seconds during the Core Trading Session, provided however, that (a) with respect to the Non-US Component Stocks of the combination index, the impact on the index is only required to be updated at least every 60 seconds during the Core Trading Session, and (b) with respect to the fixed income components of the combination index, the impact on the index is only required to be updated at least once each day; and

(iii) Any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the index composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index.

(b) *Other Applicable Provisions*. The provisions of Commentary .01(c)-(h) will also apply to series of Units based on a combination of indexes or an index or portfolio of component securities representing the U.S. or domestic equity market, the international equity market, and the fixed income market.

.04 The provisions of this Commentary apply only to series of Units that are issued by an open-end management investment company that (i) seeks to provide investment results, before fees and expenses, that correspond to a specific multiple of the percentage performance on a given day of a particular domestic equity, international or global equity securities index or Fixed Income Securities index or a combination thereof ("Multiple Fund Shares") or (ii) seeks to provide investment results, before fees and expenses, that correspond inversely up to -300% of the percentage performance on a given day of a particular domestic equity, international or global equity securities index or Fixed Income Securities index or a combination

thereof ("Inverse Fund Shares"). For the initial and continued listing of Multiple Fund Shares and/or Inverse Fund Shares, the following requirements must be adhered to:

(a) Daily public Web site disclosure of portfolio holdings that will form the basis for the calculation of the net asset value by the issuer of a series of Multiple Fund Shares or Inverse Fund Shares, including, as applicable, the following instruments:

(i) The identity and number of shares held of each specific equity security;

(ii) The identity and amount held of each specific Fixed Income Security;

(iii) The specific types of financial instruments, including, but not limited to, stock index futures contracts; options on futures contracts; options on securities and indices; equity caps, collars and floors; swap agreements; forward contracts; and repurchase agreements (the "Financial Instruments") and characteristics of such Financial Instruments; and

(iv) Cash equivalents and the amount of cash held in the portfolio.

(b) If the Exchange becomes aware that the net asset value related to a Multiple Fund Share or Inverse Fund Share is not being disseminated to all market participants at the same time or the daily public Web site disclosure of portfolio holdings does not occur, the Exchange will halt trading in such series of Multiple Fund Shares or Inverse Fund Shares, as appropriate. The Exchange may resume trading in such Fund Shares only when the net asset value is disseminated to all market participants at the same time or the daily public Web site disclosure of portfolio holdings occurs, as appropriate.

(4) Index-Linked Exchangeable Notes

Index-linked exchangeable notes which are exchangeable debt securities that are exchangeable at the option of the holder (subject to the requirement that the holder in most circumstances exchange a specified minimum amount of notes), on call by the issuer or at maturity for a cash amount (the "Cash Value Amount") based on the reported market prices of the Underlying Stocks of an Underlying Index will be considered for listing and trading by the Exchange pursuant to Rule 19b-4(e) under the Exchange Act, provided:

(a) Both the issue and the issuer of such security initially meet and continuously maintain the criteria set forth in NYSE Arca Rule 5.2-E(j)(1) (Other Securities), except that the minimum public distribution will be 150,000 notes with a minimum of 400 public note-holders, except, if traded in thousand dollar denominations no minimum public distribution and no minimum number of holders.

(b) The issue has a minimum term of one year.

(c) On an initial and continued listing basis, the issuer will be expected to have a minimum tangible net worth in excess of $250,000,000, and to otherwise substantially exceed the earnings requirements set forth in NYSE Arca Rule 5.2-E(j)(1). In the alternative, the issuer will be expected: (i) to have a minimum tangible net worth of $150,000,000 and to otherwise substantially exceed the earnings requirements set forth in NYSE Arca Rule 5.2-E(j)(1); and (ii) not to have issued index-linked exchangeable notes where the original issue price of all the issuer's other index-linked exchangeable note offerings (combined with other index-linked exchangeable note offerings of the issuer's affiliates) listed on a national securities exchange or traded through the facilities of Nasdaq exceeds 25% of the issuer's net worth.

(d) The index to which an exchangeable-note is linked will either be (i) indices that have been created by a third party and been reviewed and have been approved for the trading of options or other derivatives securities (each, a "Third-Party Index") either by the Commission under Section 19(b) of the Exchange Act, as amended (the "Exchange Act") and rules thereunder or by the Exchange under rules adopted pursuant to Rule 19b-4(e); or (ii) indices which the issuer has created and for which the Exchange will have obtained approval from either the Commission pursuant to Section 19(b) and rules thereunder or from the Exchange under rules adopted pursuant to Rule 19b-4(e) (each an "Issuer Index"). The Issuer Indices and their underlying securities must meet one of the following on an initial and continued listing basis:

(i) the procedures and criteria set forth NYSE Arca Rule 5.13-O(b)-(c); or

(ii) the criteria set forth in subsections (C) and (D) of Rule 5.2(j)(2), the index concentration limits set forth in NYSE Arca Rule 5.13-O(b)(6), and NYSE Arca Rule 5.13-O(b)(12) insofar as it relates to NYSE Arca Rule 5.13-O(b)(6).

(e) Index-linked Exchangeable Notes will be treated as equity instruments.

(f) Continued Listing. The Exchange will maintain surveillance procedures for securities listed under this Rule 5.2(j)(4) and consider the suspension of trading in, and will initiate delisting proceedings under Rule 5.5(m) of, a series of Index-Linked Exchangeable Notes, under any of the following circumstances:

(i) if, following the initial twelve month period following the initial issuance of a series of index-linked exchangeable notes and commencement of trading on the Exchange, the series has fewer than 50,000 notes issued and outstanding;

(ii) if, following the initial twelve month period following the initial issuance of a series of index-linked exchangeable notes and commencement of trading on the Exchange, the market value of all index-linked exchangeable notes of that series issued and outstanding is less than $1,000,000;

(iii) if any of the continued listing requirements set forth in this Rule 5.2(j)(4) are not continuously maintained;

(iv) if the Exchange submits a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of Index-Linked Exchangeable Notes that do not otherwise meet the standards set forth in this Rule 5.2(j)(4) and any of the statements or representations regarding (a) the description of the index, (b) limitations on the index, or (c) the applicability of Exchange listing rules specified in such rule filing are not continuously maintained; or

(v) if such other event will occur or such other condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

(g) The Exchange may submit a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of Index-Linked Exchangeable Notes that do not otherwise meet the standards set forth in this Rule 5.2(j)(4). All statements or representations contained in such rule filing regarding (a) the description of the index, (b) limitations on the index, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements. If a series of Index-Linked Exchangeable Notes does not satisfy these requirements, the Exchange may halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m).

(5) Equity Gold Shares

(A) The provisions of this Rule 5.2(j)(5) apply only to Equity Gold Shares, that represent units of fractional undivided beneficial interest in and ownership of the Equity Gold Trust. While Equity Gold Shares are not technically Investment Company Units and thus are not covered by Rule 5.2(j)(3), all other rules that reference "Investment Company Units" will also apply to Equity Gold Shares.

(B) Except to the extent that specific provisions in this rule govern, or unless the context otherwise requires, the provisions of all other Rules and policies will be applicable to the trading of Equity Gold Shares on the Exchange.

(C) The provisions set forth in Rule 8.201(g)-(i) will also apply to Equity Gold Shares.

(6) Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities and Multifactor Index-Linked Securities

The Exchange will consider listing equity index-linked securities ("Equity Index-Linked Securities"), commodity-linked securities ("Commodity-Linked Securities"), currency-linked securities ("Currency-Linked Securities"), fixed income index-linked securities

("Fixed Income Index-Linked Securities"), futures-linked securities, ("Futures-Linked Securities") and multifactor index-linked securities ("Multifactor Index-Linked Securities" and, together with Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities and Futures-Linked Securities, "Index-Linked Securities") that in each case meet the applicable criteria of this Rule 5.2(j)(6).

The payment at maturity with respect to Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities and Multifactor Index-Linked Securities is based on the performance of:

(i) in the case of Equity Index-Linked Securities, an underlying index or indexes of equity securities (an "Equity Reference Asset"), or

(ii) in the case of Commodity-Linked Securities, one or more physical commodities or commodity futures, options or other commodity derivatives or Commodity-Based Trust Shares (as defined in Rule 8.201) or a basket or index of any of the foregoing (a "Commodity Reference Asset"), or

(iii) in the case of Currency-Linked Securities, one or more currencies, or options or currency futures or other currency derivatives or Currency Trust Shares (as defined in Rule 8.202) or a basket or index of any of the foregoing (a "Currency Reference Asset"), or

(iv) in the case of Fixed Income Index-Linked Securities, one or more indexes or portfolios of notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities ("Treasury Securities"), government-sponsored entity securities ("GSE Securities"), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof or a basket or index of any of the foregoing (a "Fixed Income Reference Asset"), or

(v) in the case of Futures-Linked Securities, an index of (a) futures on Treasury Securities, GSE Securities, supranational debt and debt of a foreign country or a subdivision thereof, or options or other derivatives on any of the foregoing; (b) interest rate futures or options or derivatives on the foregoing in this subparagraph (b); (c) CBOE Volatility Index (VIX) Futures; or (d) EURO STOXX 50 Volatility Index (VSTOXX) Futures (a "Futures Reference Asset"), or

(vi) in the case of Multifactor Index-Linked Securities, any combination of two or more Equity Reference Assets, Commodity Reference Assets, Currency Reference Assets, Fixed Income Reference Assets or Futures Reference Assets (a "Multifactor Reference Asset", and together with Equity Reference Asset, Commodity Reference Asset, Currency Reference Asset, Fixed Income Reference Asset and Futures Reference Asset, "Reference Assets"). A Multifactor Reference Asset may include

as a component a notional investment in cash or a cash equivalent based on a widely accepted overnight loan interest rate, LIBOR, Prime Rate, or an implied interest rate based on observed market spot and foreign currency forward rates.

Index-Linked Securities may or may not provide for the repayment of the original principal investment amount. The Exchange may submit a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of Index-Linked Securities that do not otherwise meet the standards set forth below. All statements or representations contained in such rule filing regarding (a) the description of the reference asset, (b) limitations on reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements. If a series of Index-Linked Securities does not satisfy these requirements, the Exchange may halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m).

The Exchange will consider for listing and trading pursuant to Rule 19b-4(e) under the Exchange Act, Index-Linked Securities provided the following criteria are met:

(A) Requirements Common to All Index-Linked Securities

(a) Both the issue and the issuer of such security initially meet and continuously maintain the criteria set forth in NYSE Arca Rule 5.2-E(j)(1) except that: (i) if the Index-Linked Securities are redeemable at the option of the holders thereof on at least a weekly basis, then no minimum number of publicly held trading units, and a minimum principal amount/market value outstanding of at least $4 million, and if the Index-Linked Securities are traded in thousand dollar denominations or are redeemable at the option of the holders thereof on at least a weekly basis, then no minimum number of holders.

(b) The issue has a minimum term of one (1) year but not greater than thirty (30) years.

(c) The issue must, on an initial and continued listing basis, be the non-convertible debt of the issuer.

(d) On an initial and continued listing basis, the payment at maturity may or may not provide for a multiple of the direct or inverse performance of an underlying Reference Asset; however, in no event will a loss or negative payment at maturity be accelerated by a multiple that exceeds three times the performance of an underlying Reference Asset.

(e) On an initial and continued listing basis, the issuer will be expected to have a minimum tangible net worth of $250,000,000 (if the Index-Linked Securities are fully and unconditionally guaranteed by an affiliate of the issuer, the Exchange will rely on such affiliate's tangible net worth for purposes of this requirement). In the alternative, the issuer will be expected to have a minimum tangible net worth of

$150,000,000 and the original issue price of the Index-Linked Securities, combined with all of the issuer's other Index-Linked Securities listed on a national securities exchange or otherwise publicly traded in the United States, must not be greater than 25 percent of the issuer's tangible net worth at the time of issuance (if the Index-Linked Securities are fully and unconditionally guaranteed by an affiliate of the issuer, the Exchange will apply the provisions of this paragraph to such affiliate instead of the issuer and will include in its calculation all Index-Linked Securities that are fully and unconditionally guaranteed by such affiliate). Government issuers and supranational entities will be evaluated on a case-by-case basis.

(f) The issuer is in compliance with Rule 10A-3 under the Exchange Act on an initial and continued listing basis.

(B) Requirements Specific to Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities and Multifactor Index-Linked Securities.

The issue must meet one of the criteria set forth below.

I. Equity Index-Linked Securities Listing Standards

(1) The Exchange will consider listing Equity Index-Linked Securities that meet the requirements of this subparagraph (B)(I), where the payment at maturity or earlier redemption is based on an index or indexes of equity securities, securities of closed-end management investment companies registered under the Investment Company Act of 1940 (the "1940 Act") and/or Investment Company Units. The issue must meet the following initial listing criteria:

(a) Each underlying index is required to have at least ten (10) component securities; provided, however, that there shall be no minimum number of component securities if one or more issues of Exchange Traded Products (i.e., Investment Company Units (as described in Rule 5.2(j)(3)) and securities described in Section 2 of Rule 8) or Index-Linked Securities (as described in Rule 5.2(j)(6)), constitute, at least in part, component securities underlying an issue of Equity Index-Linked Securities. The securities described in Rule 5.2(j)(3)), Section 2 of Rule 8, and Rule 5.2(j)(6), as referenced below in Rule 5.2(j)(6)(B)(I)(1)(b)(2) and Rule 5.2(j)(6)(B)(I)(2)(a) below, shall include securities listed on another national securities exchange pursuant to substantially equivalent listing rules.

(b) The index or indexes to which the security is linked will either (1) have been reviewed and approved for the trading of Investment Company Units or options or other derivatives by the Commission under Section 19(b)(2) of the Exchange Act and rules thereunder and the conditions set forth in the Commission's approval order, including comprehensive surveillance sharing agreements for non-U.S. stocks, continue to be satisfied, or (2) the index or indexes meet the following criteria:

(i) Each component security (excluding Exchange Traded Products and Index-Linked Securities) has a minimum market value of at least $75 million, except that for each of the lowest dollar weighted component securities in the index that in the aggregate account for no more than 10% of the dollar weight of the index (excluding Exchange Traded Products and Index-Linked Securities), the market value can be at least $50 million;

(ii) Component stocks (excluding Exchange Traded Products and Index-Linked Securities) that in the aggregate account for at least 90% of the weight of the index (excluding Exchange Traded Products and Index-Linked Securities) each shall have a minimum global monthly trading volume of 1,000,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months;

(iii) No underlying component security (excluding Exchange Traded Products and Index-Linked Securities) will represent more than 25% of the dollar weight of the index, and, to the extent applicable, the five highest dollar weighted component securities in the index (excluding Exchange Traded Products and Index-Linked Securities) do not in the aggregate account for more than 50% of the dollar weight of the index (60% for an index consisting of fewer than 25 component securities); and

(iv) 90% of the index's numerical value (excluding Exchange Traded Products and Index-Linked Securities) and at least 80% of the total number of component securities (excluding Exchange Traded Products and Index-Linked Securities) will meet the then current criteria for standardized option trading set forth in NYSE Arca Rule 5.3-O; an index will not be subject to this requirement if (a) no underlying component security represents more than 10% of the dollar weight of the index (excluding Exchange Traded Products and Index-Linked Securities) and (b) the index has a minimum of 20 components (excluding Exchange Traded Products and Index-Linked Securities); and

(v) All component securities will be either:

(A) Securities (other than foreign country securities and American Depository Receipts ("ADRs")) that are (x) issued by an Exchange Act reporting company or by an investment company registered under the 1940 Act, which in each case is listed on a national securities exchange, and (y) an "NMS stock" (as defined in Rule 600 of SEC Regulation NMS); or

(B) Foreign country securities or ADRs, provided that foreign country securities or foreign country securities underlying ADRs having their primary trading market outside the United States on foreign trading markets that are not members of the Intermarket Surveillance Group ("ISG") or parties to comprehensive surveillance sharing agreements with the Exchange will not in the aggregate represent more than 50% of the dollar weight of the

index, and provided further that:

(i) the securities of any one such market do not represent more than 20% of the dollar weight of the index, and

(ii) the securities of any two such markets do not represent more than 33% of the dollar weight of the index.

(2) Continued Listing Criteria—

(a) The Exchange will maintain surveillance procedures for securities listed under this Rule 5.2(j)(6) and may halt trading in such securities and will initiate delisting proceedings pursuant to Rule 5.5(m) (unless the Commission has approved the continued trading of the subject Index-Linked Security), if any of the standards set forth above in paragraphs 1(a) and (b)(2) are not continuously maintained, except that:

(i) the criteria that no single component represent more than 25% of the dollar weight of the index (excluding Exchange Traded Products and Index-Linked Securities) and, to the extent applicable, the five highest dollar weighted components in the index (excluding Exchange Traded Products and Index-Linked Securities) cannot represent more than 50% (or 60% for indexes with less than 25 components) of the dollar weight of the Index, need only be satisfied at the time the Index is rebalanced;

(ii) Component stocks (excluding Exchange Traded Products and Index-Linked Securities) that in the aggregate account for at least 90% of the weight of the index (excluding Exchange Traded Products and Index-Linked Securities) each shall have a minimum global monthly trading volume of 500,000 shares, or minimum global notional volume traded per month of $12,500,000, averaged over the last six months.

(b) In connection with an Index-Linked Security that is listed pursuant to paragraph (b)(1) above, the Exchange may halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m) (unless the Commission has approved the continued trading of the subject Index-Linked Security) if an underlying index or indexes fails to satisfy the maintenance standards or conditions for such index or indexes as set forth by the Commission in its order under Section 19(b)(2) of the Exchange Act approving the index or indexes for the trading of options or other derivatives.

(c) The Exchange may halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m) (unless the Commission has approved the continued trading of the subject Index-Linked Security), under any of the following circumstances:

(i) if the aggregate market value or the principal amount of the Equity Index-Linked Securities publicly held is less than $400,000;

(ii) if the value of the index or composite value of the indexes is no longer calculated or widely disseminated on at least a 15-second basis with respect to indexes containing only securities listed on a national securities exchange, or on at least a 60-second basis with respect to indexes containing foreign country securities, provided, however, that, if the official index value does not change during some or all of the period when trading is occurring on the Exchange (for example, for indexes of foreign country securities, because of time zone differences or holidays in the countries where such indexes' component stocks trade) then the last calculated official index value must remain available throughout the Exchange's normal trading hours described in Rule 7.34; or

(iii) if such other event will occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

(d) Index Rebalancing—Indexes will be rebalanced at least annually.

II. Commodity-Linked Securities Listing Standards

(1) The issue must meet the initial listing standard set forth in either (a) or (b) below:

(a) The Commodity Reference Asset to which the security is linked will have been reviewed and approved for the trading of Commodity-Based Trust Shares or options or other derivatives by the Commission under Section 19(b)(2) of the Exchange Act and rules thereunder and the conditions set forth in the Commission's approval order, including with respect to comprehensive surveillance sharing agreements, continue to be satisfied.

(b) The pricing information for components of a Commodity Reference Asset must be derived from a market which is an ISG member or affiliate or with which the Exchange has a comprehensive surveillance sharing agreement. Notwithstanding the previous sentence, pricing information for gold and silver may be derived from the London Bullion Market Association. A Commodity Reference Asset may include components representing not more than 10% of the dollar weight of such Commodity Reference Asset for which the pricing information is derived from markets that do not meet the requirements of this subparagraph (b); provided, however, that no single component subject to this exception exceeds 7% of the dollar weight of the Commodity Reference Asset.

In addition, the issue must meet both of the following initial listing criteria:

(i) the value of the Commodity Reference Asset must be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during the Core Trading Session (as defined in Rule 7.34); and

(ii) in the case of Commodity-Linked Securities that are periodically redeemable, the indicative value of the subject Commodity-Linked Securities must be calculated and widely disseminated by the Exchange or one or more major market data vendors on at least a 15-second basis during the Core Trading Session.

(2) The issue must meet the following continued listing criteria:

(a) The Exchange may halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m) if any of the initial listing criteria described above are not continuously maintained.

(b) The Exchange may also halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m) under any of the following circumstances:

(i) If the aggregate market value or the principal amount of the Commodity-Linked Securities publicly held is less than $400,000;

(ii) The value of the Commodity Reference Asset is no longer calculated or available and a new Commodity Reference Asset is substituted, unless the new Commodity Reference Asset meets the requirements of this Rule 5.2(j)(6); or

(iii) If such other event will occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

III. Currency-Linked Securities Listing Standards

(1) The issue must meet the initial listing standard set forth in either (a) or (b) below:

(a) The Currency Reference Asset to which the security is linked will have been reviewed and approved for the trading of Currency Trust Shares or options or other derivatives by the Commission under Section 19(b)(2) of the Exchange Act and rules thereunder and the conditions set forth in the Commission's approval order, including with respect to comprehensive surveillance sharing agreements, continue to be satisfied.

(b) The pricing information for each component of a Currency Reference Asset must be:

(x) the generally accepted spot or forward price (subject to the list of currencies below), applicable to the component of such Currency Reference Asset, for the currency exchange rate in question or

(y) derived from a market which (i) is an ISG member or affiliate or with which the Exchange has a comprehensive surveillance sharing agreement and (ii) is the pricing source for components of a Currency Reference Asset that has previously been approved by the

Commission.

If pricing information is based upon the generally accepted forward price, the currency must be one of the following: US Dollar, Euro, Japanese Yen, British Pound Sterling, Swiss Franc, Canadian Dollar, Australian Dollar, Brazilian Real, Chinese Renminbi, Czech Koruna, Danish Krone, Hong Kong Dollar, Hungarian Forint, Indian Rupee, Indonesian Rupiah, Korean Won, Mexican Peso, Norwegian Krone, New Zealand Dollar, Philippine Peso, Polish Zloty, Russian Ruble, Swedish Krona, South African Rand, Singapore Dollar, Taiwan Dollar, Thai Baht, or New Turkish Lira.

A Currency Reference Asset may include components representing not more than 10% of the dollar weight of such Currency Reference Asset for which the pricing information is derived from markets that do not meet the requirements of either (x) or (y) above; provided, however, that no single component subject to this exception exceeds 7% of the dollar weight of the Currency Reference Asset.

Commentary:

.01 In the event a Currency Reference Asset is based upon the forward price and the forward price becomes unavailable due to a holiday, the spot price may be used for calculating the pricing information of the Currency Reference Asset. The pricing information of the Currency Reference Asset on the following business day must be based upon the forward price.

In addition, the issue must meet both of the following initial listing criteria:

(i) the value of the Currency Reference Asset must be calculated and widely disseminated by one or more market data vendors on at least a 15-second basis during the Core Trading Session; and

(ii) in the case of Currency-Linked Securities that are periodically redeemable, the indicative value of the subject Currency-Linked Securities must be calculated and widely disseminated by the Exchange or one or more major market data vendors on at least a 15-second basis during the Core Trading Session.

(2) The issue must meet the following continued listing criteria:

(a) The Exchange may halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m) if any of the initial listing criteria described above are not continuously maintained.

(b) The Exchange may also halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m) under any of the following circumstances:

(i) If the aggregate market value or the principal amount of the Currency-Linked Securities publicly held is less than $400,000;

(ii) If the value of the Currency Reference Asset is no longer calculated or available and a new Currency Reference Asset is substituted, unless the new Currency Reference Asset meets the requirements of this Rule 5.2(j)(6); or

(iii) If such other event will occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

IV. Fixed Income Index-Linked Securities Listing Standards

(1) The issue must meet initial listing standards set forth in either (a) or (b) below:

(a) The Fixed Income Reference Asset to which the security is linked will have been reviewed and approved for the trading of options, Investment Company Units, or other derivatives by the Commission under Section 19(b)(2) of the Exchange Act and rules thereunder and the conditions set forth in the Commission's approval order, continue to be satisfied.

(b) The issue must meet the following initial listing criteria:

(i) Components of the Fixed Income Reference Asset that in the aggregate account for at least 75% of the weight of the Fixed Income Reference Asset must each have a minimum original principal amount outstanding of $100 million or more;

(ii) A component of the Fixed Income Reference Asset may be a convertible security, however, once the convertible security component converts to the underlying equity security, the component is removed from the Fixed Income Reference Asset;

(iii) No component of the Fixed Income Reference Asset (excluding Treasury Securities and GSE Securities) will represent more than 30% of the dollar weight of the Fixed Income Reference Asset, and the five highest dollar weighted components in the Fixed Income Reference Asset will not in the aggregate account for more than 65% of the dollar weight of the Fixed Income Reference Asset;

(iv) An underlying Fixed Income Reference Asset (excluding one consisting entirely of exempted securities) must include a minimum of 13 non-affiliated issuers; and

(v) Component securities that in the aggregate account for at least 90% of the dollar weight of the Fixed Income Reference Asset must be from one of the following: (a) issuers that are required to file reports pursuant to Sections 13

and 15(d) of the Exchange Act; or (b) issuers that have a worldwide market value of outstanding common equity held by non-affiliates of $700 million or more; or (c) issuers that have outstanding securities that are notes, bonds, debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; or (d) exempted securities as defined in Section 3(a)(12) of the Exchange Act, or (e) issuers that are a government of a foreign country or a political subdivision of a foreign country.

(2) In addition, the value of the Fixed Income Reference Asset must be widely disseminated to the public by one or more major market vendors at least once per business day.

(3) The issue must meet the following continued listing criteria:

(a) The Exchange may halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m) if any of the initial listing criteria described above are not continuously maintained.

(b) The Exchange may also halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m) under any of the following circumstances:

(i) If the aggregate market value or the principal amount of the Fixed Income Index-Linked Securities publicly held is less than $400,000;

(ii) The value of the Fixed Income Reference Asset is no longer calculated or available and a new Fixed Income Reference Asset is substituted, unless the new Fixed Income Reference Asset meets the requirements of this Rule 5.2(j)(6); or

(iii) If such other event will occur or condition exists which in the opinion of the Exchange makes further dealings inadvisable.

V. Futures-Linked Securities Listing Standards

(1) The issue must meet the initial listing standard set forth in either (a) or (b) below:

(a) The Futures Reference Asset to which the security is linked will have been reviewed and approved for the trading of Futures-Linked Securities or options or other derivatives by the Commission under Section 19(b)(2) of the Exchange Act and rules thereunder and the conditions set forth in the Commission's approval order, including with respect to comprehensive surveillance sharing agreements, continue to be satisfied.

(b) The pricing information for components of a Futures Reference Asset must be derived from a market which is an ISG member or affiliate or with which the Exchange has a comprehensive surveillance sharing agreement. A Futures

Reference Asset may include components representing not more than 10% of the dollar weight of such Futures Reference Asset for which the pricing information is derived from markets that do not meet the requirements of this subparagraph (b); provided, however, that no single component subject to this exception exceeds 7% of the dollar weight of the Futures Reference Asset.

In addition, the issue must meet both of the following initial listing criteria:

(i) the value of the Futures Reference Asset must be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during the Core Trading Session (as defined in Rule 7.34); and

(ii) in the case of Futures-Linked Securities that are periodically redeemable, the indicative value of the subject Futures-Linked Securities must be calculated and widely disseminated by the Exchange or one or more major market data vendors on at least a 15-second basis during the Core Trading Session.

(2) The issue must meet the following continued listing criteria:

(a) The Exchange may halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m) if any of the initial listing criteria described above are not continuously maintained.

(b) The Exchange may also halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m) under any of the following circumstances:

(i) If the aggregate market value or the principal amount of the Futures-Linked Securities publicly held is less than $400,000;

(ii) The value of the Futures Reference Asset is no longer calculated or available and a new Futures Reference Asset is substituted, unless the new Futures Reference Asset meets the requirements of this Rule 5.2(j)(6); or

(iii) If such other event will occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

VI. Multifactor Index-Linked Securities Listing Standards

(1) The issuer must meet the following initial listing standards set forth in either (a) or (b) below:

(a) Each component of the Multifactor Reference Asset to which the security is linked will have been reviewed and approved for the trading of either options, Investment Company Units, or other derivatives under Section 19(b)(2) of the Exchange Act and rules thereunder and the conditions set forth in the Commission's approval order continue to be satisfied.

(b) Each Reference Asset included in the Multifactor Reference Asset must meet the applicable initial and continued listing criteria set forth in the relevant subsection of this Rule 5.2(j)(6).

(2) In addition, the issue must meet both of the following initial listing criteria:

(a) The value of the Multifactor Reference Asset must be calculated and widely disseminated to the public on at least a 15-second basis during the time the Multifactor Index-Linked Security trades on the Exchange; and

(b) In the case of Multifactor Index-Linked Securities that are periodically redeemable, the indicative value of the Multifactor Index-Linked Securities must be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during the time the Multifactor Index-Linked Securities trade on the Exchange.

(3) The Exchange may halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m) under any of the following circumstances:

(a) If any of the initial listing criteria described above are not continuously maintained;

(b) If the aggregate market value or the principal amount of the Multifactor Index-Linked Securities publicly held is less than $400,000;

(c) The value of the Multifactor Reference Asset is no longer calculated or available and a new Multifactor Reference Asset is substituted, unless the new Multifactor Reference Asset meets the requirements of this Rule 5.2(j)(6); or

(d) If such other event will occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange advisable.

(C) Firewalls

If the value of an Index-Linked Security listed under Rule 5.2(j)(6) is based in whole or in part on an index that is maintained by a broker-dealer, the broker-dealer will erect and maintain a "firewall" around the personnel responsible for the maintenance of such index or who have access to information concerning changes and adjustments to the index, and the index will be calculated by a third party who is not a broker-dealer.

Any advisory committee, supervisory board or similar entity that advises an index licensor or administrator or that makes decisions regarding the index or portfolio composition, methodology and related matters must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, nonpublic information regarding the applicable index or portfolio.

(D) Equity Trading Rules

Index-Linked Securities will be subject to the Exchange's equity trading rules.

(E) Trading Halts

If the indicative value or Reference Asset value applicable to a series of Index-Linked Securities is not being disseminated as required, the Exchange may halt trading during the day on which the interruption first occurs. If such interruption persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

(F) Surveillance Procedures

The Exchange will implement written surveillance procedures for Index-Linked Securities, including adequate comprehensive surveillance sharing agreements with markets trading in non-U.S. components, as applicable.

Commentary:

> **.01** (a) The ETP Holder acting as a registered Market Maker on the Exchange in Commodity-Linked Securities, Currency-Linked Securities, Futures-Linked Securities or Multifactor Index-Linked Securities, if applicable, must file with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading in the Index Asset components, the commodities, currencies or futures underlying the Index Asset components, or any derivative instruments based on the Index Asset or based on any Index Asset component or any physical commodity, currency or futures underlying an Index Asset component, which the ETP Holder acting as a registered Market Maker on the Exchange may have or over which it may exercise investment discretion. No ETP Holder acting as a registered Market Maker on the Exchange in the Commodity-Linked Securities, Currency-Linked Securities, Futures-Linked Securities or Multifactor Index-Linked Securities, if applicable, will trade in the Index Asset components, the commodities currencies or futures underlying the Index Asset components, or any derivative instruments based on the Index Asset or based on any Index Asset component or any physical commodity, or futures currency underlying an Index Asset component, in an account in which an ETP Holder acting as a registered Market Maker on the Exchange, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule.

(b) In addition to the existing obligations under Exchange rules regarding the production

of books and records (See, e.g. Rule 11.4.1), the ETP Holder acting as a registered Market Maker on the Exchange in Commodity-Linked Securities, Currency-Linked Securities, Futures-Linked Securities or Multifactor Index-Linked Securities, if applicable, will make available to the Exchange such books, records or other information pertaining to transactions by such entity or any limited partner, officer or approved person thereof, registered or non-registered employee affiliated with such entity for its or their own accounts in the Index Asset components, the commodities, currencies or futures underlying the Index Asset components, or any derivative instruments based on the Index

Asset or based on any Index Asset component or any physical commodity, currency or futures underlying an Index Asset component, as may be requested by the Exchange.

(7) Trust Certificates

The Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, certificates ("Trust Certificates") representing an interest in a special purpose trust (the "Trust") created pursuant to a trust agreement. The Trust will only issue Trust Certificates. Trust Certificates may or may not provide for the repayment of the original principal investment amount. Trust Certificates pay an amount at maturity which is based upon the performance of specified assets as set forth below:

(i) an underlying index or indexes of equity securities (an "Equity Index Reference Asset"), or

(ii) instruments that are direct obligations of the issuing company, either exercisable throughout their life (i.e., American style) or exercisable only on their expiration date (i.e., European style), entitling the holder to a cash settlement in U.S. dollars to the extent that the foreign or domestic index has declined below (for put warrant) or increased above (for a call warrant) the pre-stated cash settlement value of the index ("Index Warrants"), or

(iii) a combination of two or more Equity Index Reference Assets or Index Warrants.

Commentary:

> **.01** *Continued Listing*. The Exchange will maintain surveillance procedures for securities listed under this Rule 5.2(j)(7) and consider the suspension of trading in, and will initiate delisting proceedings under Rule 5.5(m) of, an issue of Trust Certificates (unless the Commission has approved the continued trading of such issue), under any of the following circumstances:

(i) if the aggregate market value or the principal amount of the securities publicly held is less than $400,000;

(ii) if the value of the index or composite value of the indexes is no longer calculated

or widely disseminated on at least a 15-second basis with respect to indexes containing only securities listed on a national securities exchange, or on at least a 60-second basis with respect to indexes containing foreign country securities, provided, however, that, if the official index value does not change during some or all of the period when trading is occurring on the Exchange (for example, for indexes of foreign country securities, because of time zone differences or holidays in the countries where such indexes' component stocks trade) then the last calculated official index value must remain available throughout the Exchange's normal trading hours described in Rule 7.34;

(iii) if any of the continued listing requirements set forth in this Rule 5.2(j)(7) are not continuously maintained;

(iv) if the Exchange submits a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of Trust Certificates and any of the statements or representations regarding (a) the description of the index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing are not continuously maintained; or

(v) if such other event will occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

.02 *Term*—The stated term of the Trust will be as stated in the Trust prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

.03 *Trustee*—The following requirements apply on an initial and continued listing basis:

(i) The trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(ii) No change is to be made in the trustee of a listed issue without prior notice to and approval of the Exchange.

.04 *Voting*—Voting rights will be as set forth in the applicable Trust prospectus.

.05 Surveillance Procedures. The Exchange will implement written surveillance procedures for Trust Certificates.

.06 Equity Trading Rules. The Trust Certificates will be subject to the

Exchange's equity trading rules.

.07 Information Circular. Prior to the commencement of trading of a particular Trust Certificates listing pursuant to this Rule, the Exchange will evaluate the nature and complexity of the issue and, if appropriate, distribute a circular to ETP Holders providing guidance regarding compliance responsibilities (including suitability recommendations and account approval) when handling transactions in Certificates.

.08 Trust Certificates may be exchangeable at the option of the holder into securities that participate in the return of the applicable underlying asset. In the event that the Trust Certificates are exchangeable at the option of the holder and contains an Index Warrant, then the ETP Holder must ensure that the holder's account is approved for options trading in accordance with the rules of a national securities exchange in order to exercise such rights.

.09 Trust Certificates may pass-through periodic payments of interest and principle of the underlying securities.

.10 Trust Insurance. The Trust payments may be guaranteed pursuant to a financial guaranty insurance policy which may include swap agreements.

.11 Early Termination. The Trust Certificates may be subject to early termination or call features.

.12 The Exchange may submit a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of Trust Certificates. All statements or representations contained in such rule filing regarding (a) the description of the index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements. If an issue of Trust Certificates does not satisfy these requirements, the Exchange may halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m).

Rule 5.5

(a)-(g)(1) Reserved

(g)(2). Investment Company Units

(a) Continued Listing Criteria. The Exchange will maintain surveillance procedures for securities listed under Rule 5.2(j)(3) and consider the suspension of trading in, and will initiate delisting proceedings under Rule 5.5(m) of, a series of Investment Company Units in any of the following circumstances:

(1) Following the initial twelve-month period beginning upon the commencement of trading of a series of Units, there are fewer than 50 record and/or beneficial holders of Units;

(2) The value of the index or portfolio of securities on which the series is based is no longer calculated or available;

(3) If any of the continued listing requirements set forth in Rule 5.2(j)(3) are not continuously maintained;

(4) If the Exchange submits a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of Units that do not otherwise meet the standards set forth in Rule 5.2(j)(3) and any of the statements or representations regarding (a) the description of the index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing are not continuously maintained; or

(5) Such other event occurs or condition exists that, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

(b) The Exchange will halt trading in a series of Units if the circuit breaker parameters of Rule 7.12 have been reached. In exercising its discretion to halt or suspend trading in a series of Units, the Exchange may consider factors such as the extent to which trading in the underlying securities is not occurring or whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present, in addition to other factors that may be relevant. The remainder of this paragraph (b) shall apply only when the Exchange is the listing market for a series of Units. If the Intraday Indicative Value (as defined in Commentary .01 to Rule 5.2(j)(3)) or the official index value applicable to that series of Units is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the Intraday Indicative Value or the official index value occurs. If the interruption to the dissemination of the Intraday Indicative Value or the official index value persists past the trading day in which it occurred, the Exchange will halt trading.

(c) In addition, the Exchange will remove Units from trading and listing (if applicable) upon termination of the issuing Investment Company or upon the termination of listing of the Units on their primary market, if the primary market is not the Exchange.

(h)-(j) Reserved

(j)-1. The Exchange will commence

The Exchange will maintain surveillance procedures for securities listed pursuant to Rule 5.2(j)(2) and will commence delisting or removal proceedings pursuant to Rule 5.5(m) (unless the Commission has approved the continued trading of such issue), under any of the following circumstances:

(i) if the aggregate market value or the principal amount of the securities publicly held is less than $400,000;

(ii) if any of the continued listing requirements set forth in Rule 5.2(j)(2) are not continuously maintained;

(iii) if the Exchange submits a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of Equity Linked Notes that do not otherwise meet the standards set forth in Rule 5.2(j)(2) and any of the statements or representations regarding (a) the description of the underlying linked-stock or portfolio, (b) limitations on the underlying linked-stock or portfolio, or (c) the applicability of Exchange listing rules specified in such rule filing are not continuously maintained; or

(iv) if such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

(k)-(l) Reserved

(m). Delisting Procedures

Whenever the Exchange determines that it may be appropriate to either suspend dealings in and/or remove securities from listing pursuant to Rule 5.2, Rule 5.5 or the applicable provisions of Rule 8, except for reasons specified in subsection (a) of Rule 12d2-2 promulgated under Section 12(d) of the Exchange Act, as amended ("Exchange Act Rule 12d2-2"), it will follow, insofar as practicable, the following procedures:

(1) Consideration of Commencement of Delisting Action

(a) The Exchange shall notify the issuer in writing describing the basis on which the Exchange is considering the delisting of the company's security. Such notice shall be sent by certified mail and shall include the time and place of a meeting to be held by the Exchange to hear any reasons why the issuer believes its security should not be delisted. Generally, the issuer will be notified at least three (3) weeks prior to the meeting and will be requested to submit a written response.

(b) If, after such meeting, the Exchange determines that the security should be delisted, the Exchange shall notify the issuer in writing (if possible, the same day of the meeting) of the delisting decision and the basis thereof. The written notice

will also inform the issuer that it may appeal the decision to the Board of Directors and request a hearing.

(c) Concurrent with the Exchange's decision to delist the issuer's security, the Exchange will prepare a press announcement, which will be disseminated to the Market Makers and the investing public no later than the opening of trading the business day following the Exchange's decision (the Exchange will also distribute the information to the ETP Holders). Accordingly, the suspension of trading in the issuer's security will become effective at the opening of business on the day following the Exchange's decision.

(2) Appeal Procedures

(a) If the issuer requests an appeal hearing, it must file its request along with (i) a $2,500 delisting appeal fee and (ii) an answer to the causes specified by the Exchange with the Secretary of the Exchange no later than five (5) business days following service of notice of the proposed delisting. If the issuer does not request a hearing within the specified period of time, or it does not submit the $2,500 fee to the Exchange in the form and manner prescribed, the Exchange will file an application on Form 25 to the Securities and Exchange Commission to strike the security from the list of companies listed on the Exchange. The Exchange will furnish a copy of such application on Form 25 to the issuer in accordance with Section 12 of the Exchange Act and the Rules promulgated thereunder.

(b) If a request for a hearing is made and the requirements of Rule 5.5(m)(2)(a) are met within the time specified, the issuer will be entitled to an appeal hearing and the Exchange will provide the issuer at least fifteen (15) business days notice of the time and place of the hearing.

(c) The hearing shall be held before the CFR appointed by the Board of Directors for such purpose. Only those members of the CFR who attend the hearing may vote with respect to any decisions the Committee may make.

(d) Any documents or other written material the issuer wishes to consider should be submitted to the appropriate office of the Exchange at least five (5) business days prior to the date of the hearing.

(e) At the hearing, the issuer must prove its case by presenting testimony, evidence, and argument to the CFR. The form and manner in which the actual hearing will be conducted will be established by the CFR so as to assure the orderly conduct of the proceeding. At the hearing, the CFR may require the issuer to furnish additional written information that has come to its attention.

(f) After the conclusion of the proceeding, the CFR shall make its decision. The decision of the CFR shall be in writing with one copy served upon the issuer and the second copy filed with the Secretary of the Exchange. Such decision shall be

final and conclusive. If the decision is that the security should be removed from listing, the Exchange shall follow the procedures set forth below. If the decision is that the security should not be removed from listing, the issuer shall receive a notice to that effect from the Exchange.

(3) Public Notice of Delisting Action

If the final decision is that the security of the issuer is to be removed from listing, then, no fewer than ten (10) days before the delisting becomes effective: (a) an application on Form 25 shall be submitted by the Exchange to the Securities and Exchange Commission to strike the security from listing and registration in accordance with Exchange Act Rule 12d2-2, (b) a copy of such application shall be provided to the issuer in accordance with Exchange Act Rule 12d2-2, and (c) public notice of the Exchange's final determination to delist the security shall be made via a press release and posting on the Exchange's website until the delisting is effective.

RULE 6 ORDER AUDIT TRAIL [SYSTEM]

Rule 6.6800 Consolidated Audit Trail Compliance Rule

Rule 6.6810. Consolidated Audit Trail—Definitions

For purposes of the Rule 6.6800 Series:

(a) "Account Effective Date" means:

(1) with regard to those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution:

(A) when the trading relationship was established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, either

(i) the date the relationship identifier was established within the Industry Member;

(ii) the date when trading began (i.e., the date the first order was received) using the relevant relationship identifier; or

(iii) if both dates are available, the earlier date will be used to the extent that the dates differ; or

(B) when the trading relationship was established on or after November 15, 2018 for Industry Members other than Small Industry Members, or on or after November 15, 2019 for Small Industry Members, the date the Industry Member established

the relationship identifier, which would be no later than the date the first order was received;

(2) where an Industry Member changes back office providers or clearing firms prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the date an account was established at the relevant Industry Member, either directly or via transfer;

(3) where an Industry Member acquires another Industry Member prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the date an account was established at the relevant Industry Member, either directly or via transfer;

(4) where there are multiple dates associated with an account established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the earliest available date;

(5) with regard to Industry Member proprietary accounts established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members:

(A) the date established for the account in the Industry Member or in a system of the Industry Member or

(B) the date when proprietary trading began in the account (i.e., the date on which the first orders were submitted from the account).

With regard to paragraphs (2) - (5), the Account Effective Date will be no later than the date trading occurs at the Industry Member or in the Industry Member's system.

(b) "Active Accounts" means an account that has had activity in Eligible Securities within the last six months.

(c) "Allocation Report" means a report made to the Central Repository by an Industry Member that identifies the Firm Designated ID for any account(s), including subaccount(s), to which executed shares are allocated and provides the security that has been allocated, the identifier of the firm reporting the allocation, the price per share of shares allocated, the side of shares allocated, the number of shares allocated to each account, and the time of the allocation; provided, for the avoidance of doubt, any such Allocation Report shall not be required to be linked to particular orders or executions.

(d) "Business Clock" means a clock used to record the date and time of any Reportable Event required to be reported under this Rule Series.

(e) "CAT" means the consolidated audit trail contemplated by SEC Rule 613.

(f) "CAT NMS Plan" means the National Market System Plan Governing the Consolidated Audit Trail, as amended from time to time.

(g) "CAT-Order-ID" means a unique order identifier or series of unique order identifiers that allows the Central Repository to efficiently and accurately link all Reportable Events for an order, and all orders that result from the aggregation or disaggregation of such order.

(h) "CAT Reporting Agent" means a Data Submitter that is a third party that enters into an agreement with an Industry Member pursuant to which the CAT Reporting Agent agrees to fulfill such Industry Member's reporting obligations under this Rule Series.

(i) "Central Repository" means the repository responsible for the receipt, consolidation, and retention of all information reported to the CAT pursuant to SEC Rule 613 and the CAT NMS Plan.

(j) "Compliance Threshold" has the meaning set forth in Rule 6.6893(d).

(k) "Customer" means:

(1) the account holder(s) of the account at an Industry Member originating the order; and

(2) any person from whom the Industry Member is authorized to accept trading instructions for such account, if different from the account holder(s).

(l) "Customer Account Information" shall include, but not be limited to, account number, account type, customer type, date account opened, and large trader identifier (if applicable); except, however, that:

(1) in those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution, the Industry Member will:

(A) provide the Account Effective Date in lieu of the "date account opened";

(B) provide the relationship identifier in lieu of the "account number"; and

(C) identify the "account type" as a "relationship";

(2) in those circumstances in which the relevant account was established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, and no "date account opened" is available for the account, the Industry Member will provide the Account Effective Date in the following circumstances:

(A) where an Industry Member changes back office providers or clearing firms and

the date account opened is changed to the date the account was opened on the new back office/clearing firm system;

(B) where an Industry Member acquires another Industry Member and the date account opened is changed to the date the account was opened on the post-merger back office/clearing firm system;

(C) where there are multiple dates associated with an account in an Industry Member's system, and the parameters of each date are determined by the individual Industry Member; and

(D) where the relevant account is an Industry Member proprietary account.

(m) "Customer Identifying Information" means information of sufficient detail to identify a Customer, including, but not limited to:

(1) with respect to individuals: name, address, date of birth, individual tax payer identification number ("ITIN")/social security number ("SSN"), individual's role in the account (*e.g.*, primary holder, joint holder, guardian, trustee, person with the power of attorney); and

(2) with respect to legal entities: name, address, Employer Identification Number ("EIN")/Legal Entity Identifier ("LEI") or other comparable common entity identifier, if applicable; provided, however, that an Industry Member that has an LEI for a Customer must submit the Customer's LEI in addition to other information of sufficient detail to identify a Customer.

(n) "Data Submitter" means any person that reports data to the Central Repository, including national securities exchanges, national securities associations, broker-dealers, the SIPs for the CQS, CTA, UTP and Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("OPRA") Plans, and certain other vendors or third parties that may submit data to the Central Repository on behalf of Industry Members.

(o) "Eligible Security" includes (1) all NMS Securities and (2) all OTC Equity Securities.

(p) "Error Rate" means the percentage of Reportable Events collected by the Central Repository in which the data reported does not fully and accurately reflect the order event that occurred in the market.

(q) "Firm Designated ID" means a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date.

(r) "Industry Member" means a member of a national securities exchange or a member of

a national securities association.

(s) "Industry Member Data" has the meaning set forth in Rule 6.6830(a)(2).

(t) "Initial Plan Processor" means the first Plan Processor selected by the Operating Committee in accordance with SEC Rule 613, Section 6.1 of the CAT NMS Plan and the National Market System Plan Governing the Process for Selecting a Plan Processor and Developing a Plan for the Consolidated Audit Trail.

(u) "Listed Option" or "Option" have the meaning set forth in Rule 600(b)(35) of Regulation NMS.

(v) "Manual Order Event" means a non-electronic communication of order-related information for which Industry Members must record and report the time of the event.

(w) "Material Terms of the Order" includes: the NMS Security or OTC Equity Security symbol; security type; price (if applicable); size (displayed and non-displayed); side (buy/sell); order type; if a sell order, whether the order is long, short, short exempt; open/close indicator (except on transactions in equities); time in force (if applicable); if the order is for a Listed Option, option type (put/call), option symbol or root symbol, underlying symbol, strike price, expiration date, and open/close (except on market maker quotations); and any special handling instructions.

(x) "NMS Security" means any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in Listed Options.

(y) "NMS Stock" means any NMS Security other than an option.

(z) "Operating Committee" means the governing body of the CAT NMS, LLC designated as such and described in Article IV of the CAT NMS Plan.

(aa) "Options Market Maker" means a broker-dealer registered with an exchange for the purpose of making markets in options contracts traded on the exchange.

(bb) "Order" or "order", with respect to Eligible Securities, shall include:

(1) Any order received by an Industry Member from any person;

(2) Any order originated by an Industry Member; or

(3) Any bid or offer.

(cc) "OTC Equity Security" means any equity security, other than an NMS Security, subject to prompt last sale reporting rules of a registered national securities association

and reported to one of such association's equity trade reporting facilities.

(dd) "Participant" means each Person identified as such in Exhibit A of the CAT NMS Plan, as amended, in such Person's capacity as a Participant in CAT NMS, LLC.

(ee) "Person" means any individual, partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association and any heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so permits.

(ff) "Plan Processor" means the Initial Plan Processor or any other Person selected by the Operating Committee pursuant to SEC Rule 613 and Sections 4.3(b)(i) and 6.1 of the CAT NMS Plan, and with regard to the Initial Plan Processor, the National Market System Plan Governing the Process for Selecting a Plan Processor and Developing a Plan for the Consolidated Audit Trail, to perform the CAT processing functions required by SEC Rule 613 and set forth in the CAT NMS Plan.

(gg) "Received Industry Member Data" has the meaning set forth in Rule 6.6830(a)(2).

(hh) "Recorded Industry Member Data" has the meaning set forth in Rule 6.6830(a)(1).

(ii) "Reportable Event" includes, but is not limited to, the original receipt or origination, modification, cancellation, routing, execution (in whole or in part) and allocation of an order, and receipt of a routed order.

(jj) "SRO" means any self-regulatory organization within the meaning of Section 3(a)(26) of the Exchange Act.

(kk) "SRO-Assigned Market Participant Identifier" means an identifier assigned to an Industry Member by an SRO or an indentifier used by a Participant.

(ll) "Small Industry Member" means an Industry Member that qualifies as a small broker-dealer as defined in Rule 0-10(c) under the Exchange Act, as amended.

(mm) "Trading Day" shall have the meaning as is determined by the Operating Committee. For the avoidance of doubt, the Operating Committee may establish different Trading Days for NMS Stocks (as defined in SEC Rule 600(b)(47)), Listed Options, OTC Equity Securities, and any other securities that are included as Eligible Securities from time to time.

Rule 6.6820. Consolidated Audit Trail - Clock Synchronization

(a) Clock Synchronization

(1) Each Industry Member shall synchronize its Business Clocks, other than such Business Clocks used solely for Manual Order Events or used solely for the time of

allocation on Allocation Reports, at a minimum to within a fifty (50) millisecond tolerance of the time maintained by the atomic clock of the National Institute of Standards and Technology ("NIST"), and maintain such synchronization.

(2) Each Industry Member shall synchronize (A) its Business Clocks used solely for Manual Order Events and (B) its Business Clocks used solely for the time of allocation on Allocation Reports at a minimum to within a one second tolerance of the time maintained by the NIST atomic clock, and maintain such synchronization.

(3) The tolerance for paragraphs (a)(1) and (2) of this Rule includes all of the following:

(A) The difference between the NIST atomic clock and the Industry Member's Business Clock;

(B) The transmission delay from the source; and

(C) The amount of drift of the Industry Member's Business Clock.

(4) Business Clocks must be synchronized every business day before market open to ensure that timestamps for Reportable Events are accurate. To maintain clock synchronization, Business Clocks must be checked against the NIST atomic clock and re-synchronized, as necessary, throughout the day.

(b) Documentation

Industry Members must document and maintain their synchronization procedures for Business Clocks. Industry Members must keep a log of the times when they synchronize their Business Clocks and the results of the synchronization process. This log should include notice of any time a Business Clock drifts more than the applicable tolerance specified in paragraph (a) of this Rule. Such log must include results for a period of not less than five years ending on the then current date, or for the entire period for which the Industry Member has been required to comply with this Rule if less than five years.

(c) Certification

Each Industry Member shall certify to the Exchange that its Business Clocks satisfy the synchronization requirements set forth in paragraph (a) of this Rule periodically in accordance with the certification schedule established by the Operating Committee pursuant to the CAT NMS Plan.

(d) Violation Reporting

Each Industry Member with Business Clocks must report to the Plan Processor and the Exchange violations of paragraph (a) of this Rule pursuant to the thresholds set by the Operating Committee pursuant to the CAT NMS Plan.

Rule 6.6830. Consolidated Audit Trail - Industry Member Data Reporting

(a) Recording and Reporting Industry Member Data

(1) Subject to paragraph (3) below, each Industry Member shall record and electronically report to the Central Repository the following details for each order and each Reportable Event, as applicable ("Recorded Industry Member Data") in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan:

(A) for original receipt or origination of an order:

(i) Firm Designated ID(s) for each Customer;

(ii) CAT-Order-ID;

(iii) SRO-Assigned Market Participant Identifier of the Industry Member receiving or originating the order;

(iv) date of order receipt or origination;

(v) time of order receipt or origination (using timestamps pursuant to Rule 6.6860); and

(vi) Material Terms of the Order;

(B) for the routing of an order:

(i) CAT-Order-ID;

(ii) date on which the order is routed;

(iii) time at which the order is routed (using timestamps pursuant to Rule 6.6860);

(iv) SRO-Assigned Market Participant Identifier of the Industry Member routing the order;

(v) SRO-Assigned Market Participant Identifier of the Industry Member or Participant to which the order is being routed;

(vi) if routed internally at the Industry Member, the identity and nature of the department or desk to which the order is routed; and

(vii) Material Terms of the Order;

(C) for the receipt of an order that has been routed, the following information:

(i) CAT-Order-ID;

(ii) date on which the order is received;

(iii) time at which the order is received (using timestamps pursuant to Rule 6.6860);

(iv) SRO-Assigned Market Participant Identifier of the Industry Member receiving the order;

(v) SRO-Assigned Market Participant Identifier of the Industry Member or Participant routing the order; and

(vi) Material Terms of the Order;

(D) if the order is modified or cancelled:

(i) CAT-Order-ID;

(ii) date the modification or cancellation is received or originated;

(iii) time at which the modification or cancellation is received or originated (using timestamps pursuant to Rule 6.6860);

(iv) price and remaining size of the order, if modified;

(v) other changes in the Material Terms of the Order, if modified; and

(vi) whether the modification or cancellation instruction was given by the Customer or was initiated by the Industry Member;

(E) if the order is executed, in whole or in part:

(i) CAT-Order-ID;

(ii) date of execution;

(iii) time of execution (using timestamps pursuant to Rule 6.6860);

(iv) execution capacity (principal, agency or riskless principal);

(v) execution price and size;

(vi) SRO-Assigned Market Participant Identifier of the Industry Member executing the order;

(vii) whether the execution was reported pursuant to an effective transaction reporting plan or the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information; and

(F) other information or additional events as may be prescribed pursuant to the CAT NMS Plan.

(2) Subject to paragraph (3) below, each Industry Member shall record and report to the Central Repository the following, as applicable ("Received Industry Member Data" and collectively with the information referred to in Rule 6.6830(a)(1) "Industry Member Data")) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan:

(A) if the order is executed, in whole or in part:

(i) An Allocation Report;

(ii) SRO-Assigned Market Participant Identifier of the clearing broker or prime broker, if applicable; and

(iii) CAT-Order-ID of any contra-side order(s);

(B) if the trade is cancelled, a cancelled trade indicator; and

(C) for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, and in accordance with Rule 6.6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

(3) Each Industry Member that is an Options Market Maker is not required to report to the Central Repository the Industry Member Data regarding the routing, modification or cancellation of its quotes in Listed Options. Each Industry Member that is an Options Market Maker shall report to the Exchange the time at which its quote in a Listed Option is sent to the Exchange (and, if applicable, any subsequent quote modification time and/or cancellation time when such modification or cancellation is originated by the Options Market Maker).

(b) Timing of Recording and Reporting

(1) Each Industry Member shall record Recorded Industry Member Data contemporaneously with the applicable Reportable Event.

(2) Each Industry Member shall report:

(A) Recorded Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on the Trading Day following the day the Industry Member records such Recorded Industry Member Data; and

(B) Received Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on the Trading Day following the day the Industry Member receives such Received Industry Member Data.

(3) Industry Members may, but are not required to, voluntarily report Industry Member Data prior to the applicable 8:00 a.m. Eastern Time deadline.

(c) Applicable Securities

(1) Each Industry Member shall record and report to the Central Repository the Industry Member Data as set forth in paragraph (a) of this Rule for each NMS Security registered or listed for trading on such exchange or admitted to unlisted trading privileges on such exchange.

(2) Each Industry Member shall record and report to the Central Repository the Industry Member Data as set forth in this paragraph (a) of this Rule for each Eligible Security for which transaction reports are required to be submitted to FINRA.

(d) Security Symbology

(1) For each exchange-listed Eligible Security, each Industry Member shall report Industry Member Data to the Central Repository using the symbology format of the exchange listing the security.

(2) For each Eligible Security that is not exchange-listed, each Industry Member shall report Industry Member Data to the Central Repository using such symbology format as approved by the Operating Committee pursuant to the CAT NMS Plan.

(e) Error Correction

For each Industry Member for which errors in Industry Member Data submitted to the Central Repository have been identified by the Plan Processor or otherwise, such Industry Member shall submit corrected Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on T+3.

Rule 6.6840. Consolidated Audit Trail - Customer Information Reporting

(a) Initial Set of Customer Information

Each Industry Member shall submit to the Central Repository the Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account prior to such Industry Member's commencement of reporting to the Central Repository and in accordance with the deadlines set forth in Rule 6.6880.

(b) Daily Updates to Customer Information

Each Industry Member shall submit to the Central Repository any updates, additions or other changes to the Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account on a daily basis.

(c) Periodic Updates to Complete Set of Customer Information

On a periodic basis as designated by the Plan Processor and approved by the Operating Committee, each Industry Member shall submit to the Central Repository a complete set of Firm Designated IDs, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account.

(d) Error Correction

For each Industry Member for which errors in Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account submitted to the Central Repository have been identified by the Plan Processor or otherwise, such Industry Member shall submit corrected data to the Central Repository by 5:00 p.m. Eastern Time on T+3.

Rule 6.6850. Consolidated Audit Trail - Industry Member Information Reporting

Each Industry Member shall submit to the Central Repository information sufficient to identify such Industry Member, including CRD number and LEI, if such LEI has been obtained, prior to such Industry Member's commencement of reporting to the Central Repository and in accordance with the deadlines set forth in Rule 6.6880, and keep such information up to date as necessary.

Rule 6.6860. Consolidated Audit Trail - Time Stamps

(a) Millisecond Time Stamps

(1) Subject to paragraphs (a)(2) and (b), each Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in milliseconds.

(2) Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment.

(b) One Second Time Stamps/Electronic Order Capture

(1) Each Industry Member may record and report Manual Order Events to the Central Repository in increments up to and including one second, provided that each Industry Member shall record and report the time when a Manual Order Event has been captured electronically in an order handling and execution system of such

Industry Member ("Electronic Capture Time") in milliseconds; and

(2) Each Industry Member may record and report the time of Allocation Reports in increments up to and including one second.

Rule 6.6865. Consolidated Audit Trail - Clock Synchronization Rule Violation

An Industry Member that engages in a pattern or practice of reporting Reportable Events outside of the required clock synchronization time period as set forth in this Rule Series without reasonable justification or exceptional circumstances may be considered in violation of this Rule.

Rule 6.6870. Consolidated Audit Trail - Connectivity and Data Transmission

(a) Data Transmission

Each Industry Member shall transmit data as required under the CAT NMS Plan to the Central Repository utilizing such format(s) as may be provided by the Plan Processor and approved by the Operating Committee.

(b) Connectivity

Each Industry Member shall connect to the Central Repository using a secure method(s), including, but not limited to private line(s) and virtual private network connection(s).

(c) CAT Reporting Agents

(1) Any Industry Member may enter into an agreement with a CAT Reporting Agent pursuant to which the CAT Reporting Agent agrees to fulfill the reporting obligations of such Industry Member under this Rule 6.6800 Series. Any such agreement shall be evidenced in writing, which shall specify the respective functions and responsibilities of each party to the agreement that are required to effect full compliance with the requirements of this Rule Series.

(2) All written documents evidencing an agreement described in subparagraph (1) shall be maintained by each party to the agreement.

(3) Each Industry Member remains primarily responsible for compliance with the requirements of this Rule Series, notwithstanding the existence of an agreement described in this paragraph.

Rule 6.6880. Consolidated Audit Trail - Development and Testing

(a) Development

(1) Connectivity and Acceptance Testing

(A) Industry Members (other than Small Industry Members) shall begin connectivity and acceptance testing with the Central Repository no later than August 15, 2018.

(B) Small Industry Members shall begin connectivity and acceptance testing with the Central Repository no later than August 15, 2019.

(2) Reporting Customer and Industry Member Information

(A) Industry Members (other than Small Industry Members) shall begin reporting Customer and Industry Member information, as required by Rules 6.6840(a) and 6.6850, respectively, to the Central Repository for processing no later than October 15, 2018.

(B) Small Industry Members shall begin reporting Customer and Industry Member information, as required by Rules 6.6840(a) and 6.6850, respectively, to the Central Repository for processing no later than October 15, 2019.

(3) Submission of Order Data

(A) Industry Members (other than Small Industry Members)

(i) Industry Members (other than Small Industry Members) are permitted, but not required, to submit order data for testing purposes beginning no later than May 15, 2018.

(ii) Industry Members (other than Small Industry Members) shall participate in the coordinated and structured testing of order submission, which will begin no later than August 15, 2018.

(B) Small Industry Members

(i) Small Industry Members are permitted, but not required, to submit order data for testing purposes beginning no later than May 15, 2019.

(ii) Small Industry Members shall participate in the coordinated and structured testing of order submission, which will begin no later than August 15, 2019.

(4) Submission of Options Market Maker Quote. Industry Members are permitted, but not required to, submit Quote Sent Time on Options Market Maker quotes, beginning no later than October 15, 2018.

(b) Testing

Each Industry Member shall participate in testing related to the Central Repository, including any industry-wide disaster recovery testing, pursuant to the schedule

established pursuant to the CAT NMS Plan.

Rule 6.6890. Consolidated Audit Trail - Recordkeeping

Each Industry Member shall maintain and preserve records of the information required to be recorded under this Rule Series for the period of time and accessibility specified in SEC Rule 17a-4(b). The records required to be maintained and preserved under this Rule may be immediately produced or reproduced on "micrographic media" as defined in SEC Rule 17a-4(f)(1)(i) or by means of "electronic storage media" as defined in Exchange Act Rule 17a-4(f)(1)(ii) that meet the conditions set forth in SEC Rule 17a-4(f) and be maintained and preserved for the required time in that form.

Rule 6.6893. Consolidated Audit Trail - Timely, Accurate and Complete Data

(a) General

Industry Members are required to record and report data to the Central Repository as required by this Rule Series in a manner that ensures the timeliness, accuracy, integrity and completeness of such data.

(b) LEIs

Without limiting the requirement set forth in paragraph (a), Industry Members are required to accurately provide the LEIs in their records as required by this Rule Series and may not knowingly submit inaccurate LEIs to the Central Repository; provided, however, that this requirement does not impose any additional due diligence obligations on Industry Members with regard to LEIs for CAT purposes.

(c) Compliance with Error Rate

If an Industry Member reports data to the Central Repository with errors sich that the error percentage exceeds the maximum Error Rate established by the Operating Committee pursuant to the CAT NMS Plan, then such Industry Member would not be in compliance with the Rule 6.6800 Series.

(d) Compliance Thresholds

Each Industry Member shall be required to meet a separate compliance threshold which will be an Industry Member-specific rate that may be used as the basis for further review or investigation into the Industry Member's performance with regard to the CAT (the "Compliance Thresholds"). Compliance Thresholds will compare an Industry Member's error rate to the aggregate Error Rate over a period of time to be defined by the Operating Committee. An Industry Member's performance with respect to its Compliance Threshold will not signify, as a matter of law, that such Industry Member has violated this Rule Series.

Rule 6.6895. Consolidated Audit Trail - Compliance Dates

(a) General

Paragraphs (b) and (c) of this Rule set forth the additional details with respect to the compliance date of Rules 6.6800 through 6.6895. Unless otherwise noted, Rules 6.6800 through 6.6895 are fully effective and ETP Holders must comply with their terms.

(b) Clock Synchronization

(1) Each Industry Member shall comply with Rule 6.6820 with regard to Business Clocks that capture time in milliseconds commencing on or before March 15, 2017.

(2) Each Industry Member shall comply with Rule 6.6820 with regard to Business Clocks that do not capture time in milliseconds commencing on or before February 19, 2018.

(c) CAT Data Reporting

(1) Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository by November 15, 2018.

(2) Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository by November 15, 2019.

Rule 6.6900. Consolidated Audit Trail - Fee Dispute Resolution

(a) Definitions.

(1) For purposes of this Rule, the terms "CAT NMS Plan", "Industry Member", "Operating Committee", and "Participant" are defined as set forth in Rule 6.6810 (Consolidated Audit Trail - Definitions).

(2) "Subcommittee" means a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan.

(3) "CAT Fee" means any fees contemplated by the CAT NMS Plan and imposed on Industry Members pursuant to Exchange Rules.

(b) Fee Dispute Resolution.

Disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member, including disputes related to the designated tier and the fee calculated pursuant to such tier, will be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in

paragraph (c) of this Rule. Decisions on such matters will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Fee Dispute Resolution Procedures under the CAT NMS Plan.

(1) Scope of Procedures

These Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed.

(2) Submission and Time Limitation on Application to CAT NMS, LLC ("Company")

An Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees will file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application will identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

(3) Procedure Following Applications for Hearing

(A) Fee Review Subcommittee

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Fee Dispute Resolution Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest.

(B) Record

The Fee Review Subcommittee will keep a record of the proceedings.

(C) Hearings and Documents

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing (as described in paragraph (4)(A) below) will furnish the Fee Review Subcommittee with all

materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

(4) Hearing and Decision

(A) Parties

The parties to the hearing will consist of the applicant and a representative of the Company who will present the reasons for the action taken by the Company that allegedly aggrieved the applicant.

(B) Counsel

The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

(C) Conduct of Hearing

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee will keep a record of the hearing. The formal rules of evidence will not apply.

(D) Decision

The Fee Review Subcommittee will set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

(5) Review

(A) Petition

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition will be in writing and specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating

Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

(B) Conduct of Review

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

(6) Time Limit for Review

A final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company pursuant to Paragraph (2) of these Fee Dispute Resolution Procedures. The Operating Committee may extend the 90-day time limit under this Paragraph (6) at its discretion.

(7) Miscellaneous Provisions

(A) Service of Notice

Any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address.

(B) Extension of Certain Time Limits

Any time limits imposed under these Fee Dispute Resolution Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

(8) Agency Review

Decisions on such CAT Fee disputes made pursuant to these Fee Dispute Resolution Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate

forum.

(9) Payment of Disputed CAT Fees

(A) Timing of Fee Payment

An Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Fee Dispute Resolution Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Fee Dispute Resolution Procedures, including any review pursuant to Paragraph (8). For the purposes of this Paragraph (9), the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Fee Dispute Resolution Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

(B) Interest on Unpaid CAT Fees

Once the dispute regarding CAT Fees is resolved pursuant to these Fee Dispute Resolution Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

Rule 6.7400. ORDER AUDIT TRAIL SYSTEM

Rule 6.7410. Definitions

For purposes of the Rule 6.7400 Series:

(a) Terms shall have the same meaning as those defined in the Exchange Rules, unless otherwise specified.

(b) "Bunched Order" shall mean two or more orders that are aggregated prior to execution.

(c) "Customer" shall mean a person other than a broker or dealer.

(d) "Electronic Communication Network" shall mean any electronic system that widely disseminates to third parties orders entered therein by an exchange market maker or over-the-counter market maker, and permits such orders to be executed in whole or in part, and as further defined in Rule 600(b)(23) of SEC Regulation NMS.

(e) "Electronic Order" shall mean an order captured by an ETP Holder in an electronic order-routing or execution system.

(f) "Exchange System" shall mean the service provided by the Exchange that provides for the automated execution and reporting of transactions in NMS stocks.

(g) "Index Arbitrage" shall mean a trading strategy in which pricing is based on discrepancies between a "basket" or group of stocks and the derivative index product (i.e. a basis trade) involving the purchase or sale of a "basket" or group of stocks in conjunction with the purchase or sale, or intended purchase or sale, of one or more derivative index products in an attempt to profit by the price difference between the "basket" or group of stocks and the derivative index products. While the purchase or sale of the stocks must be in conjunction with the purchase or sale of derivative index products, the transaction need not be executed contemporaneously to be considered index arbitrage. The term "derivative index products" refers to cash-settled options or futures contracts on index stock groups, and options on any such futures contracts.

(h) "Intermarket sweep order" shall have the same meaning as contained in Rule 600(b)(30) of SEC Regulation NMS.

(i) "Manual Order" shall mean an order that is captured by an ETP Holder other than in an electronic order-routing or execution system.

(j) "NMS stock" shall have the same meaning as contained in Rule 600(b)(47) of SEC Regulation NMS.

(k) "Order" shall mean any oral, written, or electronic instruction to effect a transaction in an NMS stock that is received by an ETP Holder from another person for handling or execution, or that is originated by a department of an ETP Holder for execution by the same or another ETP Holder, other than any such instruction to effect a proprietary transaction originated by a trading desk in the ordinary course of an ETP Holder's market making activities.

(l) "Order Audit Trail System" shall mean the automated system owned and operated by FINRA that is designed to capture order information in NMS stocks reported by ETP Holders for integration with trade and quotation information to provide the Exchange with an accurate time sequenced record of orders and transactions.

(m) "Program Trading" means either (A) index arbitrage or (B) any trading strategy involving the related purchase or sale of a "basket" or group of 15 or more stocks. Program trading includes the purchases or sales of stocks that are part of a coordinated trading strategy, even if the purchases or sales are neither entered nor executed contemporaneously, nor part of a trading strategy involving options or futures contracts on an index stock group, or options on any such futures contracts, or otherwise relating to a stock market index.

(n) "Reporting Agent" shall mean a third party that enters into any agreement with an ETP Holder pursuant to which the Reporting Agent agrees to fulfill such ETP Holder's obligations under Rule 6.7450.

(o) "Reporting ETP Holder" shall mean an ETP Holder that receives or originates an order and has an obligation to record and report information under Rules 6.7440 and 6.7450. An ETP Holder shall not be considered a Reporting ETP Holder in connection with an order, if the following conditions are met:

(1) the ETP Holder engages in a non-discretionary order routing process, pursuant to which it immediately routes, by electronic or other means, all of its orders to a single receiving Reporting ETP Holder;

(2) the ETP Holder does not direct and does not maintain control over subsequent routing or execution by the receiving Reporting ETP Holder;

(3) the receiving Reporting ETP Holder records and reports all information required under Rules 6.7440 and 6.7450 with respect to the order; and

(4) the ETP Holder has a written agreement with the receiving Reporting ETP Holder specifying the respective functions and responsibilities of each party to effect full compliance with the requirements of Rules 6.7440 and 6.7450.

(p) "Proprietary Trading Firm" shall mean an ETP Holder that trades its own capital and that does not have "customers," as that term is defined in NYSE National Rule 6.7410(c), and that is not a FINRA member. The funds used by a Proprietary Trading firm must be exclusively firm funds and all trading must be in the firm's accounts. Traders must be owners of, employees of, or contractors to the firm.

Rule 6.7420. Applicability

(a) Unless otherwise indicated, the requirements of the Rule 6.7400 Series are in addition to the requirements contained elsewhere in Exchange Rules.

(b) Unless otherwise indicated, the requirements of the Rule 6.7400 Series shall apply to all ETP Holders and to their Associated Persons.

(c) Unless otherwise indicated, the requirements of the Rule 6.7400 Series shall apply to all executed or unexecuted orders for all NMS stocks traded on the Exchange.

Rule 6.7430. Synchronization of ETP Holder Business Clocks

Each ETP Holder shall synchronize its business clocks that are used for purposes of recording the date and time of any event that must be recorded pursuant to the Rules of the Exchange, with reference to a time source as designated by the Exchange, and shall maintain the synchronization of such business clocks in conformity with such procedures

as are prescribed by the Exchange.

Rule 6.7440. Recording of Order Information

(a) ETP Holders and Associated Persons shall comply with FINRA Rule 7440 as if such Rule were part of the Exchange's rules. The Exchange and FINRA are parties to the Regulatory Services Agreement pursuant to which FINRA has agreed to perform certain functions on behalf of the Exchange. Therefore, ETP Holders are complying with NYSE National Rule 6.7440 by complying with FINRA Rule 7440 as written, including, for example, filing requirements and notifications. In addition, functions performed by FINRA, FINRA departments, and FINRA staff under NYSE National Rule 6.7440 are being performed by FINRA on behalf of the Exchange.

(b) For purposes of this Rule, references to Rules 6.7420 through 6.7460 shall be construed as references to NYSE National Rules 6.7420 through 6.7460.

(c) ETP Holders shall assign and enter a unique order identifier, in the form prescribed by the Exchange, to all orders that are electronically transmitted to the Exchange. An order identifier shall not be required for orders that are manually transmitted.

Rule 6.7450. Order Data Transmission Requirements

(a) Except as provided in paragraph (b), ETP Holders and Associated Persons shall comply with FINRA Rule 7450 as if such Rule were part of the Exchange's rules. The Exchange and FINRA are parties to the Regulatory Services Agreement pursuant to which FINRA has agreed to perform certain functions on behalf of the Exchange. Therefore, ETP Holders are complying with NYSE National Rule 6.7450 by complying with FINRA Rule 7450 as written, including, for example, filing requirements and notifications. In addition, functions performed by FINRA, FINRA departments, and FINRA staff under NYSE National Rule 6.7450 are being performed by FINRA on behalf of the Exchange.

(b) Proprietary Trading Firms shall be required to comply with FINRA Rule 7450 as if such Rule were part of the Exchange's rules, only when they receive a request from the Exchange to submit order information with respect to specific time periods identified in such request. Nothing in this Rule shall be construed to limit the obligations of Proprietary Trading Firms under any other Rule of the 6.7400 Series, including but not limited to, Rule 6.7440.

(c) For purposes of this Rule, references to Rule 6.7440 shall be construed as references to NYSE National Rule 6.7440.

Rule 6.7460. Violation of Order Audit Trail System Rules

Failure of an ETP Holder or Associated Person to comply with any of the requirements of Rule 6.7410 through Rule 6.7460 may be considered conduct that is inconsistent with

high standards of commercial honor and just and equitable principles of trade, in violation of Rule 11.3.1.

Rule 6.7470. Exemption to the Order Recording and Data Transmission Requirements

(a) The Exchange, for good cause shown after taking into consideration all relevant factors, may exempt subject to specified terms and conditions, an ETP Holder from the recording and order data transmission requirements of Rules 6.7440 and 6.7450, respectively, for manual orders, if such exemption is consistent with the protection of investors and the public interest, and the ETP Holder meets the following criteria:

(1) the ETP Holder and current control affiliates and Associated Persons have not been subject within the last five years to any final disciplinary action, and within the last ten years to any disciplinary action involving fraud;

(2) the ETP Holder has annual revenues of less than $2 million;

(3) the ETP Holder does not conduct any market making activities in NMS stocks:

(4) the ETP Holder does not execute principal transactions with its customers (with limited exception for principal transactions executed pursuant to error corrections); and

(5) the ETP Holder does not conduct clearing or carrying activities for other firms.

(b) An exemption provided pursuant to this Rule shall not exceed a period of two years. At or prior to the expiration of a grant of exemptive relief under this Rule, an ETP Holder meeting the criteria set forth in paragraph (a) above may request a subsequent exemption, which will be considered at the time of the request consistent with the protection of investors and the public interest.

(c) This Rule shall be in effect until November 15, 2019.

RULE 7 EQUITIES TRADING

Section 1. General Provisions

Rule 7.1. Hours of Business

(a) Except as may be otherwise determined by the Board of Directors as to particular days, the Exchange shall be open for the transaction of business on every business day. The hours at which trading sessions shall open and close shall be during such hours as may be specified by Exchange rule or established by the Board of Directors.

(b) Dealings upon the Exchange shall be limited to the hours during which the Exchange

is open for the transaction of business. No ETP Holder shall make any bid, offer or transaction through the facilities of the Exchange, before or after those hours.

(c) Except as may be otherwise determined by the Board of Directors, the President of the Exchange or his or her designee may take any of the following actions:

(1) halt or suspend trading in some or all securities traded on the Exchange;

(2) extend the hours for the transaction of business on the Exchange;

(3) close some or all Exchange facilities;

(4) determine the duration of any halt, suspension or closing undertaken pursuant to this rule; or

(5) determine to trade securities on the Exchange's disaster recovery facility.

(d) The President or his or her designee shall take any of the actions described in paragraph (c) above only when he or she deems such action to be necessary or appropriate for the maintenance of a fair and orderly market, or the protection of investors or otherwise in the public interest, due to extraordinary circumstances such as (i) actual or threatened physical danger, severe climatic conditions, civil unrest, terrorism, acts of war, or loss or interruption of facilities utilized by the Exchange, (ii) a request by a governmental agency or official, or (iii) a period of mourning or recognition for a person or event.

(e) The President or his or her designee shall notify the Board of Directors of actions taken pursuant to this rule, except for a period of mourning or recognition for a person or event, as soon thereafter as is feasible.

Rule 7.2. Holidays

The Exchange will not be open for business on New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

When a holiday observed by the Exchange falls on a Saturday, the Exchange will not be open for business on the preceding Friday and when any holiday observed by the Exchange falls on a Sunday, the Exchange will not be open for business on the succeeding Monday, unless unusual business conditions exist, such as the ending of a monthly or yearly accounting period.

Rule 7.3. Commissions

(a) *Fixed Rates.* Nothing contained in the Rules of the Exchange or its practices shall be construed to require or authorize its ETP Holders or any Associated Person, to agree or

arrange, directly or indirectly, for the charging of fixed rates of commission for transactions effected on, or effected by the use of, the facilities of the Exchange.

(b) *Acting as Broker*. In all transactions in which an ETP Holder acts solely as a broker, the bills and confirmations rendered must so indicate, and all commissions charged, if any, shall be appropriately identified.

(c) *Acting as Principal*. In all transactions in which an ETP Holder acts as principal or in which the ETP Holder or any of its Associated Persons have an interest as principal in any manner, the bills and confirmations rendered must so indicate.

Rule 7.4. Ex-Dividend or Ex-Right Dates

Transactions in stocks, traded "regular" shall be "ex-dividend" or "ex-rights" as the case may be, on the business day preceding the record date fixed by the company or the date of the closing of transfer books, except when the Board of Directors rules otherwise. Should such record date or such closing of transfer books occur upon a day other than a business day this Rule shall apply for the second preceding business day.

Rule 7.5. Trading Units

The unit of trading in stocks is 1 share. A "round lot" is 100 shares, unless specified by the primary listing market to be fewer than 100 shares. Any amount less than a round lot will constitute an "odd lot," and any amount greater than a round lot that is not a multiple of a round lot will constitute a "mixed lot."

Rule 7.6. Trading Differentials

The minimum price variation ("MPV") for quoting and entry of orders in securities traded on the Exchange is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for quoting and entry of orders is $0.0001.

Rule 7.7. Transmission of Bids or Offers

(a) No ETP Holder having the right to trade through the facilities of the Exchange and who has been a party to or has knowledge of an execution shall be under obligation to divulge the name of the buying or selling firm in any transaction.

(b) Except as otherwise permitted by these Rules, no ETP Holder shall transmit through the facilities of the Exchange any information regarding a bid, offer, other indication of an order, or the ETP Holder's identity, to a non-holder of an ETP or to another ETP Holder until permission to disclose and transmit such bid, offer, other indication of an order, or the ETP Holder's identity has been obtained from the originating ETP Holder or the originating ETP Holder affirmatively elects to disclose its identity.

Rule 7.8. Bid or Offer Deemed Regular Way

Bids and offers will be considered to be "regular way."

Rule 7.9. Execution Price Binding

Notwithstanding Rules 7.10 and 7.11, the price at which an order is executed shall be binding notwithstanding the fact that an erroneous report in respect thereto may have been rendered.

Rule 7.10. Clearly Erroneous Executions

The provisions of paragraphs (c), (e)(2), (f), and (g) of this Rule, as amended on September 10, 2010, and the provisions of paragraphs (i) through (k), will be in effect during a pilot period to coincide with the pilot period for the Limit Up-Limit Down Plan, including any extensions to the pilot period for the Plan. If the Plan is not either extended or approved as permanent, the prior versions of sections (c), (e)(2), (f), and (g) as described in NYSE Arca Rule 7.10-E will be in effect, and the provisions of paragraphs (i) through (k) will be null and void.

(a) *Definition*. For purposes of this Rule, the terms of a transaction executed on the Exchange are "clearly erroneous" when there is an obvious error in any term, such as price, number of shares or other unit of trading, or identification of the security. A transaction made in clearly erroneous error and cancelled by both parties or determined by the Exchange to be clearly erroneous will be removed from the Consolidated Tape.

(b) *Request and Timing of Review*. An ETP Holder that receives an execution on an order that was submitted erroneously to the Exchange for its own or customer account may request that the Exchange review the transaction under this Rule. An Officer of the Exchange or such other employee designee of the Exchange ("Officer") will review the transaction under dispute and determine whether it is clearly erroneous, with a view toward maintaining a fair and orderly market and the protection of investors and the public interest. Such request for review will be made in writing via e-mail or other electronic means specified from time to time by the Exchange in a circular distributed to ETP Holders.

(i) *Requests for Review*. Requests for review must be received within thirty (30) minutes of execution time and will include information concerning the time of the transaction(s), security symbol(s), number of shares, price(s), side (bought or sold), and factual basis for believing that the trade is clearly erroneous. Upon receipt of a timely filed request that satisfies the numerical guidelines set forth in Section (c)(1) of this Rule, the counterparty to the trade will be notified by the Exchange as soon as practicable, but generally within 30 minutes. An Officer may request additional supporting written information to aid in the resolution of the matter. If requested, each party to the transaction will provide, within thirty (30) minutes of the request, any supporting written information. Either party to the disputed trade may request the supporting written information provided by the other party on the matter.

(ii) *Routed Executions*. Other market centers will generally have an additional 30 minutes from receipt of their participant's timely filing, but no longer than 60 minutes from the time of the execution at issue, to file with the Exchange for review of transactions routed to the Exchange from that market center and executed on the Exchange.

(c) *Thresholds*. Determinations of a clearly erroneous execution will be made as follows:

(1) *Numerical Guidelines*. Subject to the provisions of paragraph (c)(3) below, a transaction executed during the Core Trading Session or the Early and Late Trading Session will be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth below. The Reference Price will be equal to the consolidated last sale immediately prior to the execution(s) under review except for: (A) Multi-Stock Events involving twenty or more securities, as described in (c)(2) below; and (B) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest.

Reference Price, Circumstance or Product:	**Core Trading Session Numerical Guidelines (Subject transaction's % difference from the Reference Price):**	**Early and Late Trading Session Numerical Guidelines (Subject transaction's % difference from the Reference Price):**
Between $0.00 and $25.00	10%	20%
Between $25.01 and $50.00	5%	10%
Greater than $50.00	3%	6%
Multi-Stock Event - Filings involving five or more, but less than twenty, securities whose executions occurred within a period of five minutes or less	10%	10%
Multi-Stock Event - Filings involving twenty or more securities whose executions occurred within a period of five minutes or less	30%, subject to the terms of paragraph (c)(2) below	30%, subject to the terms of paragraph (c)(2) below
Leveraged ETF/ETN securities	Core Trading Session Numerical Guidelines multiplied by the leverage	Core Trading Session Numerical Guidelines multiplied by the leverage

multiplier (e.g., 2x) multiplier (e.g. 2x)

(2) Multi-Stock Events Involving Twenty or More Securities. During Multi-Stock Events involving twenty or more securities the number of affected transactions may be such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. In such circumstances, the Exchange may use a Reference Price other than consolidated last sale. To ensure consistent application across market centers when this paragraph is invoked, the Exchange will promptly coordinate with the other market centers to determine the appropriate review period, which may be greater than the period of five minutes or less that triggered application of this paragraph, as well as select one or more specific points in time prior to the transactions in question and use transaction prices at or immediately prior to the one or more specific points in time selected as the Reference Price. The Exchange will nullify as clearly erroneous all transactions that are at prices equal to or greater than 30% away from the Reference Price in each affected security during the review period selected by the Exchange and other markets consistent with this paragraph.

(3) *Additional Factors*. Except in the context of a Multi-Stock Event involving five or more securities, an Officer may also consider additional factors to determine whether an execution is clearly erroneous, including but not limited to, system malfunctions or disruptions, volume and volatility for the security, derivative securities products that correspond to greater than 100% in the direction of a tracking index, news released for the security, whether trading in the security was recently halted/resumed, whether the security is an IPO, whether the security was subject to a stock-split, reorganization, or other corporate action, overall market conditions, Early and Late Trading Session executions, validity of the consolidated tapes trades and quotes, consideration of primary market indications, and executions inconsistent with the trading pattern in the stock. Each additional factor will be considered with a view toward maintaining a fair and orderly market and the protection of investors and the public interest.

(d) *Outlier Transactions*. In the case of an Outlier Transaction, an Officer may at its sole discretion, and on a case-by-case basis, consider requests received pursuant to subsection (b) of this Rule after 30 minutes, but not longer than sixty minutes after the transaction in question, depending on the facts and circumstances surrounding such request.

(1) "Outlier Transaction" means a transaction where:

(A) the execution price of the security is greater than three times the current Numerical Guidelines set forth in Paragraph (c)(1) of this Section, or

(B) the execution price of the security in question is not within the Outlier Transaction parameters set forth in Paragraph (d)(1)(A) of the Section but breaches the 52-week high or 52-week low, the Exchange may consider Additional Factors as outlined in Rule 7.10(c)(3), in determining if the transaction qualifies for further review or if the Exchange shall decline to act.

(e) *Review Procedures*.

(1) *Determination by Officer*. Unless both parties (or party, in the case of a Cross Order) to the disputed transaction agree to withdraw the initial request for review, the transaction under dispute will be reviewed, and a determination will be rendered by the Officer. If the Officer determines that the transaction is not clearly erroneous, the Officer will decline to take any action in connection with the completed trade. In the event that the Officer determines that the transaction in dispute is clearly erroneous, the Officer will declare the transaction null and void. A determination will be made generally within 30 minutes of receipt of the complaint, but in no case later than the start of Core Trading on the following trading day. The parties will be promptly notified of the determination.

(2) *Appeals*. If an ETP Holder affected by a determination made under this Rule so requests within the time permitted below, the Clearly Erroneous Execution Panel ("CEE Panel") will review decisions made by the Officer under this Rule, including whether a clearly erroneous execution occurred and whether the correct determination was made; provided however that the CEE Panel will not review decisions made by an officer under subsection (f) of this Rule if such Officer also determines under subsection (f) of this Rule that the number of the affected transactions is such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest, and further provided that with respect to rulings made in conjunction with one or more additional market centers, the number of the affected transactions is similarly such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest and, hence, are also non-appealable.

(A) The CEE Panel will consist of the Exchange Chief Regulatory Officer ("CRO"), or a designee of the CRO, and representatives from two (2) ETP Holders.

(B) The Exchange will designate at least ten (10) ETP Holder representatives to be called upon to serve on the CEE Panel as needed. In no case will a CEE Panel include a person related to a party to the trade in question. To the extent reasonably possible, the Exchange will call upon the designated representatives to participate on a CEE Panel on an equally frequent basis.

(3) A request for review on appeal must be made via e-mail within thirty (30) minutes after the party making the appeal is given notification of the initial determination being appealed. The CEE Panel will review the facts and render a decision as soon as practicable, but generally on the same trading day as the execution(s) under review. On requests for appeal received between 3:00 p.m. Eastern Time and the close of trading in the Late Trading Session, a decision will be rendered as soon as practicable, but in no case later than the trading day following the date of the execution under review.

(4) The CEE Panel may overturn or modify an action taken by the Officer under this Rule. All determinations by the CEE Panel will constitute final action by the Exchange on the matter at issue.

(5) If the CEE Panel votes to uphold the decision made pursuant to Rule 7.10(e)(1), the Exchange will assess a $500.00 fee against the ETP Holder(s) who initiated the request for appeal.

(6) Any determination by an Officer or by the CEE Panel will be rendered without prejudice as to the rights of the parties to the transaction to submit their dispute to arbitration.

(f) *System Disruption or Malfunctions*. In the event of any disruption or a malfunction in the operation of any electronic communications and trading facilities of the Exchange in which the nullification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest exist, the Officer, on his or her own motion, may review such transactions and declare such transactions arising out of the operation of such facilities during such period null and void. In such events, the Officer of the Exchange or such other senior level employee designee will rely on the provisions of Section (c)(1)-(3) of this Rule, but in extraordinary circumstances may also use a lower Numerical Guideline if necessary to maintain a fair and orderly market, protect investors and the public interest. Absent extraordinary circumstances, any such action of the Officer pursuant to this subsection (f) will be taken within thirty (30) minutes of detection of the erroneous transaction. When extraordinary circumstances exist, any such action of the Officer must be taken by no later than the start of Core Trading on the day following the date of execution(s) under review. Each ETP Holder involved in the transaction will be notified as soon as practicable, and the ETP Holder aggrieved by the action may appeal such action in accordance with the provisions of subsection (e)(2)-(4).

(g) *Officer Acting On Own Motion*. An Officer, acting on its own motion, may review potentially erroneous executions and declare trades null and void or will decline to take any action in connection with the completed trade(s). In such events, the Officer of the Exchange or such other senior level employee designee will rely on the provisions of Section (c)(1)-(3) of this Rule. Absent extraordinary circumstances, any such action of the Officer will be taken in a timely fashion, generally within thirty (30) minutes of the detection of the erroneous transaction. When extraordinary circumstances exist, any such action of the Officer must be taken by no later than the start of Core Trading on trading day following the date of execution(s) under review. When such action is taken independently, each party involved in the transaction will be notified as soon as practicable by the Exchange, and the party aggrieved by the action may appeal such action in accordance with the provisions of subsection (e)(2)-(4) above.

(h) *Trade Nullification for UTP Securities that are Subject of Initial Public Offerings ("IPOs")*. Pursuant to SEC Rule 12f-2, as amended, the Exchange may extend unlisted trading privileges to a security that is the subject of an initial public offering when at least one transaction in the subject security has been effected on the national securities exchange or association upon which the security is listed and the transaction has been reported pursuant to an effective transaction reporting plan. A clearly erroneous error may be deemed to have occurred in the opening transaction of the subject security if the

execution price of the opening transaction on the Exchange is the lesser of $1.00 or 10% away from the opening price on the listing exchange or association. In such circumstances, the Officer will declare the opening transaction null and void or will decline to take action in connection with the completed trade(s). Clearly erroneous executions of subsequent transactions of the subject security will be reviewed in the same manner as the procedure set forth in (e)(1). Absent extraordinary circumstances, any such action of the Officer pursuant to this subsection (h) will be taken in a timely fashion, generally within thirty (30) minutes of the detection of the erroneous transaction. When extraordinary circumstances exist, any such action of the Officer must be taken by no later than the start of Core Trading on the day following the date of execution(s) under review. Each party involved in the transaction will be notified as soon as practicable by the Exchange, and the party aggrieved by the action may appeal such action in accordance with the provisions of subsection (e)(2)-(4) above.

(i) Securities Subject to Limit Up-Limit Down Plan. For purposes of this paragraph, the phrase "Limit Up-Limit Down Plan" or "Plan" means the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Exchange Act. The provisions of paragraphs (a) through (h) above and (j) through (k) below will govern all Exchange transactions, including transactions in securities subject to the Plan, other than as set forth in this paragraph (i). If as a result of an Exchange technology or systems issue any transaction occurs outside of the applicable price bands disseminated pursuant to the Plan, an Officer of the Exchange or senior level employee designee, acting on his or her own motion or at the request of a third party, will review and declare any such trades null and void. Absent extraordinary circumstances, any such action of the Officer of the Exchange or other senior level employee designee will be taken in a timely fashion, generally within thirty (30) minutes of the detection of the erroneous transaction. When extraordinary circumstances exist, any such action of the Officer of the Exchange or other senior level employee designee must be taken by no later than the start of the Core Trading Hours on the trading day following the date on which the execution(s) under review occurred. Each ETP Holder involved in the transaction will be notified as soon as practicable by the Exchange, and the party aggrieved by the action may appeal such action in accordance with the provisions of paragraph (e)(2) above. In the event that a single plan processor experiences a technology or systems issue that prevents the dissemination of price bands, the Exchange will make the determination of whether to nullify transactions based on paragraphs (a) through (h) above and (j) through (k) below.

(j) *Multi-Day Event*. A series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions (the "Event"). An Officer, acting on his or her own motion, will take action to declare all transactions that occurred during the Event null and void not later than the start of trading on the day following the last transaction in the Event. If trading in the security is halted before the valuation error is corrected, an Officer will take action to declare all transactions that occurred during the Event null and void prior to the resumption of trading. Notwithstanding the foregoing, no action can be taken pursuant to this paragraph with respect to any transactions that have

reached settlement date or that result from an initial public offering of a security. To the extent transactions related to an Event occur on one or more other market centers, the Exchange will promptly coordinate with such other market center(s) to ensure consistent treatment of the transactions related to the Event, if practicable. Any action taken in connection with this paragraph will be taken without regard to the Numerical Guidelines set forth in this Rule. Each ETP Holder involved in a transaction subject to this paragraph will be notified as soon as practicable by the Exchange, and the party aggrieved by the action may appeal such action in accordance with the provisions of paragraph (e)(2) above.

(k) *Trading Halts.* In the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of the Exchange, another market center or responsible single plan processor in connection with the transmittal or receipt of a regulatory trading halt, suspension or pause, an Officer, acting on his or her own motion, will nullify any transaction in a security that occurs after the primary listing market for such security declares a regulatory trading halt, suspension or pause with respect to such security and before such regulatory trading halt, suspension or pause with respect to such security has officially ended according to the primary listing market. In addition, in the event a regulatory trading halt, suspension or pause is declared, then prematurely lifted in error and is then re-instituted, an Officer will nullify transactions that occur before the official, final end of the halt, suspension or pause according to the primary listing market. Any action taken in connection with this paragraph will be taken in a timely fashion, generally within thirty (30) minutes of the detection of the erroneous transaction and in no circumstances later than the start of Core Trading Hours on the trading day following the date of execution(s) under review. Any action taken in connection with this paragraph will be taken without regard to the Numerical Guidelines set forth in this Rule. Each ETP Holder involved in a transaction subject to this paragraph will be notified as soon as practicable by the Exchange, and the party aggrieved by the action may appeal such action in accordance with the provisions of paragraph (e)(2) above.

Rule 7.11. Limit Up—Limit Down Plan and Trading Pauses in Individual Securities Due to Extraordinary Market Volatility

The provisions of this Rule shall be in effect during a pilot to coincide with the pilot period for the Regulation NMS Plan to Address Extraordinary Market Volatility.

(a) **Limit Up-Limit Down Mechanism.**

(1) **Definitions**

(A) "Plan" means the Plan to Address Extraordinary Market Volatility Submitted to the Securities and Exchange Commission Pursuant to Rule 608 of Regulation NMS under the Exchange Act, Exhibit A to Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012), as it may be amended from time to time.

(B) All capitalized terms not otherwise defined in this Rule shall have the meanings set forth in the Plan or Exchange rules, as applicable.

(2) **Exchange Participation in the Plan.** The Exchange is a Participant in, and subject to the applicable requirements of, the Plan, which establishes procedures to address extraordinary volatility in NMS Stocks.

(3) **ETP Holder Compliance**. ETP Holders will comply with the applicable provisions of the Plan.

(4) **Exchange Compliance with the Plan**. Exchange systems will not display or trade buy (sell) interest above (below) the Upper (Lower) Price Bands, unless such interest is specifically exempted under the Plan.

(5) **Repricing and Cancellation of Orders**. Exchange systems will reprice or cancel buy (sell) orders that are priced or could be traded above (below) the Upper (Lower) Price Band.

(A) Incoming Market Orders, Limit Orders designated IOC, and Day ISOs will be traded, or if applicable, routed to an Away Market, to the fullest extent possible, subject to Rule 7.31(a)(1)(B) (Trading Collars for Market Orders) and 7.31(a)(2)(B) (price check for Limit Orders) at prices at or within the Price Bands.

(i) Any quantity of such orders that cannot be traded or routed at prices at or within the Price Bands will be cancelled and the ETP Holder will be notified of the reason for the cancellation.

(ii) If Price Bands move and the working price of a resting Market Order or Day ISO to buy (sell) is above (below) the updated Upper (Lower) Price Band, such orders will be cancelled.

(B) Incoming Limit Orders will be traded, or if applicable, routed to an Away Market, to the fullest extent possible, subject to Rule 7.31(a)(2)(B) (price check for Limit Orders) at prices at or within the Price Bands.

(i) Unless the ETP Holder has entered an instruction to cancel any quantity of a Limit Order that cannot be traded or routed at prices at or within the Price Bands, such order will be assigned a working price, and if applicable, display price, at the Upper (Lower) Price Band, consistent with the terms of the order.

(ii) The repricing of Limit Orders will be applicable to both incoming and resting orders. If the Price Bands move and the limit price of a repriced order is at or within the Price Band, such Limit Order will be adjusted to its limit price.

(iii) Primary Until 9:45 Orders and Primary After 3:55 Orders will be priced under paragraph (a)(5)(B) of this Rule only when such orders are entered on or resting on the Exchange Book.

(C) **Sell Short Orders**. If a Limit Order does not include a cancel instruction and is also a sell short order, during a Short Sale Price Test, as set forth in Rule 7.16(f), such short sale order priced below the Lower Price Band will be repriced to the higher of the Lower Price Band or the Permitted Price, as defined in Rule 7.16(f)(5)(A). Sell short orders that are not eligible to be repriced will be treated as the order types specified in (a)(5)(A) above.

(D) Incoming Q Orders to buy (sell) with a limit price above (below) the Upper (Lower) Price Band will be rejected. If Price Bands move and the limit price of a resting Q Order to buy (sell) is above (below) the updated Upper (Lower) Price Band, the Q Order will be cancelled.

(E) Limit IOC Cross Orders with a cross price above (below) the Upper (Lower) Price Band will be rejected.

(F) If the midpoint of the PBBO is above (below) the Upper (Lower) Price Band, an MPL Order to buy (sell) will not be repriced or rejected and will not be eligible to trade. An MPL Order will be cancelled or rejected if the ETP Holder enters an instruction to cancel or reject such MPL Order.

(6) **Routing to Away Markets**. Exchange systems will not route buy (sell) orders to an Away Market displaying a sell (buy) quote that is above (below) the Upper (Lower) Price Band, provided that the Exchange will route Primary Only Orders, Primary Until 9:45, and Primary After 3:55 Orders to the primary listing market regardless of price.

(b) **Re-opening of Trading following a Trading Pause**. If a primary listing market issues Trading Pause, the Exchange will resume trading as provided for in Rule 7.18.

Rule 7.12. Trading Halts Due to Extraordinary Market Volatility

This Rule shall be in effect during a pilot period to coincide with the pilot period for the Regulation NMS Plan to Address Extraordinary Market Volatility.

(a) The Exchange shall halt trading in all stocks and shall not reopen for the time periods specified in this Rule if there is a Level 1, 2, or 3 Market Decline.

(i) For purposes of this Rule, a Market Decline means a decline in price of the S&P 500® Index between 9:30 a.m. and 4:00 p.m. Eastern Time on a trading day as compared to the closing price of the S&P 500® Index for the immediately preceding trading day. The Level 1, Level 2, and Level 3 Market Declines that will be applicable for the trading day will be publicly disseminated before 9:30 a.m.

(ii) A "Level 1 Market Decline" means a Market Decline of 7%.

(iii) A "Level 2 Market Decline" means a Market Decline of 13%.

(iv) A "Level 3 Market Decline" means a Market Decline of 20%.

(b) Halts in Trading.

(i) If a Level 1 Market Decline or a Level 2 Market Decline occurs after 9:30 a.m. Eastern Time and up to and including 3:25 p.m. Eastern Time, or in the case of an early scheduled close, 12:25 p.m. Eastern Time, the Exchange shall halt trading in all stocks for 15 minutes after a Level 1 or Level 2 Market Decline. The Exchange shall halt trading based on a Level 1 or Level 2 Market Decline only once per trading day. The Exchange will not halt trading if a Level 1 Market Decline or a Level 2 Market Decline occurs after 3:25 p.m. Eastern Time, or in the case of an early scheduled close, 12:25 Eastern Time.

(ii) If a Level 3 Market Decline occurs at any time during the trading day, the Exchange shall halt trading in all stocks until the primary listing market opens the next trading day.

(c) Re-opening of Trading

(i) If the primary listing market halts trading in all stocks, the Exchange will halt trading in all stocks until trading has resumed on the primary listing market or notice has been received from the primary listing market that trading may resume. If the primary listing market does not reopen a security within 15 minutes following the end of the 15-minute halt period, the Exchange may resume trading in that security.

(d) Nothing in this Rule should be construed to limit the ability of the Exchange to otherwise halt, suspend, or pause the trading in any stock or stocks traded on the Exchange pursuant to any other Exchange rule or policy.

Rule 7.13. Trading Suspensions

Except as otherwise stated in Rule 5.5, the Chair of the Board or the President, or the officer designee of the Chair or the President, shall have the power to suspend trading in any and all securities traded on the Exchange whenever in his or her opinion such suspension would be in the public interest. No such action shall continue longer than a period of two days, or as soon thereafter as a quorum of Directors can be assembled, unless the Board approves the continuation of such suspension.

Rule 7.14. Clearance and Settlement

(a) Each ETP Holder shall either:

(1) be a clearing firm;

(2) clear transactions on the Exchange through a clearing firm; or

(3) clear transactions through an entity duly authorized by the Exchange.

(b) An ETP Holder must give up the name of the clearing firm through which each transaction on the Exchange will be cleared. If there is a subsequent change in identity of the clearing firm through which the transaction on the Exchange will be cleared, the ETP Holder shall report such change to the Exchange at least five (5) business days in advance.

(c) Each clearing firm must be admitted to the Exchange as an ETP Holder by meeting the qualification requirements set forth above in Rule 2; provided, however, if the clearing firm has become an ETP Holder for the sole purpose of acting as a clearing firm on the Exchange, such clearing firm need not pay the regular ETP Holder fee. The clearing firm shall be responsible for the clearance of the transactions effected by each ETP Holder which gives up such clearing firm's name pursuant to a letter of authorization, letter of guarantee or other authorization given by such clearing firm to such ETP Holder, which authorization shall be submitted to the Exchange.

(d) Notwithstanding any other provisions contained in the Rule to the contrary, the Board may extend or postpone the time of the delivery of a transaction on the Exchange whenever in its opinion, such action is called for by the public interest, by just and equitable principles of trade or by the need to meet unusual conditions. In such case, delivery shall be effected at such time, place and manner as directed by the Board of Directors.

Rule 7.15. Stock Option Transactions

(a) No Market Maker nor his or her firm, nor any participant therein, shall, directly or indirectly, be interested in a pool dealing or trading in any security in which he or she is registered as a Market Maker.

(b) No Market Maker, nor his or her firm, nor any participant therein shall acquire, hold or grant, directly or indirectly, any interest in any option to buy or to sell or to receive or to deliver shares of any security in which he or she is registered as a Market Maker, unless such option is issued by the Options Clearing Corporation and is immediately reported to the Exchange in accordance with such procedures as may be prescribed by the Exchange.

Rule 7.16. Short Sales

(a) The terms "long", "short", and "short exempt" will have the meaning given to each by Regulation SHO, 17 CFR 240.200 et seq.

(b) Order Identification. No ETP Holder of the Exchange may, by the use of any facility of the Exchange, execute any sell order unless such order is indicated as either "long", "short", or "short exempt".

(c) Marking Orders. An ETP Holder must mark all sell orders as "long", "short", or "short exempt". Sales should be marked "short", "short exempt", and "long" in accordance with SEC Rule 200(g).

(d) Covering Short Sales. No ETP Holder of the Exchange will lend, or arrange for the loan of any security for delivery to the broker for the purchaser after sale, or will fail to deliver a security on the date delivery is due, if such ETP Holder knows or has reasonable grounds to believe that the sale was effected, or will be effected, pursuant to an order marked "long" unless such ETP Holder knows, or has been informed by the seller (i) that the security sold has been forwarded to the account for which the sale was effected, or (ii) that the seller owns the security sold, that it is then impracticable to deliver such security to such account and that delivery will be made as soon as is possible without undue inconvenience or expense. The provisions of this subsection (d) will not apply to:

(1) The lending of a security by an ETP Holder through the medium of a loan to another ETP Holder; or

(2) Any loan, or arrangement for the loan, of any security, or any failure to deliver any security if, prior to such loan, arrangement, or failure to deliver, the Exchange finds (A) that such sale resulted from a mistake made in good faith; (B) either that the condition of the market at the time the mistake was discovered was such that undue hardship would result from covering the transaction by a "purchase for cash" or that the mistake was made by the seller's broker; and (C) that due diligence was used to ascertain that either (i) the security to be delivered after sale is carried in the account for which the sale was effected, or (ii) such ETP Holder had been informed that the seller owns the security being sold, and as soon as possible without undue inconvenience or expense, will deliver the security owned to the account for which the sale was effected.

(e) **General**. Short sale executions, order marking and securities lending in connection with short sales by ETP Holders will be subject to, and comply with, the provisions of Regulation SHO under the Exchange Act.

(f) **Short Sale Price Test Pursuant to Rule 201 of Regulation SHO**. The following provisions will apply to short sales subject to the provisions of Rule 201 of Regulation SHO:

(1) **Definitions**. For purposes of this Rule, the terms "covered security," "listing market," and "national best bid" ("NBB") will have the same meaning as such terms have in Rule 201 of Regulation SHO.

(2) **Short Sale Price Test**. Except as provided in subparagraphs (f)(6) and (f)(7)

below, Exchange systems will not execute or display a short sale order with respect to a covered security at a price that is less than or equal to the current NBB if the price of that security decreases by 10% or more, as determined by the listing market for the security, from the Official Closing Price on the Exchange as of the end of regular trading hours on the prior day ("Trigger Price").

(3) Reserved.

(4) **Duration of Short Sale Price Test**. If the Short Sale Price Test is triggered by the listing market with respect to a covered security, the Short Sale Price Test will remain in effect until the close of trading on the next trading day, as provided for in Regulation SHO Rule 201(b)(1)(ii) (the "Short Sale Period").

(5) **Re-pricing of Orders during Short Sale Period**. During the Short Sale Period, short sale orders will be handled by Exchange systems as follows:

(A) ***Re-pricing of Orders*** —Except as provided for in paragraphs (f)(5)(B) - (I) of this Rule, short sale orders with a working price and/or display price equal to or lower than the NBB will have the working price and/or display price adjusted one minimum price increment above the current NBB ("Permitted Price"). The Permitted Price for securities for which the NBB is $1 or more is $.01 above the NBB; the Permitted Price for securities for which the NBB is below $1 is $.0001 above the NBB. To reflect declines in the NBB, the Exchange will continue to adjust the working price of a short sale order at the lowest Permitted Price down to the order's original limit price, or if a Market Order, until the order is filled.

(B) ***Priority 1 and Priority 3 Orders*** —Market Orders and orders and reserve interest ranked Priority 3- Non-Display Orders will have a working price adjusted to a Permitted Price and will continuously adjust to a Permitted Price as the NBB moves both up and down. Reserve interest that replenishes the displayed quantity of a Reserve Order will be replenished at a Permitted Price.

(C) ***Pegged Orders and MPL Orders*** —Pegged Orders and MPL Orders, including orders marked buy, sell long and sell short exempt, will use the NBBO instead of the PBBO as the reference price. The working price of MPL Orders will be the mid-point of the NBBO, including situations where the mid-point is less than one minimum price increment above the NBB.

(D) ***Tracking Orders*** —The working price of Tracking Orders will not be adjusted. Tracking Orders will not be eligible to trade at or below the NBB.

(E) ***IOC Orders*** —Limit Orders designated IOC requiring that all or part of the order be traded immediately will be traded to the extent possible at a Permitted Price and higher and then cancelled, and the working price will not be adjusted.

(F) ***ISO*** —ISOs will be rejected if the limit price is at or below the NBB.

(G) ***Cross Orders*** —Cross Orders with a cross price at or below the NBB will be rejected.

(H) ***Returned Orders*** —If a Short Sale Price Test is triggered after an order has routed, any returned quantity of the order and the order it joins on the Exchange Book will be adjusted to a Permitted Price. If the order that was routed was a Reserve Order, the returned quantity of the order will first join the reserve interest at a Permitted Price before being evaluated for replenishing the display quantity of the Reserve Order.

(I) ***Proactive if Locked/Crossed Modifier*** —Proactive if Locked/Crossed Modifiers will be ignored.

(6) **Execution of Permissible Orders during the Short Sale Period**. During the Short Sale Period, a short sale order will be executed and displayed without regard to price if, at the time of initial display of the short sale order, the order was at a price above the then current NBB. Except as specifically noted in subparagraph (f)(5), short sale orders that are entered into the Exchange prior to the Short Sale Period but are not displayed, including the reserve interest of a Reserve Order, will be adjusted to a Permitted Price.

(7) **Short Exempt Orders**. During the Short Sale Period, Exchange systems will execute and display orders marked "short exempt" without regard to whether the order is at a Permitted Price. Exchange systems will accept orders marked "short exempt" at any time when such systems are open for order entry, regardless of whether the Short Sale Price Test has been triggered.

Rule 7.17. Firm Orders and Quotes

(a) *Orders at Stated Prices and Sizes*. No ETP Holder shall submit to the Exchange an order (including Q Orders) to buy from or sell to any person any security at a stated price and/or size unless such ETP Holder is prepared to, and, upon submission of an appropriate contra-side order, does, purchase or sell, as the case may be, at such price and/or size and under such conditions as are stated at the time of submission of such order to buy or sell.

(b) *Firm Quotes*. Firm Quotes. All bids made and all offers made shall be in accordance with the provisions of Rule 602 of Regulation NMS, governing the dissemination of quotations for reported securities.

Rule 7.18. Halts

(a) UTP Regulatory Halts. If the UTP Listing Market declares a UTP Regulatory Halt, the Exchange will halt trading in that security until it receives notification from the UTP Listing Market that the halt or suspension is no longer in effect or as provided for in Rules 7.11 and 7.12, provided that, during Core Trading Hours, the Exchange will halt

trading until it receives the first Price Band in that security. If a UTP Regulatory Halt was issued for the purpose of dissemination of material news, the Exchange will assume that adequate publication or dissemination has occurred upon the expiration of one hour after initial publication in a national news dissemination service of the information that gave rise to an UTP Regulatory Halt and may, at its discretion, reopen trading at that time, notwithstanding notification from the UTP Listing Market that the halt or suspension is no longer in effect.

(b) The Exchange will not conduct a reopening auction in a UTP Security and will process new and existing orders in a UTP Security during a UTP Regulatory Halt as follows:

(1) cancel any unexecuted portion of Market Orders and orders not eligible to trade in the current trading session on the Exchange Book;

(2) maintain all other resting orders in the Exchange Book at their last working price and display price;

(3) accept and process all cancellations;

(4) process a request to cancel and replace as a cancellation without replacing the order;

(5) accept and route new Market Orders, Primary Only MOO/LOO Orders, Primary Only Day Orders, and Primary Only MOC/LOC Orders to the primary listing market; and

(6) reject all other incoming order instructions until the security begins trading on the Exchange pursuant to paragraph (a) of this Rule.

(c) Halts in Exchange Traded Products.

(1) Trading Halts for UTP Exchange Traded Products.

(A) Early Trading Session. If a UTP Exchange Traded Product begins trading on the Exchange in the Early Trading Session and subsequently a temporary interruption occurs in the calculation or wide dissemination of the Intraday Indicative Value ("IIV") or the value of the underlying index, as applicable, to such UTP Exchange Traded Product, by a major market data vendor, the Exchange may continue to trade the UTP Exchange Traded Product for the remainder of the Early Trading Session.

(B) Core Trading Session. During the Core Trading Session, if a temporary interruption occurs in the calculation or wide dissemination of the applicable IIV or value of the underlying index by a major market data vendor and the listing market halts trading in the UTP Exchange Traded Product, the Exchange, upon

notification by the primary listing market of such halt due to such temporary interruption, also shall immediately halt trading in the UTP Exchange Traded Product on the Exchange.

(C) Late Trading Session and Next Business Day's Early Session.

(1) If the IIV or the value of the underlying index continues not to be calculated or widely available after the close of the Core Trading Session, the Exchange may trade the UTP Exchange Traded Product in the Late Trading Session only if the listing market traded such securities until the close of its regular trading session without a halt.

(2) If the IIV or the value of the underlying index continues not to be calculated or widely available as of the commencement of the Early Trading Session on the next business day, the Exchange shall not commence trading of the UTP Exchange Traded Product in the Early Trading Session that day. If an interruption in the calculation or wide dissemination of the IIV or the value of the underlying index continues, the Exchange may resume trading in the UTP Exchange Traded Product only if calculation and wide dissemination of the IIV or the value of the underlying index resumes or trading in the UTP Exchange Traded Product resumes in the primary listing market.

Section 2. Market Makers

Rule 7.20. Registration of Market Makers

(a) No ETP Holder shall act as a Market Maker in any security (including but not limited to entering Q orders as defined in Rule 7.31(l)) unless such ETP Holder is registered as a Market Maker in such security by the Exchange pursuant to this Rule and the Exchange has not suspended or canceled such registration. Registered Market Makers are designated as dealers on the Exchange for all purposes under the Exchange Act and the rules and regulations thereunder.

(b) An applicant for registration as a Market Maker shall file an application in writing on such form as the Exchange may prescribe. Applications shall be reviewed by the Exchange, which shall consider such factors including, but not limited to capital operations, personnel, technical resources, and disciplinary history.

(c) An applicant's registration as a Market Maker shall become effective upon receipt by the ETP Holder of notice of an approval of registration by the Exchange. In the event that an application is disapproved by the Exchange, the applicant shall have an opportunity to be heard upon the specific grounds for the denial, in accordance with the provisions of the Rule 10.9500 Series.

(d) The registration of a Market Maker may be suspended or terminated by the Exchange upon a determination of any substantial or continued failure by such Market Maker to

engage in dealings in accordance with Rule 7.23.

(e) Any registered Market Maker may withdraw its registration by giving written notice to the Exchange. Such withdrawal of registration will become effective on the business day following the Exchange's receipt of the notice. A Market Maker that fails to notify the Exchange of its written notice of withdrawal on the business day prior to such withdrawal may be subject to formal disciplinary action pursuant to the Rule 10.9200 Series. Subsequent to withdrawal, the ETP Holder will not be permitted to re-register as a Market Maker for a period of six months.

Rule 7.21. Obligations of Market Maker Authorized Traders

(a) *General*. MMATs are permitted to enter orders only for the account of the Market Maker for which they are registered.

(b) *Registration of Market Maker Authorized Traders*. The Exchange may, upon receiving an application in writing from a Market Maker on a form prescribed by the Exchange, register a person as a MMAT.

(1) MMATs may be officers, partners, employees or other Associated Persons of ETP Holders that are registered with the Exchange as Market Makers.

(2) To be eligible for registration as a MMAT, a person must successfully complete the Securities Trader Examination (Series 57) and complete a training and certification program sponsored by the Exchange; provided, however, the requirement to complete the Series 57 Examination may be waived by the Exchange if the applicant MMAT has served as a dealer-specialist or market maker on a registered national securities exchange or association for at least two consecutive years within three years of the date of application.

(3) The Exchange may require a Market Maker to provide additional information the Exchange considers necessary to establish whether registration should be granted.

(4) The Exchange may grant a person conditional registration as a MMAT subject to any conditions it considers appropriate in the interests of maintaining a fair and orderly market.

(5) A Market Maker must ensure that a MMAT is properly qualified to perform market making activities, including but not limited to ensuring the MMAT has met the requirements set forth in paragraph (b)(2) of this Rule.

(c) *Suspension or Withdrawal of Registration*.

(1) The Exchange may suspend or withdraw the registration previously given to a person to be a MMAT if the Exchange determines that:

(A) the person has caused the Market Maker to fail to comply with the securities laws, rules and regulations or the Bylaws, Rules and procedures of the Exchange;

(B) the person is not properly performing the responsibilities of a MMAT;

(C) the person has failed to meet the conditions set forth under paragraph (b) above; or

(D) the Exchange believes it is in the interest of maintaining fair and orderly markets.

(2) If the Exchange suspends the registration of a person as a MMAT, the Market Maker must not allow the person to submit orders into the Exchange.

(3) The registration of a MMAT will be withdrawn upon the written request of the ETP Holder for which the MMAT is registered. Such written request shall be submitted on the form prescribed by the Exchange.

Rule 7.22. Registration of Market Makers in a Security

(a) A Market Maker may become registered in a newly authorized security or in a security already admitted to dealings on the Exchange by filing a security registration form with the Exchange. Registration in the security shall become effective on the first business day following the Exchange's approval of the registration. In considering the approval of the registration of the Market Maker in a security, the Exchange may consider:

(1) the financial resources available to the Market Maker;

(2) the Market Maker's experience, expertise and past performance in making markets, including the Market Maker's performance in other securities;

(3) the Market Maker's operational capability;

(4) the maintenance and enhancement of competition among Market Makers in each security in which they are registered;

(5) the existence of satisfactory arrangements for clearing the Market Maker's transactions;

(6) the character of the market for the security, *e.g.*, price, volatility, and relative liquidity.

(b) A Market Maker's registration in a security may be terminated by the Exchange if the Market Maker fails to enter quotations in the security within five (5) business days after the Market Maker's registration in the security becomes effective.

(c) Reserved.

(d) Reserved.

(e) *Voluntary Termination of Security Registration*. A Market Maker may voluntarily terminate its registration in a security by providing the Exchange with a one-day written notice of such termination. A Market Maker that fails to give advanced written notice of termination to the Exchange may be subject to formal disciplinary action pursuant to the Rule 10.9200 Series.

(f) The Exchange may suspend or terminate any registration of a Market Maker in a security or securities under this Rule whenever, in the Exchange's judgment, the interests of a fair and orderly market are best served by such action.

(g) An ETP Holder may seek review of any action taken by the Exchange pursuant to this Rule, including the denial of the application for, or the termination or suspension of, a Market Maker's registration in a security or securities, in accordance with the Rule 10.9500 Series.

Rule 7.23. Obligations of Market Makers

(a) *General*. ETP Holders who are registered as Market Makers in one or more securities traded on the Exchange must engage in a course of dealings for their own account to assist in the maintenance, insofar as reasonably practicable, of fair and orderly markets on the Exchange in accordance with this Rule. The responsibilities and duties of a Market Maker specifically include, but are not limited to, the following:

(1) A Market Maker shall maintain continuous, two-sided trading interest in those securities in which the Market Maker is registered to trade ("Two-Sided Obligation").

(A) Two-Sided Obligation. For each security in which an ETP Holder is registered as a Market Maker, in satisfaction of the ETP Holder's Two-Sided Obligation, the ETP Holder shall be willing to buy and sell such security for its own account on a continuous basis during Core Trading Hours and shall enter and maintain two-sided trading interest that is identified to the Exchange as the interest meeting the Two-Sided Obligation and is displayed in the Exchange Book at all times. Interest eligible to be considered as part of a Market Maker's Two-Sided Obligation shall have a displayed size of at least one normal unit of trading (or a larger multiple thereof); provided, however, that a Market Maker may augment its Two-Sided Obligation size to display limit orders priced at the same price as the Two-Sided Obligation. After an execution against its Two-Sided Obligation, a Market Maker must ensure that additional trading interest exists in the Exchange Book to satisfy its Two-Sided Obligation either by immediately entering new interest to comply with this obligation to maintain continuous two-sided quotations or by identifying existing interest on the Exchange Book that will satisfy this obligation.

(B) *Pricing Obligations*. For NMS stocks (as defined in Rule 600 under Regulation NMS) a Market Maker shall adhere to the pricing obligations established by this Rule during Core Trading Hours; provided, however, that such pricing obligations (i) shall not commence during any trading day until after the first regular way transaction on the primary listing market in the security, as reported by the responsible single plan processor, and (ii) shall be suspended during a trading halt, suspension, or pause, and shall not re-commence until after the first regular way transaction on the primary listing market in the security following such halt, suspension, or pause, as reported by the responsible single plan processor.

(i) Bid (Offer) Quotations. At the time of entry of bid (offer) interest satisfying the Two-Sided Obligation, the price of the bid (offer) interest shall be not more than the Designated Percentage away from the then current National Best Bid (Offer), or if no National Best Bid (Offer), not more than the Designated Percentage away from the last reported sale from the responsible single plan processor. In the event that the National Best Bid (Offer) (or if no National Best Bid (Offer), the last reported sale) increases (decreases) to a level that would cause the bid (offer) interest of the Two-Sided Obligation to be more than the Defined Limit away from the National Best Bid (Offer) (or if no National Best Bid (Offer), the last reported sale) or if the bid (offer) is executed or cancelled, the Market Maker shall enter new bid (offer) interest at a price not more than the Designated Percentage away from the then current National Best Bid (Offer) (or if no National Best Bid (Offer), the last reported sale), or identify to the Exchange current resting interest that satisfies the Two-Sided Obligation.

(ii) The National Best Bid and Offer shall be determined by the Exchange in accordance with its procedures for determining protected quotations under Rule 600 under Regulation NMS.

(iii) For purposes of this Rule, the "Designated Percentage" shall be 8% for Tier 1 NMS Stocks under the Limit Up-Limit Down Plan ("Tier 1 NMS Stocks"), 28% for Tier 2 NMS Stocks under the Limit Up - Limit Down Plan ("Tier 2 NMS Stocks") with a price equal to or greater than $1.00, and 30% for Tier 2 NMS Stocks with a price lower than $1.00, except that between 9:30 a.m. and 9:45 a.m. Eastern Time and between 3:35 p.m. Eastern Time and the close of Core Trading Hours, the Designated Percentage shall be 20% for Tier 1 NMS Stocks, 28% for Tier 2 NMS Stocks with a price equal to or greater than $1.00, and 30% for Tier 2 NMS Stocks with a price lower than $1.00. For purposes of this paragraph, rights and warrants will be considered Tier 2 NMS Stocks.

(iv) For purposes of this rule, the " Defined Limit" shall be 9.5% for Tier 1 NMS Stocks, 29.5% for Tier 2 NMS Stocks with a price equal to or greater than $1.00, and 31.5% for Tier 2 NMS Stocks with a price lower than $1.00, except that between 9:30 a.m. and 9:45 a.m. Eastern Time and between 3:35 p.m. Eastern Time and the close of Core Trading Hours, the Defined Limit shall be

21.5% for Tier 1 NMS Stocks, 29.5% for Tier 2 NMS Stocks with a price equal to or greater than $1.00, and 31.5% for Tier 2 NMS Stocks with a price lower than $1.00. For purposes of this paragraph, rights and warrants will be considered Tier 2 NMS Stocks.

(C) Nothing in this Rule shall preclude a Market Marker from entering trading interest at price levels that are closer to the National Best Bid and Offer than the levels required by this Rule;

(2) A Market Maker shall maintain adequate minimum capital in accordance with the provisions of Rule 15c3-1 under the Exchange Act.

(3) A Market Maker shall remain in Good Standing with the Exchange;

(4) A Market Maker shall inform the Exchange of any material change in financial or operational condition or in personnel.

(5) A Market Maker shall clear and settle transactions through the facilities of a registered clearing agency. This requirement may be satisfied by direct participation, use of direct clearing services, or by entry into a correspondent clearing arrangement with another ETP Holder that clears trades through such agency.

(b) A Market Maker must satisfy the responsibilities and duties as set forth in paragraph (a) of this Rule during the Core Trading Hours on all days in which the Exchange is open for business.

(c) If the Exchange finds any substantial or continued failure by a Market Maker to engage in a course of dealings as specified in paragraph (a) of this Rule, such Market Maker will be subject to disciplinary action or suspension or revocation of the registration by the Exchange in one or more of the securities in which the Market Maker is registered. Nothing in this Rule will limit any other power of the Board of Directors under the Bylaws, Rules, or procedures of the Exchange with respect to the registration of a Market Maker or in respect of any violation by a Market Maker of the provisions of this Rule. In accordance with the procedures set forth in the Rule 10.9200 Series, an ETP Holder may seek review of actions taken by the Exchange pursuant to this Rule.

(d) *Temporary Withdrawal*. A Market Maker may apply to the Exchange to withdraw temporarily from its Market Maker status in the securities in which it is registered. The Market Maker must base its request on demonstrated legal or regulatory requirements that necessitate its temporary withdrawal, or provide the Exchange an opinion of counsel certifying that such legal or regulatory basis exists. The Exchange will act promptly on such request and, if the request is granted, the Exchange may temporarily reassign the securities to another Market Maker.

Rule 7.24. Reserved.

Rule 7.25. Reserved.

Rule 7.26. Reserved.

Rule 7.27. Reserved.

Rule 7.28. NMS Market Access

(a) Pursuant to the requirements of Rule 610 of Regulation NMS, ETP Holders may elect to allow efficient order execution access to its quotations through the utilization of private electronic linkages between the NMS Participant and other Trading Centers.

(b) In accordance with Regulation NMS, an NMS Participant shall not impose, nor permit to be imposed, any fee or fees for the execution of an order against a Protected Quotation of the NMS Participant in an Eligible Security or against any other quotation of the NMS Participant in an Eligible Security that is the NMS Participant's best bid or offer for that Eligible Security, where such fee or fees exceed the limits provided for in Rule 610(c) of Regulation NMS. As required under Regulation NMS, the terms of access to an NMS Participant's quotations in an Eligible Security may not be unfairly discriminatory so as to prevent or prohibit any person from obtaining efficient access to such displayed quotations through a member of the NMS Participant.

Section 3. Exchange Trading

Rule 7.29. Access

(a) *General*. The Exchange will be available for entry and execution of orders by ETP Holders with authorized access. To obtain authorized access to the Exchange, each ETP Holder must enter into a User Agreement.

Rule 7.30. Authorized Traders

(a) An ETP Holder shall maintain a list of ATs who may obtain access to the Exchange on behalf of the ETP Holder. The ETP Holder shall update the list of ATs as necessary. ETP Holders must provide the list of ATs to the Exchange upon request.

(b) An ETP Holder must have reasonable procedures to ensure that all ATs comply with the trading Rules and procedures related to the Exchange and all other Rules of the Exchange.

(c) An ETP Holder must suspend or withdraw a person's status as an AT if the Exchange has determined that the person has caused the ETP Holder to fail to comply with the Rules of the Exchange and the Exchange has directed the ETP Holder to suspend or withdraw the person's status as an AT.

(d) An ETP Holder must have reasonable procedures to ensure that the ATs maintain the

physical security of the equipment for accessing the facilities of the Exchange to prevent the improper use or access to the systems, including unauthorized entry of information into the systems.

Rule 7.31. Orders and Modifiers

(a) Primary Order Types

(1) Market Order. An unpriced order to buy or sell a stated amount of a security that is to be traded at the best price obtainable without trading through the NBBO. A Market Order must be designated Day and will be rejected on arrival or cancelled if resting if there is no contra-side NBBO. Unexecuted Market Orders are ranked Priority 1 - Market Orders.

(A) On arrival, a Market Order to buy (sell) is assigned a working price of the NBO (NBB) and will trade with all sell (buy) orders on the Exchange Book priced at or below (above) the NBO (NBB) before routing to the NBO (NBB) on an Away Market. The quantity of a Market Order to buy (sell) not traded or routed will remain undisplayed on the Exchange Book at a working price of the NBO (NBB) and be eligible to trade with incoming sell (buy) orders at that price. When the updated NBO (NBB) is displayed, the Market Order to buy (sell) will be assigned a new working price of the updated NBO (NBB) and will trade with all sell (buy) orders on the Exchange Book priced at or below (above) the updated NBO (NBB) before routing to the updated NBO (NBB) on an Away Market. Such assessment will continue at each new contra-side NBBO until the order is filled or a Trading Collar is reached. If the NBBO becomes locked or crossed while the order is held undisplayed, the Market Order to buy (sell) will be assigned a working price of the NBB (NBO).

(B) Trading Collar. During Core Trading Hours, a Market Order to buy (sell) will not trade or route to an Away Market at a price at or above (below) the Trading Collar. Trading Collars will not apply to Limit Orders.

(i) Calculation of the Trading Collar. The Trading Collar will be based on a price that is the greater of $0.15 or a specified percentage away from the consolidated last sale price and it will be continuously updated based on market activity. The specified percentage is equal to the corresponding "numerical guideline" percentage set forth in Rule 7.10(c)(1) (Clearly Erroneous Executions) for the Core Trading Session. The upper boundary of the Trading Collar is the consolidated last sale price increased by the greater of $0.15 or the specified percentage rounded down to the MPV for the security, and the lower boundary is the consolidated last sale price decreased by the greater of $0.15 or the specified percentage rounded down to the MPV for the security. A halt, suspension, or pause in trading will zero out the Trading Collar values, and the Trading Collar will be recalculated with the first consolidated last sale after trading resumes. If there is no consolidated last sale price on the same trading

day, the Exchange will use the last Official Closing Price for the security.

(ii) If a Trading Collar is triggered, the unexecuted quantity of a Market Order to buy (sell) will be held undisplayed and assigned a working price one MPV below (above) the Trading Collar. The Market Order to buy (sell) will be available to trade with incoming orders to sell (buy) at that working price but will not trade with interest on the Exchange Book or route until (i) additional opportunities to trade consistent with the Trading Collar restriction become available, either on the Exchange or an Away Market, or (ii) a new Trading Collar is calculated and the remaining quantity of the order(s) is then able to trade or route at prices consistent with the new Trading Collar and NBBO.

(2) Limit Order. An order to buy or sell a stated amount of a security at a specified price or better. Unless otherwise specified, the working price and the display price of a Limit Order equal the limit price of the order, it is eligible to be routed, and it is ranked Priority 2 - Display Orders.

(A) A marketable Limit Order to buy (sell) will trade with all sell (buy) orders on the Exchange Book priced at or below (above) the PBO (PBB) before routing to the PBO (PBB) and may route to prices higher (lower) than the PBO (PBB) only after trading with orders to sell (buy) on the Exchange Book at each price point. Once no longer marketable, the Limit Order will be ranked and displayed on the Exchange Book.

(B) Limit Order Price Protection. A Limit Order to buy (sell) will be rejected if it is priced at or above (below) the greater of $0.15 or a specified percentage away from the NBO (NBB). The specified percentage is equal to the corresponding "numerical guideline" percentage set forth in paragraph (c)(1) of Rule 7.10(c)(1) (Clearly Erroneous Executions) for the Core Trading Session. The Limit Order Price Protection will not be applied to an incoming Limit Order to buy (sell) if there is no NBO (NBB). Limit Order Price Protection will be applied when an order is eligible to trade. A Limit Order entered before the Core Trading Session that is designated for the Core Trading Session only will become subject to Limit Order Price Protection once it becomes eligible to trade. Limit Order Price Protection for both buy and sell orders that are not in the minimum price variation ("MPV") for the security, as defined in Rule 7.6, will be rounded down to the nearest price at the applicable MPV.

(C) If a BB (BO) that is locked or crossed by an Away Market PBO (PBB) is cancelled, executed or routed and the next best-priced resting Limit Order(s) on the Exchange Book that would become the new BB (BO) would have a display price that would lock or cross the PBO (PBB), such Limit Order(s) to buy (sell) will be assigned a display price one MPV below (above) the PBO (PBB) and a working price equal to the PBO (PBB). When the PBO (PBB) is updated, the Limit Order(s) to buy (sell) will be repriced consistent with the original terms of the order. If a Day ISO to buy (sell) arrives before the PBO (PBB) is updated and

would result in at least a round lot being displayed as a new BB (BO), such repriced Limit Order(s) to buy (sell) will be repriced to the lower (higher) of the display price of the Day ISO or the original price of the Limit Order(s). If the arriving Day ISO to buy (sell) would not result in at least a round lot being displayed, the Day ISO will be assigned a display price one MPV below (above) the PBO (PBB) and a working price equal to the PBO (PBB).

(3) Inside Limit Order. A Limit Order that is to be traded at the best price obtainable without trading through the NBBO.

(A) On arrival, a marketable Inside Limit Order to buy (sell) is assigned a working price of the NBO (NBB) and will trade with all sell (buy) orders on the Exchange Book priced at or below (above) the NBO (NBB) before routing to the NBO (NBB) on an Away Market. Once the NBO (NBB) is exhausted, the Inside Limit Order to buy (sell) will be displayed at its working price and be eligible to trade with incoming sell (buy) orders at that price. When the updated NBO (NBB) is displayed, the Inside Limit Order to buy (sell) will be assigned a new working price of the updated NBO (NBB) and will trade with all sell (buy) orders on the Exchange Book priced at or below the updated NBO (NBB) before routing to the updated NBO (NBB) on an Away Market. Such assessment will continue at each new NBO (NBB) until the order is filled, no longer marketable, or the limit price is reached. Once the order is no longer marketable, it will be ranked and displayed in the Exchange Book.

(B) An Inside Limit Order designated as a Primary Until 9:45 Order or a Primary After 3:55 Order will follow the order processing of an Inside Limit Order only when the order is on the Exchange Book.

(C) An Inside Limit Order may not be designated as a Limit IOC Order but may be designated as a Limit Routable IOC Order. An Inside Limit Order to buy (sell) designated as a Limit Routable IOC Order will trade with sell (buy) orders on the Exchange Book priced at or below (above) the NBO (NBB) and the quantity not traded will be routed to the NBO (NBB). Any unfilled quantity not traded on the Exchange or an Away Market will be cancelled.

(b) Time in Force Modifiers

(1) Day Modifier. Any order to buy or sell designated Day, if not traded, will expire at the end of the designated session on the day on which it was entered. A Day Modifier cannot be combined with any other Time in Force Modifier.

(2) Immediate-or-Cancel ("IOC") Modifier. A Limit Order may be designated IOC or Routable IOC, as described in paragraphs (A) and (B) of this paragraph (b)(2). The IOC Modifier will override any posting or routing instructions of orders that include the IOC Modifier.

(A) Limit IOC Order. A Limit Order designated IOC is to be traded in whole or in part on the Exchange as soon as such order is received, and the quantity not so traded is cancelled. A Limit IOC Order does not route.

(B) Limit Routable IOC Order. A Limit Order designated Routable IOC is to be traded in whole or in part on the Exchange as soon as such order is received, and the quantity not so traded routed to Away Market(s). Any quantity not immediately traded either on the Exchange or an Away Market will be cancelled.

(c) Auction-Only Order. A Limit or Market Order that is only to be routed pursuant to Rule 7.34.

(1) A Limit-on-Open Order ("LOO Order"). A LOO Order is a Limit Order that is to be traded only during an opening or re-opening auction.

(2) A Market-on-Open Order ("MOO Order"). A MOO Order is a Market Order that is to be traded only during an opening or re-opening auction.

(3) Limit-on-Close Order ("LOC Order"). A LOC Order is a Limit Order that is to be traded only during a closing auction.

(4) Market-on-Close Order ("MOC Order"). A MOC Order is a Market Order that is to be traded only during a closing auction.

(d) Orders with a Conditional or Undisplayed Price and/or Size

(1) Reserve Order. A Limit or Inside Limit Order with a quantity of the size displayed and with a reserve quantity of the size ("reserve interest") that is not displayed. The displayed quantity of a Reserve Order is ranked Priority 2 - Display Orders and the reserve interest is ranked Priority 3 - Non-Display Orders. Both the display quantity and the reserve interest of an arriving marketable Reserve Order are eligible to trade with resting interest in the Exchange Book or route to Away Markets.

(A) On entry, the display quantity of a Reserve Order must be entered in round lots. The displayed portion of a Reserve Order will be replenished following any execution. The Exchange will display the full size of the Reserve Order when the unfilled quantity is less than the minimum display size for the order.

(B) Each time a Reserve Order is replenished from reserve interest, a new working time is assigned to the replenished quantity of the Reserve Order, while the reserve interest retains the working time of original order entry.

(C) A Reserve Order must be designated Day and may be combined with the following orders only: Limit Non-Routable Order or Primary Pegged Order.

(2) Limit Non-Displayed Order. A Limit Order that is not displayed and does not route.

A Limit Non-Displayed Order is ranked Priority 3 - Non-Display Orders. A Limit Non-Displayed Order must be designated Day and is valid for any trading session.

(A) The working price of a Limit Non-Displayed Order will be adjusted both on arrival and when resting on the Exchange Book based on the limit price of the order. If the limit price of a Limit Non-Display Order to buy (sell) is at or below (above) the PBO (PBB), it will have a working price equal to the limit price. If the limit price of a Limit Non-Displayed Order to buy (sell) is above (below) the PBO (PBB), it will have a working price equal to the PBO (PBB).

(B) A Limit Non-Displayed Order may be designated with a Non-Display Remove Modifier. If so designated, a Limit Non-Displayed Order to buy (sell) will trade as the liquidity-taking order with an incoming ALO Order to sell (buy) that has a working price equal to the working price of the Limit Non-Displayed Order.

(3) Mid-Point Liquidity Order ("MPL Order"). A Limit Order that is not displayed and does not route, with a working price at the midpoint of the PBBO. An MPL Order is ranked Priority 3- Non-Display Orders. MPL Orders are valid for any session.

(A) An MPL Order to buy (sell) must be designated with a limit price in the MPV for the security and is eligible to trade only if the midpoint of the PBBO is at or below (above) the limit price of the order.

(B) If there is no PBB, PBO, or the PBBO is locked or crossed, both an arriving and resting MPL Order will wait for a PBBO that is not locked or crossed before being eligible to trade. If a resting MPL Order(s) to buy (sell) trades with MPL Order(s) to sell (buy) after there is an unlocked or uncrossed PBBO, the MPL Order with the later working time will be the liquidity-removing order.

(C) An Aggressing MPL Order to buy (sell) will trade with resting orders to sell (buy) with a working price at or below (above) the midpoint of the PBBO at the working price of the resting orders. Resting MPL Orders to buy (sell) will trade at the midpoint of the PBBO against all Aggressing Orders to sell (buy) priced at or below (above) the midpoint of the PBBO. An incoming Limit Order may be designated with a "No Midpoint Execution" modifier, in which case the incoming Limit Order will not trade with resting MPL Orders and may trade through MPL Orders.

(D) An MPL Order may be designated IOC ("MPL-IOC Order"). Subject to such IOC instructions, an MPL-IOC Order will follow the same trading and priority rules as an MPL Order, except that an MPL-IOC Order will be rejected if (i) the order entry size is less than one round lot, or (ii) there is no PBBO or the PBBO is locked or crossed. An MPL-IOC Order cannot be designated ALO or with a Non-Display Remove Modifier.

(E) An MPL Order may be designated with an ALO Modifier ("MPL-ALO Order").

(i) An Aggressing MPL-ALO Order to buy (sell) will trade with resting orders to sell (buy) with a working price below (above) the midpoint of the PBBO at the working price of the resting orders, but will not trade with resting orders to sell (buy) priced at the midpoint of the PBBO.

(ii) If an MPL-ALO Order to buy (sell) cannot trade with a same-priced resting order to sell (buy), a subsequently arriving order to sell (buy) eligible to trade at the midpoint will trade ahead of a resting order to sell (buy) that is not displayed at that price. If such resting order to sell (buy) is displayed, the MPL-ALO Order to buy (sell) will not be eligible to trade at that price.

(F) MPL Orders designated Day and MPL-ALO Orders may be designated with a Non-Display Remove Modifier. On arrival, an MPL Order or MPL-ALO Order to buy (sell) with a Non-Display Remove Modifier will trade with resting MPL Orders to sell (buy) priced at the midpoint of the PBBO and be the liquidity taker, regardless of whether the resting order to sell (buy) also has a Non-Display Remove Modifier. A resting MPL Order or MPL-ALO Order with a Non-Display Remove Modifier will be the liquidity taker when trading with arriving MPL Orders, including MPL-ALO Orders, that do not include a Non-Display Remove Modifier.

(4) Tracking Order. An order to buy (sell) with a limit price that is not displayed, does not route, must be entered in round lots and designated Day, and will trade only with an order to sell (buy) that is eligible to route. The working price of a Tracking Order to buy (sell) is the PBB (PBO), provided that such price is at or below (above) the limit price of the Tracking Order, it is ranked Priority 4- Tracking Orders, and it may trade in odd lot or mixed lot quantities. A Tracking Order is not eligible to trade if the PBBO is locked or crossed.

(A) A Tracking Order to buy (sell) does not trade on arrival and is triggered to trade by an order to sell (buy) that (i) has exhausted all other interest eligible to trade at the Exchange, (ii) has a remaining quantity equal to or less than the size of a resting Tracking Order, and (iii) would otherwise route to an Away Market. A Tracking Order will trade with the entire unexecuted quantity of the contra-side order, not just the quantity being routed.

(B) Each time a Tracking Order is traded in part, any remaining quantity of the Tracking Order will be assigned a new working time. A Tracking Order with a later working time will trade ahead of a Tracking Order with an earlier working time that does not meet the size requirement of an incoming order.

(e) Orders with Instructions Not to Route

(1) Limit Non-Routable Order. A Limit Order that does not route.

(A) A Limit Non-Routable Order to buy (sell) that, at the time of entry and after

trading with any sell (buy) orders in the Exchange Book priced at or below (above) the PBO (PBB), would create a violation of Rule 610(d) of Regulation NMS by locking or crossing the protected quotation of an Away Market or would cause a violation of Rule 611 of Regulation NMS, will be priced as follows:

(i) It will have a working price of the PBO (PBB) of an Away Market and a display price one MPV below (above) that PBO (PBB).

(ii) If the PBO (PBB) of an Away Market re-prices higher (lower), it will be assigned a new working price of the updated PBO (PBB) and a new display price of one MPV below (above) that updated PBO (PBB).

(iii) If the PBO (PBB) of an Away Market re-prices to be equal to or lower (higher) than its last display price, its display price will not change, but the working price will be adjusted to be equal to its display price.

(iv) If its limit price no longer locks or crosses the PBO (PBB) of an Away Market, it will be assigned a working price and display price equal to its limit price and will not be assigned a new working price or display price based on changes to the PBO (PBB).

(B) A Limit Non-Routable Order with a working price different from the display price is ranked Priority 3-Non-Display Orders and a Limit Non-Routable Order with a working price equal to the display price is ranked Priority 2-Display Orders.

(C) A Limit Non-Routable Order may be designated with a Non-Display Remove Modifier. If so designated, a Limit Non-Routable Order to buy (sell) with a working price, but not display price, equal to the working price of an ALO Order to sell (buy) will trade as the liquidity taker against such ALO Order.

(2) ALO Order. A Limit Non-Routable Order that, except as specified below, will not remove liquidity from the Exchange Book. Upon entry, an ALO Order must have a minimum of one displayed round lot.

(A) An ALO Order will be assigned a working price and display price pursuant to paragraph (e)(2)(B) of this Rule.

(B) An ALO Order to buy (sell) that, at the time of entry, is marketable against an order of any size to sell (buy) on the Exchange Book or would lock or cross a protected quotation in violation of Rule 610(d) of Regulation NMS, will be priced or trade, or both as follows:

(i) If there are no displayed or non-displayed orders to sell (buy) on the Exchange Book priced equal to or below (above) the PBO (PBB), the ALO Order to buy (sell) will have a working price equal to the PBO (PBB) and a display price one

MPV below (above) the PBO (PBB).

(ii) If the limit price of the ALO Order to buy (sell) crosses the working price of any displayed or non-displayed order on the Exchange Book priced equal to or below (above) the PBO (PBB), it will trade as the liquidity taker with such order(s). Any untraded quantity of the ALO Order will have a working price equal to the PBO (PBB) and a display price one MPV below (above) the PBO (PBB).

(iii) If the limit price of the ALO Order to buy (sell) locks the display price of any order ranked Priority 2 - Display Orders on the Exchange Book priced equal to or below (above) the PBO (PBB), it will be assigned a working price and display price one MPV below (above) the price of the displayed order on the Exchange Book.

(iv) If the limit price of the ALO Order to buy (sell) locks the working price of any order ranked Priority 3 - Non-Display Orders on the Exchange Book priced equal to or below (above) the PBO (PBB), it will be assigned a working price equal to the PBO (PBB) and a display price one MPV below (above) the PBO (PBB), provided that,

(a) if there are any displayed orders at the working price of an order to sell (buy) ranked Priority 3 - Non-Display Orders, the ALO Order to buy (sell) will be priced under paragraph (e)(2)(B)(iii) of this Rule; and

(b) if the resting order(s) is a Limit Non-Displayed Order or Limit Non-Routable Order to sell (buy) that has been designated with a Non-Display Remove Modifier, the ALO Order will trade with such order(s) as the liquidity provider. Unless a resting order is designated with a Non-Display Remove Modifier, an ALO Order will trade only with arriving interest.

(v) An ALO Order to buy (sell) will not be assigned a working price or display price above (below) the limit price of such order.

(C) Once resting on the Exchange Book, ALO Orders will be re-priced or trade, or both, as follows:

(i) If the order(s) to sell (buy) ranked Priority 2 - Display Orders or PBO (PBB) re-prices higher (lower), an ALO Order to buy (sell) will trade or be priced, or both, consistent with paragraphs (e)(2)(B)(i) - (iv) of this Rule.

(ii) If the PBO (PBB) re-prices lower (higher) to be equal to or lower (higher) than its last display price or if its limit price no longer locks or crosses the PBO (PBB), an ALO Order to buy (sell) will be priced pursuant to paragraphs (e)(1)(A)(iii) and (iv) of this Rule.

(D) An ALO Order will not trigger a contra-side MPL Order to trade.

(3) Intermarket Sweep Order ("ISO"). A Limit Order that does not route and meets the requirements of Rule 600(b)(30) of Regulation NMS.

(A) An ISO may trade through a protected bid or offer, and will not be rejected or cancelled if it would lock, cross, or be marketable against an Away Market provided that it meets the following requirements:

(i) It is identified as an ISO in the manner prescribed by the Exchange; and

(ii) Simultaneously with the routing of an ISO to the Exchange, the ETP Holder routes one or more additional Limit Orders, as necessary, to trade against the full displayed size of any protected bids (for sell orders) or protected offers (for buy orders) on Away Markets. These additional routed orders must be identified as ISO.

(B) An ISO designated IOC ("IOC ISO") will be immediately traded with contra-side interest in the Exchange Book up to its full size and limit price and the quantity not so traded will be immediately and automatically cancelled.

(C) An ISO designated Day ("Day ISO"), if marketable on arrival, will be immediately traded with contra-side interest in the Exchange Book up to its full size and limit price. Any untraded quantity of a Day ISO will be displayed at its limit price and may lock or cross a protected quotation that was displayed at the time of arrival of the Day ISO.

(D) A Day ISO may be designated with an ALO Modifier ("Day ISO ALO") and must be entered with a minimum of one displayed round lot. An arriving Day ISO ALO to buy (sell) may trade through or lock or cross a protected quotation that was displayed at the time of arrival of the Day ISO ALO, and will be priced or trade, or both, as follows:

(i) If the limit price of the Day ISO ALO to buy (sell) crosses the working price of any displayed or non-displayed order on the Exchange Book, it will trade as the liquidity taker with such order(s). Any untraded quantity of the Day ISO ALO will have a working price and display price equal to its limit price.

(ii) If the limit price of the Day ISO ALO to buy (sell) locks the display price of any order ranked Priority 2 - Display Orders on the Exchange Book, it will be assigned a working price and display price one MPV below (above) the price of the displayed order on the Exchange Book.

(iii) If the limit price of the Day ISO ALO Order to buy (sell) locks the working price of any order ranked Priority 3 - Non-Display Orders on the Exchange Book, it will be assigned a working price and display price equal to the limit

price of the order, provided that,

(a) if there are any displayed orders at the working price of an order to sell (buy) ranked Priority 3 - Non-Display Orders, the Day ISO ALO to buy (sell) will be priced under paragraph (e)(3)(D)(ii) of this Rule; and

(b) if the resting order(s) is a Limit Non-Displayed Order or National Only Order to sell (buy) that has been designated with a Non-Display Remove Modifier, the Day ISO ALO will trade with such order(s) as the liquidity provider.

(iv) After being displayed, a Day ISO ALO will be re-priced and re-displayed or trade, or both, based on changes to orders ranked Priority 2 - Display Orders or the PBO (PBB) consistent with paragraphs (e)(2)(C)(i) and (ii) of this Rule.

(f) Orders with Specific Routing Instructions

(1) Primary Only Order. A Market or Limit Order that on arrival is routed directly to the primary listing market without being assigned a working time or interacting with interest on the Exchange Book. A Primary Only Order must be designated for the Core Trading Session. The primary listing market will validate whether the order is eligible to be accepted by that market and if the primary listing market rejects the order, the order will be cancelled.

(A) Primary Only MOO/LOO Order. A Primary Only Order designated for participation in the primary listing market's opening or re-opening process as a MOO or LOO Order.

(B) Primary Only Day/IOC Order. A Primary Only Order designated Day or IOC, but not ISO. A Primary Only Day Order may be designated as a Reserve Order. A Primary Only Day/IOC Order will be routed to an Away Market as a non-routable order, and will remain at the Away Market until executed or cancelled. A Primary Only Day/IOC Order in NYSE- and NYSE American-listed securities may include an instruction to be routed to NYSE or NYSE American as a routable order, in which case such order would remain at the NYSE or NYSE American until executed, routed away, or cancelled.

(C) Primary Only MOC/LOC Order. A Primary Only Order designated for participation in the primary listing market's closing process as a MOC or LOC Order.

(2) Primary Until 9:45 Order. A Limit or Inside Limit Order that, on arrival and until 9:45 a.m. Eastern Time, routes to the primary listing market. After 9:45 a.m. Eastern Time, the order is cancelled on the primary listing market and entered on the Exchange Book. The Primary Until 9:45 Order must be designated Day. Orders that return to the Exchange Book after routing to the primary listing market will retain

their original order attributes and be assigned a working time based on when the order is returned from the primary listing market and entered on the Exchange Book. A Primary Until 9:45 Order can be combined with a Primary After 3:55 Order.

(3) Primary After 3:55 Order. A Limit or Inside Limit Order entered on the Exchange until 3:55 p.m. Eastern Time after which time the order is cancelled on the Exchange and routed to the primary listing market. The Primary After 3:55 Order must be designated Day. Orders that route to the primary listing market at 3:55 pm Eastern Time will retain their original order attributes.

(g) Cross Orders. Two-sided orders with instructions to match the identified buy-side with the identified sell-side at a specified price (the "cross price").

(1) Limit IOC Cross Order. A Cross Order that must trade in full at its cross price, will not route, and will cancel at the time of order entry if the cross price is not between the BBO or would trade through the PBBO.

(h) Pegged Orders. A Limit Order that does not route with a working price that is pegged to a dynamic reference price. If the designated reference price is higher (lower) than the limit price of a Pegged Order to buy (sell), the working price will be the limit price of the order.

(1) Market Pegged Order. A Pegged Order to buy (sell) with a working price that is pegged to the PBO (PBB). A Market Pegged Order to buy (sell) will be rejected on arrival, or cancelled when resting, if there is no PBO (PBB) against which to peg.

(A) Market Pegged Orders are not displayed and are ranked Priority 3 - Non-Display Orders.

(B) If the PBBO is locked or crossed, both an arriving and resting Market Pegged Order will wait for a PBBO that is not locked or crossed before the working price is adjusted and the order becomes eligible to trade.

(C) A Market Pegged Order to buy (sell) may include an offset value that will set the working price below (above) the PBO (PBB) by the specified offset, which may be specified up to two decimals.

(2) Primary Pegged Order. A Pegged Order to buy (sell) with a working price that is pegged to the PBB (PBO), with no offset allowed. A Primary Pegged Order to buy (sell) will be rejected on arrival, or cancelled when resting, if there is no PBB (PBO) against which to peg.

(A) A Primary Pegged Order must include a minimum of one round lot displayed. The working price of a Primary Pegged Order equals the display price and the display quantity is ranked Priority 2 - Display Orders and the reserve interest is ranked Priority 3 - Non-Display Orders.

(B) A Primary Pegged Order will be rejected if the PBBO is locked or crossed. If after arrival, the PBBO becomes locked or crossed, the Primary Pegged Order will wait for a PBBO that is not locked or crossed before the working price is adjusted, but remains eligible to trade at its current working price.

(3) Reserved

(i) Additional Order Instructions and Modifiers:

(1) Proactive if Locked/Crossed Modifier. A Limit Order or Inside Limit Order that is displayed and eligible to route and designated with a Proactive if Locked/Crossed Modifier will route to an Away Market if the Away Market locks or crosses the display price of the order. If any quantity of the routed order is returned unexecuted, the order will be displayed in the Exchange Book.

(2) Self Trade Prevention Modifier ("STP"). Any incoming order to buy (sell) designated with an STP modifier will be prevented from trading with a resting order to sell (buy) also designated with an STP modifier and from the same ETP ID. The STP modifier on the incoming order controls the interaction between two orders marked with STP modifiers. Orders marked with an STP modifier will not be prevented from interacting during any auction.

(A) STP Cancel Newest ("STPN"). An incoming order to buy (sell) marked with the STPN modifier will not trade with resting interest to sell (buy) marked with any of the STP modifiers from the same MPID. The incoming order marked with the STPN modifier will be cancelled back to the originating ETP Holder. The resting order marked with one of the STP modifiers will remain on the Exchange Book.

(B) STP Cancel Oldest ("STPO"). An incoming order to buy (sell) marked with the STPO modifier will not trade with resting interest to sell (buy) marked with any of the STP modifiers from the same MPID. The resting order marked with the STP modifier will be cancelled back to the originating ETP Holder. The incoming order marked with the STPO modifier will remain on the Exchange Book.

(C) STP Decrement and Cancel ("STPD"). An incoming order to buy (sell) marked with the STPD modifier will not trade with resting interest to sell (buy) marked with any of the STP modifiers from the same MPID. If both orders are equivalent in size, both orders will be cancelled back to the originating ETP Holder. If the orders are not equivalent in size, the equivalent size will be cancelled back to the originating ETP Holder and the larger order will be decremented by the size of the smaller order with the balance remaining on the Exchange Book.

(D) STP Cancel Both ("STPC"). An incoming order to buy (sell) marked with the STPC modifier will not trade with resting interest to sell (buy) marked with any of the STP modifiers from the same MPID. The entire size of both orders will be cancelled back to originating ETP Holder.

(3) Minimum Trade Size ("MTS") Modifier. A Limit IOC Order, MPL Order, or Tracking Order may be designated with an MTS Modifier.

(A) An MTS must be a minimum of a round lot. An order with an MTS Modifier will be rejected if the MTS is less than a round lot or if the MTS is larger than the size of the order.

(B) On arrival, an order to buy (sell) with an MTS Modifier will trade with sell (buy) orders in the Exchange Book that in the aggregate meet such order's MTS.

(C) An order with an MTS Modifier that is designated Day and cannot be satisfied on arrival will not trade and will be ranked in the Exchange Book. In such case, the order to buy (sell) with an MTS Modifier that is ranked in the Exchange Book will not be eligible to trade:

(i) at a price equal to or above (below) any sell (buy) orders that are displayed and that have a working price equal to or below (above) the working price of such order with an MTS Modifier; or

(ii) at a price above (below) any sell (buy) orders that are not displayed and that have a working price below (above) the working price of such order with an MTS Modifier.

(D) An order with an MTS Modifier that is designated IOC and cannot be immediately satisfied will be cancelled in its entirety.

(E) A resting order to buy (sell) with an MTS Modifier will trade with individual sell (buy) order(s) that each meets the MTS.

(i) If an Aggressing Order to sell (buy) order does not meet the MTS of the resting order to buy (sell) with an MTS Modifier, that Aggressing Order will not trade with and may trade through such order with an MTS Modifier.

(ii) If a resting sell (buy) order did not meet the MTS of a same-priced resting order to buy (sell) with an MTS Modifier, a subsequently arriving sell (buy) order that meets the MTS will trade ahead of a resting non-displayed sell (buy) order at that price.

(F) A resting order with an MTS Modifier will be cancelled if it is traded in part or reduced in size and the remaining quantity is less than such order's MTS.

(j) Q Order. A Limit Order submitted to the Exchange by a Market Maker, and designated by a Market Maker as a "Q Order" through such means as the Exchange will specify. Q Orders entered by ETP Holders that are not registered in that security as a market maker will be rejected.

(1) A Q Order must have a minimum of one round lot displayed on entry, must be designated Day, and does not route. A Q Order to buy (sell) will be rejected if: (i) it has limit price at or above (below) the PBO (PBB); or (ii) it is designated as a Limit Non-Routable Order, ALO Order, or ISO.

(2) Market Makers must enter Q Orders in securities in which they are registered in accordance with Rule 7.23, beginning at the start of the Core Trading Session and continuing until the end of the Core Trading Session. Market Makers are not obligated to but may enter Q Orders in securities in which they are registered during the Early and Late Trading Sessions. Nothing in this Rule will be construed to relieve a Market Maker of any of its obligations pursuant to Rule 7.23.

Commentary:

.01 Order Type and Modifier Combinations. Users may combine order types and modifiers, unless the terms of the proposed combination are inconsistent.

.02 If two order types are combined that include instructions both for operation on arrival and for how the order operates while resting on the Exchange Book, the instructions governing functionality while incoming will be operative upon arrival. Functionality governing how the order operates while resting on the Exchange Book will govern any remaining balance of the order that is not executed upon arrival.

Rule 7.32. Order Entry

Orders entered that are greater than five million shares in size will be rejected. Upon at least 24 hours advance notice to market participants, the Exchange may decrease the maximum order size on a security-by-security basis.

Rule 7.33. Capacity Codes

Consistent with Rules of the Exchange, ETP Holder Users of the Exchange shall input accurate information into the Exchange, including, but not limited to, whether the ETP Holder is acting in a principal, agency, or riskless principal capacity for each order entered. Proprietary orders accepted by the Exchange from ETP Holders are subject to the same display and execution processes as agency orders.

Rule 7.34. Trading Sessions

(a) *Sessions*. The Exchange will have three trading sessions each day the Exchange is open for business unless otherwise determined by the Exchange:

(1) *Early Trading Session*. The Early Trading Session will begin at 7:00 a.m. Eastern Time and conclude at the commencement of the Core Trading Session. The Exchange will begin accepting orders 30 minutes before the Early Trading Session begins.

(2) *Core Trading Session*. The Core Trading Session will begin for each security at 9:30 a.m. Eastern Time and end at the conclusion of Core Trading Hours.

(3) *Late Trading Session*. The Late Trading Session will begin following the conclusion of the Core Trading Session and conclude at 8:00 p.m. Eastern Time.

(b) *Order Designation*.

(1) Any order entered into the Exchange must include a designation for which trading session(s) the order will remain in effect and orders without a trading session designation will be rejected. An order is eligible to participate in the designated trading session(s) only and may remain in effect for one or more consecutive trading sessions on a particular day. Unless otherwise specified, an order designated for a later trading session will be accepted but not eligible to trade until the designated trading session begins. An order designated solely for a trading session that has already ended will be rejected.

(c) *Orders Permitted in Each Session*.

(1) Early Trading Session. Unless otherwise specified in paragraphs (c)(1)(A) - (E), orders and modifiers defined in Rule 7.31 that are designated for the Early Trading Session are eligible to participate in the Early Trading Session.

(A) Market Orders and Pegged Orders are not eligible to participate in the Early Trading Session. Market Orders and Pegged Orders that include a designation for the Early Trading Session will be rejected. Market Pegged Orders, regardless of the session designated for the order, may not be entered before or during the Early Trading Session and will be rejected.

(B) Reserved.

(C) Limit Orders designated IOC and Cross Orders entered before or during the Early Trading Session and designated for the Core Trading Session will be rejected if entered before the Core Trading Session.

(D) Market Orders designated for the Core Trading Session and Auction-Only Orders will be routed to the primary listing market on arrival. Any order routed directly to the primary listing market on arrival will be cancelled if that market is not accepting orders.

(E) MOO Orders, MOC Orders, LOC Orders, and Primary Only Orders designated for the Early Trading Session will be rejected.

(2) Core Trading Session. Unless otherwise specified in paragraphs (c)(2)(A) - (B), all orders and modifiers defined in Rule 7.31 that are designated for the Core Trading Session are eligible to participate in the Core Trading Session.

(A) Market Orders will be routed to the primary listing market until the first opening print of any size on the primary listing market or 10:00 a.m. Eastern Time, whichever is earlier.

(B) Auction-Only Orders will be accepted and routed directly to the primary listing market.

(C) Limit Orders designated IOC and Cross Orders entered before or during the Core Trading Session and designated for the Late Trading Session will be rejected if entered before the Late Trading Session.

(3) Late Trading Session. Unless otherwise specified in paragraph (c)(3)(A) - (C), the orders and modifiers defined in Rule 7.31 that are designated for the Late Trading Session are eligible to participate in the Late Trading Session:

(A) Market Orders and Pegged Orders are not eligible to participate in the Late Trading Session. Market Orders and Pegged Orders that include a designation for the Late Trading Session will be rejected.

(B) Orders that are routed directly to the primary listing market on arrival will be cancelled if that market is not accepting orders.

(C) MOO Orders, MOC Orders, LOC Orders, and Primary Only Orders designated for the Late Trading Session will be rejected.

(d) *Customer Disclosures*. No ETP Holder may accept an order from a non-ETP Holder for execution in the Early or Late Trading Session without disclosing to such non-ETP Holder that:

(1) Limit Orders are the only orders that are eligible for execution during the Early and Late Trading Sessions;

(2) An order must be designated specifically for trading in the Early and/or Late Trading Session to be eligible for trading in the Early and/or Late Trading Session; and

(3) Extended hours trading involves material trading risks, including the possibility of lower liquidity, high volatility, changing prices, unlinked markets, an exaggerated effect from news announcements, wider spreads and any other relevant risk. The absence of an updated underlying index value or intraday indicative value is an additional trading risk in extended hours for Exchange Traded Products. The disclosures required pursuant to this subparagraph (d)(3) may take the following form or such other form as provides substantially similar information:

(A) Risk of Lower Liquidity. Liquidity refers to the ability of market participants to buy and sell securities. Generally, the more orders that are available in a market,

the greater the liquidity. Liquidity is important because with greater liquidity it is easier for investors to buy or sell securities, and as a result, investors are more likely to pay or receive a competitive price for securities purchased or sold. There may be lower liquidity in extended hours trading as compared to regular market hours. As a result, your order may only be partially executed, or not at all.

(B) Risk of Higher Volatility. Volatility refers to the changes in price that securities undergo when trading. Generally, the higher the volatility of a security, the greater its price swings. There may be greater volatility in extended hours trading than in regular market hours. As a result, your order may only be partially executed, or not at all, or you may receive an inferior price in extended hours trading than you would during regular market hours.

(C) Risk of Changing Prices. The prices of securities traded in extended hours trading may not reflect the prices either at the end of regular market hours, or upon the opening of the next morning. As a result, you may receive an inferior price in extended hours trading than you would during regular market hours.

(D) Risk of Unlinked Markets. Depending on the extended hours trading system or the time of day, the prices displayed on a particular extended hours system may not reflect the prices in other concurrently operating extended hours trading systems dealing in the same securities. Accordingly, you may receive an inferior price in one extended hours trading system than you would in another extended hours trading system.

(E) Risk of News Announcements. Normally, issuers make news announcements that may affect the price of their securities after regular market hours. Similarly, important financial information is frequently announced outside of regular market hours. In extended hours trading, these announcements may occur during trading, and if combined with lower liquidity and higher volatility, may cause an exaggerated and unsustainable effect on the price of a security.

(F) Risk of Wider Spreads. The spread refers to the difference in price between what you can buy a security for and what you can sell it for. Lower liquidity and higher volatility in extended hours trading may result in wider than normal spreads for a particular security.

(G) Risk of Lack of Calculation or Dissemination of Underlying Index Value or Intraday Indicative Value ("IIV"). For certain Exchange Traded Products, an updated underlying index value or IIV may not be calculated or publicly disseminated in extended trading hours. Since the underlying index value and IIV are not calculated or widely disseminated during the Early and Late Trading Sessions, an investor who is unable to calculate implied values for certain Exchange Traded Products in those sessions may be at a disadvantage to market professionals.

(e) Trades on the Exchange executed and reported outside of the Core Trading Session are designated as .T trades.

Rule 7.35. Reserved

Rule 7.36. Order Ranking and Display

(a) Definitions for purposes of Rule 7 Equities Trading:

(1) "Display price" means the price at which a Limit Order is displayed, which may be different from the limit price or working price of the order.

(2) "Limit price" means the highest (lowest) specified price at which a Limit Order to buy (sell) is eligible to trade.

(3) "Working price" means the price at which an order is eligible to trade at any given time, which may be different from the limit price or display price of the order.

(4) "Working time" means the effective time sequence assigned to an order for purposes of determining its priority ranking.

(5) “Aggressing Order” means a buy (sell) order that is or becomes marketable against sell (buy) interest on the Exchange Book. A resting order may become an Aggressing Order if its working price changes, if the PBBO or NBBO is updated, because of changes to other orders on the Exchange Book, or when processing inbound messages.

(b) *Display*. The Exchange displays all non-marketable Limit Orders, unless the order or modifier instruction specifies that all or a portion of the order is not to be displayed.

(1) An order is considered displayed for ranking purposes if the price, side, and size of the order are disseminated via a market data feed. Odd-lot sized Limit Orders and the displayed portion of a Reserve Orders are considered displayed for ranking purposes.

(2) Except as otherwise permitted by Rule 7.7, all non-marketable displayed Limit Orders will be displayed on an anonymous basis.

(3) The best-ranked non-marketable displayed Limit Order(s) to buy and the best ranked non-marketable displayed Limit Order(s) to sell in the Exchange Book and the aggregate displayed size of such orders associated with such prices will be collected and made available to quotation vendors for dissemination pursuant to the requirements of Rule 602 of Regulation NMS under the Exchange Act. If non-marketable odd-lot sized orders at multiple price levels can be aggregated to equal at least a round lot, such odd-lot sized orders will be displayed as the best ranked displayed orders to sell (buy) at the least aggressive price at which such odd-lot

sized orders can be aggregated to equal at least a round lot.

(c) *Ranking*. All non-marketable orders are ranked and maintained in the Exchange Book according to price-time priority in the following manner: (1) price; (2) priority category; (3) time; and (4) ranking restrictions applicable to an order or modifier condition.

(d) *Price*. All orders are ranked based on the working price of an order. Orders to buy are ranked from highest working price to lowest working price. Orders to sell are ranked from lowest working price to highest working price. If the working price of an order changes, the price priority of the order changes.

(e) *Priority Categories*. At each price point, all orders are assigned a priority category. If at a price point there are no orders in a priority category, the next priority category has first priority.

(1) Priority 1 - Market Orders. Unexecuted Market Orders have priority over all other same-side orders with the same working price.

(2) Priority 2 - Display Orders. Non-marketable Limit Orders with a displayed working price have second priority.

(3) Priority 3 - Non-Display Orders. Non-marketable Limit Orders for which the working price is not displayed, including reserve interest of Reserve Orders, have third priority.

(4) Priority 4 - Tracking Orders. Tracking Orders have fourth priority.

(f) *Time*. Within each priority category, orders are ranked based on time priority.

(1) An order is assigned a working time based on its original entry time, which is the time when an order is first placed in the Exchange Book.

(A) An order that is fully routed to an Away Market on arrival is not assigned a working time unless and until any unexecuted portion of the order returns to the Exchange Book.

(B) For an order that is partially routed to an Away Market on arrival, the portion that is not routed is assigned a working time. If any unexecuted portion of the order returns to the Exchange Book and joins any remaining resting portion of the original order, the returned portion of the order is assigned the same working time as the resting portion of the order. If the resting portion of the original order has already executed and any unexecuted portion of the order returns to the Exchange Book, the returned portion of the order is assigned a new working time.

(2) An order is assigned a new working time any time the working price of an order changes.

(3) An order is assigned a new working time if the size of an order increases. An order retains its working time if the size of the order is decreased.

(4) An order retains its working time if the order marking is changed from: (A) sell to sell short; (B) sell to sell short exempt; (C) sell short to sell; (D) sell short to sell short exempt; (E) sell short exempt to sell; and (F) sell short exempt to sell short.

(g) *Ranking Restrictions*. The Exchange will enforce ranking restrictions applicable to specific order or modifier instructions as provided for in Rule 7.31.

Rule 7.37. Order Execution and Routing

(a) *Order Execution*. An incoming marketable order will be matched for execution against contra-side orders in the Exchange Book according to the price-time priority ranking of the resting orders, subject to the following.

(1) Orders that are routed to an Away Market on arrival will not be assigned a working time or matched for execution on the Exchange Book.

(2) Unless an order qualifies for an exception from the Order Protection Rule in Rule 611 of Regulation NMS, an order will not trade at prices that trade through a protected quotation.

(3) Limit Orders will be executed at prices that are equal to or better than the PBBO.

(4) Market Orders and Inside Limit Orders will be executed at prices that are equal to or better than the NBBO.

(b) *Routing*. Unless an order has an instruction not to route, after being matched for execution with any contra-side orders in the Exchange Book pursuant to paragraph (a) of this Rule, marketable orders will be routed to Away Market(s).

(1) An order that cannot meet the pricing parameters of paragraph (a) of this Rule may be routed to Away Market(s) before being matched for execution against contra-side orders in the Exchange Book.

(2) If an order with an instruction not to route would trade through or lock or cross a protected quotation and is not eligible for an exception to Rule 610 or 611 of Regulation NMS, it will cancel, re-price, or be held undisplayed on the Exchange Book, as provided for in Rule 7.31.

(3) Orders eligible to route will be routed to all available Away Markets unless the order includes an instruction to bypass Away Markets that are not displaying protected quotations.

(4) Limit Orders that are routed to Away Market(s) may be routed to more than one

price level, up (down) to the limit price of an order to buy (sell).

(5) Except for orders routed to the primary listing market on arrival pursuant to Rule 7.34 or designated to route to the primary listing market pursuant to Rule 7.31, orders routed to Away Market(s) will be sent as IOC ISOs.

(6) Any order or portion thereof that has been routed is not eligible to trade on the Exchange Book, unless all or a portion of the order returns unexecuted.

(7) Requests to cancel an order that has been routed will be processed as follows:

(A) For orders that are eligible to be matched for execution against orders in the Exchange Book, the request to cancel will not be processed unless and until all or a portion of the order returns unexecuted.

(B) For orders routed to the primary listing market on arrival pursuant to Rule 7.34 or designated to route to the primary listing market pursuant to Rule 7.31, the request to cancel will be routed to the primary listing market.

(C) For MOC Orders or LOC Orders in NYSE-listed securities, requests to cancel or reduce in size that are electronically entered after the times specified in NYSE Rule 123C(3)(b) and Supplementary Material .40 to that rule will be rejected.

(8) An order marked "short" when a short sale price test restriction is in effect will not be routed.

(c) After executing with eligible contra-side interest on the Exchange Book and/or returning unexecuted after routing to an Away Market(s), any unexecuted non-marketable portion of an order will be ranked consistent with Rule 7.36.

(d) *Use of Data Feeds*. The Exchange uses the following data feeds for the handling, execution, and routing of orders, as well as for regulatory compliance:

Market Center	**Primary Source**	**Secondary Source**
Cboe BZX Exchange, Inc.	Direct Feed	SIP Data Feed
Cboe BYX Exchange, Inc.	Direct Feed	SIP Data Feed
Cboe EDGA Exchange, Inc.	Direct Feed	SIP Data Feed

Cboe EDGX Exchange, Inc.	Direct Feed	SIP Data Feed
Chicago Stock Exchange, Inc.	SIP Data Feed	n/a
Investors' Exchange, LLC	SIP Data Feed	n/a
Nasdaq BX, Inc.	Direct Feed	SIP Data Feed
Nasdaq PHLX LLC	Direct Feed	SIP Data Feed
The Nasdaq Stock Market LLC	Direct Feed	SIP Data Feed
New York Stock Exchange LLC	Direct Feed	SIP Data Feed
NYSE American LLC	SIP Data Feed	n/a
NYSE Arca, Inc.	Direct Feed	SIP Data Feed

(1) The Exchange receives data feeds directly from broker dealers for purposes of routing interest to Away Markets that are not displaying protected quotations.

(e) Locking or Crossing Quotations in NMS Stocks.

(1) Definitions. For purposes of this Rule, the following definitions shall apply:

(A) The term Crossing Quotation shall mean the display of a bid for an NMS stock during regular trading hours at a price that is higher than the Best Protected Offer for such NMS stock, or the display of an offer for an NMS stock during regular trading hours at a price that is lower than the Best Protected Bid for such NMS stock.

(B) The term Locking Quotation shall mean the display of a bid for an NMS stock during regular trading hours at a price that equals the Best Protected Offer for such NMS stock, or the display of an offer for an NMS stock during regular trading hours at a price that equals the Best Protected Bid for such NMS stock.

(2) Prohibition. Except for quotations that fall within the provisions of paragraph (e)(3) of this Rule, the Exchange and members of the Exchange shall reasonably avoid displaying, and shall not engage in a pattern or practice of displaying, any quotations that lock or cross the PBBO.

(3) Locked or Crossed Market Exceptions. The prohibition against Locking and Crossing Quotations in paragraph (e)(2) of this Rule will not apply when:

(A) The Locking or Crossing Quotation was displayed at a time when the Trading Center displaying the locked or crossed quotation was experiencing a failure, material delay, or malfunction of its systems or equipment;

(B) The Locking or Crossing Quotation was displayed at a time when the Best Protected Bid was higher than the Best Protected Offer in the NMS stock; or

(C) The Locking or Crossing Quotation was an Automated Quotation, and the ETP Holder displaying such Automated Quotation simultaneously routed an ISO to execute against the full displayed size of any locked or crossed Protected Quotation.

(f) Exceptions to the Order Protection Rule

(1) Self-Help Exception. The self-help exception will apply to any trade-through of a Protected Quotation displayed by a Trading Center that is experiencing a failure, material delay, or malfunction of its systems or equipment. In these instances, Protected Quotations may be bypassed by:

(A) notifying the non-responding Trading Center immediately after (or at the same time as) electing self-help; and

(B) following the established Exchange policies and procedures for electing the self-help exception.

(2) Intermarket Sweep Order Exception.

(A) The Exchange will accept ISO orders to be executed in the Exchange Book against orders at the Exchange’s best bid or best offer without regard to whether the execution would trade through another market's Protected Quotation.

(B) If an ISO is marked as "Immediate-or-Cancel," any portion of the order not executed upon arrival will be automatically cancelled. If an ISO is not marked as "Immediate-or-Cancel," any balance of the order will be displayed by the Exchange without regard to whether that display would lock or cross another market center if the User has complied with Rule 7.37(e)(3)(C).

(3) Reserved.

(4) Benchmark Trades. the Exchange may execute volume-weighted average price ("VWAP") orders, as well as other types of orders that are not priced with reference to the quoted price of the NMS stock at the time of execution and for which the material terms were not reasonably available at the time the commitment to execute

the order was made. Benchmark Trades may not trade through the Exchange Book.

(5) Contingent Order Exemption. Transactions Qualifying as "Contingent Trades" may trade-through both Manual and Protected Quotes. Transactions executed under this exemption may not trade through the Exchange Book. A "Qualified Contingent Trade" is a transaction consisting of two or more component orders, executed as agent or principal, where:

(A) at least one component order is in an NMS stock;

(B) all components are effected with a product or price contingency that either has been agreed to by the respective counterparties or arranged for by a broker-dealer as principal or agent;

(C) the execution of one component is contingent upon the execution of all other components at or near the same time;

(D) the specific relationship between the component orders (e.g., the spread between the prices of the component orders) is determined at the time the contingent order is placed;

(E) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or since cancelled; and

(F) the Exempted NMS Stock Transaction is fully hedged (without regard to any prior existing position) as a result of the other components of the contingent trade.

Rule 7.38. Odd and Mixed Lots

(a) *Order Types*. Rule 7.31 specifies whether an order may not be entered as an odd lot or mixed lot.

(b) *Ranking and Execution*. Round lot, mixed lot and odd lot orders are treated in the same manner in the Exchange, provided that:

(1) The working price of an odd lot order will be adjusted both on arrival and when resting on the Exchange Book based on the limit price of the order. If the limit price of an odd lot order to buy (sell) is at or below (above) the PBO (PBB), it will have a working price equal to the limit price. If the limit price of an odd lot order to buy (sell) is above (below) the PBO (PBB), it will have a working price equal to the PBO (PBB). If the limit price of an odd lot order to buy (sell) is above (below) the PBO (PBB) and the PBBO is crossed, it will have a working price equal to the PBB (PBO). An odd-lot order ranked Priority 2 - Display Orders will not be assigned a new working time if its working price is adjusted under this Rule. If the display

price of an odd lot order to buy (sell) is above (below) its working price, it will be ranked based on its display price.

(2) For an order that is partially routed to an Away Market on arrival, if any returned quantity of the order joins resting odd-lot quantity of the original order and the returned and resting quantity, either alone or together with other odd-lot orders, would be displayed as a new BBO, both the returned and resting quantity will be assigned a new working time.

Rule 7.39. Reserved.

Rule 7.40. Trade Execution and Reporting

Executions occurring as a result of orders matched against the Exchange Book shall be reported by the Exchange to an appropriate consolidated transaction reporting system. Executions occurring as a result of orders routed away from the Exchange shall be reported to an appropriate consolidated transaction reporting system by the relevant reporting market center. The Exchange shall promptly notify ETP Holders of all executions of their orders as soon as such executions take place.

Rule 7.41. Clearance and Settlement

(a) The details of each transaction executed within the Exchange shall be automatically processed for clearance and settlement on a locked-in basis. ETP Holders need not separately report their transactions to the Exchange for trade comparison purposes.

(b) Except as provided herein, transactions executed on the Exchange will be processed anonymously. The transaction reports will indicate the details of the transaction, but will not reveal contra party identities.

(c) The Exchange will reveal the contra-party identities in the following circumstances:

(1) for regulatory purposes or to comply with an order of a court or arbitrator;

(2) when a Qualified Cleary Agency ceases to act for an ETP Holder or an ETP Holder's clearing firm, and determines not to guarantee the settlement of the ETP Holder's trades; or

(3) if both parties to the transaction consent.

(d) The Exchange will reveal to an ETP Holder, no later than the end of the day on the date an anonymous trade was executed, when that ETP Holder submits an order that has executed against an order submitted by that same ETP Holder.

(e) In order to satisfy the ETP Holder's record keeping obligations under SEC Rules 17a-3(a)(1) and 17a-4(a), (i) the Exchange will, with the exception of those circumstances

described below in (ii), retain for the period specified in Rule 17a-4(a) the identity of each ETP Holder that executes an anonymous transaction described in paragraph (b) of this rule, and (ii) ETP Holders shall retain the obligation to comply with SEC Rules 17-3(a)(1) and 17-4(a) whenever they possess the identity of their contra party. In either case, the information shall be retained in its original form or a form approved under Rule 17a-6.

Commentary:

.10 *Definition of a Qualified Clearing Agency*: The term "Qualified Clearing Agency" means a clearing agency (as defined in the Exchange Act) that (i) has been granted registration by the Securities and Exchange Commission under the Exchange Act; (ii) maintains facilities through which Exchange contracts may be compared or settled; and (iii) has agreed to supply the Exchange with data reasonably requested in order to permit the Exchange to enforce compliance by ETP Holders with the provisions of the Exchange Act, the rules and regulations thereunder, and the Rules of the Exchange.

Rule 7.42. Reserved.

Rule 7.43. Reserved.

Rule 7.44. Reserved.

Section 4. Operation of Routing Broker

Rule 7.45. Operation of Routing Broker

(a) The term "Routing Broker" shall mean the broker-dealer affiliate of the Exchange and/or any other non-affiliate third-party broker-dealer that acts as a facility of the Exchange for routing orders entered into Exchange systems to other market centers for execution whenever such routing is required by the Rules of the Exchange and federal securities laws. The Routing Brokers will operate as described in this Rule 7.45.

(b) Outbound Routing Function

(1) (A) The Routing Broker(s) will receive routing instructions from the Exchange, to route orders to other market centers and report such executions back to the Exchange. Except as provided in paragraph (b)(1)(B) below, the Routing Broker(s) cannot change the terms of an order or the routing instructions, nor does the Routing Broker(s) have any discretion about where to route an order.

(B) In the sole discretion of the Routing Broker(s), pursuant to risk management controls and supervisory procedures maintained by the Routing Broker(s) pursuant to SEC Rule 15c3-5, the Routing Broker(s) may reject any order or series of orders as necessary to manage the financial, regulatory, and other risks of the Routing Brokers(s) providing "market access," as that term is defined in SEC Rule 15c3-

5(a)(1).

(2) The broker-dealer affiliate of the Exchange that acts as a Routing Broker will not engage in any business other than (a) the functions set forth in this Rule; and (b) any other activities it may engage in as approved by the Commission.

(3) The use of the Routing Broker(s) to route orders to another market center will be optional. Any ETP Holder that does not want to use the Routing Broker(s) must enter an immediate-or-cancel order or any such other order type available on the Exchange that is not eligible for routing.

(4) All bids and offers entered on the Exchange routed to other market centers via the Routing Broker(s) that result in an execution shall be binding on the ETP Holder that entered such bid and offer.

(5) The Exchange will regulate the Routing Broker(s) as a facility (as defined in Section 3(a)(2) of the Exchange Act), subject to Section 6 of the Exchange Act. In particular, and without limitation, under the Exchange Act, the Exchange will be responsible for filing with the Commission rule changes and fees relating to the functions performed by the Routing Broker(s) for the Exchange and will be subject to exchange non-discrimination requirements.

(6) The books, records, premises, officers, agents, directors and employees of the Routing Broker(s), as a facility of the Exchange, shall be deemed to be the books, records, premises, officers, agents, directors and employees of the Exchange for purposes of, and subject to oversight pursuant to, the Exchange Act. The books and records of the Routing Broker(s) as a facility of the Exchange shall be subject at all times to inspection and copying by the Exchange and the Commission.

(7) An SRO unaffiliated with the Exchange or any of its affiliates will carry out the oversight and enforcement responsibilities as the designated examining authority designated by the Commission pursuant to Rule 17d-1 of the Exchange Act with the responsibility for examining the Routing Broker(s) for compliance with the applicable financial responsibility rules.

(8) The Exchange shall establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between the Exchange and its facilities (including the non-affiliate third-party broker-dealer acting as a facility of the Exchange ("third-party Routing Facility"), and any other entity, including any affiliate of the third-party Routing Facility, and, if the third-party Routing Facility or any of its affiliates engage in any other business activities other than providing routing services to the Exchange, between the segment of the third-party Routing Facility or affiliate that provides the other business activities and the routing services.

(c) Inbound Routing Function

(1) For so long as the Exchange is affiliated with NYSE American LLC ("NYSE American"), NYSE Arca, Inc. (“NYSE Arca”), and New York Stock Exchange, LLC ("NYSE"), and Archipelago Securities LLC ("Arca Securities") in its capacity as a facility of NYSE American, NYSE Arca, and NYSE is utilized for the routing of any approved types of orders from those exchanges to the Exchange (such function of Arca Securities is referred to as the "Inbound Router"), each of the Exchange and Arca Securities shall undertake as follows:

(A) The Exchange shall (1) maintain an agreement pursuant to Rule 17d-2 under the Exchange Act with a non-affiliated SRO to relieve the Exchange of regulatory responsibilities for Arca Securities with respect to rules that are common rules between the Exchange and the non-affiliated SRO, and (2) maintain a regulatory services agreement with a non-affiliated SRO to perform regulatory responsibilities for Arca Securities for unique Exchange rules.

(B) The regulatory services agreement described in Rule 7.45(c)(1)(A) shall require the Exchange and the non-affiliated SRO to monitor Arca Securities for compliance with the Exchange's trading rules, and collect and maintain all alerts, complaints, investigations and enforcement actions (collectively "Exceptions") in which Arca Securities (in routing orders to the Exchange) is identified as a participant that has potentially violated applicable Exchange or SEC rules. The Exchange and the non-affiliated SRO shall retain these records in an easily accessible manner. The regulatory services agreement described in Rule 7.45(c)(1)(A) shall require that the non-affiliated SRO provide a report, at least quarterly, to the Chief Regulatory Officer of the Exchange quantifying all Exceptions (of which the Exchange and the non-affiliated SRO become aware) in which Arca Securities is identified as a participant that has potentially violated Exchange or SEC Rules.

(C) The Exchange, on behalf of the holding company owning both the Exchange and Arca Securities, shall establish and maintain procedures and internal controls reasonably designed to prevent Arca Securities from receiving any benefit, taking any action or engaging in any activity based on non-public information regarding planned changes to Exchange systems, obtained as a result of its affiliation with the Exchange, until such information is available generally to similarly situated ETP Holders of the Exchange in connection with the provision of inbound order routing to the Exchange.

(D) The Exchange may furnish to Arca Securities the same information on the same terms that the Exchange makes available in the normal course of business to any other ETP Holder.

(2) Provided the above conditions are complied with, and provided further that Arca Securities operates as an outbound router on behalf of NYSE American and NYSE on the same terms and conditions as it does for the Exchange, and in accordance with the Rules of NYSE American, NYSE Arca, and NYSE, Arca Securities may

provide inbound routing services to the Exchange from NYSE American, NYSE Arca, and NYSE.

(d) Cancellation of Orders and Error Account

(1) The Exchange or Arca Securities may cancel orders as either deems to be necessary to maintain fair and orderly markets if a technical or systems issue occurs at the Exchange, Arca Securities, or a routing destination. The Exchange or Arca Securities shall provide notice of the cancellation to affected ETP Holders as soon as practicable.

(2) Arca Securities shall maintain an error account for the purpose of addressing positions that result from a technical or systems issue at Arca Securities, the Exchange, a routing destination, or a non-affiliate third-party Routing Broker that affects one or more orders ("error positions").

(A) For purposes of this Rule 7.45(d), an error position shall not include any position that results from an order submitted by an ETP Holder to the Exchange that is executed on the Exchange and processed pursuant to NYSE Arca Rule 7.41(a).

(B) Except as provided in Rule 7.45(d)(2)(C), Arca Securities shall not (i) accept any positions in its error account from an account of an ETP Holder, or (ii) permit any ETP Holder to transfer any positions from the ETP Holder's account to Arca Securities' error account.

(C) If a technical or systems issue results in the Exchange not having valid clearing instructions for an ETP Holder to a trade, Arca Securities may assume that ETP Holder's side of the trade so that the trade can be processed pursuant to NYSE Arca Rule 7.41(a).

(3) In connection with a particular technical or systems issue, Arca Securities or the Exchange shall either (i) assign all resulting error positions to ETP Holders in accordance with subparagraph (A) below, or (ii) have all resulting error positions liquidated in accordance with subparagraph (B) below. Any determination to assign or liquidate error positions, as well as any resulting assignments, shall be made in a nondiscriminatory fashion.

(A) Arca Securities or the Exchange shall assign all error positions resulting from a particular technical or systems issue to the ETP Holders affected by that technical or systems issue if Arca Securities or the Exchange:

(i) determines that it has accurate and sufficient information (including valid clearing information) to assign the positions to all of the ETP Holders affected by that technical or systems issue;

(ii) determines that it has sufficient time pursuant to normal clearance and settlement deadlines to evaluate the information necessary to assign the positions to all of the ETP Holders affected by that technical or systems issue; and

(iii) has not determined to cancel all orders affected by that technical or systems issue in accordance with subparagraph (d)(1) above.

(B) If Arca Securities or the Exchange is unable to assign all error positions resulting from a particular technical or systems issue to all of the affected ETP Holders in accordance with subparagraph (A) above, or if Arca Securities or the Exchange determines to cancel all orders affected by the technical or systems issue in accordance with subparagraph (d)(1) above, then Arca Securities shall liquidate the error positions as soon as practicable. Arca Securities shall:

(i) provide complete time and price discretion for the trading to liquidate the error positions to a third-party broker-dealer and shall not attempt to exercise any influence or control over the timing or methods of such trading; and

(ii) establish and enforce policies and procedures that are reasonably designed to restrict the flow of confidential and proprietary information between the third-party broker-dealer and Arca Securities/the Exchange associated with the liquidation of the error positions.

(4) Arca Securities and the Exchange shall make and keep records to document all determinations to treat positions as error positions and all determinations for the assignment of error positions to ETP Holders or the liquidation of error positions, as well as records associated with the liquidation of error positions through the third-party broker-dealer.

Section 5. Plan to Implement a Tick Size Pilot Program

Rule 7.46. Tick Size Pilot Plan

The provisions of this Rule will be in effect during a pilot to coincide with the pilot period for the Regulation NMS Tick Size Pilot Plan.

(a) Tick Size Pilot Program

(1) Definitions.

(A) "Plan" means the Tick Size Pilot Plan Submitted to the Securities and Exchange Commission Pursuant to Rule 608(a)(3) of Regulation NMS under the Exchange Act.

(B) "Pilot Test Groups" means the three test groups established under the Plan,

consisting of 400 Pilot Securities each, which satisfy the respective criteria established by the Plan for each such test group.

(C) "Retail Investor Order" means an agency order or a riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a retail ETP Holder, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. A Retail Investor Order may be an odd lot, round lot, or partial round lot.

(D) "Trade-at Intermarket Sweep Order" means a limit order for a Pilot Security that meets the following requirements:

(i) When routed to a Trading Center, the limit order is identified as a Trade-at Intermarket Sweep Order; and

(ii) Simultaneously with the routing of the limit order identified as a Trade-at Intermarket Sweep Order, one or more additional limit orders, as necessary, are routed to execute against the full displayed size of any protected bid, in the case of a limit order to sell, or the full displayed size of any protected offer, in the case of a limit order to buy, for the Pilot Security with a price that is better than or equal to the limit price of the limit order identified as a Trade-at Intermarket Sweep Order. These additional routed orders also must be marked as Trade-at Intermarket Sweep Orders or Intermarket Sweep Orders.

(E) All capitalized terms not otherwise defined in this Rule shall have the meanings set forth in the Plan, Regulation NMS under the Exchange Act, or Exchange rules, as applicable.

(2) Exchange Participation in the Plan. The Exchange is a Participant in, and subject to the applicable requirements of, the Plan, which establishes a Tick Size Pilot Program that will allow the Securities and Exchange Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stocks of small capitalization companies.

(3) ETP Holder Compliance. ETP Holders shall establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the applicable requirements of the Plan.

(4) Exchange Compliance with the Plan. Exchange systems will not display, quote or trade in violation of the applicable quoting and trading requirements for a Pilot Security specified in the Plan and this Rule, unless such quotation or transaction is specifically exempted under the Plan.

(5) Pilot Securities That Drop Below $1.00 during the Pilot Period. If the price of a

Pilot Security drops below $1.00 during regular trading on any given business day, such Pilot Security will continue to be subject to the Plan and the requirements enumerated in (c)-(e) below and will continue to trade in accordance with such Rules as if the price of the Pilot Security had not dropped below $1.00. However, if the Closing Price of a Pilot Security on any given business day is below $1.00, such Pilot Security will be moved out of its respective Pilot Test Group into the Control Group, and may then be quoted and traded at any price increment that is currently permitted by Exchange rules for the remainder of the Pilot Period. Notwithstanding anything contained herein to the contrary, at all times during the Pilot Period, Pilot Securities (whether in the Control Group or any Pilot Test Group) will continue to be subject to the requirements contained in Paragraph (b).

(b) Compliance with Data Collection Requirements

(1) Policies and Procedures Requirement. An ETP Holder that operates a Trading Center shall establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the data collection and transmission requirements of Items I and II of Appendix B of the Plan, and an ETP Holder that is a Market Maker shall establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the data collection and transmission requirements of Item IV of Appendix B of the Plan and Item I of Appendix C of the Plan.

(2) The Exchange shall collect and transmit to the SEC the data described in Items I and II of Appendix B of the Plan relating to trading activity in Pre-Pilot Data Collection Securities and Pilot Securities on a Trading Center operated by the Exchange.The Exchange shall transmit such data to the SEC in a pipe delimited format, on a disaggregated basis by Trading Center, within 30 calendar days following month end for:

(A) Each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through thirty-one days prior to the first day of the Pilot Period; and

(B) Each Pilot Security for the period beginning thirty days prior to the first day of the Pilot Period through six months after the end of the Pilot Period.

The Exchange also shall make such data publicly available on the Exchange web site within 120 calendar days following month end at no charge and shall not identify the ETP Holder that generated the 45 of 48 data.

(3) Daily Market Maker Participation Statistics Requirement

(A) An ETP Holder that is a Market Maker shall collect and transmit to their Designated Examining Authority ("DEA") data relating to Item IV of Appendix B of the Plan, with respect to activity conducted on any Trading Center in Pre-Pilot

Data Collection Securities and Pilot Securities in furtherance of its status as a Market Maker, including a Trading Center that executes trades otherwise than on a national securities exchange, for transactions that have settled or reached settlement date. Market Makers shall transmit such data in a format required by their DEA by 12:00 p.m. EST on T+4:

(i) For transactions in each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through thirty-one days prior to the first day of the Pilot Period; and

(ii) For transactions in each Pilot Security for the period beginning thirty days prior to the first day of the Pilot Period through six months after the end of the Pilot Period.

(B) An ETP Holder that is a Market Maker whose DEA is not a Participant to the Plan shall transmit the data collected pursuant to paragraph (3)(A) above to the Financial Industry Regulatory Authority, Inc. ("FINRA"). Market Makers shall transmit such data in a format required by FINRA by 12:00 p.m. EST on T+4 in accordance with paragraphs (3)(A)(i) and (ii) above.

(C) The Exchange shall transmit the data collected by the DEA or FINRA pursuant to paragraphs (3)(A) and (B) above relating to Market Maker activity on a Trading Center operated by the Exchange to the SEC in a pipe delimited format within 30 calendar days following month end. The Exchange shall also make such data publicly available on the Exchange web site within 120 calendar days following month end at no charge and shall not identify the Trading Center that generated the data.

(4) Market Maker Profitability

(A) An ETP Holder that is a Market Maker shall collect and transmit to their DEA the data described in Item I of Appendix C of the Plan with respect to executions on any Trading Center that have settled or reached settlement date. Market Makers shall transmit such data in a format required to their DEA by 12:00 p.m. EST on T+4 for executions during and outside of Regular Trading Hours in each:

(i) Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through thirty-one days prior to the first day of the Pilot Period; and

(ii) Pilot Security for the period beginning thirty days prior to the first day of the Pilot Period through six months after the end of the Pilot Period.

(B) An ETP Holder that is a Market Maker whose DEA is not a Participant to the Plan shall transmit the data collected pursuant to paragraph (4)(A) above to FINRA. Market Makers shall transmit such data in a format required by FINRA

by 12:00 p.m. EST on T+4 for executions during and outside of Regular Trading Hours in accordance with paragraphs (4)(A)(i) and (ii) above.

(C) The Exchange, as DEA, shall collect the data required by Item I of Appendix C to the Plan and paragraph (b)(4)(A) above for those ETP Holders that are Market Makers for which the Exchange is DEA, and on a monthly basis transmit such data, categorized by the Control Group and each Test Group, to the SEC in a pipe delimited format. The Exchange, as DEA, shall also make the data collected pursuant to subparagraph (4) of Rule 7.46(b) available to FINRA for aggregation and publication, categorized by the Control Group and each Test Group, on the FINRA website pursuant to FINRA Rules.

(5) Market Maker Registration Statistics. The Exchange shall collect and transmit to the SEC the data described in Item III of Appendix B of the Plan relating to daily Market Maker registration statistics in a pipe delimited format within 30 calendar days following month end for:

(A) Transactions in each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and

(B) Transactions in each Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period.

(C) The Exchange also shall make such data publicly available on the Exchange web site within 120 calendar days following month end at no charge and shall not identify the ETP Holder that generated the data

(c) Pilot Securities in Test Group One will be subject to the following requirement: No ETP Holder may display, rank, or accept from any person any displayable or non-displayable bids or offers, orders, or indications of interest in increments other than $0.05. However, orders priced to trade at the midpoint of the national best bid and national best offer ("NBBO") or best protected bid and best protected offer ("PBBO") may be ranked and accepted in increments of less than $0.05. Pilot Securities in Test Group One may continue to trade at any price increment that is currently permitted by Rule 7.6.

(d) Pilot Securities in Test Group Two shall be subject to the following requirements:

(1) No ETP Holder may display, rank, or accept from any person any displayable or non-displayable bids or offers, orders, or indications of interest in increments other than $0.05. However, orders priced to trade at the midpoint of the NBBO or PBBO may be ranked and accepted in increments of less than $0.05.

(2) Absent any of the exceptions listed in (3) below, no ETP Holder may execute orders in any Pilot Security in Test Group Two in price increments other than $0.05.

The $0.05 trading increment will apply to all trades, including Brokered Cross Trades.

(3) Pilot Securities in Test Group Two may trade in increments less than $0.05 under the following circumstances:

(A) Trading may occur at the midpoint between the NBBO or the PBBO;

(B) Retail Investor Orders may be provided with price improvement that is at least $0.005 better than the PBBO;

(C) Negotiated Trades may trade in increments less than $0.05; and

(D) Execution of a customer order to comply with Rule 9.5320 following the execution of a proprietary trade by the ETP Holder at an increment other than $0.05, where such proprietary trade was permissible pursuant to an exception under the Plan.

(e) Pilot Securities in Test Group Three shall be subject to the following requirements:

(1) No ETP Holder may display, rank, or accept from any person any displayable or non-displayable bids or offers, orders, or indications of interest in increments other than $0.05. However, orders priced to trade at the midpoint of the NBBO or PBBO may be ranked and accepted in increments of less than $0.05.

(2) Absent any of the exceptions listed in (3) below, no ETP Holder may execute orders in any Pilot Security in Test Group Three in price increments other than $0.05. The $0.05 trading increment will apply to all trades, including Brokered Cross Trades.

(3) Pilot Securities in Test Group Three may trade in increments less than $0.05 under the following circumstances:

(A) Trading may occur at the midpoint between the NBBO or PBBO;

(B) Retail Investor Orders may be provided with price improvement that is at least $0.005 better than the Best Protected Bid or the Best Protected Offer;

(C) Negotiated Trades may trade in increments less than $0.05; and

(D) Execution of a customer order to comply with Rule 9.5320 following the execution of a proprietary trade by the ETP Holder at an increment other than $0.05, where such proprietary trade was permissible pursuant to an exception under the Plan.

(4) Pilot Securities in Test Group Three will be subject to the following Trade-at

Prohibition:

(A) "Trade-at Prohibition" means the prohibition against executions by a Trading Center of a sell order for a Pilot Security at the price of a Protected Bid or the execution of a buy order for a Pilot Security at the price of a Protected Offer during regular trading hours.

(B) Absent any of the exceptions listed in (C) below, no ETP Holder may execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or execute a buy order for a Pilot Security in Test Group Three at the price of a Protected Offer.

(C) ETP Holders may execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or execute a buy order for a Pilot Security in Test Group Three at the price of a Protected Offer if any of the following circumstances exist:

(i) The order is executed as agent or riskless principal by an independent trading unit, as defined under Rule 200(f) of Regulation SHO, of a Trading Center within an ETP Holder that has a displayed quotation as agent or riskless principal, via either a processor or an SRO Quotation Feed, at a price equal to the traded at Protected Quotation, that was displayed before the order was received, but only up to the full displayed size of that independent trading unit's previously displayed quote;

(ii) The order is executed by an independent trading unit, as defined under Rule 200(f) of Regulation SHO, of a Trading Center within an ETP Holder that has a displayed quotation for the account of that Trading Center on a principal (excluding riskless principal) basis, via either a processor or an SRO Quotation Feed, at a price equal to the traded-at Protected Quotation, that was displayed before the order was received, but only up to the full displayed size of that independent trading unit's previously displayed quote;

(iii) The order is of Block Size at the time of origin and may not be:

(A) an aggregation of non-block orders; or

(B) broken into orders smaller than Block Size prior to submitting the order to a Trading Center for execution.

(iv) The order is a Retail Investor Order executed with at least $0.005 price improvement;

(v) The order is executed when the Trading Center displaying the Protected Quotation that was traded at was experiencing a failure, material delay, or malfunction of its systems or equipment;

(vi) The order is executed as part of a transaction that was not a "regular way" contract;

(vii) The order is executed as part of a single-priced opening, reopening, or closing transaction on the Exchange;

(viii) The order is executed when a Protected Bid was priced higher than a Protected Offer in the Pilot Security;

(ix) The order is identified as a Trade-at Intermarket Sweep Order;

(x) The order is executed by a Trading Center that simultaneously routed Trade-at Intermarket Sweep Orders or Intermarket Sweep Orders to execute against the full displayed size of the Protected Quotation that was traded at;

(xi) The order is executed as part of a Negotiated Trade;

(xii) The order is executed when the Trading Center displaying the Protected Quotation that was traded at had displayed, within one second prior to execution of the transaction that constituted the Trade-at, a Best Protected Bid or Best Protected Offer, as applicable, for the Pilot Security with a price that was inferior to the price of the Trade-at transaction;

(xiii) The order is executed by a Trading Center which, at the time of order receipt, the Trading Center had guaranteed an execution at no worse than a specified price (a "stopped order"), where:

A. The stopped order was for the account of a customer;

B. The customer agreed to the specified price on an order-by-order basis; and

C. The price of the Trade-at transaction was, for a stopped buy order, equal to or less than the National Best Bid in the Pilot Security at the time of execution or, for a stopped sell order, equal to or greater than the National Best Offer in the Pilot Security at the time of execution, as long as such order is priced at an acceptable increment;

(xiv) The order is for a fractional share of a Pilot Security, provided that such fractional share order was not the result of breaking an order for one or more whole shares of a Pilot Security into orders for fractional shares or was not otherwise effected to evade the requirements of the Trade-at Prohibition or any other provisions of the Plan; or

(xv) The order is to correct a bona fide error, which is recorded by the Trading Center in its error account. A bona fide error is defined as:

A. The inaccurate conveyance or execution of any term of an order including, but not limited to, price, number of shares or other unit of trading; identification of the security; identification of the account for which securities are purchased or sold; lost or otherwise misplaced order tickets; short sales that were instead sold long or vice versa; or the execution of an order on the wrong side of a market;

B. The unauthorized or unintended purchase, sale, or allocation of securities, or the failure to follow specific client instructions;

C. The incorrect entry of data into relevant systems, including reliance on incorrect cash positions, withdrawals, or securities positions reflected in an account; or

D. A delay, outage, or failure of a communication system used to transmit market data prices or to facilitate the delivery or execution of an order.

(D) No ETP Holder shall break an order into smaller orders or otherwise effect or execute an order to evade the requirements of the Trade-at Prohibition of this Rule or any other provisions of the Plan.

(f) Exchange handling of orders during the Pilot Period for the Plan.

(1) Trade-at Intermarket Sweep Orders ("TA ISO")

(A) The Exchange will accept TA ISOs in all securities. TA ISOs must be designated as IOC, may be designated with a "No Midpoint Execution" modifier, and do not route.

(B) A TA ISO will be immediately traded with contra-side displayed and non-displayed interest in the Exchange Book up to its full size and limit price and the quantity not so traded will be immediately and automatically cancelled.

(2) For Pilot Securities in Test Groups One, Two and Three:

(A) References in Exchange rules to the MPV, as defined in Rule 7.6, instead mean the quoting MPV specified in paragraphs (c), (d), and (e) of this Rule. References to truncating to the MPV in Exchange rules instead mean rounding down to the applicable quoting MPV for Pilot Securities.

(B) MPL Orders must be entered with a limit price in a $0.05 pricing increment.

(3) For all Pilot Securities Market Pegged Orders will be rejected.

(4) Reserved.

(5) For Pilot Securities in Test Groups Three:

(A) At each price point, the priority of resting orders will be:

(i) Priority 2 - Display Orders. Non-marketable Limit Orders with a displayed working price have first priority.

(ii) Protected Quotations of Away Markets. Protected quotations of Away Markets have second priority.

(iii) Priority 1 - Market Orders. Unexecuted Market Orders have third priority.

(iv) Priority 3 - Non-Display Orders. Non-marketable Limit Orders for which the working price is not displayed, including reserve interest of Reserve Orders, have fourth priority.

(B) Orders will not be routed to Away Markets that are not displaying protected quotations.

(C) The display price of Limit Orders to buy (sell) repriced under Rule 7.31(a)(2)(C) will be the same as provided for in that rule, but the working price of such orders will be the same as the display price.

(D) If a Reserve Order to buy (sell) is displayed at a price that is locked or crossed by a protected offer (bid), the portion of the Reserve Order that is not displayed will be assigned a working price $0.05 below (above) the protected offer (bid), but if routable, will route to a protected offer (bid) based on the limit price of the order.

(E) If the limit price of a resting Limit Non-Displayed Order to buy (sell) is equal to or higher (lower) than the PBO (PBB), it will have a working price $0.05 below (above) the PBO (PBB).

(F) Orders with instructions not to route, as defined in Rule 7.31(e):

(i) On arrival, orders with instructions not to route will trade with resting orders in the Exchange Book consistent with the terms of the order and the Trade-At Prohibition.

(a) On arrival, Day ISOs will be eligible for the exception set forth in paragraph (e)(4)(C)(ix) of this Rule.

(b) An IOC ISO to buy (sell) will not trade with orders to sell (buy) ranked Priority 1 - Market Orders or Priority 3 - Non-Display Orders that are the same price as a protected offer (bid) unless the limit price of such IOC ISO is higher (lower) than the price of protected offer (bid).

(ii) When being added to the Exchange Book, a Limit Non-Routable Order or ALO Order to buy (sell) with a limit price equal to or above (below) the PBO (PBB) will be assigned a display price and working price one MPV below (above) the PBO (PBB).

(iii) Once resting on the Exchange Book, a Limit Non-Routable Order or ALO Order to buy (sell) will not be eligible to trade with later-arriving orders to sell (buy) ranked Priority 2 - Display Orders priced equal to the PBO (PBB). A later arriving order to buy (sell) that is eligible to trade with the PBO (PBB) may trade before such resting order.

(G) The only orders eligible for the exception set forth in paragraph (e)(4)(C)(iii) of this Rule are Limit IOC Cross orders that meet the Block Size definition. A Limit IOC Cross Order that is at the same price as the PBBO but does not meet the Block Size definition will be rejected.

(H) Tracking Orders will be rejected.

Commentary:

.10 For purposes of the reporting requirement in Appendix B.II.(n), a Trading Center shall report "Y" to their DEA where it is relying upon the Retail Investor Order exception to Test Groups Two and Three, and "N" in all other instances.

.20 For purposes of Appendix B.I, the field "Affected by Limit-Up Limit-Down bands" shall be included. A Trading Center shall report a value of "Y" to their DEA when the ability of an order to execute has been affected by the Limit-Up Limit-Down (LULD) bands in effect at the time of order receipt. A Trading Center shall report a value of "N" to their DEA when the ability of an order to execute has not been affected by the LULD bands in effect at the time of order receipt. For purposes of Appendix B.I, the Participants shall classify all orders in Pilot and Pre-Pilot Securities that may trade in a foreign market as: (1) fully executed domestically or (2) fully or partially executed on a foreign market. For purposes of Appendix B.II, the Participants shall classify all orders in Pilot Securities and Pre-Pilot Data Collection Securities that may trade in a foreign market as: (1) directed to a domestic venue for execution; (2) may only be directed to a foreign venue for execution; or (3) fully or partially directed to a foreign venue at the discretion of the ETP Holder.

.30 (a) For purposes of Appendix B.I.a(14), B.I.a(15), B.I.a(21) and B.I.a(22), the time ranges shall be changed as follows:

(1) Appendix B.I.a(14A): The cumulative number of shares of orders executed from 100 microseconds to less than 1 millisecond after the time of order receipt;

(2) Appendix B.I.a(15): The cumulative number of shares of orders executed from 1 millisecond to less than 100 milliseconds after the time of order receipt;

(3) Appendix B.I.a(21A): The cumulative number of shares of orders canceled from 100 microseconds to less than 1 millisecond after the time of order receipt; and

(4) Appendix B.I.a(22): The cumulative number of shares of orders canceled from 1 millisecond to less than 100 milliseconds after the time of order receipt.

(b) For purposes of Appendix B.I.a(21) through B.I.a(27), unexecuted Immediate or Cancel orders shall be categorized separately irrespective of the duration of time after order receipt.

.40 For purposes of Appendix B.I.a(31)-(33), the relevant measurement is the time of order receipt.

.50 For purposes of Appendix B, the following order types and numbers shall be included and assigned the following numbers: "not held" orders (18); clean cross orders (19); auction orders (20); orders that cannot otherwise be classified, including orders received when the NBBO is crossed (21); and limit orders priced more than $0.10 away from NBBO (22). For purposes of order types 12-14 in Appendix B, such order types shall include all orders and not solely "resting" orders.

.60 An ETP Holder shall not be deemed a Trading Center for purposes of Appendix B of the Plan where that ETP Holder only executes orders otherwise than on a national securities exchange for the purpose of: (i) correcting a bona fide error related to the execution of a customer order; (ii) purchases a security from a customer at a nominal price solely for purposes of liquidating the customer's position; or (iii) completing the fractional share portion of an order.

.70 A Trading Center shall begin the data collection required pursuant to Appendix B.I.a(1) through B.II.(y) of the Plan and Item I of Appendix C of the Plan on April 4, 2016. The requirement that the Exchange or their DEA provide information to the SEC within 30 days following month end pursuant to Appendix B and C of the Plan shall commence at the beginning of the Pilot Period. Notwithstanding the provisions of paragraphs (b)(2), (b)(3)(C) and (b)(5) of this Rule, with respect to data for the Pre-Pilot Period and Pilot Period, the requirement that the Exchange or their DEA make Appendix B data publicly available on the Exchange's or DEA's website shall commence on August 31, 2017. Notwithstanding the provisions of paragraph (b)(4) of this Rule, the Exchange or their DEA shall make Appendix C data for the Pre-Pilot Period through January 2017 publicly available on the Exchange's or DEA's website by February 28, 2017.

.80 For purposes of Item I of Appendix C, the Participants shall calculate daily Market Maker realized profitability statistics for each trading day on a daily last in, first out (LIFO) basis using reported trade price and shall include only trades executed on the subject trading day. The daily LIFO calculation shall not include any positions carried over from previous trading days. For purposes of Item I.c of Appendix C, the Participants shall calculate daily Market Maker unrealized profitability statistics for each trading day on an average price basis. Specifically, the Participants must calculate the volume

weighted average price of the excess (deficit) of buy volume over sell volume for the current trading day using reported trade price. The gain (loss) of the excess (deficit) of buy volume over sell volume shall be determined by using the volume weighted average price compared to the closing price of the security as reported by the primary listing exchange. In calculating unrealized trading profits, the Participant also shall report the number of excess (deficit) shares held by the Market Maker, the volume weighted average price of that excess (deficit), and the closing price of the security as reported by the primary listing exchange used in reporting unrealized profit.

.90 "Pre-Pilot Data Collection Securities" are the securities designated by the Participants for purposes of the data collection requirements described in Items I, II and IV of Appendix B and Item I of Appendix C of the Plan for the period beginning six months prior to the Pilot Period through thirty-one days prior to the Pilot Period. The Participants shall compile the list of Pre-Pilot Data Collection Securities by selecting all NMS stocks with a market capitalization of $5 billion or less, a Consolidated Average Daily Volume (CADV) of 2 million shares or less and a closing price of $1 per share or more. The market capitalization and the closing price thresholds shall be applied to the last day of the pre-pilot measurement period, and the CADV threshold shall be applied to the duration of the pre-pilot measurement period. The Pre-Pilot measurement period shall be the three calendar months ending on the day when the Pre-Pilot Data Collection Securities are selected. The Pre-Pilot Data Collection Securities shall be selected thirty days prior to the commencement of the six-month Pre-Pilot Period.

.100 For purposes of Appendix B.IV, the count of the number of Market Makers used in the calculation of share (trade) participation shall be added to each category. For purposes of Appendix B.IV(b) and (c), share participation and trade participation shall be calculated by using a total count instead of a share-weighted average or a trade-weighted average. For purposes of Appendix B, B.IV(d) (cross-quote share (trade) participation), (e) (inside-the-quote share (trade) participation), (f) (at-the-quote share (trade) participation), and (g) (outside-the-quote share (trade) participation), shall be calculated by reference to the National Best Bid or National Best Offer in effect immediately prior to the trade.

Section 6. Contracts in Securities

Rule 7.60. Definitions and General Provisions

(a) The following terms used in this Rule shall, unless otherwise indicated, have the meanings herein specified:

(1) The term "securities depository" shall mean a securities depository registered as a clearing agency under Section 17A of the Exchange Act.

(2) The term "depository eligible securities" shall mean securities that (A) are part of an issue (as identified by a single CUSIP number) of securities that is eligible for deposit at a securities depository and (B) with respect to a particular transaction, are

eligible for book-entry transfer at the depository at the time of settlement of the transaction.

(b) *Municipal Securities*. Notwithstanding the provisions of Rule 7, all contracts in municipal securities must be compared, settled and cleared in accordance with the applicable regulations of the Municipal Securities Rulemaking Board.

Rule 7.61.

(a) *ETP Contracts*. All contracts in the ordinary course of business of an ETP Holder with any other ETP Holder for the purchase, sale, borrowing, loaning or hypothecating of securities, or for the borrowing, loaning or payment of money, whether occurring through the facilities of the Exchange or elsewhere, are ETP contracts of the Exchange unless made subject to the rules of another exchange.

(b) *Provisions Included in ETP Contracts*. All bids made and accepted, and all offers made and accepted in accordance with the Bylaws, Rules, and procedures of the Exchange shall be binding. The applicable provisions of the Bylaws, Rules, and procedures of the Exchange and all other regulations adopted pursuant thereto, shall be part of the terms and conditions of all ETP contracts and all contracts thereby effected, and shall be subject to said provisions and to the exercise by the Board of Directors of the Exchange of the powers in respect thereto vested in them.

(c) *Extend or Postpone Time, Prescribe Special Terms*. Notwithstanding the foregoing subparagraphs (a) and (b) of this Rule or any other provisions of the Bylaws or Rules of the Exchange to the contrary, the Board of Directors may extend or postpone the time or prescribe special terms and conditions for the performance or settlement of ETP contracts whenever such action is called for by the public interest or by just and equitable principles of trade.

Rule 7.62. Delivery of Securities

(a) Reserved.

(b) *Book Entry Settlement of Transactions*.

(1) An ETP Holder shall use the facilities of a securities depository for the book-entry settlement of all transactions in depository eligible securities with another financial intermediary or a member of a national securities exchange or a registered securities association.

(2) An ETP Holder shall not effect a delivery-versus-payment or receipt-versus-payment transaction in a depository eligible security with a customer unless the transaction is settled by book-entry using the facilities of a securities depository.

(3) This Rule shall not apply to transactions that are settled outside of the United

States.

(4) The requirements of this Rule shall supersede any inconsistent requirements under the Bylaws and Rules of the Exchange.

(5) This Rule shall not apply to any transaction where the securities to be delivered in settlement of the transaction are not on deposit at a securities depository and

(A) if the transaction is for same-day settlement, the deliverer cannot by reasonable efforts deposit the securities in a securities depository prior to the cutoff time established by the depository for same-day crediting of deposited securities; or

(B) the deliverer cannot by reasonable efforts deposit the securities in a depository prior to a cut-off date established by the depository for that issue of securities.

(c) Reserved.

RULE 8 TRADING OF CERTAIN EXCHANGE DERIVATIVES

The provisions of this Rule 8 shall apply to the trading pursuant to UTP of Exchange Traded Products on the Exchange. This Rule 8 shall not apply to the listing of Exchange Traded Products on the Exchange.

Section 1. Currency and Index Warrants

Rule 8.1. General

Rule 8 is applicable only to index warrants and, where stated, to currency warrants and currency index warrants. Except to the extent that specific provisions of Rule 8 govern, or unless the context otherwise requires, the provisions of the Rules and procedures of the Exchange will be applicable to trading of the index warrants, currency warrants and currency index warrants on the Exchange.

Rule 8.2. Definitions

(a) The term "currency index group" means a group of currencies each of whose inclusion and relative representation in the group is determined by its inclusion and relative representation in a currency index.

(b) The term "currency index warrant" means a warrant on a currency index group listed pursuant to Rule 8.3.

(c) The term "currency warrant" means a warrant on a currency index group listed pursuant to Rule 8.3. The term "cross currency" means the relationship between any two non-U.S. currencies.

(d) The term "foreign currency warrants" will mean instruments that are direct obligations of the issuing company, either exercisable throughout their life (i.e., American style) or exercisable only on their expiration date (i.e., European style), entitling the holder thereof to a cash settlement in U.S. dollars to the extent that the value of the underlying foreign currency has declined below (in the case of a put warrant) or increased above (in the case of a call warrant) the pre-stated cash settlement value of the underlying foreign currency. The term "foreign currency warrants" will also include cross-rate currency warrants.

(e) The term "index warrants" means instruments that are direct obligations of the issuing company, either exercisable throughout their life (i.e., American style) or exercisable only on their expiration date (i.e., European style), entitling the holder to a cash settlement in U.S. dollars to the extent that the index has declined below (for put warrant) or increased above (for a call warrant) the pre-stated cash settlement value of the index. Index warrants may be based on either foreign or domestic indexes.

(f) The term "stock index group" means a group of stocks each of whose inclusion and relative representation in the group is determined by its inclusion and relative representation in a stock index.

(g) The term "stock index warrant" means a warrant on a stock index group listed pursuant to Rule 8.3.

Rule 8.3. Listing of Currency and Index Warrants

(a) The Exchange will submit a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of Currency and Index Warrants. All statements or representations contained in such rule filing regarding (a) the underlying reference assets, (b) limitations on the underlying reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements. If a series of currency and index warrants does not satisfy these requirements, the Exchange may halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m).

(b) Each warrant issue will be evaluated for listing against the following initial and continued listing criteria (except that the minimum term requirement in Rule 8.3(a)(2) must only be met on an initial basis):

(1) Size and Earnings of Warrant Issuer—The warrant issuer will be expected to have a minimum tangible net worth in excess of $250,000,000 and otherwise to exceed substantially pre-tax income from continued operation of at least $750,000 in the last fiscal year or two of the last three fiscal years. In the alternative, the warrant issuer will be expected: (A) to have a minimum tangible net worth of $150,000,000 and otherwise to exceed substantially pre-tax income from continued operation of at least $750,000 in the last fiscal year or two of the last three fiscal years, and (B) not

to have issued warrants where the original issue price of all the issuer's index and currency warrant offerings (combined with index and currency warrant offerings of the issuer's affiliates) listed on a national securities exchange or traded through the facilities of Nasdaq exceeds 25% of the warrant issuer's net worth.

(2) Term—One to five years from date of issuance.

(3) Distribution/Market Value—(i) Minimum public distribution of 1,000,000 warrants together with a minimum of 400 public holders, and an aggregate market value of $4,000,000; or (ii) Minimum public distribution of 2,000,000 warrants together with a minimum number of public warrant holders determined on a case by case basis, an aggregate market value of $12,000,000 and an initial warrant price of $6.

(4) Cash Settlement—The warrants will be cash settled in U.S. dollars.

(5) A.M. Settlement—The terms of stock index warrants for which 25% or more of the value of the underlying index is represented by securities that are traded primarily in the United States must provide that opening prices of the stocks comprising the index will be used to determine (A) the final settlement value (i.e., the settlement value for warrants that are exercised at expiration) and (B) the settlement value for such warrants that are exercised on either of the two business days preceding the day on which the final settlement value is to be determined.

(6) Automatic Exercise—All currency and index warrants must include in their terms provisions specifying: (A) the time by which all exercise notices must be submitted, and (B) that all unexercised warrants that are in the money will be automatically exercised on their expiration date or on or promptly following the date on which such warrants are delisted by the Exchange (if such warrant issue has not been listed on another organized securities market in the United States.)

(7) Foreign Country Securities—Foreign Country Securities or American Depository Receipts ("ADRs") thereon that: (A) are not subject to a comprehensive surveillance agreement, and (B) have less than 50% of their global trading volume (in dollar value) within the United States, will not, in the aggregate, represent more than 20% of the weight of the index, unless such index is otherwise approved for warrant or option trading.

(8) Changes in Number of Warrants Outstanding—The Exchange expects that issuers of stock index warrants either will make arrangements with warrant transfer agents to advise the Exchange immediately of any change in the number of warrants outstanding due to the early exercise of such warrants or will provide this information themselves. With respect to stock index warrants for which 25% or more of the value of the underlying index is represented by securities traded primarily in the United States, such notice will be filed with the Exchange no later than 1:30 p.m. Pacific Time, on the date when the settlement value for such warrants is determined. Such notice will be filed in such form and manner as may be

prescribed by the Exchange from time to time.

Rule 8.4. Account Approval

No ETP Holder shall accept an order from a customer to purchase or sell a stock index, currency index or currency warrant unless the customer's account has been approved for options trading pursuant to the rules of NYSE Arca 9.18-E(b).

Rule 8.5. Suitability

The provisions of NYSE Arca Rule 9.18-E(c) shall apply to recommendations in stock index, currency index and currency warrants and the term "option" as used therein shall be deemed for purposes of this Rule to include such warrants.

Rule 8.6. Discretionary Accounts

Insofar as an ETP Holder exercises discretion to trade in stock index, currency index and currency warrants, and any such account shall be subject to the provisions of NYSE Arca Rule 9.18-E(e) with respect to such trading. For purposes of this Rule, the term "option" as used in NYSE Arca Rule 9.18-E(e) shall be deemed to include such warrants.

Rule 8.7. Supervision of Accounts

NYSE Arca Rule 9.18-E(d) shall apply to all customer accounts of an ETP Holder in which transactions in stock index, currency index or currency warrants are effected. The term "option" as used in NYSE Arca Rule 9.18-E(d) shall be deemed to include such warrants.

Rule 8.8. Customer Complaints

NYSE Arca Rule 9.18-E(l) shall apply to all customer complaints received by an ETP Holder regarding stock index, currency index or currency warrants. The term "options" as used in NYSE Arca Rule 9.18-E(l) shall be deemed to include such warrants.

Rule 8.9. Prior Approval of Certain Communications to Customers

(a) No ETP Holder or Person Associated with an ETP Holder shall utilize any advertisement, educational material, sales literature or other communication to any customer or member of the public concerning stock index, currency index or currency warrants that:

(1) contains any untrue statement or omission of a material fact or is otherwise false or misleading;

(2) contains promises of specific results, exaggerated or unwarranted claims, opinions for which there is no reasonable basis or forecasts of future events that are

unwarranted or that are not clearly labeled as forecasts; or

(3) contains hedge clauses or disclaimers that are not legible, that attempt to disclaim responsibility for the content of such literature or for opinions expressed therein, or that are otherwise inconsistent with such communications.

(b) All advertisements, sales literature and educational material issued by an ETP Holder to any customer or member of the public pertaining to stock index, currency index or currency warrants shall comply with the requirements set forth in the Commentaries to NYSE Arca Rule 9.28-E. For purposes of this Rule, the term "option" as used in such Commentaries shall be deemed to include such warrants, and the term "The Options Clearing Corporation" as used in such Commentaries shall be deemed to mean the issuer(s) of such warrants.

(c) All advertisements, sales literature (except completed worksheets) and educational materials issued by an ETP Holder to any customer or member of the public pertaining to stock index, currency index or currency warrants shall be approved in advance by a Compliance Registered Options Principal or designee thereof. Copies of such advertisements, literature or materials, together with the names of the persons who prepared them, the names of the persons who approved them and, in the case of sales literature, the source of any recommendations contained therein, shall be retained by the ETP Holder and be kept in an easily accessible place for examination by the Exchange for a period of three years.

(d) In addition to the approval required by subsection (c) of this Rule, every advertisement and all educational material of an ETP Holder pertaining to stock index, currency index and currency warrants shall be submitted to the Exchange at least ten days prior to use (or such shorter time as the Exchange may allow in particular instances) for approval and, if changed or expressly disapproved by the Exchange, shall be withheld from circulation until any changes specified by the Exchange have been made or, in the event of disapproval, until such material has been resubmitted for, and has received, Exchange approval. The requirements of this paragraph shall not be applicable to:

(1) advertisements or educational material submitted to another self-regulatory organization having comparable standards pertaining to such advertising or educational material; or

(2) advertisements in which the only reference to stock index, currency index or currency warrants is contained in a listing of services of an ETP Holder.

(e) Definitions. For purposes of this Rule 8.9, the following definitions shall apply:

(1) The term "advertisement" shall include any sales material that reaches a mass audience through public media such as newspapers, periodicals, magazines, radio, television, telephone recordings, motion pictures, audio or video devices, telecommunications devices, billboards, signs or through written sales

communications to customers or the public.

(2) The term "educational material" shall include any explanatory material distributed or made generally available to customers or the public that is limited to information describing the general nature of the stock index, currency index or currency warrant markets or one or more strategies.

(3) The term "sales literature" shall include any written communication (not defined as an "advertisement" or as "educational material") distributed or made generally available to customers or the public that contains any analysis, performance report, projection or recommendation with respect to stock index, currency index or currency warrants, underlying indexes or market conditions, any standard forms of worksheets, or any seminar text that pertains to stock index, currency index or currency warrants and that is communicated to customers or the public at seminars, lectures or similar events.

Rule 8.10. Position Limits

(a) Except with prior written approval of the Exchange in each instance, no ETP Holder shall effect for any account in which such ETP Holder has an interest or for the account of any partner, officer, director or employee thereof or for the account of any customer, a purchase or sale transaction (whether on the Exchange or on or through the facilities of, or otherwise subject to the rules of, another national securities exchange or national securities association) in a stock index warrant if the ETP Holder has reason to believe that as a result of such transaction the ETP Holder or partner, officer, director or employee thereof or customer would, acting alone or in concert with others, directly or indirectly, control an aggregate position in an index warrant issue, or in all warrants issued on the same stock index group, on the same side of the market, in excess of the following position limits:

(1) As to index warrants overlying the same index with an initial offering price of $10 or less, 15 million warrants; and

(2) For stock index warrants with an initial issue price greater than ten dollars, positions in these warrants must be aggregated with positions in stock index warrants on the same index priced initially at or below ten dollars by dividing the original offering price of the index warrant price above ten dollars by ten and multiplying this number by the size of the index warrant position. For example, if an investor held 100,000 stock index warrants priced initially at $20 per warrant, the size of this position for position limit purposes would be 200,000 or 100,000 times 20/10.

(b) Whenever the Exchange determines that a person or group of persons acting in concert holds or controls an aggregate position (whether long or short) in stock index warrants in excess of the applicable position limits established pursuant to paragraph (a) of this Rule 8.10, it may direct all ETP Holders carrying a position in stock index

warrants for such person or persons to liquidate such position, as expeditiously as possible consistent with the maintenance of an orderly market, to the extent necessary to assure that such person or persons are in compliance with applicable position limits. Whenever such a directive is issued by the Exchange, no ETP Holder receiving notice thereof shall accept any order to purchase or sell any stock index warrants based on the same stock index for the account of the person or persons named in such directive, unless in each instance the Exchange provides its express approval therefor, or until such directive is rescinded.

Commentary:

.01 The Exchange will not approve any transaction or the carrying of any positions which would exceed the limits established pursuant to this Rule, except in highly unusual circumstances. Requests for such approval must be accompanied by a detailed statement of the facts justifying an exception to such position limits.

.02 The Exchange may establish higher position limits for transactions by ETP Holders acting as registered Market Makers on the Exchange than those applicable with respect to other accounts. Whenever an ETP Holder acting as a registered Market Maker on the Exchange reasonably anticipates that he or she may exceed such position limits in the performance of his or her functions as an ETP Holder acting as a registered Market Maker on the Exchange, he or she must consult with and obtain the prior approval of the regulatory staff.

Rule 8.11. Exercise Limits

Except with the prior approval of the Exchange in each instance, no ETP Holder shall exercise, for any account in which such ETP Holder has an interest, or for the account of any partner, officer, director or employee thereof, or, for the account of any customer, a long position in any stock index warrant dealt in on the Exchange if as a result thereof such ETP Holder or partner, officer, director or employee thereof or customer, acting alone or in concert with others, directly or indirectly, has or will have exercised within any five (5) consecutive business days aggregate long positions in the number of stock index warrants set forth in Rule 8.10. The Exchange may from time to time institute other limitations concerning the exercise of stock index warrants. All such exercise limitations are separate and distinct from any other exercise limitations imposed by the issuers of index warrants.

Rule 8.12. Trading Halts or Suspensions

The Exchange will maintain surveillance procedures for currency and index warrants listed under Rule 8.3 and will consider the suspension of trading in, and will initiate delisting proceedings under Rule 5.5(m) of, a series of currency or index warrants under

any of the following circumstances:

(i) whenever trading in underlying securities whose weighted value represents more than 20%, in the case of a broad based index, and 10% for all other indices, of the index value is halted or is suspended;

(ii) all trading has been halted or suspended in the market that is the primary market for a plurality of the underlying stocks;

(iii) the current calculation of the index derived from the current market prices of the stocks is not available;

(iv) if any of the continued listing requirements set forth in Rule 8.3 are not continuously maintained;

(v) if the Exchange submits a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of Currency or Index Warrants and any of the statements or representations regarding (a) the description of the underlying reference asset, (b) limitations on the underlying reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing are not continuously maintained; or

(vi) other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market and the protection of investors are present.

Trading in currency or index warrants that have been the subject of a halt or suspension by the Exchange may resume if the Exchange determines that the conditions which led to the halt or suspension are no longer present, or that the interests of a fair and orderly market are best served by a resumption of trading.

Rule 8.13. Reporting of Warrant Positions

(a) Each ETP Holder shall file with the Exchange a report with respect to each account in which the ETP Holder has an interest, each account of a partner, officer, director, or employee of such ETP Holder and each customer account, that has established an aggregate position (whether long or short) of 100,000 warrants covering the same underlying index, currency or currency index, combining for purposes of this Rule: (1) long positions in put warrants and short positions in call warrants, and (2) short positions in put warrants with long positions in call warrants. The report shall be in such form as may be prescribed by the Exchange and shall be filed no later than the close of business on the next day following the day on which the transaction or transactions requiring the filing of such report occurred. Whenever a report shall be required to be filed with respect to an account pursuant to this Rule, the ETP Holder filing the report shall file with the Exchange such additional periodic reports with respect to such account as the Exchange may from time to time prescribe. In computing reportable positions, warrants on a stock index shall not be aggregated with: (1) warrants on any other stock index, (2) options on

any stock index or (3) options or warrants on any stock or group of stocks included in such index.

(b) In addition to the reports required by subsection (a) of this Rule, each ETP Holder shall report promptly to the Exchange any instance in which such ETP Holder has reason to believe that a person, acting alone or in concert with others, has exceeded or is attempting to exceed the position limits prescribed in Rule 8.10 or the exercise limits prescribed in Rule 8.11.

(c) All reports required by this Rule shall be filed with the Exchange in such manner and form as prescribed by the Exchange.

Section 2. Portfolio Depositary Receipts

Rule 8.100. Portfolio Depositary Receipts

(a) Definitions.

(1) *Portfolio Depositary Receipt*. The term "Portfolio Depositary Receipt" means a security:

(a) that is based on a unit investment trust ("Trust") that holds the securities that comprise an index or portfolio underlying a series of Portfolio Depositary Receipts;

(b) that is issued by the Trust in a specified aggregate minimum number in return for a "Portfolio Deposit" consisting of specified numbers of shares of stock and/or a cash amount, a specified portfolio of fixed income securities and/or a cash amount and/or a combination of the above;

(c) that, when aggregated in the same specified minimum number, may be redeemed from the Trust which will pay to the redeeming holder the stock and/or cash, fixed income securities and/or cash and/or a combination thereof then comprising the "Portfolio Deposit"; and

(d) that pays holders a periodic cash payment corresponding to the regular cash dividends or distributions declared with respect to the component securities of the securities index or portfolio of securities underlying the Portfolio Depositary Receipts, less certain expenses and other charges as set forth in the Trust prospectus.

(2) *Reporting Authority*. The term "Reporting Authority" in respect of a particular series of Portfolio Depositary Receipts means the Exchange, an institution (including the Trustee for a series of Portfolio Depositary Receipts), or a reporting service designated by the Exchange or by the exchange that lists a particular series of Portfolio Depositary Receipts (if the Exchange is trading such series pursuant to

unlisted trading privileges) as the official source for calculating and reporting information relating to such series, including, but not limited to, any current index or portfolio value; the current value of the portfolio of securities required to be deposited to the Trust in connection with the issuance of Portfolio Depositary Receipts; the amount of any dividend equivalent payment or cash distribution to holders of Portfolio Depositary Receipts, net asset value, or other information relating to the creation, redemption or trading of Portfolio Depositary Receipts.

(3) US Component Stock. The term "US Component Stock" will mean an equity security that is registered under Sections 12(b) or 12(g) of the Exchange Act or an American Depositary Receipt, the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Exchange Act.

(4) Non-US Component Stock. The term "Non-US Component Stock" will mean an equity security that is not registered under Sections 12(b) or 12(g) of the Exchange Act and that is issued by an entity that (a) is not organized, domiciled or incorporated in the United States, and (b) is an operating company (including Real Estate Investment Trusts (REITS) and income trusts, but excluding investment trusts, unit trusts, mutual funds, and derivatives).

(b) *Applicability*. This Rule is applicable only to Portfolio Depositary Receipts. Except to the extent inconsistent with this Rule, or unless the context otherwise requires, the provisions of the Bylaws and all other Rules and policies of the Board of Directors are applicable to the trading on the Exchange of such securities. Portfolio Depositary Receipts are included within the definition of "security" or "securities" as such terms are used in the Bylaws and Rules of the Exchange.

(c) *Disclosures*. The provisions of this subparagraph apply only to series of Portfolio Depositary Receipts that are the subject of an order by the Securities and Exchange Commission exempting such series from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 and are not otherwise subject to prospectus delivery requirements under the Securities Act of 1933. The Exchange will inform ETP Holders regarding application of these provisions of this subparagraph to a particular series of Portfolio Depositary Receipts by means of an information circular prior to commencement of trading in such series.

An ETP Holder will provide to all purchasers of a series of Portfolio Depositary Receipts a written description of the terms and characteristics of such securities, in a form approved by the Exchange, or prepared by the unit investment trust issuing such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, ETP Holders will include such a written description with any sales material relating to a series of Portfolio Depositary Receipts that is provided to customers or the public. Any other written materials provided by an ETP Holder to customers or the public making specific reference to a series of Portfolio Depositary Receipts as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of [the series of

Portfolio Depositary Receipts] is available from your broker. It is recommended that you obtain and review such circular before purchasing [the series of Portfolio Depositary Receipts]. In addition, upon request you may obtain from your broker a prospectus for [the series of Portfolio Depositary Receipts]."

An ETP Holder carrying an omnibus account for a non-ETP Holder broker-dealer is required to inform such non-ETP Holder that execution of an order to purchase a series of Portfolio Depositary Receipts for such omnibus account will be deemed to constitute agreement by the non-ETP Holder to make such written description available to its customers on the same terms as are directly applicable to ETP Holders under this Rule.

Upon request of a customer, an ETP Holder will also provide a prospectus for the particular series of Portfolio Depositary Receipts.

(d) *Designation of an Index or Portfolio*. The trading of Portfolio Depositary Receipts based on one or more stock indexes or securities portfolios, whether by listing or pursuant to unlisted trading privileges, will be considered on a case-by-case basis. The Portfolio Depositary Receipts based on each particular stock index or portfolio will be designated as a separate series and will be identified by a unique symbol. The stocks that are included in an index or portfolio on which Portfolio Depositary Receipts are based will be selected by the Exchange or by such other person as will have a proprietary interest in and authorized use of such index or portfolio, and may be revised from time to time as may be deemed necessary or appropriate to maintain the quality and character of the index or portfolio.

(e) The Exchange may submit a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of Portfolio Depositary Receipts that do not otherwise meet the standards set forth in this rule. All statements or representations contained in such rule filing regarding (a) the description of the index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

(f) *Initial and Continued Listing and/or Trading*. A Trust upon which a series of Portfolio Depositary Receipts is based will be traded on the Exchange, whether by listing or pursuant to unlisted trading privileges, subject to the following criteria:

(1) Initial Listing

(i) The minimum number of Portfolio Depositary Receipts required to be outstanding at commencement of trading is set forth in Commentary .01 paragraph (d) of this Rule.

(ii) The Exchange will obtain a representation from the issuer of each series of Portfolio Depositary Receipts that the net asset value per share for the series will

be calculated daily and will be made available to all market participants at the same time.

(2) Continued Listing

(i) The Exchange will maintain surveillance procedures for securities listed under this rule and will consider the suspension of trading in, and will initiate delisting proceedings under Rule 5.5(m) of, a Trust upon which a series of Portfolio Depositary Receipts is based under any of the following circumstances:

(A) if any of the continued listing requirements set forth in this Rule 8.100 are not continuously maintained;

(B) if the Exchange files separate proposals under 19(b) of the Exchange Act and any of the statements or representations regarding (a) the description of the index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing are not continuously maintained;

(C) if, following the initial twelve month period after the formation of a Trust and commencement of trading on the Exchange, the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Portfolio Depositary Receipts;

(D) if the value of the index or portfolio of securities on which the Trust is based is no longer calculated or available; or

(E) if such other event will occur or condition exists which in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

(ii) The Exchange will halt trading in a series of Portfolio Depositary Receipts if the circuit breaker parameters of Rule 7.12 have been reached. In exercising its discretion to halt or suspend trading in a series of Portfolio Depositary Receipts, the Exchange may consider factors such as the extent to which trading in the underlying securities is not occurring or whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present, in addition to other factors that may be relevant. The remainder of this paragraph (ii) will apply only when the Exchange is the listing market for a series of Portfolio Depositary Receipts. If the Intraday Indicative Value (as defined in Commentary .01 to Rule 8.100) or the official index value applicable to that series of Portfolio Depositary Receipts is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the Intraday Indicative Value or the index value occurs. If the interruption to the dissemination of the Intraday Indicative Value or the official index value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the

interruption. Procedures for trading halts in connection with an interruption in the calculation or dissemination of the Intraday Indicative Value or the official index value for Portfolio Depositary Receipts traded pursuant to unlisted trading privileges are set forth in Rule 7.18.

(iii) Upon termination of a Trust, the Exchange requires that Portfolio Depositary Receipts issued in connection with such Trust be removed from Exchange listing or have their unlisted trading privileges terminated. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of securities in the Trust falls below a specified amount.

(3) Term—The stated term of the Trust will be as stated in the Trust prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(4) Trustee—The trustee must on an initial and continued listing basis be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(5) Voting—Voting rights will be as set forth in the Trust prospectus. The trustee of a Trust may have the right to vote all of the voting securities of such Trust.

Commentary:

.01 Equity. The Exchange may approve a series of Portfolio Depositary Receipts for listing and/or trading (including pursuant to unlisted trading privileges) pursuant to Rule 19b-4(e) under the Exchange Act. Portfolio Depository Receipts listed pursuant to Rule 19b-4(e) will satisfy the criteria set forth in (a)(A), (B) or (C) and (b) through (g) below.

(a) *Eligibility Criteria for Index Components*.

(A) US index or portfolio. Component stocks of an index or portfolio of US Component Stocks underlying a series of Portfolio Depositary Receipts listed pursuant to Rule 19b-4(e) under the Exchange Act will meet the following criteria on an initial and continued listing basis:

(1) Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each will have a minimum market value of at least $75 million;

(2) Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each will have a minimum monthly trading volume

during each of the last six months of at least 250,000 shares;

(3) The most heavily weighted component stock will not exceed 25% of the weight of the index or portfolio, and the five most heavily weighted component stocks will not exceed 65% of the weight of the index or portfolio;

(4) The index or portfolio will include a minimum of 13 component stocks; and

(5) All securities in the index or portfolio will be US Component Stocks listed on a national securities exchange and will be NMS Stocks as defined in Rule 600 of Regulation NMS under the Exchange Act.

(B) International or global index or portfolio. Component stocks of an index or portfolio underlying a series of Portfolio Depositary Receipts listed pursuant to Rule 19b-4(e) under the Exchange Act that consist of either (a) only Non-US Component Stocks or (b) both US Component Stocks and Non-US Component Stocks will meet the following criteria on an initial and continued listing basis:

(1) Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each will have a minimum market value of at least $100 million;

(2) Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each will have a minimum worldwide monthly trading volume during each of the last six months of at least 250,000 shares;

(3) The most heavily weighted component stock will not exceed 25% of the weight of the index or portfolio, and the five most heavily weighted component stocks will not exceed 60% of the weight of the index or portfolio;

(4) The index or portfolio will include a minimum of 20 component stocks; and

(5) Each US Component Stock will be listed on a national securities exchange and will be an NMS Stock as defined in Rule 600 of Regulation NMS under the Exchange Act, and each Non-US Component Stock will be listed and traded on an exchange that has last-sale reporting.

(C) Index or portfolio approved in connection with options or other derivative securities. For the initial and continued listing of a series of Portfolio Depositary Receipts pursuant to Rule 19b-4(e) under the Exchange Act, the index or portfolio underlying a series of Portfolio Depositary Receipts will have been reviewed and approved for trading of options, Portfolio Depositary Receipts, Investment Company Units, Index-Linked Exchangeable Notes or Index-Linked Securities by the Securities and Exchange Commission under Section 19(b) of the Exchange Act and rules thereunder and the conditions set forth in the Securities and Exchange Commission's approval order, including comprehensive surveillance

sharing agreements with respect to Non-US Component Stocks and the requirements regarding dissemination of information, must continue to be satisfied. On an initial and continued listing basis, each component stock of the index or portfolio will be either (i) a US Component Stock that is listed on a national securities exchange and is an NMS Stock as defined in Rule 600 of Regulation NMS under the Exchange Act or (ii) a Non-US Component Stock that is listed and traded on an exchange that has last-sale reporting.

(b) *Index Methodology and Calculation*. All requirements set forth in this paragraph must be satisfied on an initial and continued listing basis.

(1) The index underlying a series of Portfolio Depositary Receipts will be calculated based on either the market capitalization, modified market capitalization, price, equal-dollar or modified equal-dollar weighting methodology;

(2) If the index is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor will erect and maintain a "firewall" around the personnel who have access to information concerning changes and adjustments to the index and the index will be calculated by a third party who is not a broker-dealer or fund advisor. In addition, any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the index or portfolio composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index;

(3) The current index value for Portfolio Depositary Receipts listed pursuant to (a) Commentary .01(a)(A) above will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session (as defined in Rule 7.34); (b) Commentary .01(a)(B) above will be widely disseminated by one or more major market data vendors at least every 60 seconds during the Core Trading Session; or (c) Commentary .01(a)(C) above will be widely disseminated during the Core Trading Session by one or more major market data vendors at least every 15 seconds with respect to indexes containing only US Component Stocks and at least every 60 seconds with respect to indexes containing Non-US Component Stocks. If the official index value does not change during some or all of the period when trading is occurring on the Exchange (for example, for indexes of Non-US Component Stocks because of time zone differences or holidays in the countries where such indexes' component stocks trade), then the last official calculated index value must remain available throughout the Exchange's trading hours.

(c) *Disseminated Information*. One or more major market data vendors will disseminate for each series of Portfolio Depositary Receipts listed or traded on the Exchange an estimate, updated at least every 15 seconds, during the Core Trading Session of the value in U.S. dollars of a share of each series (the "Intraday Indicative Value"). The Intraday Indicative Value may be based, for example, upon current

information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value. The Intraday Indicative Value will be updated at least every 15 seconds during the Core Trading Session to reflect changes in the exchange rate between the U.S. dollar and the currency in which any component stock is denominated. If the Intraday Indicative Value does not change during some or all of the period when trading is occurring on the Exchange, then the last official calculated Intraday Indicative Value must remain available throughout the Exchange's trading hours. All requirements set forth in this paragraph must be satisfied on an initial and continued listing basis.

(d) *Initial Shares Outstanding*. A minimum of 100,000 shares of a series of Portfolio Depositary Receipts is required to be outstanding at commencement of trading.

(e) *Hours of Trading*. The hours of trading for series of Portfolio Depositary Receipts are those provided in Rule 7.34(a).

(f) *Surveillance Procedures*. The Exchange will implement written surveillance procedures for Portfolio Depositary Receipts.

(g) Creation and Redemption. For Portfolio Depositary Receipts listed pursuant to Commentary .01(a)(B) or (C) above, the statutory prospectus or the application for exemption from provisions of the Investment Company Act of 1940 for the series of Portfolio Depositary Receipts must state that the Trust must comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933.

.02 Fixed Income. Fixed Income Securities are debt securities that are notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities ("Treasury Securities"), government-sponsored entity securities ("GSE Securities"), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof. The Exchange may approve a series of Portfolio Depositary Receipts based on Fixed Income Securities for listing and pursuant to Rule 19b-4(e) under the Exchange Act provided such portfolio or index (i) has been reviewed and approved for the trading of options, Investment Company Units, Portfolio Depository Receipts, Index-Linked Exchangeable Notes or Index-Linked Securities by the Commission under Section 19(b) of the Exchange Act and rules thereunder and the conditions set forth in the Commission's approval order, continue to be satisfied or (ii) the following criteria is satisfied.

(a) *Eligibility Criteria for Index Components*. Components of an index or portfolio underlying a series of Portfolio Depositary Receipts listed pursuant to Rule 19b-4(e)

under the Exchange Act will meet the following criteria on an initial and continued listing basis:

(1) The index or portfolio must consist of Fixed Income Securities;

(2) Components that in aggregate account for at least 75% of the weight of the index or portfolio each will have a minimum original principal amount outstanding of $100 million or more;

(3) A component may be a convertible security, however, once the convertible security component converts to the underlying equity security, the component is removed from the index or portfolio;

(4) No component fixed-income security (excluding Treasury Securities and GSE Securities) will represent more than 30% of the weight of the index or portfolio, and the five most heavily weighted component fixed-income securities in the index or portfolio will not in the aggregate account for more than 65% of the weight of the index or portfolio;

(5) An underlying index or portfolio (excluding one consisting entirely of exempted securities) must include a minimum of 13 non-affiliated issuers; and

(6) Component securities that in aggregate account for at least 90% of the weight of the index or portfolio must be either a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Exchange Act; b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; c) from issuers that have

(7) outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; d) exempted securities as defined in Section 3(a)(12) of the Exchange Act; or e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

(b) *Index Methodology and Calculation*. All requirements set forth in this paragraph must be satisfied on an initial and continued listing basis.

(i) If the index is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor will erect and maintain a "firewall" around the personnel who have access to information concerning changes and adjustments to the index;

(ii) The current index value for Portfolio Depositary Receipts listed pursuant to Commentary .02(a) above will be widely disseminated by one or more major market data vendors at least once per day and if the index value does not change during some or all of the period when trading is occurring on the Exchange, the last official calculated index value must remain available throughout the

Exchange's trading hours; and

(iii) Any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the index composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index.

(c) *Disseminated Information*. One or more major market data vendors will disseminate for each series of Portfolio Depositary Receipts listed pursuant to Commentary .02(a) above an estimate, updated at least every 15 seconds during the Core Trading Session, of the value of a share of each series (the "Intraday Indicative Value"). The Intraday Indicative Value may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value. The Intraday Indicative Value may be calculated by the Exchange or by an independent third party throughout the day using prices obtained from independent market data providers or other independent pricing sources such as a broker-dealer or price evaluation services. If the Intraday Indicative Value does not change during some or all of the period when trading is occurring on the Exchange, then the last official calculated Intraday Indicative Value must remain available throughout the Exchange's trading hours. All requirements set forth in this paragraph must be satisfied by the issuer on an initial and continued listing basis.

(d) *Initial Shares Outstanding*. The provisions of Commentary .01(d) above will apply to series of Portfolio Depositary Receipts listed pursuant to Commentary .02(a) above.

(e) *Hours of Trading*. The provisions of Commentary .01(e) above will apply to series of Portfolio Depositary Receipts listed pursuant to Commentary .02(a) above.

(f) *Surveillance Procedures*. The provisions of Commentary .01(f) above will apply to series of Portfolio Depositary Receipts based on Fixed Income Securities that are listed and/or traded pursuant to UTP.

.03 The Exchange may approve a series of Portfolio Depositary Receipts based on a combination of indexes or an index or portfolio of component securities representing the U.S. or domestic equity market, the international equity market, and the fixed income market for listing and trading pursuant to Rule 19b-4(e) under the Exchange Act provided (i) such portfolio or combination of indexes have been reviewed and approved for the trading of options, Investment Company Units, Portfolio Depository Receipts, Index-Linked Exchangeable Notes or Index-Linked Securities by the Commission under Section 19(b) of the Exchange Act and rules thereunder and the conditions set forth in the Commission's approval order continue to

be satisfied or (ii) each index or portfolio of equity and fixed income component securities separately meet either the criteria set forth in Commentary .01(a) or .02(a) above.

(a) *Index Methodology and Calculation.* All requirements set forth in this paragraph must be satisfied on an initial and continued listing basis.

(i) If the index is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor will erect and maintain a "firewall" around the personnel who have access to information concerning changes and adjustments to the index;

(ii) The current composite index value for Portfolio Depositary Receipts listed pursuant to Commentary .01(a) or .02(a) above will be widely disseminated by one or more major market data vendors at least once every 15 seconds during the Core Trading Session, provided however, that (a) with respect to the Non-US Component Stocks of the combination index, the impact on the index is only required to be updated at least every 60 seconds during the Core Trading Session, and (b) with respect to the fixed income components of the combination index, the impact on the index is only required to be updated at least once each day; and

(iii) Any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the index composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index.

(b) *Other Applicable Provisions.* The provisions of Commentary .01(c)-(g) will also apply to series of Portfolio Depositary Receipts based on a combination of indexes or an index or portfolio of component securities representing the U.S. or domestic equity market, the international equity market, and the fixed income market.

Rule 8.100(f). Limitation of Liability of the Exchange

Neither the Exchange, the Reporting Authority nor any agent of the Exchange will have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current index or portfolio value, the current value of the portfolio of securities required to be deposited to the Trust; the amount of any dividend equivalent payment or cash distribution to holders of Portfolio Depositary Receipts; net asset value; or other information relating to the creation, redemption or trading of Portfolio Depositary Receipts, resulting from any negligent act or omission by the Exchange, or the Reporting Authority, or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange or its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reporting of transactions in one or more underlying

securities. The Exchange makes no warranty, express or implied, as to results to be obtained by any person or entity from the use of Portfolio Depositary Receipts or any underlying index or data included therein and the Exchange makes no express or implied warranties, and disclaims all warranties of merchantability or fitness for a particular purpose with respect to Portfolio Depositary Receipts or any underlying index or data included therein. This limitation of liability will be in addition to any other limitation contained in the Exchange's Bylaws and Rules.

Rule 8.200. Trust Issued Receipts

(a) The Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Trust Issued Receipts that meet the criteria of this Rule. The Exchange may submit a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of Trust Issued Receipts that do not meet the standards set forth in Commentary .01 to this Rule 8.200. All statements or representations contained in such rule filing regarding (a) the description of the index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements. If an issue of Trust Certificates does not satisfy these requirements, the Exchange may halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5(m).

(b) *Definitions*. A Trust Issued Receipt is a security (1) that is issued by a trust ("Trust") which holds specific securities deposited with the Trust; (2) that, when aggregated in some specified minimum number, may be surrendered to the Trust by the beneficial owner to receive the securities; and (3) that pay beneficial owners dividends and other distributions on the deposited securities, if any are declared and paid to the trustee ("Trustee") by an issuer of the deposited securities.

(c) *Designation*. The Exchange may trade, whether by listing or pursuant to unlisted trading privileges, Trust Issued Receipts based on one or more securities. The Trust Issued Receipts based on particular securities will be designated as a separate series and will be identified by a unique symbol. The securities that are included in a series of Trust Issued Receipts will be selected by the Exchange or by such other person as will have a proprietary interest in such Trust Issued Receipts.

(d) *Initial and Continued Listing and/or Trading*. Trust Issued Receipts will be traded on the Exchange subject to application of the following criteria:

(1) Commencement of Trading—For each Trust, the Exchange will establish a minimum number of Trust Issued Receipts required to be outstanding at the time of commencement of trading on the Exchange.

(2) Continued Trading—The Exchange will consider the suspension of trading in or termination of unlisted trading privileges for, and will initiate delisting proceedings

under Rule 5.5(m) of, a Trust upon which a series of Trust Issued Receipts is based under any of the following circumstances:

(A) if, following the initial twelve month period following formation of a Trust and commencement of trading on the Exchange, the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Trust Issued Receipts;

(B) if, following the initial twelve month period following formation of a Trust and commencement of trading on the Exchange, the Trust has fewer than 50,000 receipts issued and outstanding;

(C) if, following the initial twelve month period following formation of a Trust and commencement of trading on the Exchange, the market value of all receipts issued and outstanding is less than $1,000,000;

(D) if any of the continued listing requirements set forth in this Rule 8.200 are not continuously maintained;

(E) if the Exchange files separate proposals under Section 19(b) of the Exchange Act and any of the statements or representations regarding (a) the description of the index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing are not continuously maintained; or

(F) if any other event will occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

Upon termination of a Trust, the Exchange requires that Trust Issued Receipts issued in connection with such trust be removed from listing or have their unlisted trading privileges terminated. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of securities in the Trust falls below a specified amount.

(3) Term—The stated term of the Trust will be as stated in the Trust prospectus; however, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(4) Trustee—The trustee must on an initial and continued listing basis be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handing corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, as qualified trust company or banking institution must be appointed co-trustee.

(5) Voting—Voting rights will be as set forth in the Trust prospectus.

(e) ETP Holders. ETP Holders will provide to all purchasers of newly issued Trust Issued Receipts a prospectus for the series of Trust Issued Receipts.

(f) Applicability. This Rule is applicable only to Trust Issued Receipts. Except to the extent inconsistent with this Rule, or unless the context otherwise requires, the provisions of the Bylaws and all other rules and procedures of the Board of Directors will be applicable to the trading on the Exchange of such securities. Trust Issued Receipts are included within the definition of "security" or "securities" as such terms are used in the Bylaws and Rules of the Exchange.

Commentary:

> **.01** The Exchange may approve trust issued receipts for trading, whether by listing or pursuant to unlisted trading privileges, pursuant to Rule 19b-4(e) under the Exchange Act, provided that the following criteria (other than clause (f) which need only be satisfied on an initial listing basis) are satisfied on an initial and continued listing basis:

(a) each security underlying the trust issued receipt must be registered under Section 12 of the Exchange Act;

(b) each security underlying the trust issued receipt must have a minimum public float of at least $150 million;

(c) each security underlying the trust issued receipt must be listed on a national securities exchange or traded through the facilities of Nasdaq as a reported national market system security;

(d) each security underlying the trust issued receipt must have an average daily trading volume of at least 100,000 shares during the preceding sixty-day trading period;

(e) each security underlying the trust issued receipt must have an average daily dollar value of shares traded during the preceding sixty-day trading period of at least $1 million; and

(f) the most heavily weighted security in the trust issued receipt cannot initially represent more than 20% of the overall value of the trust issued receipt.

.02

(a) The provisions of this Commentary apply only to Trust Issued Receipts that invest in "Investment Shares" or "Financial Instruments" as defined below. Rules that reference Trust Issued Receipts will also apply to Trust Issued Receipts investing in Investment Shares or "Financial Instruments".

(b) **Definitions.** The following terms as used in this Commentary will, unless the context otherwise requires, have the meanings herein specified:

(1) *Investment Shares*. The term "Investment Shares" means a security (a) that is issued by a trust, partnership, commodity pool or other similar entity that invests in any combination of futures contracts, options on futures contracts, forward contracts, commodities, swaps or high credit quality short-term fixed income securities or other securities; and (b) issued and redeemed daily at net asset value in amounts correlating to the number of receipts created and redeemed in a specified aggregate minimum number.

(2) *Futures Contract*. The term "futures contract" is commonly known as a "contract of sale of a commodity for future delivery" set forth in Section 2(a) of the Commodity Exchange Act.

(3) *Forward Contract.* A forward contract is a contract between two parties to purchase and sell a specific quantity of a commodity at a specified price with delivery and settlement at a future date. Forwards are traded over-the-counter ("OTC") and not listed on a futures exchange.

(4) *Financial Instruments*. The term "Financial Instruments" means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars and floors; and swap agreements.

(c) **Designation.** The Exchange may list and trade Trust Issued Receipts investing in Investment Shares or Financial Instruments. Each issue of a Trust Issued Receipt based on a particular Investment Share will be designated as a separate series and will be identified by a unique symbol.

(d) **Initial and Continued Listing.** Trust Issued Receipts based on Investment Shares or Financial Instruments will be listed and traded on the Exchange subject to application of the following criteria:

(1) Initial Listing — The Exchange will establish a minimum number of receipts required to be outstanding at the time of commencement of trading on the Exchange.

(2) Continued Listing — The Exchange will maintain surveillance procedures for securities listed under this rule and will consider the suspension of trading in, and will initiate delisting proceedings under Rule 5.5(m) of, Trust Issued Receipts based on an Investment Share or Financial Instruments under any of the following circumstances:

(i) if following the initial twelve month period following the commencement of trading of the shares, (A) the Issuer has more than 60 days remaining until

termination and there are fewer than 50 record and/or beneficial holders of Trust Issued Receipts; (B) if the Issuer has fewer than 50,000 securities or shares issued and outstanding; or (C) if the market value of all securities or shares issued and outstanding is less than $1,000,000;

(ii) if the value of an underlying index or portfolio is no longer calculated or available on at least a 15-second delayed basis or the Exchange stops providing a hyperlink on its website to any such asset or investment value;

(iii) if the Indicative Value is no longer made available on at least a 15-second delayed basis;

(iv) if any of the continued listing requirements set forth in this Rule 8.200 are not continuously maintained;

(v) if the Exchange submits a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of Trust Issued Receipts based on separate Investment Shares or Financial Instruments and any of the statements or representations regarding (a) the description of the index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing are not continuously maintained; or

(vi) if such other event will occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

Upon termination of the Trust, the Exchange requires that Trust Issued Receipts issued in connection with such Trust be removed from Exchange listing. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of the Trust falls below a specified amount.

(3) Term — The stated term of the Trust will be as stated in the prospectus. However, such entity may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(4) Trustee — The following requirements apply on an initial and continued listing basis:

(i) The trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(ii) No change is to be made in the trustee of a listed issue without prior notice to

and approval of the Exchange.

(5) Voting — Voting rights will be as set forth in the applicable Trust prospectus.

(e) **Market Maker Accounts.**

(1) The ETP Holder acting as a registered Market Maker on the Exchange in Trust Issued Receipts must file, with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, which the ETP Holder acting as a registered Market Maker on the Exchange may have or over which it may exercise investment discretion. No ETP Holder acting as a registered Market Maker on the Exchange in the Trust Issued Receipts will trade in the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, in an account in which an ETP Holder acting as a registered Market Maker on the Exchange, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule.

(2) In addition to the existing obligations under Exchange rules regarding the production of books and records (See, e.g. Rule 11.4.1), the ETP Holder acting as a registered Market Maker on the Exchange in Trust Issued Receipts will make available to the Exchange such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts in the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, as may be requested by the Exchange.

(f) Limitation of Exchange Liability. Neither the Exchange nor any agent of the Exchange will have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any underlying asset or commodity value, the current value of the underlying asset or commodity if required to be deposited to the Trust in connection with issuance of Trust Issued Receipts; net asset value; or other information relating to the purchase, redemption or trading of Trust Issued Receipts, resulting from any negligent act or omission by the Exchange or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange or its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in an underlying asset or commodity.

(g) The Exchange will file separate proposals under Section 19(b) of the Exchange Act before listing and trading Trust Issued Receipts based on separate Investment Shares or Financial Instruments. All statements or representations contained in such rule filing regarding (a) the description of the index, portfolio or reference asset, (b) limitations on

index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

Rule 8.201. Commodity-Based Trust Shares

(a) The Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Commodity-Based Trust Shares that meet the criteria of this Rule.

(b) *Applicability*. This Rule is applicable only to Commodity-Based Trust Shares. Except to the extent inconsistent with this Rule, or unless the context otherwise requires, the provisions of the trust issued receipts rules, Bylaws, and all other rules and procedures of the Board of Directors will be applicable to the trading on the Exchange of such securities. Commodity-Based Trust Shares are included within the definition of "security" or "securities" as such terms are used in the Bylaws and Rules of the Exchange.

(c) *Definitions*. The following terms as used in the Rules will, unless the context otherwise requires, have the meaning herein specified:

(1) *Commodity-Based Trust Shares*. The term "Commodity-Based Trust Shares" means a security (a) that is issued by a trust ("Trust") that holds a specified commodity deposited with the Trust; (b) that is issued by such Trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity; and (c) that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such Trust which will deliver to the redeeming holder the quantity of the underlying commodity.

(2) *Commodity*. The term "commodity" is defined in Section 1(a)(4) of the Commodity Exchange Act.

(d) *Designation of an Underlying Commodity*. The Exchange may trade, either by listing or pursuant to unlisted trading privileges, Commodity-Based Trust Shares based on an underlying commodity. Each issue of a Commodity-Based Trust Share will be designated as a separate series and will be identified by a unique symbol.

(e) *Initial and Continued Listing*. Commodity-Based Trust Shares will be listed and traded on the Exchange subject to application of the following criteria:

(1) *Initial Listing*—the Exchange will establish a minimum number of Commodity-Based Trust Shares required to be outstanding at the time of commencement of trading on the Exchange.

(2) *Continued Listing*—The Exchange will maintain surveillance procedures for securities listed under this rule and will consider the suspension of trading in, and

will initiate delisting proceedings under Rule 5.5(m) of, such series under any of the following circumstances:

(i) if, following the initial twelve month period following commencement of trading on the Exchange of Commodity-Based Trust Shares, the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Commodity-Based Trust Shares;

(ii) if, following the initial twelve month period following commencement of trading on the Exchange of Commodity-Based Trust Shares, the Trust has fewer than 50,000 receipts issued and outstanding;

(iii) if, following the initial twelve month period following commencement of trading on the Exchange of Commodity-Based Trust Shares, the market value of all receipts issued and outstanding is less than $1,000,000;

(iv) if the value of the underlying commodity is no longer calculated or available on at least a 15-second delayed basis from a source unaffiliated with the sponsor, Trust, custodian or the Exchange or the Exchange stops providing a hyperlink on its Web site to any such unaffiliated commodity value;

(v) if the Indicative Trust Value is no longer made available on at least a 15-second delayed basis;

(vi) if any of the continued listing requirements set forth in this Rule 8.201 are not continuously maintained;

(vii) if the Exchange submits a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of Commodity-Based Trust Shares and any of the statements or representations regarding (a) the description of the index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing are not continuously maintained; or

(viii) if such other event will occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

Upon termination of a Trust, the Exchange requires that Commodity-Based Trust Shares issued in connection with such entity Trust be removed from Exchange listing. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of the Trust falls below a specified amount.

(3) *Term*—The stated term of the Trust will be as stated in the Trust prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(4) *Trustee*—The following requirements apply on an initial and continued listing basis:

(i) The trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(ii) No change is to be made in the trustee of a listed issue without prior notice to and approval of the Exchange.

(5) *Voting*—Voting rights will be as set forth in the applicable Trust prospectus.

(f) *Limitation of Exchange Liability*. Neither the Exchange nor any agent of the Exchange will have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any underlying commodity value, the current value of the underlying commodity required to be deposited to the Trust in connection with issuance of Commodity-Based Trust Shares; resulting from any negligent act or omission by the Exchange, or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange, its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in an underlying commodity.

(g) *Market Maker Accounts*. An ETP Holder acting as a registered Market Maker on the Exchange in Commodity-Based Trust Shares with no exposure to a non-U.S. currency or currencies must file with the Exchange in a manner prescribed by the Exchange and keep current a list identifying all accounts for trading in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, which the Market Maker may have or over which it may exercise investment discretion. An ETP Holder acting as a registered Market Maker in Commodity-Based Trust Shares with exposure to one or more non-U.S. currencies ("Underlying FX") also must file with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading in Underlying FX and derivatives overlying Underlying FX which the Market Maker may have or over which it may exercise investment discretion, as well as a list of all commodity and commodity-related accounts referenced above. No Market Maker in Commodity-Based Trust Shares shall trade in a commodity, Underlying FX or any related derivative in an account that the Market Maker (1) directly or indirectly controls trading activities or has a direct interest in the profits or losses thereof, (2) is required by this rule to disclose to the Exchange, and (3) has not reported to the Exchange.

In addition to the existing obligations under Exchange rules regarding the production of books and records, the ETP Holder acting as a Market Maker in Commodity-Based Trust

Shares shall make available to the Exchange such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the underlying physical commodity, related commodity futures or options on commodity futures, applicable Underlying FX, or any other related commodity or applicable Underlying FX derivatives, as may be requested by the Exchange.

Commentary:

.01 A Commodity-Based Trust Share is a Trust Issued Receipt that holds a specified commodity deposited with the Trust.

.02 The Exchange requires that ETP Holders provide all purchasers of newly issued Commodity-Based Trust Shares a prospectus for the series of Commodity-Based Trust Shares.

.03 Transactions in Commodity-Based Trust Shares will occur during the trading hours specified in Rule 7.34.

.04 The Exchange will file separate proposals under Section 19(b) of the Exchange Act before trading, either by listing or pursuant to unlisted trading privileges, Commodity-Based Trust Shares. All statements or representations contained in such rule filing regarding (a) the description of the index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

Rule 8.202. Currency Trust Shares

(a) The Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Currency Trust Shares that meet the criteria of this Rule.

(b) *Applicability*. This Rule is applicable only to Currency Trust Shares. Except to the extent inconsistent with this Rule, or unless the context otherwise requires, the provisions of the trust issued receipts rules, Bylaws, and all other rules and procedures of the Board of Directors will be applicable to the trading on the Exchange of such securities.

Currency Trust Shares are included within the definition of "security" or "securities" as such terms are used in the Bylaws and Rules of the Exchange.

(c) *Currency Trust Shares*. The term "Currency Trust Shares" as used in the Rules will, unless the context otherwise requires, mean a security that (a) is issued by a trust ("Trust") that holds a specified non-U.S. currency or currencies deposited with the Trust;

(b) when aggregated in some specified minimum number may be surrendered to the Trust by an Authorized Participant (as defined in the Trust's prospectus) to receive the specified non-U.S. currency or currencies; and (c) pays beneficial owners interest and other distributions on the deposited non-U.S. currency or currencies, if any, declared and paid by the Trust.

(d) *Designation of Non-U.S. Currency*. The Exchange may trade, either by listing or pursuant to unlisted trading privileges, Currency Trust Shares that hold a specified non-U.S. currency or currencies. Each issue of Currency Trust Shares will be designated as a separate series and will be identified by a unique symbol.

(e) *Initial and Continued Listing*. Currency Trust Shares will be listed and traded on the Exchange subject to application of the following criteria:

(1) *Initial Listing* -the Exchange will establish a minimum number of Currency Trust Shares required to be outstanding at the time of commencement of trading on the Exchange.

(2) *Continued Listing* -The Exchange will maintain surveillance procedures for securities listed under this rule and will consider the suspension of trading in, and will initiate delisting proceedings under Rule 5.5(m) of, such series under any of the following circumstances:

(i) if, following the initial 12 month period following commencement of trading on the Exchange of Currency Trust Shares, the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Currency Trust Shares;

(ii) if, following the initial 12 month period following commencement of trading on the Exchange of Currency Trust Shares, the Trust has fewer than 50,000 Currency Trust Shares issued and outstanding;

(iii) if, following the initial 12 month period following commencement of trading on the Exchange of Currency Trust Shares, the market value of all Currency Trust Shares issued and outstanding is less than $1,000,000;

(iv) if the value of the applicable non-U.S. currency is no longer calculated or available on at least a 15-second delayed basis from a source unaffiliated with the sponsor, Trust, custodian or the Exchange or the Exchange stops providing a hyperlink on its Web site to any such unaffiliated applicable non-U.S. currency value;

(v) if the Indicative Trust Value is no longer made available on at least a 15-second delayed basis;

(vi) if any of the continued listing requirements set forth in this Rule 8.202 are not continuously maintained;

(vii) if the Exchange submits a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of Currency Trust Shares and any of the statements or representations regarding (a) the description of the portfolio or reference asset, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing are not continuously maintained; or

(viii) if such other event will occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

Upon termination of a Trust, the Exchange requires that Currency Trust Shares issued in connection with such entity Trust be removed from Exchange listing. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of the Trust falls below a specified amount.

(3) *Term* -The stated term of the Trust will be as stated in the Trust prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(4) *Trustee* -The following requirements apply on an initial and continued listing basis:

(i) The trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(ii) No change is to be made in the trustee of a listed issue without prior notice to and approval of the Exchange.

(5) *Voting* -Voting rights will be as set forth in the applicable Trust prospectus.

(f) *Limitation of Exchange Liability*. Neither the Exchange nor any agent of the Exchange will have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any applicable non-U.S. currency value; the current value of the applicable non-U.S. currency required to be deposited to the Trust in connection with issuance of Currency Trust Shares; net asset value; or any other information relating to the purchase, redemption, or trading of the Currency Trust Shares, resulting from any negligent act or omission by the Exchange, or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange, its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in an applicable non-U.S. currency.

(g) *Market Maker Accounts*. An ETP Holder acting as a registered Market Maker on the Exchange in Currency Trust Shares must file with the Exchange in a manner prescribed by the Exchange and keep current a list identifying all accounts for trading in the

applicable non-U.S. currency, options, futures or options on futures on such currency, or any other derivatives based on such currency, which the Market Maker on the Exchange may have or over which it may exercise investment discretion. No Market Maker on the Exchange will trade in the applicable non-U.S. currency, options, futures or options on futures on such currency, or any other derivatives based on such currency, in an account in which a Market Maker on the Exchange, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule.

In addition to the existing obligations under Exchange rules regarding the production of books and records, the ETP Holder acting as a registered Market Maker on the Exchange in Currency Trust Shares will make available to the Exchange such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the applicable non-U.S. currency, options, futures or options on futures on such currency, or any other derivatives based on such currency, as may be requested by the Exchange.

(h) The Exchange may submit a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of Currency Trust Shares that do not otherwise meet the standards set forth in Commentary .04, below. All statements or representations contained in such rule filing regarding (a) the description of the portfolio or reference asset, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

Commentary:

> **.01** A Currency Trust Share is a Trust Issued Receipt that holds a specified non-U.S. currency or currencies deposited with the Trust.
>
> **.02** The Exchange requires that ETP Holders provide all purchasers of newly issued Currency Trust Shares a prospectus for the series of Currency Trust Shares.
>
> **.03** Transactions in Currency Trust Shares will occur during the trading hours specified in Rule 7.34.
>
> **.04** The Exchange may approve an issue of Currency Trust Shares for listing and/or trading (including pursuant to unlisted trading privileges) pursuant to Rule 19b-4(e) under the Exchange Act. Such issue will satisfy the criteria set forth in this rule and below on an initial and continued listing basis (except that the requirement in subparagraph (a) below need only be satisfied on an initial basis).

(a) A minimum of 100,000 shares of a series of Currency Trust Shares is required to be

outstanding at commencement of trading.

(b) The value of the applicable non-U.S. currency, currencies or currency index must be disseminated by one or more major market data vendors on at least a 15-second delayed basis.

(c) The Indicative Trust Value must be calculated and widely disseminated by the Exchange or one or more major market data vendors on at least a 15-second basis during the Core Trading Session as defined in Rule 7.34.

(d) The Exchange will implement written surveillance procedures applicable to Currency Trust Shares.

.05 If the value of a Currency Trust Share is based in whole or in part on an index that is maintained by a broker-dealer, the broker-dealer will erect and maintain a "firewall" around the personnel responsible for the maintenance of such index or who have access to information concerning changes and adjustments to the index, and the index will be calculated by a third party who is not a broker-dealer.

Any advisory committee, supervisory board or similar entity that advises an index licensor or administrator or that makes decisions regarding the index or portfolio composition, methodology and related matters must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the applicable index or portfolio.

.06 Equity Trading Rules

Currency Trust Shares will be subject to the Exchange's equity trading rules.

.07 Trading Halts

If the Indicative Trust Value, or the value of the non-U.S. currency or currencies or the currency index applicable to a series of Currency Trust Shares is not being disseminated as required, the Exchange may halt trading during the day on which such interruption first occurs. If such interruption persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. If the Exchange becomes aware that the net asset value applicable to a series of Currency Trust Shares is not being disseminated to all market participants at the same time, it will halt trading in such series until such time as the net asset value is available to all market participants.

Rule 8.203. Commodity Index Trust Shares

(a) The Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Commodity Index Trust Shares that meet the criteria of this Rule.

(b) *Applicability*. This Rule is applicable only to Commodity Index Trust Shares. Except to the extent inconsistent with this Rule, or unless the context otherwise requires, the provisions of the trust issued receipts rules, Bylaws, and all other rules and procedures of the Board of Directors will be applicable to the trading on the Exchange of such securities. Commodity Index Trust Shares are included within the definition of "security" or "securities" as such terms are used in the Bylaws and Rules of the Exchange.

(c) *Commodity Index Trust Shares*. The term "Commodity Index Trust Shares" as used in the Rules will, unless the context otherwise requires, mean a security that (a) is issued by a trust ("Trust") that (i) is a commodity pool as defined in the Commodity Exchange Act and regulations thereunder, and that is managed by a commodity pool operator registered with the Commodity Futures Trading Commission, and (ii) that holds long positions in futures contracts on a specified commodity index, or interests in a commodity pool which, in turn, holds such long positions; (b) when aggregated in some specified minimum number may be surrendered to the Trust by the beneficial owner to receive positions in futures contracts on a specified index and cash or short term securities. The term "futures contract" is commonly known as a "contract of sale of a commodity for future delivery" set forth in Section 2(a) of the Commodity Exchange Act.

(d) *Designation*. The Exchange may trade, either by listing or pursuant to unlisted trading privileges, Commodity Index Trust Shares based on one or more securities. The Commodity Index Trust Shares based on particular securities will be designated as a separate series and will be identified by a unique symbol.

(e) *Initial and Continued Listing*. Commodity Index Trust Shares will be listed and traded on the Exchange subject to application of the following criteria:

(1) *Initial Listing*—the Exchange will establish a minimum number of Commodity Index Trust Shares required to be outstanding at the time of commencement of trading on the Exchange.

(2) *Continued Listing*—the Exchange will maintain surveillance procedures for securities listed under this rule and will consider the suspension of trading in, and will initiate delisting proceedings under Rule 5.5(m) of, a series of Commodity Index Trust Shares under any of the following circumstances:

(i) following the initial twelve-month period beginning upon the commencement of trading of the Commodity Index Trust Shares, there are fewer than 50 record and/or beneficial holders of Commodity Index Trust Shares;

(ii) if the value of the applicable underlying index is no longer calculated or

available on at least a 15-second delayed basis from a source unaffiliated with the sponsor, the Trust or the trustee of the Trust;

(iii) if the net asset value for the trust is no longer disseminated to all market participants at the same time;

(iv) if the Indicative Trust Value is no longer made available on at least a 15-second delayed basis;

(v) if any of the continued listing requirements set forth in this Rule 8.203 are not continuously maintained;

(vi) if the Exchange submits a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of Commodity Index Trust Shares and any of the statements or representations regarding (a) the description of the index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing are not continuously maintained; or

(vii) if such other event will occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

Upon termination of a Trust, the Exchange requires that Commodity Index Trust Shares issued in connection with such entity Trust be removed from Exchange listing. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of the Trust falls below a specified amount.

(3) *Term*—The stated term of the Trust will be as stated in the Trust prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(4) *Trustee*—The following requirements apply on an initial and continued listing basis:

(i) The trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(ii) No change is to be made in the trustee of a listed issue without prior notice to and approval of the Exchange.

(5) *Voting*—Voting rights will be as set forth in the applicable Trust prospectus.

(f) *Limitation of Exchange Liability*. Neither the Exchange nor any agent of the Exchange will have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any applicable underlying index value; the current value of the applicable positions or interests required to be deposited to the Trust in connection with issuance of Commodity Index Trust Shares; net asset value; or any other information relating to the purchase, redemption, or trading of the Commodity Index Trust Shares, resulting from any negligent act or omission by the Exchange, or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange, its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in the applicable positions or interests.

(g) *Market Maker Accounts*. An ETP Holder acting as a registered Market Maker on the Exchange in Commodity Index Trust Shares must file with the Exchange in a manner prescribed by the Exchange and keep current a list identifying all accounts for trading in the applicable physical commodities included in, or options, futures or options on futures on, an index underlying an issue of Commodity Index Trust Shares or any other derivatives based on such index or based on any commodity included in such index, which the Market Maker on the Exchange may have or over which it may exercise investment discretion. No Market Maker on the Exchange will trade in the applicable physical commodities included in, or options, futures or options on futures on, an index underlying an issue of Commodity Index Trust Shares or any other derivatives based on such index or based on any commodity included in such index, in an account in which a Market Maker on the Exchange, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule.

In addition to the existing obligations under Exchange rules regarding the production of books and records, the ETP Holder acting as a registered Market Maker on the Exchange in Commodity Index Trust Shares will make available to the Exchange such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the applicable physical commodities included in, or options, futures or options on futures on, an index underlying an issue of Commodity Index Trust Shares or any other derivatives based on such index or based on any commodity included in such index, as may be requested by the Exchange.

Commentary:

> **.01** A Commodity Index Trust Share is a Trust Issued Receipt that holds long positions in futures contracts on a specified commodity index, or interests in a commodity pool which, in turn, holds such long positions, deposited with the Trust.

.02 The Exchange requires that ETP Holders provide all purchasers of newly issued Commodity Index Trust Shares a prospectus for the series of Commodity Index Trust Shares.

.03 Transactions in Commodity Index Trust Shares will occur during the trading hours specified in Rule 7.34.

.04 The Exchange will file separate proposals under Section 19(b) of the Exchange Act before trading, either by listing or pursuant to unlisted trading privileges, Commodity Index Trust Shares. All statements or representations contained in such rule filing regarding (a) the description of the index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

Rule 8.204. Commodity Futures Trust Shares

(a) The Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Commodity Futures Trust Shares that meet the criteria of this Rule.

(b) *Applicability*. This Rule is applicable only to Commodity Futures Trust Shares. Except to the extent inconsistent with this Rule, or unless the context otherwise requires, the provisions of the trust issued receipts rules, Bylaws, and all other rules and procedures of the Board of Directors will be applicable to the trading on the Exchange of such securities. Commodity Futures Trust Shares are included within the definition of "security" or "securities" as such terms are used in the Bylaws and Rules of the Exchange.

(c) *Commodity Futures Trust Shares*. The term "Commodity Futures Trust Shares" as used in the Rules will, unless the context otherwise requires, mean a security that (i) is issued by a trust ("Trust") that (1) is a commodity pool as defined in the Commodity Exchange Act and regulations thereunder, and that is managed by a commodity pool operator registered with the Commodity Futures Trading Commission, and (2) holds positions in futures contracts that track the performance of a specified commodity, or interests in a commodity pool which, in turn, holds such positions; and (ii) is issued and redeemed daily in specified aggregate amounts at net asset value. The term "futures contract" is a "contract of sale of a commodity for future delivery" set forth in Section 2(a) of the Commodity Exchange Act. The term "commodity" is defined in Section 1(a)(4) of the Commodity Exchange Act.

(d) *Designation of an Underlying Commodity Futures Contract*. The Exchange may trade, either by listing or pursuant to unlisted trading privileges, Commodity Futures Trust Shares based on an underlying commodity futures contract. Each issue of

Commodity Futures Trust Shares will be designated as a separate series and will be identified by a unique symbol.

(e) *Initial and Continued Listing*. Commodity Futures Trust Shares will be listed and traded on the Exchange subject to application of the following criteria:

(1) *Initial Listing*—The Exchange will establish a minimum number of Commodity Futures Trust Shares required to be outstanding at the time of commencement of trading on the Exchange.

(2) *Continued Listing*—The Exchange will maintain surveillance procedures for securities listed under this rule and will consider the suspension of trading in, and will initiate delisting proceedings under Rule 5.5(m) of, a series of Commodity Futures Trust Shares under any of the following circumstances:

(i) if, following the initial twelve-month period beginning upon the commencement of trading of the Commodity Futures Trust Shares: (A) the Trust has fewer than 50,000 Commodity Futures Trust Shares issued and outstanding; or (B) the market value of all Commodity Futures Trust Shares issued and outstanding is less than $1,000,000, or (C) there are fewer than 50 record and/or beneficial holders of Commodity Futures Trust Shares;

(ii) if the value of the underlying futures contracts is no longer calculated or available on at least a 15-second delayed basis, during the Exchange's Core Trading Session, as defined in Rule 7.34, from a source unaffiliated with the sponsor, the Trust or the trustee of the Trust;

(iii) if the net asset value for the Trust is no longer disseminated to all market participants at the same time;

(iv) if the Indicative Trust Value is no longer disseminated on at least a 15-second delayed basis during the Exchange's Core Trading Session, as defined in Rule 7.34;

(v) if any of the continued listing requirements set forth in this Rule 8.204 are not continuously maintained;

(vi) if the Exchange submits a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of Commodity Futures Trust Shares and any of the statements or representations regarding (a) the description of the index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing are not continuously maintained; or

(vii) if such other event will occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

Upon termination of a Trust, the Exchange requires that Commodity Futures Trust Shares issued in connection with such trust be removed from Exchange listing. A Trust will terminate in accordance with the provisions of the Trust prospectus.

(3) *Term* —The stated term of the Trust will be as stated in the prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(4) *Trustee* —The following requirements apply on an initial and continued listing basis:

(i) The trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(ii) No change is to be made in the trustee of a listed issue without prior notice to and approval of the Exchange.

(5) *Voting*—Voting rights will be as set forth in the applicable Trust prospectus.

(f) *Market Maker Accounts.*

(1) The ETP Holder acting as a registered Market Maker on the Exchange in Commodity Futures Trust Shares must file, with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading the underlying commodity, related futures or options on futures, or any other related derivatives, which the ETP Holder acting as a registered Market Maker on the Exchange may have or over which it may exercise investment discretion. No ETP Holder acting as a registered Market Maker on the Exchange in the Commodity Futures Trust Shares will trade in the underlying commodity, related futures or options on futures, or any other related derivatives, in an account in which an ETP Holder acting as a registered Market Maker on the Exchange, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule.

(2) In addition to the existing obligations under Exchange rules regarding the production of books and records (see, e.g., Rule 11.4.1), the ETP Holder acting as a registered Market Maker on the Exchange in Commodity Futures Trust Shares will make available to the Exchange such books, records or other information pertaining to transactions by such entity or any limited partner, officer or approved person thereof, registered or non-registered employee affiliated with such entity for its or their own accounts in the underlying commodity, related futures or options on futures, or any other related derivatives, as may be requested by the Exchange.

(g) *Limitation of Exchange Liability*. Neither the Exchange, the Reporting Authority nor any agent of the Exchange will have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any underlying futures contract value; the current value of positions or interests if required to be deposited to the Trust in connection with issuance of Commodity Futures Trust Shares; net asset value; or other information relating to the purchase, redemption or trading of Commodity Futures Trust Shares, resulting from any negligent act or omission by the Exchange, or the Reporting Authority, or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange or its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reporting of transactions in an underlying futures contract.

(h) The Exchange will file separate proposals under Section 19(b) of the Exchange Act before listing and trading separate and distinct Commodity Futures Trust Shares designated on different underlying futures contracts. All statements or representations contained in such rule filing regarding (a) the description of the index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

Commentary:

> **.01** The Exchange requires that ETP Holders provide all purchasers of newly issued Commodity Futures Trust Shares a prospectus for the series of Commodity Futures Trust Shares.
>
> **.02** Transactions in Commodity Futures Trust Shares will occur during the trading hours specified in Rule 7.34.
>
> **.03** If the Indicative Trust Value or the value of the underlying futures contract is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the Indicative Trust Value or the value of the underlying futures contract occurs. If the interruption to the dissemination of the Indicative Trust Value or the value of the underlying futures contract persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.
>
> In addition, if the Exchange becomes aware that the net asset value with respect to a series of Commodity Futures Trust Shares is not disseminated to all market participants at the same time, it will halt

trading in such series until such time as the net asset value or the Disclosed Portfolio is available to all market participants.

.04 The Exchange's rules governing the trading of equity securities apply.

.05 The Exchange will implement written surveillance procedures for Commodity Futures Trust Shares.

Rule 8.300. Partnership Units

(a) The Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Partnership Units that meet the criteria of this Rule.

(b) *Definitions*. The following terms as used in the Rule will, unless the context otherwise requires, have the meanings herein specified:

(1) *Commodity*. The term "commodity" is defined in Section 1(a)(4) of the Commodity Exchange Act.

(2) *Partnership Units*. The term "Partnership Units" for purposes of this Rule means a security (a) that is issued by a partnership that invests in any combination of futures contracts, options on futures contracts, forward contracts, commodities and/or securities; and (b) that is issued and redeemed daily in specified aggregate amounts at net asset value.

(c) *Designation*. The Exchange may list and trade Partnership Units based on an underlying asset, commodity or security. Each issue of a Partnership Unit will be designated as a separate series and will be identified by a unique symbol.

(d) *Initial and Continued Listing*. Partnership Units will be listed and/or traded on the Exchange subject to application of the following criteria:

(1) *Initial Listing*—The Exchange will establish a minimum number of Partnership Units required to be outstanding at the time of commencement of trading on the Exchange.

(2) *Continued Listing*—The Exchange will maintain surveillance procedures for securities listed under this rule and will consider the suspension of trading in, and will initiate delisting proceedings under Rule 5.5(m) of, Partnership Units under any of the following circumstances:

(i) if following the initial twelve month period following the commencement of trading of Partnership Units, (A) the partnership has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Partnership Units; (B) if the partnership has fewer than 50,000

Partnership Units issued and outstanding; or (C) if the market value of all Partnership Units issued and outstanding is less than $1,000,000;

(ii) if the value of the underlying benchmark investment, commodity or asset is no longer calculated or available on at least a 15-second delayed basis or the Exchange stops providing a hyperlink on its website to any such investment, commodity, or asset value;

(iii) if the Indicative Partnership Value is no longer made available on at least a 15-second delayed basis;

(iv) if any of the continued listing requirements set forth in this Rule 8.300 are not continuously maintained;

(v) if the Exchange submits a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of Partnership Units and any of the statements or representations regarding (a) the description of the portfolio or reference asset, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing are not continuously maintained; or

(vi) if such other event will occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

Upon termination of a partnership, the Exchange requires that Partnership Units issued in connection with such partnership be removed from Exchange listing. A partnership will terminate in accordance with the provisions of the partnership prospectus.

(3) *Term*—The stated term of the partnership will be as stated in the prospectus. However, such entity may be terminated under such earlier circumstances as may be specified in the Partnership prospectus.

(4) *General Partner*—The following requirements apply on an initial and continued listing basis:

(i) The general partner of a partnership must be an entity having substantial capital and surplus and the experience and facilities for handling partnership business. In cases where, for any reason, an individual has been appointed as general partner, a qualified entity must also be appointed as general partner.

(ii) No change is to be made in the general partner of a listed issue without prior notice to and approval of the Exchange.

(5) *Voting*—Voting rights will be as set forth in the applicable partnership prospectus.

(e) *Market Maker Accounts.*

(1) The ETP Holder acting as a registered Market Maker on the Exchange in Partnership Units must file, with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading the underlying asset or commodity, related futures or options on futures, or any other related derivatives, which the ETP Holder acting as a registered Market Maker on the Exchange may have or over which it may exercise investment discretion. No ETP Holder acting as a registered Market Maker on the Exchange in the Partnership Units will trade in the underlying asset or commodity, related futures or options on futures, or any other related derivatives, in an account in which an ETP Holder acting as a registered Market Maker on the Exchange, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule.

(2) In addition to the existing obligations under Exchange rules regarding the production of books and records (See, e.g. Rule 11.4.1), the ETP Holder acting as a registered Market Maker on the Exchange in Partnership Units will make available to the Exchange such books, records or other information pertaining to transactions by such entity or any limited partner, officer or approved person thereof, registered or non-registered employee affiliated with such entity for its or their own accounts in the underlying asset or commodity, related futures or options on futures, or any other related derivatives, as may be requested by the Exchange.

(f) *Limitation of Exchange Liability*. Neither the Exchange nor any agent of the Exchange will have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any underlying asset or commodity value, the current value of the underlying asset or commodity if required to be deposited to the partnership in connection with issuance of Partnership Units; net asset value; or other information relating to the purchase, redemption or trading of Partnership Units, resulting from any negligent act or omission by the Exchange or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange or its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in an underlying asset or commodity.

(g) The Exchange will file separate proposals under Section 19(b) of the Exchange Act before listing and trading separate and distinct Partnership Units designated on different underlying investments, commodities and/or assets. All statements or representations contained in such rule filing regarding (a) the description of the portfolio or reference asset, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify

the Exchange of any failure to comply with such continued listing requirements.

Commentary:

.01 The Exchange requires that Equity Trading Permit holders provide to all purchasers of newly issued Partnership Units a prospectus for the series of Partnership Units.

Rule 8.400. Paired Trust Shares

(a) *Applicability*. The provisions in this Rule are applicable only to Paired Trust Shares. In addition, except to the extent inconsistent with this Rule, or unless the context otherwise requires, the rules and procedures of the Board of Directors will be applicable to the trading on the Exchange of such securities. Paired Trust Shares are included within the definition of "security" and "equity securities" as such terms are used in Rule 5.1(b).

(b) *Definitions*. The following terms as used in the Rules will, unless the context otherwise requires, have the meanings herein specified:

(1) *Paired Trust Shares*. Two distinct types of securities are included in the term "Paired Trust Shares." The term Paired Trust Shares refers to: (i) both "Holding Shares" and "Tradeable Shares," as defined below, or (ii) solely Trading Shares, as defined below.

(A) Holding Shares and Tradeable Shares

(i) Holding Shares. The term "Holding Share" means a security (a) that is issued by either of a matched pair of trusts ("Holding Trusts") whose respective underlying values move in opposite directions as the value of a specified Reference Price (defined in Rule 8.400(c)) varies from its starting level, (b) that is issued in exchange for cash, (c) a majority (but not necessarily all) of which will be acquired and deposited in a related Tradeable Trust (as defined herein), (d) the issuance proceeds of which are invested and reinvested in highly rated short-term financial instruments that mature prior to the next scheduled income distribution date for the security and that serve the functions of (i) securing the contractual obligations between the two paired Holding Trusts, (ii) covering the trust's expenses, and (iii) if any amount remains, providing periodic income distributions to investors, based on income (after expenses) from the financial instruments held by the paired Holding Trusts,[1] (e) that represents a beneficial interest in the Holding Trust that issued it, (f) the value of which is determined by the underlying value of the related Holding Trust, which underlying value will either (1) increase as a result of an increase in the Reference Price and decrease as a result of a decrease in the Reference Price (in the case of an "Up Holding Share" issued by an "Up Holding Trust") or (2) increase as a result of a decrease in the Reference Price and decrease as the result of an increase in the Reference Price (in the case of a "Down Holding Share" issued by the paired

"Down Holding Trust"), (g) whose issuing Holding Trust enters into one or more settlement contracts[2] and an income distribution agreement[3] with the other paired Holding Trust, (h) that, when timely aggregated in a specified minimum number or amount of securities, along with a specified multiple of that number or amount of securities issued by the other paired Holding Trust (these minimum specified amounts together constituting a "Creation Unit" of the paired Holding Shares), may be redeemed for a distribution of cash and/or securities on specified dates by authorized parties, and (i) that may be subject to early mandatory redemption of all Holding Shares prior to the final scheduled termination date under specified circumstances.

(ii) Tradeable Shares. The term "Tradeable Share" means a security (a) that is issued by a trust ("Tradeable Trust") in exchange for the deposit of Holding Shares (or cash, which cash is then used to purchase Holding Shares) into the Tradeable Trust, with the Holding Shares that are held by the Tradeable Trust being either (1) Up Holding Shares (in the case of an "Up Tradeable Share" issued by an "Up Tradeable Trust") or (2) "Down Holding Shares" (in the case of a "Down Tradeable Share" issued by a "Down Tradeable Trust"), (b) that represents an undivided beneficial interest in the Tradeable Trust that issued it, (c) the distributions on which (which are solely pass through distributions received on the Holding Shares that are held by the issuing Tradeable Trust) will thereby either (1) increase as a result of an increase in the Reference Price and decrease as a result of a decrease in the Reference Price (in the case of an Up Tradeable Share) or (2) increase as a result of a decrease in the Reference Price and decrease as the result of an increase in the Reference Price (in the case of a Down Tradeable Share), in each case as a result of the corresponding change in the underlying value of the Holding Trust (see paragraph (b)(2) of this rule) whose Holding Shares are held by the issuing Tradeable Trust, (d) that may have an exchange feature that will allow authorized parties to exchange such Tradeable Shares for the underlying Holding Shares that are held by the Tradeable Trust that issued the Tradeable Shares and that can be redeemed for cash and/or securities (any such redemption to be done in specified aggregates called Creation Units that include Holding Shares issued by the other paired Holding Trust, as described in the preceding paragraph), and (e) that may be subject to early mandatory redemption of all Tradeable Shares prior to the final scheduled termination date under specified circumstances.

(B) Trading Shares. The term "Trading Share" means a security (a) that is issued by either of a matched pair of trusts ("Trading Trusts") whose respective underlying values move in opposite directions as the value of a specified Reference Price (defined in Rule 8.400(c)) varies from its starting level, (b) that is issued in exchange for cash, (c) the issuance proceeds of which are invested and reinvested in highly rated short-term financial instruments that mature prior to the next scheduled income distribution date for the security and that serve the functions of (i) securing the contractual obligations between the two paired Trading Trusts, (ii)

covering the trust's expenses, and (iii) if any amount remains, providing periodic income distributions to investors, based on income (after expenses) from the financial instruments held by the paired Trading Trusts, (d) that represents a beneficial interest in the Trading Trust that issued it, (e) the value of which is determined by the underlying value of the related Trading Trust, which underlying value will either (i) increase as a result of an increase in the Reference Price and decrease as a result of a decrease in the Reference Price (in the case of an "Up Trading Share" issued by an "Up Trading Trust") or (ii) increase as a result of a decrease in the Reference Price and decrease as the result of an increase in the Reference Price (in the case of a "Down Trading Share" issued by the paired "Down Trading Trust"), (f) whose issuing Trading Trust enters into one or more settlement contracts and an income distribution agreement with the other paired Trading Trust, (g) that, when timely aggregated in a specified minimum number or amount of securities, along with a specified multiple of that number or amount of securities issued by the other paired Trading Trust (these minimum specified amounts together constituting a "Creation Unit" of the paired Trading Shares), may be redeemed for a distribution of cash and/or securities on specified dates by authorized parties, and (h) that may be subject to early mandatory redemption of all Trading Shares prior to the final scheduled termination date under specified circumstances.

(c) *Designation of an Underlying Reference Price*. The Exchange may list and trade Paired Trust Shares whose values are determined based on the value of a "Reference Price," which is an index or other numerical variable that may measure assets, prices or other economic interests. The mechanism that incorporates the value of the Reference Price into the value determination for the Paired Trust Shares consists of one or more settlement contracts and an earnings distribution agreement that are entered into by and between the paired Holding Trusts that issue the Holding Shares or by and between the paired Trading Trusts that issue the Trading Shares, as the case may be. Each issue of Paired Trust Shares will be designated as a separate series and will be identified by a unique symbol.

(d) *Initial and Continued Listing*. Paired Trust Shares will be listed and traded on the Exchange subject to application of the following criteria:

(1) *Initial Listing*

(i) For each Holding Trust, Tradeable Trust or Trading Trust, the Exchange will establish a minimum number of Paired Trust Shares required to be outstanding at the time of commencement of trading on the Exchange.

(ii) The Exchange will obtain a representation on behalf of the trusts for each series of Paired Trust Shares that the underlying value per share of each Up Holding Share, Down Holding Share, Up Tradeable Share and Down Tradeable Share (in the case of a series with Holding Shares and Tradeable Shares) or each Up Trading Share and Down Trading Share (in the case of a series with Trading Shares) will be calculated

daily and will be made available to all market participants at the same time.

(2) *Continued Listing*—The Exchange will maintain surveillance procedures for securities listed under this rule and will consider the suspension of trading in, and will initiate delisting proceedings under Rule 5.5(m) of, any series of Paired Trust Shares under any of the following circumstances:

(i) if following the initial twelve month period following the commencement of trading of the shares, (A) a Tradeable Trust or a Trading Trust, as the case may be, has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Up Tradeable Shares or Down Tradeable Shares, or Up Trading Shares or Down Trading Shares, as the case may be; (B) if a Tradeable Trust has fewer than 50,000 Up Tradeable Shares or Down Tradeable Shares issued and outstanding, or if a Trading Trust has fewer than 50,000 Up Trading Shares or Down Trading Shares issued and outstanding; or (C) if the combined market value of all shares issued and outstanding for a matched pair of Holding Trusts, Tradeable Trusts or Trading Trusts representing opposite positions in the value of a Reference Price is less than $1,000,000;

(ii) if the intraday value of the Reference Price, as specified in the prospectus for the series of Paired Trust Shares, is no longer calculated or available on at least a 15-second delayed basis during the time such Paired Trust Shares trade on the Exchange from a source unaffiliated with the sponsor, custodian, depositor, Tradeable Trust, Trading Trust, Holding Trust or the Exchange that is a major market data vendor (e.g., Reuters or Bloomberg), as applicable; provided, however, that, for a series of Paired Trust Shares for which the value of the Reference Price is not updated intraday, such value will be calculated and available once each trading day;

(iii) unless a series of Paired Trust Shares has been approved for listing and trading by the Commission under Section 19(b) of the Exchange Act without the requirement that an intraday indicative value be made available as set forth in this subparagraph (iii), if the intraday indicative value of the underlying value of each listed Up Holding Share, Down Holding Share, Up Tradeable Share or Down Tradeable Share (in the case of a series with Holding Shares and Tradeable Shares) or each Up Trading Share and Down Trading Share (in the case of a series with Trading Shares), as the case may be, is no longer made available on at least a 15-second delayed basis by a major market data vendor during the time the Tradeable Shares or Trading Shares trade on the Exchange;

(iv) if a substitute index or other replacement benchmark is selected for the determination of the Reference Price, unless the Exchange files with the Commission a related proposed rule change pursuant to Rule 19b-4 under the Exchange Act seeking approval to continue trading the Tradeable Shares or Trading Shares, as the case may be, and such rule change is approved by the Commission;

(v) if any of the continued listing requirements set forth in this Rule 8.400 are not continuously maintained;

(vi) if the Exchange submits a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of Paired Trust Shares and any of the statements or representations regarding (a) the description of the portfolio or reference asset, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing are not continuously maintained; or

(vii) if such other event will occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

The Exchange will halt trading in a series of Paired Trust Shares if the circuit breaker parameters of Rule 7.12 have been reached. In exercising its discretion to halt or suspend trading in a series of Paired Trust Shares, the Exchange may consider factors such as the extent to which trading in the underlying securities is not occurring or whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present, in addition to other factors that may be relevant. The remainder of this paragraph will apply only when the Exchange is the listing market for a series of Paired Trust Shares. If the intraday indicative value of the underlying value allocable to an Up Tradeable Share or Down Tradeable Share (in the case of a series with Holding Shares and Tradeable Shares) or to an Up Trading Share or Down Trading Share (in the case of a series with Trading Shares) or the intraday value of the Reference Price applicable to that series of Paired Trust Shares is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the intraday indicative value of such underlying value allocation or the intraday value of the applicable Reference Price occurs. If the interruption to the dissemination of the intraday indicative value of such underlying value allocation or the intraday value of the applicable Reference Price persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

Upon termination of a Holding Trust, Tradeable Trust or Trading Trust, the Exchange requires that Paired Trust Shares issued in connection with such trust be removed from Exchange listing. A Holding Trust, Tradeable Trust or Trading Trust may terminate in accordance with the provisions of the trust prospectus under circumstances specified therein.

(3) *Term* - The stated term of a Holding Trust, Tradeable Trust or Trading Trust will be as stated in the trust prospectus. However, a trust may be terminated under such earlier circumstances as may be specified in the trust prospectus.

(4) *Trustee* - The following requirements apply on an initial and continued listing basis:

(i) The trustee of a Holding Trust, Tradeable Trust or Trading Trust must be a trust

company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(ii) No change is to be made in the trustee of a listed issue without prior notice to and approval of the Exchange.

(5) *Voting* - Voting rights will be as set forth in the applicable Holding Trust, Tradeable Trust or Trading Trust prospectus.

(e) *Market Maker Accounts*.

(1) The ETP Holder acting as a registered Market Maker on the Exchange in Paired Trust Shares must file, with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading the asset, commodity or other economic interest underlying the Reference Price, related options, related futures or options on futures, or any other related derivatives, which the ETP Holder acting as a registered Market Maker on the Exchange may have or over which it may exercise investment discretion. No ETP Holder acting as a registered Market Maker on the Exchange in the Paired Trust Shares will trade in the asset, commodity or other economic interest underlying the Reference Price, related options, related futures or options on futures, or any other related derivatives, in an account in which an ETP Holder acting as a registered Market Maker on the Exchange, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule.

(2) In addition to the existing obligations under Exchange rules regarding the production of books and records (See, e.g. Rule 11.4.1), the ETP Holder acting as a registered Market Maker on the Exchange in Paired Trust Shares will make available to the Exchange such books, records or other information pertaining to transactions by such entity or any limited partner, officer or approved person thereof, registered or non-registered employee affiliated with such entity for its or their own accounts in the asset, commodity or other economic interest underlying the Reference Price, related options, related futures or options on futures, or any other related derivatives, as may be requested by the Exchange.

(f) *Limitation of Exchange Liability*. Neither the Exchange nor any agent of the Exchange will have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any Reference Price value, the underlying values of the trusts; distribution values; or other information relating to the purchase, redemption or trading of Paired Trust Shares, resulting from any negligent act or omission by the Exchange or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange or its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software

malfunction; or any error, omission or delay in the reports of transactions in an underlying economic variable.

Commentary:

.01 The Exchange requires that ETP Holders provide to all purchasers of newly issued Paired Trust Shares a prospectus for the series of Paired Trust Shares.

.02 Transactions in Paired Trust Shares will occur during the trading hours specified in Rule 7.34.

.03 The Exchange will file separate proposals under Section 19(b) of the Exchange Act before listing and trading Paired Trust Shares designated on different Reference Prices. All statements or representations contained in such rule filing regarding (a) the description of the portfolio or reference asset, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

[1] The periodic distributions from each Holding Trust will be made immediately following the periodic transfer of such income (after expenses) between the paired Holding Trusts under the terms of the income distribution agreement as described in clause (g) of this definition.

[2] When Holding Shares are redeemed in a paired optional redemption or upon early or final termination, the settlement contracts between the two Holding Trusts provide for the appropriate transfer of assets between the paired Holding Trusts so that the Holding Shares of each Holding Trust may be redeemed in proportion to the per share underlying value of that Holding Trust.

[3] The income distribution agreement between the two Holding Trusts provides for the periodic transfer between the paired Holding Trusts of income (after payment of expenses) received by each Holding Trust from the financial instruments held by that Holding Trust, with the amount of each periodic transfer based on the proportionate change in the Reference Price from its starting level at one or more points during the period following the previous periodic transfer of such income between the paired Holding Trusts.

Rule 8.500. Trust Units

(a) *Applicability*. The provisions in this Rule are applicable only to Trust Units. In addition, except to the extent inconsistent with this Rule, or unless the context otherwise

requires, the rules and procedures of the Board of Directors will be applicable to the trading on the Exchange of such securities. Trust Units are included within the definition of "security" and "equity securities" as such terms are used in Rule 5.1(b).

(b) *Definitions*. The following terms as used in this Rule will, unless the context otherwise requires, have the meanings herein specified:

(1) Commodity. The term "commodity" is defined in Section 1(a)(4) of the Commodity Exchange Act.

(2) Trust Units. The term "Trust Units" for purposes of this Rule means a security that is issued by a trust or other similar entity that is constituted as a commodity pool that holds investments comprising or otherwise based on any combination of futures contracts, options on futures contracts, forward contracts, swap contracts, commodities and/or securities.

(c) *Designation*. The Exchange may list and trade Trust Units based on an underlying asset, commodity, security or portfolio. Each issue of a Trust Unit will be designated as a separate series and will be identified by a unique symbol.

(d) *Initial and Continued Listing*. Trust Units will be listed and/or traded on the Exchange subject to application of the following criteria:

(1) *Initial Listing*.

(i) The Exchange will establish a minimum number of Trust Units required to be outstanding at the time of commencement of trading on the Exchange.

(ii) The Exchange will obtain a representation from the issuer of each series of Trust Units that the net asset value per share for the series will be calculated daily and will be made available to all market participants at the same time.

(2) *Continued Listing*.

(i) The Exchange will maintain surveillance procedures for securities listed under this rule and will consider the suspension of trading in, and will commence delisting proceedings under Rule 5.5(m) of, Trust Units under any of the following circumstances:

(A) if following the initial twelve month period following the commencement of trading of Trust Units, (A) the trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Trust Units; (B) if the trust has fewer than 50,000 Trust Units issued and outstanding; or (C) if the market value of all Trust Units issued and outstanding is less than $1,000,000;

(B) if any of the continued listing requirements set forth in this Rule 8.500 are not continuously maintained;

(C) if the Exchange submits a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of Trust Units and any of the statements or representations regarding (a) the description of the portfolio or reference asset, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing are not continuously maintained; or

(D) if such other event will occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

(ii) The Exchange will halt trading in a series of Trust Units if the circuit breaker parameters in Rule 7.12 have been reached. In exercising its discretion to halt or suspend trading in a series of Trust Units, the Exchange may consider any relevant factors. In particular, if the portfolio and net asset value per share are not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the portfolio holdings or net asset value per share occurs. If the interruption to the dissemination of the portfolio holdings or net asset value per share persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

Upon termination of a trust, the Exchange requires that Trust Units issued in connection with such trust be removed from Exchange listing. A trust will terminate in accordance with the provisions of the prospectus.

(3) *Term* — The stated term of the trust will be as stated in the prospectus. However, such entity may be terminated under such earlier circumstances as may be specified in the prospectus.

(4) *Trustee* — The following requirements apply on an initial and continued listing basis:

(i) The trustee of a trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(ii) No change is to be made in the trustee of a listed issue without prior notice to and approval of the Exchange.

(5) *Voting* — Voting rights will be as set forth in the prospectus.

(e) *Limitation of Exchange Liability*. Neither the Exchange nor any agent of the Exchange

will have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any underlying portfolio value; net asset value; or other information relating to the purchase, redemption or trading of Trust Units, resulting from any negligent act or omission by the Exchange or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange or its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in the Trust Units.

(f) *Market Maker Accounts*. An ETP Holder acting as a registered Market Maker on the Exchange in Trust Units must file with the Exchange in a manner prescribed by the Exchange and keep current a list identifying all accounts for trading in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, which the Market Maker on the Exchange may have or over which it may exercise investment discretion. No Market Maker on the Exchange will trade in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, in an account in which a Market Maker on the Exchange, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule.

In addition to the existing obligations under Exchange rules regarding the production of books and records, the ETP Holder acting as a registered Market Maker on the Exchange in Trust Units will make available to the Exchange such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the underlying physical commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, as may be requested by the Exchange.

Commentary:

.01 The Exchange requires that ETP Holders provide to all purchasers of newly issued Trust Units a prospectus for the series of Trust Units.

.02 Transactions in Trust Units will occur during the trading hours specified in Rule 7.34.

.03 The Exchange will file separate proposals under Section 19(b) of the Exchange Act before listing and trading separate and distinct Trust Units designated on different underlying investments, commodities, assets and/or portfolios. All statements or representations contained in such rule filing regarding (a) the description of the portfolio or reference asset, (b) limitations on

portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

Rule 8.600. Managed Fund Shares

(a) The Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Managed Fund Shares that meet the criteria of this Rule.

(b) *Applicability*. This Rule is applicable only to Managed Fund Shares. Except to the extent inconsistent with this Rule, or unless the context otherwise requires, the rules and procedures of the Board of Directors will be applicable to the trading on the Exchange of such securities. Managed Fund Shares are included within the definition of "security" or "securities" as such terms are used in the Rules of the Exchange.

(c) *Definitions*. The following terms as used in the Rules will, unless the context otherwise requires, have the meanings herein specified:

(1) *Managed Fund Share*. The term "Managed Fund Share" means a security that (a) represents an interest in a registered investment company ("Investment Company") organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value; and (c) when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined net asset value.

(2) Disclosed Portfolio. The term "Disclosed Portfolio" means the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company's calculation of net asset value at the end of the business day. The website for each series of Managed Fund Shares shall disclose the following information regarding the Disclosed Portfolio, to the extent applicable:

(A) ticker symbol;

(B) CUSIP or other identifier;

(C) description of the holding;

(D) with respect to holdings in derivatives, the identity of the security, commodity,

index or other asset upon which the derivative is based;

(E) the strike price for any options;

(F) the quantity of each security or other asset held as measured by;

(i) par value,

(ii) notional value,

(iii) number of shares,

(iv) number of contracts, and

(v) number of units;

(G) maturity date;

(H) coupon rate;

(I) effective date;

(J) market value; and

(K) percentage weighting of the holding in the portfolio.

(3) Portfolio Indicative Value. The term "Portfolio Indicative Value" is the estimated indicative value of a Managed Fund Share based on current information regarding the value of the securities and other assets in the Disclosed Portfolio.

(4) Reporting Authority. The term "Reporting Authority" in respect of a particular series of Managed Fund Shares means the Exchange, an institution, or a reporting service designated by the Exchange or by the exchange that lists a particular series of Managed Fund Shares (if the Exchange is trading such series pursuant to unlisted trading privileges) as the official source for calculating and reporting information relating to such series, including, but not limited to, the Portfolio Indicative Value; the Disclosed Portfolio; the amount of any cash distribution to holders of Managed Fund Shares, net asset value, or other information relating to the issuance, redemption or trading of Managed Fund Shares. A series of Managed Fund Shares may have more than one Reporting Authority, each having different functions.

(5) Normal Market Conditions. The term "normal market conditions" includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues (e.g., systems failure) causing dissemination of inaccurate market information; or force majeure type events such as natural or manmade disaster, act of God, armed conflict, act of terrorism, riot or labor

disruption or any similar intervening circumstance.

(d) *Initial and Continued Listing* - Managed Fund Shares will be listed and traded on the Exchange subject to application of the following criteria:

(1) *Initial Listing* - Each series of Managed Fund Shares will be listed and traded on the Exchange subject to application of the following initial listing criteria:

(A) For each series, the Exchange will establish a minimum number of Managed Fund Shares required to be outstanding at the time of commencement of trading on the Exchange.

(B) The Exchange will obtain a representation from the issuer of each series of Managed Fund Shares that the net asset value per share for the series will be calculated daily and that the net asset value and the Disclosed Portfolio will be made available to all market participants at the same time.

(C) All Managed Fund Shares shall have a stated investment objective, which shall be adhered to under normal market conditions.

(2) *Continued Listing* - Each series of Managed Fund Shares will be listed and traded on the Exchange subject to application of the following continued listing criteria:

(A) Portfolio Indicative Value. The Portfolio Indicative Value for Managed Fund Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the time when the Managed Fund Shares trade on the Exchange.

(B) Disclosed Portfolio.

(i) The Disclosed Portfolio will be disseminated at least once daily and will be made available to all market participants at the same time.

(ii) The Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the portfolio.

(C) Suspension of trading or removal. The Exchange will maintain surveillance procedures for securities listed under this rule and will consider the suspension of trading in, and will commence delisting proceedings under Rule 5.5(m) of, a series of Managed Fund Shares under any of the following circumstances:

(i) if, following the initial twelve-month period after commencement of trading on the Exchange of a series of Managed Fund Shares, there are fewer than 50 beneficial holders of the series of Managed Fund Shares;

(ii) if the value of the Portfolio Indicative Value is no longer calculated or available or the Disclosed Portfolio is not made available to all market participants at the same time;

(iii) if the Investment Company issuing the Managed Fund Shares has failed to file any filings required by the Securities and Exchange Commission or if the Exchange is aware that the Investment Company is not in compliance with the conditions of any exemptive order or no-action relief granted by the Securities and Exchange Commission to the Investment Company with respect to the series of Managed Fund Shares;

(iv) if any of the continued listing requirements set forth in Rule 8.600 are not continuously maintained;

(v) if the Exchange submits a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of Managed Fund Shares that do not otherwise meet the standards set forth in this Rule 8.600 and any of the statements or representations regarding (a) the description of the portfolio or reference asset, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing are not continuously maintained; or

(vi) if such other event will occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

(D) *Trading Halt*. If the Portfolio Indicative Value (as defined in Rule 8.600(c)(3)) of a series of Managed Fund Shares is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the Portfolio Indicative Value occurs. If the interruption to the dissemination of the Portfolio Indicative Value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. If a series of Managed Fund Shares is trading on the Exchange pursuant to unlisted trading privileges, the Exchange will halt trading in that series as specified in Rule 7.18. In addition, if the Exchange becomes aware that the net asset value or the Disclosed Portfolio with respect to a series of Managed Fund Shares is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the net asset value or the Disclosed Portfolio is available to all market participants.

(E) *Termination*. Upon termination of an Investment Company, the Exchange requires that Managed Fund Shares issued in connection with such entity be removed from Exchange listing.

(F) *Voting*. Voting rights will be as set forth in the applicable Investment Company prospectus.

(e) *Limitation of Exchange Liability*. Neither the Exchange, the Reporting Authority, nor any agent of the Exchange will have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current portfolio value; the current value of the portfolio of securities required to be deposited to the open-end management investment company in connection with issuance of Managed Fund Shares; the amount of any dividend equivalent payment or cash distribution to holders of Managed Fund Shares; net asset value; or other information relating to the purchase, redemption, or trading of Managed Fund Shares, resulting from any negligent act or omission by the Exchange, the Reporting Authority or any agent of the Exchange, or any act, condition, or cause beyond the reasonable control of the Exchange, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission, or delay in the reports of transactions in one or more underlying securities.

Commentary:

> **.01** The Exchange may approve Managed Fund Shares for listing and/or trading (including pursuant to unlisted trading privileges) pursuant to Rule 19b-4(e) under the Exchange Act. Components of a series of Managed Fund Shares listed pursuant to Rule 19b-4(e) shall satisfy the criteria set forth in this Rule 8.600 upon initial listing and on a continual basis. The Exchange will file separate proposals under Section 19(b) of the Exchange Act before the listing and trading of a series of Managed Fund Shares with components that do not satisfy the criteria set forth in this Commentary .01 or components other than those specified below. All statements or representations contained in such rule filing regarding (a) the description of the portfolio or reference asset, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

(a) Equity -Equity securities include the following: U.S. Component Stocks (as described in Rule 5.2(j)(3)); Non-U.S. Component Stocks (as described in Rule 5.2(j)(3)); Exchange Traded Products (i.e., Investment Company Units and securities described in Section 2 of Rule 8); and Index-Linked Securities that qualify for Exchange listing and trading under Rule 5.2(j)(6). For Exchange Traded Products and Index-Linked Securities, no more than 25% of the equity weight of the portfolio shall consist of leveraged and/or inverse leveraged Exchange Traded Products or Index-Linked Securities. The securities described in Rule 5.2(j)(3), Rule 5.2(j)(6) and Section 2 of Rule 8, as referenced above, shall include securities listed on another national securities exchange pursuant to substantially equivalent listing rules. To the extent that a portfolio includes convertible securities, the equity security into which such security is converted shall meet the criteria

of this Commentary .01(a) after converting.

(1) U.S. Component Stocks. The component stocks of the equity portion of a portfolio that are U.S. Component Stocks shall meet the following criteria initially and on a continuing basis:

(A) Component stocks (excluding Exchange Traded Products and Index-Linked Securities) that in the aggregate account for at least 90% of the equity weight of the portfolio (excluding such Exchange Traded Products and Index-Linked Securities) each shall have a minimum market value of at least $75 million;

(B) Component stocks (excluding Exchange Traded Products and Index-Linked Securities) that in the aggregate account for at least 70% of the equity weight of the portfolio (excluding such Exchange Traded Products and Index-Linked Securities) each shall have a minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the last six months;

(C) The most heavily weighted component stock (excluding Exchange Traded Products and Index-Linked Securities) shall not exceed 30% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Exchange Traded Products and Index-Linked Securities) shall not exceed 65% of the equity weight of the portfolio;

(D) Where the equity portion of the portfolio does not include Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 13 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Exchange Traded Products or Index-Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Exchange Traded Products or Index-Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares;

(E) Except as provided herein, equity securities in the portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Exchange Act; and

(F) American Depositary Receipts ("ADRs") in a portfolio may be exchange-traded or non-exchange-traded. However, no more than 10% of the equity weight of a portfolio shall consist of non-exchange-traded ADRs.

(2) Non-U.S. Component Stocks. The component stocks of the equity portion of a portfolio that are Non-U.S. Component Stocks shall meet the following criteria initially and on a continuing basis:

(A) Non-U.S. Component Stocks each shall have a minimum market value of at

least $100 million;

(B) Non-U.S. Component Stocks each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months;

(C) The most heavily weighted Non-U.S. Component stock shall not exceed 25% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted Non-U.S. Component Stocks shall not exceed 60% of the equity weight of the portfolio;

(D) Where the equity portion of the portfolio includes Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 20 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Exchange Traded Products or Index-Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Exchange Traded Products or Index-Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; and

(E) Each Non-U.S. Component Stock shall be listed and traded on an exchange that has last-sale reporting.

(b) Fixed Income - Fixed income securities are debt securities that are notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities ("Treasury Securities"), government-sponsored entity securities ("GSE Securities"), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof, investment grade and high yield corporate debt, bank loans, mortgage and asset backed securities, and commercial paper. To the extent that a portfolio includes convertible securities, the fixed income security into which such security is converted shall meet the criteria of this Commentary .01(b) after converting. The components of the fixed income portion of a portfolio shall meet the following criteria initially and on a continuing basis:

(1) Components that in the aggregate account for at least 75% of the fixed income weight of the portfolio each shall have a minimum original principal amount outstanding of $100 million or more;

(2) No component fixed-income security (excluding Treasury Securities and GSE Securities) shall represent more than 30% of the fixed income weight of the portfolio, and the five most heavily weighted component fixed income securities in the portfolio (excluding Treasury Securities and GSE Securities) shall not in the aggregate account for more than 65% of the fixed income weight of the portfolio;

(3) An underlying portfolio (excluding exempted securities) that includes fixed income securities shall include a minimum of 13 non-affiliated issuers, provided, however,

that there shall be no minimum number of nonaffiliated issuers required for fixed income securities if at least 70% of the weight of the portfolio consists of equity securities as described in Commentary .01(a) above;

(4) Component securities that in aggregate account for at least 90% of the fixed income weight of the portfolio must be either (a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Exchange Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Exchange Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country; and

(5) Non-agency, non-GSE and privately-issued mortgage-related and other asset-backed securities components of a portfolio shall not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio.

(c) Cash and Cash Equivalents. Cash equivalents shall include short-term instruments with maturities of less than 3 months (as described herein). In addition, a portfolio may hold cash.

(1) There shall be no limitation to the percentage of the portfolio invested in such holdings.

(2) Short-term instruments shall include the following:

(i) U.S. Government securities, including bills, notes and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities;

(ii) certificates of deposit issued against funds deposited in a bank or savings and loan association;

(iii) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions;

(iv) repurchase agreements and reverse repurchase agreements;

(v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest;

(vi) commercial paper, which are short-term unsecured promissory notes; and

(vii) money market funds.

(d) Listed Derivatives. The portfolio may hold listed derivatives, including futures, options and swaps on commodities, currencies and financial instruments (e.g., stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing. There shall be no limitation to the percentage of the portfolio invested in such holdings, subject to the following requirements:

(1) in the aggregate, at least 90% of the weight of such holdings invested in futures, exchange-traded options, and listed swaps shall, on both an initial and continuing basis, consist of futures, options, and swaps for which the Exchange may obtain information via the Intermarket Surveillance Group ("ISG") from other members or affiliates of the ISG or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement. (For purposes of calculating this limitation, a portfolio's investment in listed derivatives will be calculated as the aggregate gross notional value of the listed derivatives.); and

(2) the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures).

(e) Over-the-Counter ("OTC") Derivatives. The portfolio may hold OTC derivatives, including forwards, options and swaps on commodities, currencies and financial instruments (e.g., stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing; however, on both an initial and continuing basis, no more than 20% of the assets in the portfolio may be invested in OTC derivatives. For purposes of calculating this limitation, a portfolio's investment in OTC derivatives will be calculated as the aggregate gross notional value of the OTC derivatives.

(f) To the extent that listed or OTC derivatives are used to gain exposure to individual equities and/or fixed income securities, or to indexes of equities and/or indexes of fixed income securities, the aggregate gross notional value of such exposure shall meet the criteria set forth in Commentary .01(a) and .01(b) (including gross notional exposures), respectively.

.02 Transactions in Managed Fund Shares will occur during the trading hours specified in Rule 7.34(a).

.03 Surveillance Procedures. The Exchange will implement written surveillance procedures for Managed Fund Shares.

.04 Creation and Redemption. For Managed Fund Shares based on an international or global portfolio, the statutory prospectus or the application for exemption from provisions of the Investment Company Act of 1940 for the series of Managed Fund Shares must state that the series of Managed Fund Shares must comply with the

federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933.

.05 *Disclosures*. The provisions of this subparagraph apply only to series of Managed Fund Shares that are the subject of an order by the Securities and Exchange Commission exempting such series from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 and are not otherwise subject to prospectus delivery requirements under the Securities Act of 1933. The Exchange will inform ETP Holders regarding application of these provisions of this subparagraph to a particular series of Managed Fund Shares by means of an information circular prior to commencement of trading in such series.

The Exchange requires that ETP Holders provide to all purchasers of a series of Managed Fund Shares a written description of the terms and characteristics of those securities, in a form prepared by the open-end management investment company issuing such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, ETP Holders will include such a written description with any sales material relating to a series of Units that is provided to customers or the public. Any other written materials provided by an ETP Holder to customers or the public making specific reference to a series of Managed Fund Shares as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of (the series of Managed Fund Shares) has been prepared by the (open-end management investment company name) and is available from your broker. It is recommended that you obtain and review such circular before purchasing (the series of Managed Fund Shares)."

An ETP Holder carrying an omnibus account for a non-ETP Holder is required to inform such non-ETP Holder that execution of an order to purchase a series of Managed Fund Shares for such omnibus account will be deemed to constitute agreement by the non-ETP Holder to make such written description available to its customers on the same terms as are directly applicable to ETP Holders under this rule.

Upon request of a customer, an ETP Holder will also provide a prospectus for the particular series of Managed Fund Shares.

.06 If the investment adviser to the Investment Company issuing

Managed Fund Shares is affiliated with a broker-dealer, such investment adviser will erect and maintain a "firewall" between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Investment Company portfolio. Personnel who make decisions on the Investment Company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company portfolio.

Rule 8.700. Managed Trust Securities

(a) The Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Managed Trust Securities that meet the criteria of this Rule.

(b) *Applicability*. This Rule is applicable only to Managed Trust Securities. Managed Trust Securities are included within the definition of "security" or "securities" as such terms are used in the Bylaws and Rules of the Exchange.

(c) *Definitions*. The following terms as used in the Rules will, unless the context otherwise requires, have the meanings herein specified:

(1) *Managed Trust Securities*. The term "Managed Trust Securities" as used in the Rules will, unless the context otherwise requires, mean a security that is registered under the Securities Act of 1933, as amended, and (i) is issued by a trust ("Trust"), or any series thereof, that (1) is a commodity pool as defined in the Commodity Exchange Act and regulations thereunder, is not registered or required to be registered as an investment company under the Investment Company Act of 1940, as amended, and is managed by a commodity pool operator registered with the Commodity Futures Trading Commission, and (2) holds long and/or short positions in exchange-traded futures contracts and/or certain currency forward contracts and/or swaps selected by the Trust's advisor consistent with the Trust's investment objectives, which will only include exchange-traded futures contracts involving commodities, commodity indices, currencies, currency indices, stock indices, the EURO STOXX 50 Volatility Index (VSTOXX), fixed income indices, interest rates and sovereign, private and mortgage or asset backed debt instruments, and/or forward contracts on specified currencies, and/or swaps on stock indices, fixed income indices, commodity indices, VSTOXX, commodities, currencies, currency indices, or interest rates, each as disclosed in the Trust's prospectus as such may be amended from time to time, and cash and cash equivalents; and (ii) is issued and redeemed continuously in specified aggregate amounts at the next applicable net asset value.

(2) Disclosed Portfolio. The term "Disclosed Portfolio" means the identities and quantities of the securities and other assets held by the Trust that will form the basis for the Trust's calculation of net asset value at the end of the business day.

(3) Intraday Indicative Value. The term "Intraday Indicative Value" is the estimated indicative value of a Managed Trust Security based on current information regarding the value of the securities and other assets in the Disclosed Portfolio.

(4) Reporting Authority. The term "Reporting Authority" in respect of a particular series of Managed Trust Securities means the Exchange, an institution, or a reporting or information service designated by the Exchange or by the Trust or the exchange that lists a particular series of Managed Trust Securities (if the Exchange is trading such series pursuant to unlisted trading privileges) as the official source for calculating and reporting information relating to such series, including, but not limited to, the Intraday Indicative Value; the Disclosed Portfolio; the amount of any cash distribution to holders of Managed Trust Securities, net asset value, or other information relating to the issuance, redemption or trading of Managed Trust Securities. A series of Managed Trust Securities may have more than one Reporting Authority, each having different functions.

(d) *Designation.* The Exchange may trade, either by listing or pursuant to unlisted trading privileges, Managed Trust Securities based on the underlying portfolio of exchange-traded futures, and/or swaps, and/or certain currency forward contracts described in the related prospectus. Each issue of Managed Trust Securities will be designated as a separate trust or series and will be identified by a unique symbol.

(e) *Initial and Continued Listing*. Managed Trust Securities will be listed and traded on the Exchange subject to application of the following criteria:

(1) *Initial Listing*—Each series of Managed Trust Securities will be listed and traded on the Exchange subject to application of the following initial listing criteria:

(A) The Exchange will establish a minimum number of Managed Trust Securities required to be outstanding at the time of commencement of trading on the Exchange.

(B) The Exchange will obtain a representation from the issuer of each series of Managed Trust Securities that the net asset value per share for the series will be calculated daily and that the net asset value and the Disclosed Portfolio will be made available to all market participants at the same time.

(2) *Continued Listing*—Each series of Managed Trust Securities will be listed and traded on the Exchange subject to application of the following continued listing criteria:

(A) Intraday Indicative Value. The Intraday Indicative Value for Managed Trust Securities will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session (as defined in Rule 7.34).

(B) Disclosed Portfolio.

(i) The Disclosed Portfolio will be disseminated at least once daily and will be made available to all market participants at the same time.

(ii) The Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the portfolio.

(C) Suspension of trading or removal. The Exchange will maintain surveillance procedures for securities listed under this rule and will consider the suspension of trading in, and will commence delisting proceedings under Rule 5.5(m) of, a series of Managed Trust Securities under any of the following circumstances:

(i) if, following the initial twelve-month period beginning upon the commencement of trading of the Managed Trust Securities: (A) the Trust has fewer than 50,000 Managed Trust Securities issued and outstanding; or (B) the market value of all Managed Trust Securities issued and outstanding is less than $1,000,000, or (C) there are fewer than 50 record and/or beneficial holders of Managed Trust Securities;

(ii) if the Intraday Indicative Value for the Trust is no longer calculated or available or the Disclosed Portfolio is not made available to all market participants at the same time;

(iii) if the Trust issuing the Managed Trust Securities has failed to file any filings required by the Securities and Exchange Commission or if the Exchange is aware that the Trust is not in compliance with the conditions of any exemptive order or no-action relief granted by the Securities and Exchange Commission to the Trust with respect to the series of Managed Trust Securities;

(iv) if any of the continued listing requirements set forth in Rule 8.700 are not continuously maintained;

(v) if the Exchange submits a rule filing pursuant to Section 19(b) of the Exchange Act to permit the listing and trading of a series of Managed Trust Securities and any of the statements or representations regarding (a) the description of the index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing are not continuously maintained; or

(vi) if such other event will occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

(D) Trading Halt. If the Intraday Indicative Value of a series of Managed Trust

Securities is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the Intraday Indicative Value occurs. If the interruption to the dissemination of the Intraday Indicative Value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. If a series of Managed Trust Securities is trading on the Exchange pursuant to unlisted trading privileges, the Exchange will halt trading in that series as specified in Rule 7.18. In addition, if the Exchange becomes aware that the net asset value or the Disclosed Portfolio with respect to a series of Managed Trust Securities is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the net asset value or the Disclosed Portfolio is available to all market participants.

(E) Upon termination of a Trust, the Exchange requires that Managed Trust Securities issued in connection with such trust be removed from Exchange listing. A Trust will terminate in accordance with the provisions of the Trust prospectus.

(3) *Term* —The stated term of the Trust will be as stated in the prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(4) *Trustee* —The following requirements apply on an initial and continued listing basis:

(i) The trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(ii) No change is to be made in the trustee of a listed issue without prior notice to and approval of the Exchange.

(5) Voting—Voting rights will be as set forth in the applicable Trust prospectus.

(f) *Market Maker Accounts*.

(1) The ETP Holder acting as a registered Market Maker on the Exchange in Managed Trust Securities must file, with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading the underlying commodity or applicable currency, related futures or options on futures, or any other related derivatives, which the ETP Holder acting as a registered Market Maker on the Exchange may have or over which it may exercise investment discretion. No ETP Holder acting as a registered Market Maker on the Exchange in the Managed Trust Securities will trade in the underlying commodity or applicable currency, related futures or options on futures, or any other related derivatives, in an account

in which an ETP Holder acting as a registered Market Maker on the Exchange, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule.

(2) In addition to the existing obligations under Exchange rules regarding the production of books and records (see, e.g., Rule 11.4.1), the ETP Holder acting as a registered Market Maker on the Exchange in Managed Trust Securities will make available to the Exchange such books, records or other information pertaining to transactions by such entity or any limited partner, officer or approved person thereof, registered or non-registered employee affiliated with such entity for its or their own accounts in the underlying commodity or applicable currency, related futures or options on futures, or any other related derivatives, as may be requested by the Exchange.

(g) *Limitation of Exchange Liability*. Neither the Exchange, the Reporting Authority nor any agent of the Exchange will have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any underlying futures contract value; the current value of positions or interests if required to be deposited to the Trust in connection with issuance of Managed Trust Securities; net asset value; or other information relating to the purchase, redemption or trading of Managed Trust Securities, resulting from any negligent act or omission by the Exchange, or the Reporting Authority, or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange or its agent, or the Reporting Authority, including, but not limited to, fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reporting of transactions in an underlying futures contract.

(h) The Exchange will file separate proposals under Section 19(b) of the Exchange Act before listing and trading separate and distinct Managed Trust Securities. All statements or representations contained in such rule filing regarding (a) the description of the index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

Commentary:

.01 The Exchange requires that ETP Holders provide all purchasers of newly issued Managed Trust Securities a prospectus for the series of Managed Trust Securities.

.02 Transactions in Managed Trust Securities will occur during the trading hours specified in Rule 7.34.

.03 The Exchange's rules governing the trading of equity securities apply.

.04 The Exchange will implement written surveillance procedures for Managed Trust Securities.

.05 If the Trust's advisor is affiliated with a broker-dealer, the broker-dealer will erect and maintain a "firewall" around the personnel who have access to information concerning changes and adjustments to the Disclosed Portfolio. Personnel who make decisions on the Trust's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Trust portfolio.

RULE 9 [CONDUCTING BUSINESS WITH THE PUBLIC]Reserved

RULE 10 DISCIPLINARY PROCEEDINGS, OTHER HEARINGS AND APPEALS

RULE 10.8000. INVESTIGATIONS AND SANCTIONS

RULE 10.8100. GENERAL PROVISIONS

Rule 10.8110. Availability of Rules for Customers

ETP Holders shall make available a current copy of the Exchange rules for examination by customers upon request. ETP Holders may comply with this Rule by maintaining electronic access to the Exchange rules and providing customers with such access upon request.

Rule 10.8120. Definitions

(a) Unless otherwise provided, terms used in the Rule 10.8000 Series shall have the same meaning as in applicable Exchange rules.

(b) The terms "Adjudicator" and "Regulatory Staff" shall have the same meaning as in Rule 10.9120.

Rule 10.8130. Retention of Jurisdiction

(a) An ETP Holder that resigns or has its ETP canceled or revoked shall continue to be subject to the filing of a complaint under Exchange rules based upon conduct which commenced prior to the effective date of ETP Holder's resignation from the Exchange or the cancellation or revocation of its ETP. Any such complaint, however, shall be filed within two years after the effective date of resignation, cancellation, or revocation.

(b) A person whose status as an Associated Person has been terminated and who is no longer a Associated Person of any ETP Holder or an Associated Person whose registration has been revoked or canceled shall continue to be subject to the filing of a complaint under Exchange rules based upon conduct that commenced prior to the termination, revocation, or cancellation or upon such person's failure, while subject to the jurisdiction of the Exchange as provided herein, to provide information requested by the Exchange pursuant to Exchange rules, but any such complaint shall be filed within:

(1) two years after the effective date of termination of registration pursuant to Rule 2.7, provided, however that any amendment to a notice of termination filed pursuant to such rule that is filed within two years of the original notice that discloses that such person may have engaged in conduct actionable under any applicable statute, rule, or regulation shall operate to recommence the running of the two-year period under this Rule;

(2) two years after the effective date of revocation or cancellation of registration pursuant to Exchange rules; or

(3) in the case of an unregistered person, two years after the date upon which such person ceased to be an Associated Person of the ETP Holder.

(c) A person whose status as an Associated Person is terminated and is no longer a Associated Person of any ETP Holder shall continue to be subject to a proceeding to suspend his or her ability to associate with an ETP Holder based on such person's failure to comply with an arbitration award or a written and executed settlement agreement obtained in connection with an arbitration or mediation submitted for disposition pursuant to Exchange rules, provided that such proceeding is instituted within two years after the date of entry of such award or settlement.

RULE 10.8200. INVESTIGATIONS

Rule 10.8210. Provision of Information and Testimony and Inspection and Copying of Books

(a) Authority of Adjudicator and Exchange Staff

For the purpose of an investigation, complaint, examination, or proceeding authorized by Exchange rules, an Adjudicator or Exchange staff shall have the right to:

(1) require an ETP Holder or Associated Person to provide information orally, in writing, or electronically (if the requested information is, or is required to be, maintained in electronic form) and to testify at a location specified by Exchange staff, under oath or affirmation administered by a court reporter or a notary public if

requested, with respect to any matter involved in the investigation, complaint, examination, or proceeding; and

(2) inspect and copy the books, records, and accounts of such ETP Holder or Associated Person with respect to any matter involved in the investigation, complaint, examination, or proceeding that is in such ETP Holder's or Associated Person's possession, custody or control.

In performing the functions of investigation, complaint, examination, or proceeding authorized by Exchange rules, the CRO and Regulatory Staff shall function independently of the commercial interests of the Exchange and the commercial interests of ETP Holders.

(b) Other SROs and Regulators

(1) Exchange staff may enter into an agreement with a domestic federal agency, or subdivision thereof, or foreign regulator to share any information in the Exchange's possession for any regulatory purpose set forth in such agreement, provided that the agreement must require the other regulator, in accordance with the terms of the agreement, to treat any shared information confidentially and to assert such confidentiality and other applicable privileges in response to any requests for such information from third parties.

Any such agreement with a foreign regulator must also meet the following conditions:

(A) the other regulator party to the agreement must have jurisdiction over common regulatory matters; and

(B) the agreement must require the other regulator to reciprocate and share with the Exchange information of regulatory interest or concern to the Exchange.

(2) Exchange staff may exercise the authority set forth in paragraph (a) for the purpose of an investigation, complaint, examination, or proceeding conducted by another domestic or foreign self-regulatory organization, association, securities or contract market, or regulator of such markets with which the Exchange has entered into an agreement providing for the exchange of information and other forms of material assistance solely for market surveillance, investigative, enforcement, or other regulatory purposes.

(c) Requirement to Comply

No ETP Holder or Associated Person shall fail to provide information or testimony or to permit an inspection and copying of books, records, or accounts pursuant to this Rule.

(d) Notice

A notice under this Rule shall be deemed received by the ETP Holder or Associated Person (including a currently or formerly registered person) to whom it is directed by mailing or otherwise transmitting the notice to the last known business address of the ETP Holder or the last known residential address of the Associated Person as reflected in the Central Registration Depository. With respect to a person who is currently associated with an ETP Holder in an unregistered capacity, a notice under this Rule shall be deemed received by the person by mailing or otherwise transmitting the notice to the last known business address of the ETP Holder as reflected in the Central Registration Depository. With respect to a person subject to the Exchange's jurisdiction who was formerly associated with an ETP Holder in an unregistered capacity, a notice under this Rule shall be deemed received by the person upon personal service, as set forth in Rule 10.9134(a)(1).

If the Adjudicator or Exchange staff responsible for mailing or otherwise transmitting the notice to the ETP Holder or Associated Person has actual knowledge that the address in the Central Registration Depository is out of date or inaccurate, then a copy of the notice shall be mailed or otherwise transmitted to:

> (1) the last known business address of the ETP Holder, or the last known residential address of the Associated Person as reflected in the Central Registration Depository; and
>
> (2) any other more current address of the ETP Holder or Associated Person known to the Adjudicator or Exchange staff who is responsible for mailing or otherwise transmitting the notice.

If the Adjudicator or Exchange staff responsible for mailing or otherwise transmitting the notice to the ETP Holder or Associated Person knows that the ETP Holder or Associated Person is represented by counsel regarding the investigation, complaint, examination, or proceeding that is the subject of the notice, then the notice shall be served upon counsel by mailing or otherwise transmitting the notice to the counsel in lieu of the ETP Holder or Associated Person, and any notice served upon counsel shall be deemed received by the ETP Holder or Associated Person.

(e) Electronic Interface

In carrying out its responsibilities under this Rule, the Exchange may, as appropriate, establish programs for the submission of information to the Exchange on a regular basis through a direct or indirect electronic interface between the Exchange and ETP Holders.

(f) Inspection and Copying

A witness, upon proper identification, may inspect the official transcript of the witness' own testimony. Upon written request, a person who has submitted documentary evidence or testimony in an Exchange investigation may procure a copy of the person's documentary evidence or the transcript of the person's testimony upon payment of the appropriate fees, except that prior to the issuance of a complaint arising from the investigation, Exchange staff may for good cause deny such request.

(g) Encryption of Information Provided in Electronic Form

(1) Any ETP Holder or Associated Person who, in response to a request pursuant to this Rule, provides the requested information on a portable media device must ensure that such information is encrypted.

(2) For purposes of this Rule, a "portable media device" is a storage device for electronic information, including but not limited to a flash drive, CD-ROM, DVD, portable hard drive, laptop computer, disc, diskette, or any other portable device for storing and transporting electronic information.

(3) For purposes of this Rule, "encrypted" means the transformation of data into a form to which meaning cannot be assigned without the use of a confidential process or key. To ensure that encrypted information is secure, an ETP Holder or Associated Person providing encrypted information to Exchange staff pursuant to this Rule shall (a) use an encryption method that meets industry standards for strong encryption, and (b) provide the confidential process or key regarding the encryption to Exchange staff in a communication separate from the encrypted information itself.

Commentary:

.01 Books and Records Relating to Investigations. This rule requires ETP Holders and Associated Persons to provide Exchange staff and adjudicators with requested books, records and accounts. In specifying the books, records and accounts "of such ETP Holder or Associated Person," paragraph (a) of the rule refers to books, records and accounts that the broker-dealer or its Associated Persons makes or keeps relating to its operation as a broker-dealer or relating to the person's association with ETP Holder. This includes but is not limited to records relating to an Exchange investigation of outside business activities, private securities transactions or possible violations of just and equitable principles of trade, as well as other Exchange rules and the federal securities laws. It does not ordinarily include books and records that are in the possession, custody or control of an ETP Holder or Associated Person, but whose bona fide ownership is held by an independent third party and the records are unrelated to the business of the ETP Holder or Associated Person. The rule requires, however, that an ETP Holder or Associated Person must make available its books, records or accounts when these books, records or accounts are in the possession of another person or entity, such as a professional service provider, but the ETP Holder or Associated Person controls or has a right to demand them.

Rule 10.8211. Automated Submission of Trading Data Requested by the Exchange

(a) An ETP Holder shall submit the trade data specified below in automated format as may be prescribed by the Exchange from time to time. This information shall be supplied with respect to any transaction or transactions that are the subject of a request for information made by the Exchange.

(b) If the transaction was a proprietary transaction effected or caused to be effected by the ETP Holder for any account in which such ETP Holder or Associated Person is directly or indirectly interested, such ETP Holder shall submit or cause to be submitted the following information:

(1) Clearing house number, or alpha symbol as used by the ETP Holder submitting the data;

(2) Clearing house number(s), or alpha symbol(s) as may be used from time to time, of the ETP Holder(s) on the opposite side of the transaction;

(3) Identifying symbol assigned to the security;

(4) Date transaction was executed;

(5) Number of shares, or quantity of bonds or options contracts for each specific transaction and whether each transaction was a purchase, sale, short sale, or, if an options contract, whether open long or short or close long or short;

(6) Transaction price;

(7) Account number; and

(8) Market center where transaction was executed.

(c) If the transaction was effected or caused to be effected by the ETP Holder for any customer account, such ETP Holder shall submit or cause to be submitted the following information:

(1) The data described in paragraphs (b)(1) through (8) above;

(2) The customer name, address(es), branch office number, registered representative number, whether order was solicited or unsolicited, date account opened, employer name, and the tax identification number(s); and

(3) If the transaction was effected for another ETP Holder, whether the other ETP Holder was acting as principal or agent.

(d) In addition to the above trade data, an ETP Holder shall submit such other information in such automated format as may from time to time be required by the Exchange.

(e) Pursuant to the Rule 10.9600 Series, the Exchange may exempt a member from the requirement that the data prescribed in paragraphs (b) through (d) above be submitted to the Exchange in an automated format for good cause shown.

Rule 10.8212. Reserved.

Rule 10.8213. Reserved.

RULE 10.8300. SANCTIONS

Rule 10.8310. Sanctions for Violation of the Rules

(a) Imposition of Sanction

After compliance with the Rule 10.9000 Series, the Exchange may impose one or more of the following sanctions on an ETP Holder or Associated Person for each violation of the federal securities laws, rules or regulations thereunder or Exchange rules, or may impose one or more of the following sanctions on an ETP Holder or Associated Person for any neglect or refusal to comply with an order, direction, or decision issued under Exchange rules:

(1) censure an ETP Holder or Associated Person;

(2) impose a fine upon an ETP Holder or Associated Person;

(3) suspend the ETP of an ETP Holder, or suspend the registration of a Associated Person for a definite period or a period contingent on the performance of a particular act;

(4) expel an ETP Holder, cancel the ETP of an ETP Holder, or revoke or cancel the registration of a Associated Person;

(5) suspend or bar an ETP Holder or Associated Person from association with all ETP Holders;

(6) impose a temporary or permanent cease and desist order against an ETP Holder or Associated Person; or

(7) impose any other fitting sanction.

(b) Assent to Sanction

Each party to a proceeding resulting in a sanction shall be deemed to have assented to the imposition of the sanction unless such party files a written application for review or relief pursuant to the Rule 10.9000 Series.

Rule 10.8311. Effect of a Suspension, Revocation, Cancellation, Bar or Other Disqualification

(a) If a person is subject to a suspension, revocation, or cancellation of registration, bar from association with an ETP Holder (each a "sanction") or other disqualification, an ETP Holder shall not allow such person to be associated with it in any capacity that is inconsistent with the sanction imposed or disqualified status, including a clerical or ministerial capacity. An ETP Holder also shall not pay or credit to any person subject to a sanction or disqualification, during the period of the sanction or disqualification or any period thereafter, any salary, commission, profit, or any other remuneration that the person might accrue during the period of the sanction or disqualification. However, an ETP Holder may make payments or credits to a person subject to a sanction that are consistent with the scope of activities permitted under the sanction where the sanction solely limits an Associated Person from conducting specified activities (such as a suspension from acting in a principal capacity) or a disqualified person has been approved (or is otherwise permitted pursuant to Exchange rules and the federal securities laws) to associate with an ETP Holder.

(b) Notwithstanding paragraph (a) of this Rule, an ETP Holder may pay to a person that is subject to a sanction or disqualification described in paragraph (a) of this Rule, any remuneration pursuant to an insurance or medical plan, indemnity agreement relating to legal fees, or as required by an arbitration award or court judgment.

Commentary:

.01 Remuneration Accrued Prior to Effective Date of Sanction or Disqualification. Notwithstanding this Rule, an ETP Holder may pay or credit to a person that is subject of a sanction or disqualification salary, commission, profit or any other remuneration that the ETP Holder can evidence accrued to the person prior to the effective date of such sanction or disqualification; provided, however, the ETP Holder may not pay any salary, commission, profit or any other remuneration that accrued to the person that relates to or results from the activity giving rise to the sanction or disqualification, and any such payment or credit must comply with applicable federal securities laws.

Rule 10.8312. Reserved.

Rule 10.8313. Release of Disciplinary Complaints, Decisions and Other Information

(a) General Standards

(1) The Exchange shall release to the public a copy of, and at the Exchange's discretion information with respect to, any disciplinary complaint or disciplinary decision issued by the Exchange, as defined in paragraph (e) of this Rule under the Rule 10.9000 Series, other than minor rule violations, on its website. The Exchange shall, in response to a request, release to the requesting party a copy of any identified disciplinary complaint or disciplinary decision issued by the Exchange, as defined in paragraph (e) of this Rule.

(2) The Exchange shall release to the public a copy of, and at the Exchange's discretion information with respect to, any statutory disqualification decision, notification, or notice issued by the Exchange pursuant to the Rule 10.9520 Series that will be filed with the SEC and any temporary cease and desist order or decision issued by the Exchange pursuant to the Rule 10.9800 Series.

(3) The Exchange shall release to the public information with respect to any suspension, cancellation, expulsion, or bar that constitutes final Exchange action imposed pursuant to Rules 10.9552, 10.9554, 10.9555, 10.9556, 10.9558, 10.9560, and information with respect to any suspension imposed pursuant to Rule 10.9557. The Exchange shall release to the public a copy of, and information with respect to, any decision issued pursuant to Rule 10.9559 that constitutes final Exchange action. The Exchange shall release to the public information with respect to the summary suspension or expulsion of an ETP Holder or the summary revocation of the registration of a Associated Person for a failure to pay fines, other monetary sanctions, or costs pursuant to Rule 10.8320.

(4) The Exchange may release to the public a copy of, and information with respect to, any decision or notice issued pursuant to the Rule 10.9600 Series, and any other decision appealable to the SEC under Exchange Act Section 19(d).

(b) Release Specifications

(1) Copies of, and information with respect to, any disciplinary complaint released to the public pursuant to paragraph (a) of this Rule shall indicate that a disciplinary complaint represents the initiation of a formal proceeding by the Exchange in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint.

(2) Copies of, and information with respect to, any disciplinary decision or other decision, order, notification, or notice released to the public pursuant to paragraph (a) of this Rule prior to the expiration of the time period provided for an appeal or call for review as permitted under Exchange rules or the Exchange Act, or while such an appeal or call for review is pending, shall indicate that the findings and sanctions imposed therein are subject to review and modification by the Exchange or the SEC.

(c) Discretion to Redact Certain Information or Waive Publication

(1) Notwithstanding paragraph (a) of this Rule, the Exchange reserves the right to redact, on a case-by-case basis, information that contains confidential customer information,

including customer identities, or information that raises significant identity theft, personal safety, or privacy concerns that are not outweighed by investor protection concerns.

(2) Notwithstanding paragraph (a) of this Rule, the Exchange may determine, in its discretion, to waive the requirement to release a copy of, or information with respect to, any disciplinary complaint, disciplinary decision or other decision, order, notification, or notice under those extraordinary circumstances where the release of such information would violate fundamental notions of fairness or work an injustice.

(d) Notice of Appeals of Exchange Decisions to the SEC

The Exchange shall provide notice to the public if a disciplinary decision of the Exchange is appealed to the SEC and the notice shall state whether the effectiveness of the decision has been stayed pending the outcome of proceedings before the SEC.

(e) Definitions

(1) For the purpose of this Rule, the term "disciplinary complaint" shall mean any complaint issued pursuant to the Rule 10.9200 Series or any notice served pursuant to Rule 10.9560.

(2) For the purpose of this Rule, the term "disciplinary decision" shall mean any decision issued pursuant to the Rule 10.9000 Series, including, decisions issued by a Hearing Officer, Hearing Panel, Extended Hearing Panel, or the Board of Directors, orders accepting offers of settlement, and Letters of Acceptance, Waiver and Consent and suspension orders pursuant to Rule 10.9560; provided, however, such term does not include decisions issued pursuant to the Rule 10.9550 Series, Rule 10.9600 Series, or Rule 10.9800 Series, or decisions, notifications, or notices issued pursuant to the Rule 10.9520 Series, which are addressed by paragraphs (a)(2), (a)(3) and (a)(4) of this Rule. Minor rule violation plan letters issued pursuant to Rules 10.9216 and 10.9217 are not subject to this Rule.

Rule 10.8320. Payment of Fines, Other Monetary Sanctions, or Costs; Summary Action for Failure to Pay

(a) Payment to Treasurer

All fines and other monetary sanctions shall be paid to the Treasurer of the Exchange.

(b) Summary Suspension or Expulsion

After seven days notice in writing, the Exchange may summarily suspend or expel an ETP Holder that fails to:

(1) pay promptly a fine or other monetary sanction imposed pursuant to Rule 10.8310 or a cost imposed pursuant to Rule 10.8330 when

such fine, monetary sanction, or cost becomes finally due and payable; or

(2) terminate immediately the association of an Associated Person who fails to pay promptly a fine or other monetary sanction imposed pursuant to Rule 10.8310 or a cost imposed pursuant to Rule 10.8330 when such fine, monetary sanction, or cost becomes finally due and payable.

(c) Summary Revocation of Registration

After seven days notice in writing, the Exchange may summarily revoke the registration of an Associated Person if such person fails to pay promptly a fine or other monetary sanction imposed pursuant to Rule 10.8310 or a cost imposed pursuant to Rule 10.8330 when such fine, monetary sanction, or cost becomes finally due and payable.

Rule 10.8330. Costs of Proceedings

An ETP Holder or Associated Person disciplined pursuant to Rule 10.8310 shall bear such costs of the proceeding as the Adjudicator deems fair and appropriate under the circumstances.

RULE 10.9000. CODE OF PROCEDURE

RULE 10.9100. APPLICATION AND PURPOSE

Rule 10.9110. Application

(a) Proceedings

The Rule 10.9000 Series is the Code of Procedure and includes proceedings for disciplining an ETP Holder or Associated Person; proceedings for regulating the activities of an ETP Holder experiencing financial or operational difficulties; proceedings for summary or non-summary suspensions, cancellations, bars, prohibitions, or limitations; and proceedings for obtaining relief from the eligibility requirements of the Exchange's rules. The Rule 10.9100 Series is of general applicability to all proceedings set forth in the Rule 10.9000 Series, unless a Rule specifically provides otherwise. In performing the functions under the Code, the CRO and Regulatory Staff shall function independently of the commercial interests of the Exchange and the commercial interests of the ETP Holders.

(b) Rights, Duties, and Obligations of ETP Holder and Associated Persons

Unless otherwise specified, an Associated Person shall have the same rights as an ETP Holder and shall be subject to the same duties and obligations under the Code of Procedure.

(c) Incorporation of Defined Terms and Cross References

Unless otherwise provided and where applicable, terms used in the Rule 10.9000 Series shall have the same meaning as in Rule 10.9120 and applicable rules of the Exchange.

Rule 10.9120. Definitions

(a) "Adjudicator"

The term "Adjudicator" means:

(1) a body, board, committee, group, or natural person that presides over a proceeding and renders a decision;

(2) a body, board, committee, group, or natural person that presides over a proceeding and renders a recommended or proposed decision which is acted upon by an Adjudicator described in paragraph (a)(1); or

(3) a natural person who serves on a body, board, committee, or group described in paragraphs (a)(1) or (2).

(b) Reserved

(c) "Chief Hearing Officer"

The term "Chief Hearing Officer" means the Hearing Officer that manages the Office of Hearing Officers, or his or her delegatee.

(d) "Chief Regulatory Officer" or "CRO"

The term "Chief Regulatory Officer" or "CRO" means the Chief Regulatory Officer of the Exchange, or his or her delegatee.

(e) "Code"

The term "Code" refers to the Code of Procedure.

(f) "Counsel to the Exchange Board of Directors"

The term "Counsel to the Exchange Board of Directors" means an attorney from the Exchange Office of General Counsel who is responsible for advising the Exchange Board of Directors regarding a disciplinary proceeding on review before the Exchange Board of Directors.

(g) Reserved

(h) "Department of Enforcement"

The term "Department of Enforcement" means the Department of Enforcement of FINRA.

(i) "Department of Market Regulation"

The term "Department of Market Regulation" means the Department of Market Regulation of FINRA.

(j) "Department of Member Regulation"

The term "Department of Member Regulation" means the Department of Member Regulation of FINRA.

(k) "Director"

The term "Director" means a member of the Board of Directors of the Exchange.

(l) "Document"

The term "Document" means a writing, drawing, graph, chart, photograph, recording, or any other data compilation, including data stored by computer, from which information can be obtained.

(m) "Enforcement"

The term "Enforcement" refers to (A) any department reporting to the CRO of the Exchange with responsibility for investigating or, when appropriate after compliance with the Rule 10.9000 Series, imposing sanctions on an ETP Holder or Associated Person; (B) the Department of Enforcement of FINRA; and (C) the Department of Market Regulation of FINRA.

(n) Reserved

(o) "Extended Hearing"

The term "Extended Hearing" means a disciplinary proceeding described in Rule 10.9231(c).

(p) "Extended Hearing Panel"

The term "Extended Hearing Panel" means an Adjudicator that is constituted under Rule 10.9231(c) to conduct a disciplinary proceeding that is classified as an "Extended Hearing" and is governed by the Rule 10.9200 Series.

(q) Reserved

(r) "Hearing Officer"

The term "Hearing Officer" means an employee of FINRA who is an attorney and who is appointed by the Chief Hearing Officer to act in an adjudicative role and fulfill various adjudicative responsibilities and duties described in the Rule 10.9200 Series regarding disciplinary proceedings, the Rule 10.9550 Series regarding expedited proceedings, and the Rule 10.9800 Series regarding temporary cease and desist proceedings brought against ETP Holders and Associated Persons.

(s) "Hearing Panel"

The term "Hearing Panel" means an Adjudicator that is constituted under Rule 10.9231 to conduct a disciplinary proceeding governed by the Rule 10.9200 Series, that is constituted under the Rule 10.9520 Series or the Rule 10.9550 Series to conduct a proceeding, or that is constituted under the Rule 10.9800 Series to conduct a temporary cease and desist proceeding.

(t) "Interested Staff"

The term "Interested Staff" means, in the context of any proceeding under the Code of Procedure, Regulatory Staff or staff who:

> (A) report, directly or indirectly, to any Enforcement employee, or to the head of any department or office that issues a notice, petition or decision or is designated as a Party under the Rule 10.9000 Series; or
>
> (B)(i) directly participated in the authorization or initiation of a complaint or proceeding, (ii) directly participated in the proceeding, or (iii) directly participated in an examination, investigation, prosecution, or litigation related to a specific proceeding, and any person(s) who supervises such staff.

(u) "Office of Hearing Officers"

The term "Office of Hearing Officers" means the Office of Hearing Officers for FINRA.

(v) "Panelist"

The term "Panelist," as used in the Rule 10.9200 Series, the Rule 10.9550 Series, and the Rule 10.9800 Series, means a member of a Hearing Panel or Extended Hearing Panel who is not a Hearing Officer.

(w) "Party"

With respect to a particular proceeding, the term "Party" means:

(1) in the Rule 10.9200 Series and the Rule 10.9300 Series, and the Rule 10.9800 Series, Enforcement or a Respondent;

(2) in the Rule 10.9520 Series, the Department of Member Regulation or an ETP Holder or Associated Person that is the subject of a notice or files an application under Rule 10.9522;

(3) in the Rule 10.9550 Series, the Exchange department or office that issued the notice or, if another Exchange department or office is named as the party handling the matter on behalf of the issuing department or office, the Exchange department or office that is so designated or an ETP Holder or Associated Person that is the subject of a notice under the Rule 10.9550 Series; or

(4) in the Rule 10.9600 Series, the department or office designated under Rule 10.9620 to issue the decision granting or denying an exemption or an ETP Holder that seeks the exemption under Rule 10.9610.

(x) "Regulatory Staff"

The term "Regulatory Staff," and for purposes of the Rule 10.8000 Series and Rule 10.9000 Series (except for Rule 10.9557), the term "Exchange staff," refers to (A) any officer or employee reporting, directly or indirectly, to the CRO of the Exchange; and (B) FINRA staff acting on behalf of the Exchange in connection with the Rule 10.8000 Series and Rule 10.9000 Series.

(y) "Respondent"

The term "Respondent" means, in a disciplinary proceeding governed by the Rule 10.9200 Series and in a review governed by the Rule 10.9300 Series, an ETP Holder or an Associated Person against whom a complaint is issued. In a proceeding governed by the Rule 10.9800 Series, the term "Respondent" means an ETP Holder or Associated Person that has been served a notice initiating a cease and desist proceeding.

Rule 10.9130. Service; Filing of Papers

Rule 10.9131. Service of Complaint

(a) Service on Each Party

Except as provided below, a complaint shall be served on each Party by Enforcement. When counsel for a Party or other person authorized to represent others under Rule 10.9141 agrees to accept service of the complaint, then Enforcement may serve the

complaint on counsel for a Party or other person authorized to represent others under Rule 10.9141 as specified in Rule 10.9134(a).

(b) How Served

A complaint or document initiating a proceeding shall be served pursuant to Rule 10.9134.

(c) Filing Requirement

A complaint that is served upon a Respondent and each document initiating a proceeding that is served upon a Party, along with the certificate of service executed in connection with the service upon such Respondent or Party, shall be filed with FINRA pursuant to Rule 10.9135.

Rule 10.9132. Service of Orders, Notices, and Decisions by Adjudicator

(a) Service on Each Party

An order, notice, or decision issued by a Hearing Officer, Hearing Panel or Extended Hearing Panel under the Rule 10.9200 Series shall be served on each Party, or each Party's counsel, or other person the Party designates to represent him or her in a proceeding by the Office of Hearing Officers. An order, notice, or decision issued by any other Adjudicator shall be served by that Adjudicator.

(b) How Served

An order, notice, or decision shall be served pursuant to Rule 10.9134.

(c) Service Upon Counsel or Other Person Acting In Representative Capacity

Whenever service is required to be made upon a person represented by counsel or a representative who has filed a notice of appearance pursuant to Rule 10.9141, service shall be made upon counsel or the representative. The Adjudicator, at its discretion, may also order that service be made upon the person.

Rule 10.9133. Service of Papers Other Than Complaints, Orders, Notices, or Decisions

(a) Service on Each Party

Other than a complaint, order, notice, or decision, any paper, including an answer and a motion, shall be served on each Party by the Party on whose behalf such paper was prepared or by his or her counsel or representative.

(b) How Served

The paper shall be served pursuant to Rule 10.9134.

(c) Filing Requirement

The paper that is served upon a Party, along with the certificate of service executed in connection with the service upon such Party, shall be filed with FINRA pursuant to Rule 10.9135.

(d) Service upon Counsel or Other Person Acting in Representative Capacity

Whenever service is required to be made upon a person represented by counsel or a representative who has filed a notice of appearance pursuant to Rule 10.9141, service shall be made upon counsel or the representative. The Adjudicator, at its discretion, may also order that service be made upon the person.

Rule 10.9134. Methods of, Procedures for Service

(a) Methods

The following methods of service are permitted:

(1) Personal Service

Personal service may be accomplished by handing a copy of the papers to the person required to be served; leaving a copy at the person's office with an employee or other person in charge thereof; or leaving a copy at the person's dwelling or usual place of abode with a person of suitable age and discretion then residing therein;

(2) Service by Mail by U.S. Postal Service

Service by mail may be accomplished by mailing the papers through the U.S. Postal Service by using first class mail, first class certified mail, first class registered mail, or Express Mail, except that a complaint shall be served upon a Respondent by U.S. Postal Service first class certified mail or Express Mail; or

(3) Service by Courier

Service by courier may be accomplished by sending the papers through a courier service that generates a written confirmation of receipt or of attempts at delivery.

(b) Procedures

(1) Service on Natural Persons

Papers served on a natural person may be served at the natural person's residential address, as reflected in the Central Registration Depository, if applicable. When a Party or other person responsible for serving such person has actual knowledge that the natural person's Central Registration Depository address is out of date, duplicate copies shall be served on the natural person at the natural person's last known residential address and the business address in the Central Registration Depository of the entity with which the natural person is employed or affiliated. Papers may also be served at the business address of the entity with which the natural person is employed or affiliated, as reflected in the Central Registration Depository, or at a business address, such as a branch office, at which the natural person is employed, or at which the natural person is physically present during a normal business day. The Hearing Officer may waive the requirement of serving documents (other than complaints) at the addresses listed in the Central Registration Depository if there is evidence that these addresses are no longer valid, and there is a more current address available. If a natural person is represented by counsel or a representative, papers served on the natural person, excluding a complaint or a document initiating a proceeding, shall be served on the counsel or representative.

(2) Service on Entities

Papers served on an entity shall be made by service on an officer, partner of a partnership, managing or general agent, a contact employee as set forth on Form BD, or any other agent authorized by appointment or by law to accept service. Such papers shall be served at the entity's business address as reflected in the Central Registration Depository, if applicable; provided, however, that when the Party or other person responsible for serving such entity has actual knowledge that an entity's Central Registration Depository address is out of date, duplicate copies shall be served at the entity's last known address. If an entity is represented by counsel or a representative, papers served on such entity, excluding a complaint or document initiating a proceeding, shall be served on such counsel or representative.

(3) When Service Is Complete

Personal service and service by courier or express delivery are complete upon delivery. Service by mail is complete upon mailing.

Rule 10.9135. Filing of Papers with Adjudicator: Procedure

(a) When to File

Papers that are required to be filed with an Adjudicator within a time limit specified by the Adjudicator or within a time limit set forth in the Rules shall be deemed timely if received within the time limit, unless otherwise ordered by an Adjudicator, except complaints, which shall be deemed timely filed upon mailing, delivery by electronic mail, or delivery to the Office of Hearing Officers. Other papers that are required to be filed shall be deemed timely if, on the same day such papers are served, they are also hand-delivered, mailed via U.S. Postal service first class mail, delivered by electronic mail, or sent by courier to FINRA.

(b) Where to File

All papers required to be filed pursuant to the Rule 10.9200 Series shall be filed with the Office of Hearing Officers. All other papers required to be filed pursuant to the Rule 10.9000 Series shall be filed where specified in the Rule, or if not specified in the Rule, with the Adjudicator, unless the Adjudicator orders otherwise.

(c) Certificate of Service

Papers filed with an Adjudicator or the Office of Hearing Officers shall be accompanied by a certificate of service stating the name of the person or persons served, the date on which service is made, the method of service and, if service is not made in person, the address to which service is made. Such certificate shall be executed by the person who made the service. If the method of service on a Party is different from the method of service on any other Party, the certificate shall state why such different method was used.

Rule 10.9136. Filing of Papers: Form

(a) Specifications

Papers filed in connection with any proceeding under the Rule 10.9200 Series and the Rule 10.9300 Series shall:

(1) be on unglazed white paper measuring 81/2 x 11 inches, but to the extent that the reduction of a larger document would render it illegible, such document may be filed on larger paper;

(2) be typewritten or printed in either 10 or 12 point typeface or otherwise reproduced by a process that produces a permanent and plainly legible copy;

(3) include at the head of the paper, or on a title page, the title of the proceeding, the names of the Parties, the subject of the particular paper or pleading, and the number assigned to the proceeding;

(4) be paginated at the bottom of the page and with all margins at least one inch wide;

(5) be double-spaced, with single-spaced footnotes and single-spaced indented quotations; and

(6) be stapled, clipped, or otherwise fastened in the upper left corner, but not bound.

(b) Signature Required

All papers shall be signed and dated pursuant to Rule 10.9137.

(c) Number of Copies

A signed original and one copy of all papers shall be filed with the Adjudicator unless otherwise ordered.

(d) Form of Briefs

A brief containing more than ten pages shall include a table of contents, and an alphabetized table of cases, statutes, and other authorities cited, with references to the pages of the brief wherein they are cited.

(e) Scandalous or Impertinent Matter

Any scandalous or impertinent matter contained in any brief, pleading, or other filing, or in connection with any oral presentation in a proceeding may be stricken on order of an Adjudicator. Any matter stricken by an Adjudicator by this Rule shall be marked "Stricken" and preserved. Matters stricken in a proceeding governed by the Rule 10.9200 Series shall be preserved under Rule 10.9267(b).

Rule 10.9137. Filing of Papers: Signature Requirement and Effect

(a) General Requirements

Following the issuance of a complaint in a disciplinary proceeding, or the initiation of another proceeding, every filing of a Party represented by counsel or a representative shall be signed by at least one counsel or representative of record in his or her name and shall state the business address and telephone number of such counsel or representative. A Party who appears on his or her own behalf shall sign his or her individual name and state his or her address and telephone number on every filing.

(b) Effect of Signature

(1) The signature of a counsel, representative, or Party shall constitute a certification that:

(A) the person signing the filing has read the filing;

(B) to the best of his or her knowledge, information, and belief, formed after reasonable inquiry, the filing is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and

(C) the filing is not made for any improper purpose, such as to harass, cause unnecessary delay, or needlessly to increase the cost of adjudication.

(2) If a filing is not signed, an Adjudicator may strike the filing, unless it is signed promptly after the omission is called to the attention of the person making the filing.

Rule 10.9138. Computation of Time

(a) Calendar Day

In the Rule 10.9000 Series, "day" means calendar day.

(b) Formula

In computing any period of time, the day of the act, event, or default from which the period of time designated in the Code begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or Federal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or Federal holiday. Intermediate Saturdays, Sundays, and Federal holidays shall be excluded from the computation when the period prescribed is ten days or less, not including any additional time for service by mail allowed by paragraph (c).

(c) Additional Time For Service by Mail

If service is made by U.S. Postal Service first class, certified, or registered mail, three days shall be added to the prescribed period for response.

Rule 10.9140. Proceedings

Rule 10.9141. Appearance and Practice; Notice of Appearance

(a) Representing Oneself

In any proceeding, a person may appear on his or her own behalf. When a person first makes any filing or otherwise appears on his or her own behalf before an Adjudicator in a proceeding, he or she shall file with the Adjudicator, or otherwise state on the record, and keep current, an address at which any notice or other written communication required to be served upon or furnished to him or her may be sent and a telephone number where he or she may be reached during business hours.

(b) Representing Others

A person shall not be represented before an Adjudicator, except as provided in this paragraph. Subject to the prohibitions of Rules 10.9150 and 10.9280, a person may be represented in any proceeding by an attorney at law admitted to practice before the highest court of any state of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States. A member of a partnership may represent the partnership; and a bona fide officer of a corporation, trust, or association may represent the corporation, trust, or association. When a person first makes any filing or otherwise appears in a representative capacity before an Adjudicator in a proceeding, that person shall file with the Adjudicator, and keep current a notice of appearance. The notice of appearance is a written notice stating the name of the proceeding; the representative's name, business address, and telephone number; and the name and address of the person or persons represented. Any individual appearing or practicing in a representative capacity before an Adjudicator may be required to file a power of attorney with the Adjudicator showing his or her authority to act in such capacity.

(c) One Year Revolving Door Restriction

No former Regulatory Staff shall, within a period of one year immediately following termination of employment with the Exchange or FINRA, make an appearance before an Adjudicator on behalf of any other person in a proceeding under the Rule 10.9000 Series.

Rule 10.9142. Withdrawal by Attorney or Representative

An attorney for a Party or other person authorized to represent others by Rule 10.9141 seeking to withdraw his or her appearance shall file a motion to withdraw. The motion shall set forth the good cause for withdrawal and state the name, current address, and telephone number of the Party no longer being represented.

Rule 10.9143. Ex Parte Communications

(a) Prohibited Communications

Unless on notice and opportunity for all Parties to participate, or to the extent required for the disposition of ex parte matters as authorized by the Rule 10.9000 Series:

> (1) No Party, or counsel to or representative of a Party, or Interested Staff shall make or knowingly cause to be made an ex parte communication relevant to the merits of a proceeding to an Adjudicator who is participating in a decision with respect to that proceeding, or to an Exchange employee who is participating or advising in the decision of an Adjudicator with respect to that proceeding; and

(2) No Adjudicator who is participating in a decision with respect to a proceeding, or no Exchange employee who is participating or advising in the decision of an Adjudicator with respect to a proceeding shall make or knowingly cause to be made to a Party, a counsel or representative to a Party, or Interested Staff an ex parte communication relevant to the merits of that proceeding.

(b) Disclosure of Prohibited Communication

An Adjudicator who is participating in a decision with respect to a proceeding, or an Exchange employee who is participating or advising in the decision of an Adjudicator, who receives, makes, or knowingly causes to be made a communication prohibited by this Rule shall place in the record of the proceeding:

(1) all such written communications;

(2) memoranda stating the substance of all such oral communications; and

(3) all written responses and memoranda stating the substance of all oral responses to all such communications.

(c) Remedies

Upon receipt of a communication made or knowingly caused to be made by any Party, any counsel or any representative to a Party, or any Interested Staff in violation of paragraph (a)(1), the Exchange or an Adjudicator may, to the extent consistent with the interests of justice, the policies underlying the Act, and Exchange rules, order the Party responsible for the communication, or the Party who may benefit from the ex parte communication made, to show cause why the Party's claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected by reason of such ex parte communication. All participants to a proceeding may respond to any allegations or contentions contained in a prohibited ex parte communication placed in the record. Such responses shall be placed in the record.

(d) Timing

In a disciplinary proceeding governed by the Rule 10.9200 Series and the Rule 10.9300 Series, the prohibitions of this Rule shall apply beginning with the authorization of a complaint as provided in Rule 10.9211, unless the person responsible for the communication has knowledge that the complaint shall be authorized, in which case the prohibitions shall apply beginning at the time of his or her acquisition of such knowledge.

(e) Waiver of Ex Parte Prohibition

(1) Offer of Settlement

If a Respondent submits an offer of settlement under Rule 10.9270, the submission constitutes a waiver by such Respondent of any claim that the prohibitions against ex parte communications were violated by a person or body in connection with such person's or body's participation in discussions regarding the terms and conditions of the offer of settlement and the order of acceptance, or other consideration of the offer of settlement and order of acceptance, including acceptance or rejection of such offer of settlement and order of acceptance.

(2) Letter of Acceptance, Waiver, and Consent

If an ETP Holder or Associated Person submits an executed letter of acceptance, waiver, and consent under Rule 10.9216(a), the submission constitutes a waiver by such ETP Holder or Associated Person of any claim that the prohibitions against ex parte communications were violated by a person or body in connection with such person's or body's participation in discussions regarding the terms and conditions of the letter of acceptance, waiver, and consent, or other consideration of the letter of acceptance, waiver, and consent, including acceptance or rejection of such letter of acceptance, waiver, and consent.

(3) Minor Rule Violation Plan Letter

If an ETP Holder or Associated Person submits an executed minor rule violation plan letter under Rule 10.9216(b), the submission constitutes a waiver by such ETP Holder or Associated Person of any claim that the prohibitions against ex parte communications by a person or body in connection with such person's or body's participation in discussions regarding the terms and conditions of the minor rule violation plan letter, or other consideration of the minor rule violation plan letter, including acceptance or rejection of such minor rule plan violation letter, has been violated.

Rule 10.9144. Separation of Functions

(a) Interested Staff

Except as counsel or a witness in a proceeding or as provided in the Rule 10.9550 Series, Interested Staff is prohibited from advising an Adjudicator regarding a decision or otherwise participating in a decision of an Adjudicator. An Adjudicator is prohibited from advising Interested Staff regarding a decision or otherwise participating in a decision of Interested Staff, including the decision to issue a complaint and a decision whether to request a review of a disciplinary proceeding by the Exchange Board of Directors.

(b) Separation of Adjudicators

A Hearing Officer, including the Chief Hearing Officer, or a Panelist of a Hearing Panel or an Extended Hearing Panel, is prohibited from participating in: a decision whether to issue a complaint pursuant to Rule 10.9211 and a decision whether to file a request for a review by the Exchange Board of Directors pursuant to Rule 10.9310. A Director is prohibited from participating in a discussion or a decision relating to the above referenced acts with the Adjudicators referenced above.

(c) Waiver of Prohibitions of Separation of Functions

(1) Offer of Settlement

If a Respondent submits an offer of settlement under Rule 10.9270, the submission constitutes a waiver by such Respondent of any claim of violation of paragraph (a) or (b) by a person or body in connection with such person's or body's participation in discussions regarding the terms and conditions of the offer of settlement and the order of acceptance, or other consideration of the offer of settlement and order of acceptance, including acceptance or rejection of such offer of settlement and order of acceptance.

(2) Letter of Acceptance, Waiver, and Consent

If an ETP Holder or Associated Person submits an executed letter of acceptance, waiver, and consent under Rule 10.9216(a), the submission constitutes a waiver by such ETP Holder or Associated Person of any claim of violation of paragraph (a) or (b) by a person or body in connection with such person's or body's participation in discussions regarding the terms and conditions of the letter of acceptance, waiver, and consent, or other consideration of the proposed letter of acceptance, waiver, and consent, including acceptance or rejection of such letter of acceptance, waiver, and consent.

(3) Minor Rule Violation Plan Letter

If an ETP Holder or Associated Person submits an executed minor rule violation plan letter under Rule 10.9216(b), the submission constitutes a waiver by such ETP Holder or Associated Person of any claim of violation of paragraph (a) or (b) by a person or body in connection with such person's or body's participation in discussions regarding the terms and conditions of the minor rule violation plan letter or other consideration of the minor rule violation plan letter, including acceptance or rejection of such minor rule violation plan letter.

Rule 10.9145. Rules of Evidence; Official Notice

(a) Rules of Evidence

The formal rules of evidence shall not apply in a proceeding brought under the Rule 10.9000 Series.

(b) Official Notice

In a proceeding governed by the Rule 10.9000 Series, an Adjudicator may take official notice of such matters as might be judicially noticed by a court, or of other matters within the specialized knowledge of the Exchange as an expert body. Before an Adjudicator proposes to take official notice of a matter, it shall permit a Party the opportunity to oppose or otherwise comment upon the proposal to take official notice.

Rule 10.9146. Motions

(a) General Requirement for Motions

A Party may make a written or oral motion, subject to limitations set forth below. A Party or other person may make a motion under Rule 10.9146(k), subject to limitations set forth below.

(b) Adjudicator May Require a Written Motion

If a Party makes an oral motion, an Adjudicator may order that such motion be set forth in writing, after considering the facts and circumstances, including whether:

(1) the hearing or conference in which the Party makes such motion is being recorded; and

(2) the opposing Parties are fully informed and have been provided adequate notice and an opportunity to respond to such motion.

(c) Specificity

All motions shall state the specific relief requested and the basis therefor.

(d) Time For Filing Opposition or Other Response to Motion

Unless otherwise ordered by an Adjudicator, any Party may file an opposition or other response to a written motion and the opposition or response shall be filed within 14 days after service of the motion. If no response is filed within the response period, the Party failing to respond shall be deemed to have waived any objection to the granting of the motion. A Party shall be afforded an opportunity to respond to an oral motion at the time

the oral motion is made, unless the Adjudicator orders that the Party shall be granted additional time to respond.

(e) Oral Argument

An Adjudicator may allow oral argument on motions. Oral argument may take place in person or by telephone.

(f) Frivolous Motions

An Adjudicator may deny dilatory, repetitive, or frivolous motions without awaiting a response.

(g) No Stay

Unless otherwise ordered by an Adjudicator, the filing of a motion does not stay a proceeding.

(h) Reply

The moving Party shall have no right to reply to the opposition or other response of the other Parties unless an Adjudicator permits a reply to be filed. Unless otherwise ordered by an Adjudicator, a movant's reply submission shall be filed within five days after the Adjudicator serves the order granting the motion to file a reply or a Party serves the opposition or other response to which the Adjudicator previously ordered that a reply could be filed.

(i) Page Limit, Format Requirements

Unless otherwise ordered by an Adjudicator, submissions in support of or in opposition to motions shall not exceed ten double-spaced pages, including double-spaced footnotes, exclusive of pages containing any table of contents, table of authorities, or addenda.

(j) Disposition of Procedural Motions; Disposition of Motions for Summary Disposition

(1) In the Rule 10.9200 Series, a motion on a procedural matter may be decided by a Hearing Officer. A motion for summary disposition of a cause of action set forth in a complaint shall be decided by a majority vote of the Hearing Panel or, if applicable, the Extended Hearing Panel.

(2) In the Rule 10.9300 Series, a motion on a procedural matter may be decided by the Exchange Board of Directors.

(3) In the Rule 10.9500 Series, a motion shall be decided by an Adjudicator.

(k) Motion For Protective Order

(1) A Party, a person who is the owner, subject, or creator of a Document subject to production under Rule 10.8210 or any other Rule which may be introduced as evidence in a disciplinary proceeding, or a witness who testifies at a hearing in a disciplinary proceeding may file a motion requesting a protective order to limit disclosure or prohibit from disclosure to other Parties, witnesses or other persons, except Regulatory Staff, Documents or testimony that contain confidential information. The motion shall include a general summary or extract of the Documents or testimony without revealing confidential details. If the movant seeks a protective order against disclosure to other Parties, copies of the Documents shall not be served on the other Parties. Unless the Documents are unavailable, the movant shall file for in camera inspection a sealed copy of the Documents for which the order is sought. If the movant is not a Party, the motion shall be served on each Party by the movant using a method in Rule 10.9134(a) and filed with the Adjudicator. A motion for a protective order shall be granted only upon a finding that disclosure of the Document or testimony would have a demonstrated adverse business effect on the movant or would involve an unreasonable breach of the movant's personal privacy.

(2) If a protective order is granted, the order shall set forth the restrictions on use and disclosure of such Document or testimony. An Adjudicator does not have the authority to issue a protective order that would limit in any manner the use by Regulatory Staff of such Documents or testimony in the staff's performance of their regulatory and self-regulatory responsibilities and functions, including the transmittal, without restriction to the recipient, of such Documents or testimony to state, federal, or foreign regulatory authorities or other self-regulatory organizations. An Adjudicator does not have the authority to issue a protective order that purports to protect from production such Documents or testimony in the event that the Exchange is subject to a subpoena requiring that the Documents or testimony be produced.

(l) General

All motions, oppositions or responses, replies, and any other filings made in a proceeding shall comply with Rules 10.9133, 10.9134, 10.9135, 10.9136 and 10.9137.

Rule 10.9147. Rulings On Procedural Matters

The Exchange Board of Directors, a Hearing Officer, or any other Adjudicator shall have full authority, except as otherwise provided by the Code, to rule on a procedural motion and any other procedural or administrative matter arising during the course of a proceeding conducted pursuant to the Code, subject to the rights of review provided by the Code.

Rule 10.9148. Interlocutory Review

Except as provided in Rule 10.9280, there shall be no interlocutory review of a ruling or order issued by any Adjudicator in a proceeding governed by the Code. If an Adjudicator grants interlocutory review of a ruling or order, such review shall not stay a proceeding, except under Rule 10.9280 or as otherwise ordered by the Adjudicator.

Rule 10.9150. Exclusion From Rule 10.9000 Series Proceeding

(a) Exclusion

An Adjudicator may exclude an attorney for a Party or other person authorized to represent others by Rule 10.9141 from acting as counsel, acting in any representative capacity, or otherwise appearing in a particular Rule 10.9000 Series proceeding for contemptuous conduct under Rule 10.9280 or unethical or improper conduct in that proceeding. If an attorney for a Party, or other person authorized to represent others by Rule 10.9141, is excluded from a disciplinary hearing or conference, or any portion thereof, such attorney or person may seek review by the Exchange Board of Directors of such exclusion under Rule 10.9280(c).

(b) Other Proceedings Not Precluded

Prohibiting an attorney or other person authorized to represent others by Rule 10.9141 from practicing or appearing in an Exchange proceeding shall not preclude the Exchange from initiating other proceedings against such person.

Rule 10.9160. Recusal or Disqualification

No person shall participate as an Adjudicator in a matter governed by the Code as to which he or she has a conflict of interest or bias, or circumstances otherwise exist where his or her fairness might reasonably be questioned. In any such case the person shall recuse himself or herself, or shall be disqualified as follows:

(a) Exchange Board of Directors

The Chair of the Exchange Board of Directors shall have authority to order the disqualification of a Director, and a majority of members of the Board of Directors, excluding the Chair of the Exchange Board of Directors, shall have authority to order the disqualification of the Chair.

(b) Reserved.

(c) Reserved.

(d) Reserved.

(e) Panelist of Hearing Panel or Extended Hearing Panel

Disqualification of a Panelist of a Hearing Panel or Extended Hearing Panel appointed under the Rule 10.9200 Series shall be governed by Rule 10.9234.

(f) Hearing Officer

Disqualification of a Hearing Officer of a Hearing Panel or an Extended Hearing Panel shall be governed by Rule 10.9233.

RULE 10.9200. DISCIPLINARY PROCEEDINGS

Rule 10.9210. Complaint and Answer

Rule 10.9211. Authorization of Complaint

(a) Complaint

(1) If Enforcement has reason to believe that any ETP Holder or Associated Person is violating or has violated any rule, regulation, or statutory provision, including the federal securities laws and the regulations thereunder, which the Exchange has jurisdiction to enforce, Enforcement may request authorization from the CRO to issue a complaint.

(2) The Exchange Board of Directors shall have the authority to direct the CRO to authorize and Enforcement to issue a complaint when, on the basis of information and belief, the Exchange Board of Directors is of the opinion that any ETP Holder or Associated Person is violating or has violated any rule, regulation, or statutory provision, including the federal securities laws and the regulations thereunder, which the Exchange has jurisdiction to enforce.

(b) Commencement of Disciplinary Proceeding

A disciplinary proceeding shall begin when the complaint is served and filed.

Rule 10.9212. Complaint Issuance — Requirements, Service, Amendment, Withdrawal, and Docketing

(a) Form, Content, Notice, Docketing, and Service

(1) Each complaint shall be in writing and signed by authorized Enforcement staff. The complaint shall specify in reasonable detail the conduct alleged to constitute the violative activity and the rule, regulation, or statutory provision the Respondent is alleged to be violating or to have violated. If the complaint consists of several causes of action, each cause shall be stated separately. Complaints shall be served by Enforcement on each Party pursuant to Rules 10.9131 and 10.9134, and filed at the time of service with the Office of Hearing Officers pursuant to Rules 10.9135, 10.9136, and 10.9137.

(2) At the time of issuance of a complaint, Enforcement may propose an appropriate location for the hearing.

(b) Amendments to Complaint

Enforcement may file and serve an amended complaint once as a matter of course at any time before the Respondent answers the complaint. Otherwise, upon motion by Enforcement, the Hearing Officer may permit Enforcement to amend the complaint, including amendments so as to make the complaint conform to the evidence presented, after considering whether Enforcement has shown good cause for the amendment and whether any Respondent will suffer any unfair prejudice if the amendment is allowed. Amendments to complaints will be freely granted when justice so requires.

(c) Withdrawal of Complaint

With prior leave of the Hearing Officer, Enforcement may withdraw a complaint. If Enforcement withdraws the complaint before the earlier of

(1) the Hearing Panel's or, if applicable, the Extended Hearing Panel's, issuance of a ruling on a motion for summary disposition, or

(2) the start of the hearing on the merits, the withdrawal of the complaint by Enforcement shall be without prejudice and Enforcement shall be permitted to refile a case based on allegations concerning the same facts and circumstances that are set forth in the withdrawn complaint.

If Enforcement requests to withdraw such complaint after the occurrence of either of the two events set forth in (1) and (2) in this paragraph, the Hearing Panel or, if applicable, the Extended Hearing Panel, after considering the facts and circumstances of the request, shall determine whether the withdrawal shall be granted with prejudice.

(d) Disciplinary Proceeding Docket

The Office of Hearing Officers shall promptly record each complaint filed with it in the Exchange's disciplinary proceeding docket, and record in the disciplinary proceeding docket each event, filing, and change in the status of a disciplinary proceeding.

Rule 10.9213. Assignment of Hearing Officer and Appointment of Panelists to Hearing Panel or Extended Hearing Panel

(a) Assignment of Hearing Officer

As soon as practicable after Enforcement has filed a complaint with the Office of Hearing Officers, the Chief Hearing Officer shall assign a Hearing Officer to preside over the disciplinary proceeding and shall serve the Parties with notice of the Hearing Officer's assignment pursuant to Rule 10.9132.

(b) Appointment of Panelists

As soon as practicable after assigning a Hearing Officer to preside over a disciplinary proceeding, the Chief Hearing Officer shall appoint Panelists pursuant to Rules 10.9231 and 10.9232 to a Hearing Panel or, if the Chief Hearing Officer determines that an Extended Hearing Panel should be appointed, to an Extended Hearing Panel.

Rule 10.9214. Consolidation or Severance of Disciplinary Proceedings

(a) Consolidation Initiated by Chief Hearing Officer

The Chief Hearing Officer may order the consolidation of two or more disciplinary proceedings, upon his or her own motion, under circumstances where such consolidation would further the efficiency of the disciplinary process, and where the subject complaints involve common questions of law or fact, or one or more of the same Respondents. In determining whether to order the consolidation of such disciplinary proceedings, the Chief Hearing Officer shall consider:

> (1) whether the same or similar evidence reasonably would be expected to be offered at each of the hearings;
>
> (2) whether the proposed consolidation would conserve the time and resources of the Parties; and
>
> (3) whether any unfair prejudice would be suffered by one or more Parties as a result of the consolidation.

If the Chief Hearing Officer proposes to consolidate two or more disciplinary proceedings, the Chief Hearing Officer shall serve upon the Parties notice of the proposed consolidation of disciplinary proceedings, together with a copy of each relevant complaint and any answer that has been filed thereto, pursuant to Rule 10.9132. The

Parties shall have 14 days after service to file a response, stating any arguments in favor of or opposition to consolidation.

(b) Consolidation Initiated by a Party

A Party may file a motion to consolidate two or more disciplinary proceedings if such consolidation would further the efficiency of the disciplinary process, if the subject complaints involve common questions of law or fact or one or more of the same Respondents, or if one or more of the factors favoring consolidation set forth in paragraph (a) appears to be present. If a Party moves to consolidate two or more disciplinary proceedings, the Party shall file such motion, together with a copy of each relevant complaint and any answer thereto that has been filed, with the Office of Hearing Officers, and, pursuant to Rule 10.9133, shall serve the same upon the Parties in each of the cases proposed to be consolidated. The Parties shall have 14 days after service to file a response, stating any arguments in favor of or in opposition to consolidation, and shall serve the response upon the Parties in each of the cases proposed to be consolidated. The Chief Hearing Officer shall issue an order approving or denying the request for consolidation.

(c) Impact on Hearing Panel or Extended Hearing Panel

If the Chief Hearing Officer issues an order to consolidate two or more disciplinary proceedings for which Hearing Panels or, if applicable, Extended Hearing Panels, have been appointed, the Chief Hearing Officer's order shall specify which Hearing Panel or, if applicable, Extended Hearing Panel, shall preside over the consolidated disciplinary proceeding, or shall appoint a new Hearing Panel or, if applicable, Extended Hearing Panel, to preside, based on the criteria set forth in Rules 10.9231 and 10.9232.

(d) Severance Initiated by Chief Hearing Officer

The Chief Hearing Officer may order the severance of a disciplinary proceeding into two or more disciplinary proceedings, upon his or her own motion. In determining whether to order the severance of such disciplinary proceedings, the Chief Hearing Officer shall consider:

> (1) whether the same or similar evidence reasonably would be expected to be offered at each of the possible hearings;
>
> (2) whether the severance would conserve the time and resources of the Parties; and
>
> (3) whether any unfair prejudice would be suffered by one or more Parties if the severance is (not) ordered.

If the Chief Hearing Officer proposes to sever a disciplinary proceeding, the Chief Hearing Officer shall serve upon the Parties notice of the proposed severance of

disciplinary proceedings pursuant to Rule 10.9132. The Parties shall have 14 days after service to file a response, stating any arguments in favor of or opposition to severance.

(e) Severance Initiated by a Party

A Party may file a motion to sever a disciplinary proceeding if one or more of the factors favoring severance set forth in paragraph (d) appears to be present. If a Party moves to sever a disciplinary proceeding, the Party shall file such motion with the Office of Hearing Officers, and, pursuant to Rule 10.9133, shall serve the same upon each of the parties to the action proposed to be severed. The Parties shall have 14 days after service to file a response, stating any arguments in favor of or opposition to severance, and shall serve the response upon the Parties in the case proposed to be severed. The Chief Hearing Officer shall issue an order approving or denying the request for severance.

(f) Impact on Hearing Panel or Extended Hearing Panel of Severance

If the Chief Hearing Officer issues an order to sever a disciplinary proceeding for which a Hearing Panel or, if applicable, Extended Hearing Panel, has been appointed, the Chief Hearing Officer's order shall specify whether the same Hearing Panel or, if applicable, Extended Hearing Panel, shall preside over the severed disciplinary proceedings, or shall appoint a new Hearing Panel(s) or, if applicable, Extended Hearing Panel(s), to preside over any or all of the severed proceedings, based on the criteria set forth in Rules 10.9231 and 10.9232.

Rule 10.9215. Answer to Complaint

(a) Form, Service, Notice

Pursuant to Rule 10.9133, each Respondent named in a complaint shall serve an answer to the complaint on all other Parties within 25 days after service of the complaint on such Respondent, and at the time of service shall file such answer with the Office of Hearing Officers pursuant to Rules 10.9135, 10.9136 and 10.9137. The Hearing Officer assigned to a disciplinary proceeding pursuant to Rule 10.9213 may extend such period for good cause. Upon the receipt of a Respondent's answer, the Office of Hearing Officers shall promptly send written notice of the receipt of such answer to all Parties.

(b) Content, Affirmative Defenses

Unless otherwise ordered by the Hearing Officer, an answer shall specifically admit, deny, or state that the Respondent does not have and is unable to obtain sufficient information to admit or deny, each allegation in the complaint. When a Respondent intends to deny only part of an allegation, the Respondent shall specify so much of it as is admitted and deny only the remainder. A statement of lack of information shall be deemed a denial. Any allegation not denied in whole or in part shall be deemed admitted. Any affirmative defense shall be asserted in the answer.

(c) Motion for More Definite Statement

A Respondent may file with an answer a motion for a more definite statement of specified matters of fact or law to be considered or determined. Such motion shall state why each such matter of fact or law should be required to be made more definite. If the motion is granted, the order granting such motion shall set the periods for filing such a statement and any answer thereto.

(d) Amendments to Answer

Upon motion by a Respondent, the Hearing Officer may, after considering good cause shown by the Respondent and any unfair prejudice which may result to any other Party, permit an answer to be amended.

(e) Extension of Time to Answer Amended Complaint

If a complaint is amended pursuant to Rule 10.9212(b), the time for filing an answer or amended answer shall be the greater of the original time period within which the Respondent is required to respond, or 14 days after service of the amended complaint. If any Respondent has already filed an answer, such Respondent shall have 14 days after service of the amended complaint, unless otherwise ordered by the Hearing Officer, within which to file an amended answer.

(f) Failure to Answer, Default

If a Respondent does not file an answer or make any other filing or request related to the complaint with the Office of Hearing Officers within the time required, Enforcement shall send a second notice to such Respondent requiring an answer within 14 days after service of the second notice. The second notice shall state that failure of the Respondent to reply within the period specified shall allow the Hearing Officer, in the exercise of his or her discretion, pursuant to Rule 10.9269 to:

> (1) treat as admitted by the Respondent the allegations in the complaint; and
>
> (2) issue a default decision against the Respondent. If the Respondent fails to file an answer with the Office of Hearing Officers within the time required, the Hearing Officer may issue a default decision against the Respondent pursuant to Rule 10.9269.

Rule 10.9216. Acceptance, Waiver, and Consent; Procedure for Imposition of Fines for Minor Violation(s) of Rules

(a) Acceptance, Waiver, and Consent Procedures

(1) Notwithstanding Rule 10.9211, if Enforcement has reason to believe a violation has occurred and the ETP Holder or Associated Person does not dispute the violation, Enforcement may prepare and request that the ETP Holder or Associated Person execute a letter accepting a finding of violation, consenting to the imposition of sanctions, and agreeing to waive such ETP Holder 's or Associated Person's right to a hearing before a Hearing Panel or, if applicable, an Extended Hearing Panel, and any right to review by the Exchange Board of Directors, the SEC, and the courts, or to otherwise challenge the validity of the letter, if the letter is accepted. The letter shall describe the act or practice engaged in or omitted, the rule, regulation, or statutory provision violated, and the sanction(s) to be imposed. Unless the letter states otherwise, the effective date of any sanction(s) imposed will be a date to be determined by Regulatory Staff.

(2)(A) If an ETP Holder or Associated Person submits an executed letter of acceptance, waiver, and consent, by the submission such ETP Holder or Associated Person also waives:

(i) any right to claim bias or prejudgment of the CRO, the Exchange Board of Directors, Counsel to the Exchange Board of Directors, or any Director, in connection with such person's or body's participation in discussions regarding the terms and conditions of the letter of acceptance, waiver, and consent, or other consideration of the letter of acceptance, waiver, and consent, including acceptance or rejection of such letter of acceptance, waiver, and consent; and

(ii) any right to claim that a person violated the ex parte prohibitions of Rule 10.9143 or the separation of functions prohibitions of Rule 10.9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of the letter of acceptance, waiver, and consent, or other consideration of the letter of acceptance, waiver, and consent, including acceptance or rejection of such letter of acceptance, waiver, and consent.

(B) If a letter of acceptance, waiver, and consent is rejected, the ETP Holder or Associated Person shall be bound by the waivers made under paragraphs (a)(1) and (a)(2)(A) for conduct by persons or bodies occurring during the period beginning on the date the letter of acceptance, waiver, and consent was executed and submitted and ending upon the rejection of the letter of acceptance, waiver, and consent.

(3) If the ETP Holder or Associated Person executes the letter of acceptance, waiver, and consent, it shall be submitted to the CRO. The CRO may accept or reject such letter. If the letter is rejected by the CRO, the ETP Holder or Associated Person who executed the letter shall be notified in writing and the letter shall be deemed withdrawn.

(4) If the letter is accepted by the CRO, it shall be sent to each Director and each member of the Committee for Review via courier, express delivery or electronic means, and shall be deemed final and shall constitute the complaint, answer, and decision in the matter, 25 days after it is sent to each Director and each member of the Committee for Review, unless review by the Exchange Board of Directors is requested pursuant to Rule 10.9310(a)(1)(B). If the letter is rejected by the CRO, the Exchange may take any other appropriate disciplinary action with respect to the alleged violation or violations. If the letter is rejected, the ETP Holder or Associated Person shall not be prejudiced by the execution of the letter of acceptance, waiver, and consent under paragraph (a)(1) and the letter may not be introduced into evidence in connection with the determination of the issues set forth in any complaint or in any other proceeding.

(b) Procedure for Imposition of Fines for Minor Violation(s) of Rules

(1) Notwithstanding Rule 10.9211, the Exchange may, subject to the requirements set forth in paragraphs (b)(2) through (b)(4), impose a fine in accordance with the fine amounts and fine levels set forth in Rule 10.9217 and/or a censure on any ETP Holder or Associated Person with respect to any rule listed in Rule 10.9217. If Enforcement has reason to believe a violation has occurred and if the ETP Holder or Associated Person does not dispute the violation, Enforcement may prepare and request that the ETP Holder or Associated Person execute a minor rule violation plan letter accepting a finding of violation, consenting to the imposition of sanctions, and agreeing to waive such ETP Holder's or Associated Person's right to a hearing before a Hearing Panel or, if applicable, an Extended Hearing Panel, and any right of review by the Exchange Board of Directors, the SEC, and the courts, or to otherwise challenge the validity of the letter, if the letter is accepted. The letter shall describe the act or practice engaged in or omitted, the rule, regulation, or statutory provision violated, and the sanction or sanctions to be imposed. Unless the letter states otherwise, the effective date of any sanction(s) imposed will be a date to be determined by Regulatory Staff.

(2)(A) If an ETP Holder or Associated Person submits an executed minor rule violation plan letter, by the submission such ETP Holder or Associated Person also waives:

(i) any right to claim bias or prejudgment of the CRO, the Exchange Board of Directors, Counsel to the Exchange Board of Directors, or any Director, in connection with such person's or body's participation in discussions regarding the terms and conditions of the minor rule violation plan letter or other consideration of the minor rule violation plan letter, including acceptance or rejection of such minor rule violation plan letter; and

(ii) any right to claim that a person violated the ex parte prohibitions of Rule 10.9143 or the separation of functions prohibitions of Rule 10.9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of the minor rule violation plan letter or other consideration of the minor rule violation plan letter, including acceptance or rejection of such minor rule violation plan letter.

(B) If a minor rule violation plan letter is rejected, the ETP Holder or Associated Person shall be bound by the waivers made under paragraphs (b)(1) and (b)(2)(A) for conduct by persons or bodies occurring during the period beginning on the date the minor rule violation plan letter was executed and submitted and ending upon the rejection of the minor rule violation plan letter.

(3) If the ETP Holder or Associated Person executes the minor rule violation plan letter, it shall be submitted to the CRO. The CRO, on behalf of the SRO Board, may accept or reject such letter.

(4) If the letter is accepted by the CRO, it shall be deemed final. Any fine imposed pursuant to this Rule and not contested shall not be publicly reported, except as may be required by Rule 19d-1 under the Exchange Act, and as may be required by any other regulatory authority. If the letter is rejected by the CRO, the Exchange may take any other appropriate disciplinary action with respect to the alleged violation or violations. If the letter is rejected, the ETP Holder or Associated Person shall not be prejudiced by the execution of the minor rule violation plan letter under paragraph (b)(1) and the letter may not be introduced into evidence in connection with the determination of the issues set forth in any complaint or in any other proceeding.

Rule 10.9217. Violations Appropriate for Disposition Under Rule 10.9216(b)

Any ETP Holder or Associated Person may be subject to a fine under Rule 10.9216(b) with respect to any rules listed below. The fine amounts and fine levels set forth below shall apply to the fines imposed.

List of Rule Violations and Fines Applicable Thereto

(a) Trading Rule Violations.

• Short Sale Rules. (Rule 7.16)

• Failure to maintain continuous, two-sided Q Orders in those securities in which the Market Maker is registered to trade (Rule 7.23(a)(1)).

• Failure to comply with Authorized Trader requirements. (Rule 7.30).

• Acting as a Market Maker in a security without being registered as such as required by Rule 7.20(a).

(b) Record Keeping and Other Minor Rule Violations.

• Failure to comply with the employee registration or other requirements of Rule 2.2.

• Failure to comply with the books and records requirements of Rule 11.4.1.

• Failure to comply with the requirements for preventing the misuse of material nonpublic information as set forth in Rule 11.5.5 and its Commentaries.

(c) Fine Schedule

The following fine schedule sets forth the amount of the fine(s) to be imposed. Except as noted below, the amount of the fine(s) shall be imposed at the First Level pursuant to the chart below. If another Minor Rule Plan Fine has been issued to the same ETP Holder or Associated Person for the same or similar conduct violating the same rule (regardless of when paid) within 24 months from the date of occurrence of the violation(s) set forth in the current Notice of Minor Rule Plan Fine, then the fine(s) shall be imposed at the Second Level. If two or more separate Notices of Minor Rule Plan Fine have previously been issued to the same ETP Holder or Associated Person for the same or similar conduct violating the same rule within 24 months from the date of occurrence of the violation(s) set forth in the current Notice of Minor Rule Plan Fine, then the fine(s) shall be imposed at the Third Level.

These fines are intended to apply to minor violations. For more serious violations, other disciplinary action may be sought.

(1) Trading Rule Violations Fine Levels

		Fine Levels		
		1st Level	**2nd Level**	**3rd Level**
1.	Short Sale Rules. (Rule 7.16)	$500.00	$1,000.00	$2,500.00
2.	Failure to maintain continuous two-sided Q Orders in those securities in which the Market Maker is registered to trade. (Rule 7.23(a)(1))	$250.00	$500.00	$1,000.00
3.	Failure to comply with Authorized Trader requirements. (Rule 7.30).	$1,000.00	$2,500.00	$3,500.00
4.	Acting as a Market Maker in a security without being registered as such as required by Rule 7.20(a).	$250.00	$500.00	$1,000.00

(2) Record Keeping and Other Minor Rule Violations Fine Levels

		Fine Levels		
		1st Level	**2nd Level**	**3rd Level**
1.	Failure to comply with the requirements for preventing the Misuse of Material Nonpublic Information as set forth in Rule 11.5.5	$2,000.00	$4,000.00	$5,000.00
2.	Failure to comply with the books and records requirements of Rule 11.4.1	$2,000.00	$4,000.00	$5,000.00
3.	Failure to comply with the employee registration or other requirements of Rule 2.[1]	$1,000.00	$2,500.00	$3,500.00

[1] In addition to the specified fines, the Exchange may require the violator to remit all fees that it should have paid to the Exchange pursuant to compliance with Rule 2.

Rule 10.9220. Request for Hearing; Extensions of Time, Postponements, Adjournments

Rule 10.9221. Request for Hearing

(a) Respondent Request for Hearing.

With the filing of any Respondent's answer, such Respondent may:

(1) request a hearing; and

(2) propose an appropriate location for the hearing.

If a Respondent requests a hearing, a hearing shall be granted. A Respondent who fails to request a hearing with the filing of his or her answer waives the right to a hearing unless a Hearing Officer, Hearing Panel, or, if applicable, an Extended Hearing Panel, grants, for good cause shown, a later filed motion by such Respondent requesting a hearing.

(b) Hearing Officer Order Requiring Hearing

In the absence of a request for a hearing from any Respondent, the Hearing Officer may order any complaint set down for hearing.

(c) Authority of Hearing Panel, Extended Hearing Panel to Order Hearing

If all Respondents waive a hearing, and the Hearing Officer does not order a hearing on his or her own motion, the Hearing Panel or, if applicable, the Extended Hearing Panel, may order a hearing or may consider the matter on the record, as defined in Rule 10.9267. If fewer than all Respondents waive a hearing, the Hearing Officer, the Hearing Panel, or, if applicable, the Extended Hearing Panel, may, in the exercise of its discretion, order that a hearing be held as to all Respondents. Alternatively, the Hearing Officer, the Hearing Panel, or, if applicable, the Extended Hearing Panel, may conduct a hearing as to only those Respondents who requested a hearing and consider the matter on the record as to those Respondents who waived a hearing.

(d) Notice of Hearing

The Hearing Officer shall issue a notice stating the date, time, and place of the hearing, and whether the hearing shall be held before a Hearing Panel or an Extended Hearing Panel, and shall serve such notice on the Parties at least 28 days before the hearing, unless:

(1) in the discretion of the Hearing Officer, he or she determines that extraordinary circumstances require a shorter notice period; or

(2) the Parties waive the notice period.

Rule 10.9222. Extensions of Time, Postponements, and Adjournments

(a) Availability

At any time prior to the issuance of the decision of the Hearing Panel or, if applicable, the Extended Hearing Panel, the Hearing Officer may, for good cause shown, extend or

shorten any time limits prescribed by the Code for the filing of any papers and may, consistent with paragraph (b), postpone or adjourn any hearing.

(b) Limitations on Postponements, Adjournments, and Extensions

A hearing shall begin at the time and place ordered, unless the Hearing Officer, for good cause shown, changes the place of the hearing, postpones the commencement of the hearing, or adjourns a convened hearing for a reasonable period of time, subject to the limitations in paragraph (b)(2).

(1) Additional Considerations

In considering a motion for the postponement of the start of a hearing or, adjournment once a hearing has begun, the Hearing Officer shall consider:

(A) the length of the proceeding to date;

(B) the number of postponements, adjournments, or extensions already granted;

(C) the stage of the proceedings at the time of the request;

(D) potential harm to the investing public if an extension of time, adjournment, or postponement is granted; and

(E) such other matters as justice may require.

(2) Time Limit

Postponements, adjournments, or extensions of time for filing papers shall not exceed 28 days unless the Hearing Officer states on the record or provides by written order the reasons a longer period is necessary.

Rule 10.9230. Appointment of Hearing Panel, Extended Hearing Panel

Rule 10.9231. Appointment by the Chief Hearing Officer of Hearing Panel or Extended Hearing Panel or Replacement Hearing Officer

(a) Appointment

The Chief Hearing Officer shall appoint a Hearing Panel or an Extended Hearing Panel to conduct the disciplinary proceeding and issue a decision.

(b) Hearing Panel

The Hearing Panel shall be composed of a Hearing Officer and two Panelists, except as provided in paragraph (e) and in Rule 10.9234(a), (c), (d), or (e). The Hearing Officer shall serve as the chair of the Hearing Panel, and shall appoint Panelists pursuant to the criteria in Rule 10.9232.

(c) Extended Hearing Panel

Upon consideration of the complexity of the issues involved, the probable length of the hearing, or other factors that the Chief Hearing Officer deems material, the Chief Hearing Officer may determine that a matter shall be designated an Extended Hearing, and that such matter shall be considered by an Extended Hearing Panel. The Extended Hearing Panel shall be composed of a Hearing Officer and two Panelists, except as provided in Rule 10.9234(a), (c), (d), or (e). The Hearing Officer will serve as the chair of the Extended Hearing Panel. The Chief Hearing Officer shall have discretion to compensate any or all Panelists of an Extended Hearing Panel at the rate then in effect for FINRA arbitrators. The Chief Hearing Officer shall select as a Panelist a person who meets the criteria set forth in Rule 10.9232.

(d) Observer

A person who is qualified to serve as a Panelist may be designated by the Chief Hearing Officer to serve as an observer to a Hearing Panel or an Extended Hearing Panel. If the Chief Hearing Officer designates more than two people to serve as observers to a Hearing Panel or an Extended Hearing Panel, the Chief Hearing Officer shall obtain the consent of the Parties. An observer may attend any hearing of a disciplinary proceeding and observe the proceeding, but may not vote or participate in any other manner in the hearing or the deliberations of the Hearing Panel or the Extended Hearing Panel, or participate in the administration of the disciplinary proceeding.

(e) Appointment of Replacement Hearing Officer

In the event that a Hearing Officer withdraws, is incapacitated, or otherwise is unable to continue service after being appointed, the Chief Hearing Officer shall appoint a replacement Hearing Officer. To ensure fairness to the parties and expedite completion of the proceeding when a replacement Hearing Officer is appointed after the hearing has commenced, the replacement Hearing Officer has discretion to exercise the following powers:

> (1) Allow the Hearing Panelists to resolve the issues in the proceeding and issue a decision without the participation of the replacement Hearing Officer in the decision. The replacement Hearing Officer may advise the Hearing Panelists regarding legal issues, and shall exercise the powers of the Hearing Officer under Rule 10.9235(a), including preparing and signing the decision on behalf of the Hearing Panel, in accordance with Rule 10.9268; or

(2) Certify familiarity with the record and participate in the resolution of the issues in the case and in the issuance of the decision. In exercising this power, the replacement Hearing Officer may recall any witness before the Hearing Panel.

Rule 10.9232. Criteria for Selection of Panelists and Replacement Panelists

(a) Each Panelist shall be a person of integrity and judgment and, other than the Hearing Officer, shall be a member of the Exchange Business Conduct Committee ("BCC") as provided in paragraph (b). At least one Panelist shall be engaged in securities activities differing from that of the Respondent or, if retired, was so engaged in differing activities at the time of retirement.

(b) The Exchange Board of Directors shall from time to time appoint a BCC to be composed of such number of members and former allied members of the Exchange who are not members of the Exchange Board of Directors and registered employees and non-registered employees of ETP Holders. Former members, allied members, or registered and non-registered employees of ETP Holders who have retired from the securities industry may be appointed to the BCC. The members of the BCC shall be appointed annually and shall serve at the pleasure of the Exchange Board of Directors.

(c) **Criteria for Appointment of a Panelist**

The Chief Hearing Officer shall select Panelists from the current members of the Exchange BCC based upon the following criteria:

(1) expertise;

(2) the absence of any conflict of interest or bias, and any appearance thereof;

(3) availability; and,

(4) the frequency with which a person has served as a Panelist on a Hearing Panel during the past two years, favoring the selection of a person as a Panelist who has never served or served infrequently as a Panelist during the period.

Rule 10.9233. Hearing Panel or Extended Hearing Panel: Recusal and Disqualification of Hearing Officers

(a) Recusal, Withdrawal of Hearing Officer

If at any time a Hearing Officer determines that he or she has a conflict of interest or bias or circumstances otherwise exist where his or her fairness might reasonably be questioned, the Hearing Officer shall notify the Chief Hearing Officer and the Chief

Hearing Officer shall issue and serve on the Parties a notice stating that the Hearing Officer has withdrawn from the matter. In the event that a Hearing Officer withdraws, is incapacitated, or otherwise is unable to continue service after being appointed, the Chief Hearing Officer shall appoint a replacement Hearing Officer. In such a case, the replacement Hearing Officer shall proceed according to Rule 10.9231(e).

(b) Motion for Disqualification

A Party may move for the disqualification of a Hearing Officer. A motion shall be based upon a reasonable, good faith belief that a conflict of interest or bias exists or circumstances otherwise exist where the Hearing Officer's fairness might reasonably be questioned, and shall be accompanied by an affidavit setting forth in detail the facts alleged to constitute grounds for disqualification, and the dates on which the Party learned of those facts. Such motions shall be filed not later than 15 days after the later of:

(1) when the Party learned of the facts believed to constitute the disqualification; or

(2) when the Party was notified of the assignment of the Hearing Officer.

(c) Disposition of Disqualification Motion

A motion for disqualification of a Hearing Officer shall be decided by the Chief Hearing Officer who shall promptly investigate whether disqualification is required and issue a written ruling on the motion. In the event of a disqualification of the Hearing Officer, the Chief Hearing Officer shall appoint a replacement Hearing Officer.

Rule 10.9234. Hearing Panel or Extended Hearing Panel: Recusal and Disqualification of Panelists

(a) Recusal, Withdrawal of Panelist

If at any time a Panelist of a Hearing Panel or an Extended Hearing Panel determines that he or she has a conflict of interest or bias or circumstances otherwise exist where his or her fairness might reasonably be questioned, the Panelist shall notify the Hearing Officer and the Hearing Officer shall issue and serve on the Parties a notice stating that the Panelist has withdrawn from the matter. In the event that a Panelist withdraws, is incapacitated, or otherwise is unable to continue service after being appointed, the Chief Hearing Officer may, in the exercise of discretion, determine whether to appoint a replacement Panelist. In the event that both Panelists withdraw, are incapacitated, or otherwise are unable to continue service after being appointed, the Chief Hearing Officer shall appoint two replacement Panelists.

(b) Disqualification: Motion of Party; Order of Chief Hearing Officer

(1) A Party may file a motion to disqualify a Panelist of a Hearing Panel or an Extended Hearing Panel. A motion shall be based upon a reasonable, good faith belief that a conflict of interest or bias exists or circumstances otherwise exist where the Panelist's fairness might reasonably be questioned, and shall be accompanied by an affidavit setting forth in detail the facts alleged to constitute grounds for disqualification, and the dates on which the Party learned of those facts.

(2) Such motions shall be filed not later than 15 days after the later of:

(A) when the Party learned of the facts believed to constitute the disqualification; or

(B) when the Party was notified of the appointment of the Panelist.

(3) The Chief Hearing Officer may order the disqualification of a Panelist of a Hearing Panel or an Extended Hearing Panel if the Chief Hearing Officer determines that a conflict of interest or bias exists or circumstances otherwise exist where the Panelist's fairness might reasonably be questioned, and shall state the facts constituting the grounds for disqualification.

(c) Disposition of Disqualification Motion: Challenge to Single Member of Hearing Panel

If a Party files a motion to disqualify a Panelist of a Hearing Panel or an Extended Hearing Panel, the Hearing Officer shall promptly investigate whether disqualification is required and shall issue a written ruling on the motion. In the event a Panelist is disqualified, the Chief Hearing Officer may, in the exercise of discretion, appoint a replacement Panelist.

(d) Disposition of Disqualification Motion: Challenge to Both Panelists of Hearing Panel or Extended Hearing Panel

If a Party files a motion to disqualify both Panelists of a Hearing Panel or an Extended Hearing Panel, the Hearing Officer shall promptly investigate whether disqualification is required and shall issue a written ruling on the motion. In the event one Panelist is disqualified, the Chief Hearing Officer may, in the exercise of discretion, appoint a replacement Panelist. In the event both Panelists are disqualified, the Chief Hearing Officer shall promptly appoint two persons as replacement Panelists.

(e) Disposition of Disqualification Motion: Challenge to Both Panelists of Hearing Panel or Extended Hearing Panel and Hearing Officer

If a Party files a motion to disqualify both Panelists of a Hearing Panel or an Extended Hearing Panel, and the Hearing Officer, the Chief Hearing Officer shall promptly investigate whether disqualification is required and shall issue a written ruling on the motion. In the event a Panelist is disqualified, the Chief Hearing Officer may, in the exercise of discretion, appoint a replacement Panelist. In the event both Panelists are disqualified, the Chief Hearing Officer shall promptly appoint two persons as replacement Panelists. In the event a Hearing Officer and a Panelist are disqualified, the Chief Hearing Officer shall promptly appoint a replacement Hearing Officer. In the event both Panelists and the Hearing Officer are disqualified, the Chief Hearing Officer shall promptly appoint a replacement Hearing Officer and two persons as replacement Panelists.

(f) Criteria for Replacement Panelist

If the Chief Hearing Officer appoints a replacement Panelist by operation of this Rule, the Chief Hearing Officer shall do so using the criteria set forth in Rule 10.9232.

Rule 10.9235. Hearing Officer Authority

(a) Hearing Officer Authority

The Hearing Officer shall be selected by the Chief Hearing Officer and shall have authority to do all things necessary and appropriate to discharge his or her duties. In addition to the powers exercised by all members of the Hearing Panel or, if applicable, the Extended Hearing Panel, the powers of the Hearing Officer include, but are not limited to:

(1) holding pre-hearing and other conferences and requiring the attendance at any such conference of at least one representative of each Party who has authority to negotiate the resolution of issues in controversy;

(2) regulating the course of the hearing;

(3) ordering the Parties to present oral arguments at any stage of the disciplinary proceeding;

(4) resolving any and all procedural and evidentiary matters, discovery requests, and other non-dispositive motions, subject to any limitations set forth elsewhere in the Code;

(5) reopening any hearing, upon notice to all Parties, prior to the issuance of the decision of the Hearing Panel or, if applicable, the Extended Hearing Panel;

(6) creating and maintaining the official record of the disciplinary proceeding; and

(7) drafting a decision that represents the views of the majority of the Hearing Panel or, if applicable, the Extended Hearing Panel.

(b) Authority in the Absence of Hearing Officer

If the Hearing Officer appointed to a case is temporarily unavailable or unable for any reason to discharge his or her duties in a particular proceeding under conditions not requiring the appointment of a replacement Hearing Officer, the Chief Hearing Officer or the Deputy Chief Hearing Officer in his or her discretion may exercise the necessary authority in the same manner as if he or she had been appointed Hearing Officer in the particular proceeding.

Rule 10.9240. Pre-hearing Conference and Submission

Rule 10.9241. Pre-hearing Conference

(a) Purposes

The purposes of a pre-hearing conference include, but are not limited to:

(1) expediting the disposition of the proceeding;

(2) establishing procedures to manage the proceeding efficiently; and

(3) improving the quality of the hearing through more thorough preparation.

(b) Procedure

On his or her own motion or at the request of a Party, the Hearing Officer may, in his or her discretion, order counsel or any Party to meet for a pre-hearing conference. Such conferences also may be held with one or more persons participating by telephone or other remote means.

(c) Subjects to be Discussed

At a pre-hearing conference, the Hearing Officer shall schedule an expedited proceeding as required by Rule 10.9290, and may consider and take action with respect to any or all of the following:

(1) simplification and clarification of the issues;

(2) exchange of witness and exhibit lists and copies of exhibits;

(3) stipulations, admissions of fact, and stipulations concerning the contents, authenticity, or admissibility into evidence of documents;

(4) matters of which official notice may be taken;

(5) the schedule for exchanging pre-hearing motions or briefs, if any;

(6) the method of service and filing of papers by the Parties;

(7) determination of hearing dates;

(8) amendments to the complaint or answers thereto;

(9) production of documents as set forth in Rule 10.9251;

(10) designation of relevant portions of transcripts from investigative testimony or other proceedings and the inclusion of an index for such testimony; and

(11) such other matters as may aid in the orderly and expeditious disposition of the proceeding.

(d) Scheduling

An initial pre-hearing conference, unless determined by the Hearing Officer to be unnecessary or premature, shall be held within 21 days after filing of an answer, or after the expiration of the second period provided for filing an answer as set forth in Rule 10.9215(f). When a complaint names multiple Respondents, the 21-day period shall commence from the later of:

(1) the date on which the last timely answer was filed, or

(2) if one or more Respondents have failed to answer, from the expiration of the second period provided for filing an answer under Rule 10.9215(f).

(e) Pre-hearing Order

At or following the conclusion of any conference held pursuant to this Rule, the Hearing Officer shall enter a written ruling or order that recites any agreements reached and any procedural determinations made by the Hearing Officer.

(f) Failure to Appear: Default

The Hearing Officer may issue a default decision, pursuant to Rule 10.9269, against a Party that fails to appear, in person or through counsel or a representative, at a prehearing conference of which the Party has due notice.

Rule 10.9242. Pre-hearing Submission

(a) Requirement to Furnish Information

Prior to a hearing before a Hearing Panel or, if applicable, an Extended Hearing Panel, the Hearing Officer, in the exercise of his or her discretion, may order a Party to furnish to all other Parties and the Hearing Panel or, if applicable, the Extended Hearing Panel, such information as deemed appropriate, including any or all of the following:

(1) an outline or narrative summary of a Party's case or defense;

(2) the legal theories upon which a Party shall rely;

(3) a list and copies of documents that a Party intends to introduce at the hearing;

(4) a list of witnesses who shall testify on a Party's behalf, including the witnesses' names, occupations, addresses, and a brief summary of their expected testimony; and,

(5) if a witness shall be called to testify as an expert, a statement of the expert's qualifications, a listing of other proceedings in which the expert has given expert testimony, a list of the expert's publications, and copies of those publications that are not readily available to the other Parties and the Hearing Panel or, if applicable, the Extended Hearing Panel.

(b) Prohibition on Serving as Expert Witness

No former Regulatory Staff shall, within a period of one year immediately following termination of employment with the Exchange or FINRA, provide expert testimony on behalf of any other person in any proceeding under the Rule 10.9000 Series. Nothing in this Rule shall prohibit former Regulatory Staff from testifying as a witness on behalf of the Exchange or FINRA.

Rule 10.9250. Discovery

Rule 10.9251. Inspection and Copying of Documents in Possession of Staff

(a) Documents to be Available for Inspection and Copying

(1) Unless otherwise provided by this Rule, or by order of the Hearing Officer, Enforcement shall make available for inspection and copying by any Respondent, Documents prepared or obtained by Interested Staff in connection with the investigation that led to the institution of proceedings. Such Documents include but are not limited to:

(A) requests for information issued pursuant to Rule 10.8210;

(B) every other written request directed to persons not employed by the Exchange to provide Documents or to be interviewed;

(C) the Documents provided in response to any such requests described in (A) and (B) above;

(D) all transcripts and transcript exhibits; and

(E) all other Documents obtained from persons not employed by the Exchange.

(2) Enforcement shall promptly inform the Hearing Officer and each other Party if, after the issuance of a complaint, requests for information under Rule 10.8210 are issued under the same investigative file number under which the investigation leading to the institution of disciplinary proceedings was conducted. If Interested Staff receives Documents pursuant to a request for information under Rule 10.8210 after Documents have been made available to a Respondent for inspection and copying as set forth in paragraph (a), and if such Documents are material and relevant to the disciplinary proceeding in which such Respondent is a Party, the additional Documents shall be made available to the Respondent not later than 14 days after the Interested Staff receives such Documents. If a hearing on the merits is scheduled to begin, Interested Staff shall make the additional Documents available to the Respondent not less than ten days before the hearing. If Interested Staff receives such Documents ten or fewer days before a hearing on the merits is scheduled to begin or after such hearing begins, Interested Staff shall make the additional Documents available immediately to the Respondent.

(3) Nothing in paragraph (a)(1) shall limit the discretion of Enforcement to make available any other Document or the authority of the Hearing Officer to order the production of any other Document.

(b) Withheld Documents

(1) Enforcement may withhold a Document if:

(A) the Document is privileged or constitutes attorney work product;

(B) the Document is an examination or inspection report, an internal memorandum, or other note or writing prepared by an Exchange employee that shall not be offered in evidence;

(C) the Document would disclose:

(i) an examination, investigatory or enforcement technique or guideline of the Exchange, a federal, state, or foreign regulatory authority, or a self-regulatory organization;

(ii) the identity of a source, including a federal, state, or foreign regulatory authority or a self-regulatory organization that furnished information or was furnished information on a confidential basis regarding an investigation, an examination, an enforcement proceeding, or any other type of civil or criminal enforcement action; or

(iii) an examination, an investigation, an enforcement proceeding, or any other type of civil or criminal enforcement action under consideration by, or initiated by, the Exchange, a federal, state, or foreign regulatory authority, or a self-regulatory organization; or

(D) the Hearing Officer grants leave to withhold a Document or category of Documents as not relevant to the subject matter of the proceeding, or for other good cause shown.

(2) Enforcement shall withhold a Document if the Document is prohibited from disclosure by federal law.

(3) Nothing in paragraph (b)(1) authorizes Enforcement to withhold a Document, or a part thereof, that contains material exculpatory evidence.

(c) Withheld Document List

The Hearing Officer may require Enforcement to submit to the Hearing Officer a list of Documents withheld pursuant to paragraph (b) or to submit to the Hearing Officer any Document withheld. Upon review, the Hearing Officer may order Enforcement to make the list or any Document withheld available to the other Parties for inspection and copying unless federal law prohibits disclosure of the Document or its existence. A

motion to require Enforcement to produce a list of Documents withheld pursuant to paragraph (b) shall be based upon some reason to believe that a Document is being withheld in violation of the Code.

(d) Timing of Inspection and Copying

The Hearing Officer shall determine the schedule of production of documents pursuant to this Rule. Unless otherwise ordered by the Hearing Officer, Enforcement shall commence making Documents available to a Respondent for inspection and copying pursuant to this Rule not later than 21 days after service of the Respondent's answer or, if there are multiple Respondents, not later than 21 days after the last timely answer is filed. If a Respondent in a multi-Respondent case fails to answer, Enforcement shall make Documents available to all other Respondents not later than the later of:

(1) 21 days after the filing date of the last timely answer, or

(2) the expiration of the second period provided for filing an answer as set forth in Rule 10.9215(f).

(e) Place and Time of Inspection and Copying

Documents subject to inspection and copying pursuant to this Rule shall be made available to the Respondent for inspection and copying at the Exchange office where they are ordinarily maintained, or at such other office as the Hearing Officer, in his or her discretion, shall designate, or as the Parties otherwise agree. A Respondent shall be given access to the Documents during normal business hours. A Respondent shall not be given custody of the Documents or be permitted to remove the Documents from the Exchange's offices.

(f) Copying Costs

A Respondent may obtain a photocopy of all Documents made available for inspection. A Respondent shall be responsible for the cost of photocopying. Unless otherwise ordered, charges for copies made at the request of a Respondent shall be at a rate to be established by the Exchange.

(g) Failure to Make Documents Available — Harmless Error

In the event that a Document required to be made available to a Respondent pursuant to this Rule is not made available by Enforcement, no rehearing or amended decision of a proceeding already heard or decided shall be required unless the Respondent establishes that the failure to make the Document available was not harmless error. The Hearing Officer, or, upon review under Rule 10.9310, the Exchange Board of Directors, shall determine whether the failure to make the document available was not harmless error, applying applicable Exchange, FINRA, SEC, and federal judicial precedent.

Rule 10.9252. Requests for Information

(a) Content and Timing of Requests

A Respondent who requests that the Exchange invoke Rule 10.8210 to compel the production of Documents or testimony at the hearing shall do so in writing and serve copies on all Parties. Such request shall: be submitted to the Hearing Officer no later than 21 days before the scheduled hearing date; describe with specificity the Documents, the category or type of Documents, or the testimony sought; state why the Documents, the category or type of Documents, or the testimony are material; describe the requesting Party's previous efforts to obtain the Documents, the category or type of Documents, or the testimony through other means; and state whether the custodian of each Document, or the custodian of the category or type of Documents, or each proposed witness is subject to the Exchange's jurisdiction.

(b) Standards for Issuance

A request that the Exchange compel the production of Documents or testimony shall be granted only upon a showing that: the information sought is relevant, material, and noncumulative; the requesting Party has previously attempted in good faith to obtain the desired Documents and testimony through other means but has been unsuccessful in such efforts; and each of the persons from whom the Documents and testimony are sought is subject to the Exchange's jurisdiction. In addition, the Hearing Officer shall consider whether the request is unreasonable, oppressive, excessive in scope, or unduly burdensome, and whether the request should be denied, limited, or modified.

(c) Limitations on Requests

If, after consideration of all the circumstances, the Hearing Officer determines that a request submitted pursuant to this Rule is unreasonable, oppressive, excessive in scope, or unduly burdensome, he or she shall deny the request, or grant it only upon such conditions as fairness requires. In making the foregoing determination, the Hearing Officer may inquire of the other Parties whether they shall stipulate to the facts sought to be proved by the Documents or testimony sought. If the Hearing Officer grants the request, the Hearing Officer shall order that requested Documents be produced to all Parties not less than ten days before the hearing, and order that witnesses whose testimony was requested appear and testify at the hearing. If the Hearing Officer grants the request ten or fewer days before a hearing on the merits is scheduled to begin or after such hearing begins, the Documents or testimony shall be produced immediately to all Parties.

Rule 10.9253. Production of Witness Statements

(a) Availability

Notwithstanding the provisions of Rule 10.9251(b),

(1) A Respondent in a disciplinary proceeding may file a motion requesting that Enforcement produce for inspection and copying any statement of any person called or to be called as a witness by Enforcement that pertains, or is expected to pertain, to his or her direct testimony and which is "a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by said witness and recorded contemporaneously with the making of such oral statement," as that phrase is used in 18 U.S.C. §3500(e)(2).

(2) A Respondent in a disciplinary proceeding may also file a motion requesting that Enforcement produce for inspection and copying any contemporaneously written statement made by an Interested Staff member during a routine examination or inspection about the substance of oral statements made by a non-Exchange person when

(A) either the Interested Staff member or non-Exchange person is called as a witness by Enforcement, and

(B) that portion of the statement for which production is sought directly relates to the Interested Staff member's testimony or the testimony of the non-Exchange witness.

(b) Failure to Produce — Harmless Error

In the event that a statement required to be made available for inspection and copying by a Respondent is not provided by Enforcement, there shall be no rehearing of a proceeding already heard, or issuance of an amended decision in a proceeding already decided, unless the Respondent establishes that the failure to provide the statement was not harmless error. The Hearing Officer, or upon review under Rule 10.9310, the Exchange Board of Directors, shall determine whether the failure to provide any statement was not harmless error, applying applicable Exchange, FINRA, SEC, and federal judicial precedent.

Rule 10.9260. Hearing and Decision

Rule 10.9261. Evidence and Procedure in Hearing

(a) Submission of Documentary Evidence and List of Witnesses Before Hearing

No later than ten days before the hearing, or at such earlier date as may be specified by the Hearing Officer, each Party shall submit to all other Parties and to the Hearing Officer copies of documentary evidence and the names of the witnesses each Party intends to present at the hearing. The documentary evidence submitted by the Parties prior to the hearing pursuant to this paragraph shall not become part of the record, unless the Hearing Officer, Hearing Panel, or Extended Hearing Panel orders some or all of it included

pursuant to Rule 10.9267(a)(8). The Hearing Officer may order each Party to refrain from submitting its documentary evidence to the Hearing Officer.

(b) Party's Right to Be Heard

If a hearing is held, a Party shall be entitled to be heard in person, by counsel, or by the Party's representative.

(c) Request to Submit Additional Evidence

Notwithstanding paragraph (a), a Party, for good cause shown, may seek to submit any additional evidence at the hearing as the Hearing Officer, in his or her discretion, determines may be relevant and necessary for a complete record.

Rule 10.9262. Testimony

A person who is subject to the jurisdiction of the Exchange shall testify under oath or affirmation. The oath or affirmation shall be administered by a court reporter or a notary public.

Rule 10.9263. Evidence: Admissibility

(a) Criteria for Receiving and Excluding Evidence

The Hearing Officer shall receive relevant evidence, and may exclude all evidence that is irrelevant, immaterial, unduly repetitious, or unduly prejudicial.

(b) Objections

Objections to the admission or exclusion of evidence shall be made on the record and shall succinctly state the grounds relied upon. Excluded material shall be deemed a supplemental document, which shall be attached to the record and retained under Rule 10.9267.

Rule 10.9264. Motion for Summary Disposition

(a) Pre-hearing

After a Respondent's answer has been filed and Documents have been made available to that Respondent for inspection and copying pursuant to Rule 10.9251, the Respondent or Enforcement, without leave of the Hearing Officer, may make a motion for summary disposition of any or all the causes of action in the complaint with respect to that Respondent, as well as any defense raised in a Respondent's answer. All pre-hearing motions for summary disposition and supporting papers shall be filed at least 21 days before the time set for the hearing, or at such earlier time as ordered by the Hearing Officer. Notwithstanding the provisions of Rule 10.9146(d), any opposition or response

to a pre-hearing motion for summary disposition shall be filed at least seven days before the time set for the hearing.

(b) After Commencement of Hearing on Merits

After a hearing on the merits has commenced, a Respondent or Enforcement may make a motion for summary disposition of any or all of the causes of action in the complaint with respect to that Respondent or defenses raised in that Respondent's answer only with leave of the Hearing Officer.

(c) Case Not Fully Adjudicated on Motion

If on motion under this rule a decision is not rendered upon the whole case or for all the relief asked and a hearing is necessary, the Hearing Panel or, if applicable, the Extended Hearing Panel, at the hearing of the motion, by examining the pleadings and the evidence before it and by questioning counsel, shall, if practicable, ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, and directing such further proceedings in the action as are just. Upon the hearing of the action the facts so specified shall be deemed established, and the hearing shall be conducted accordingly.

(d) Form of Papers

A motion for summary disposition pursuant to paragraph (a) shall be accompanied by the following: a statement of undisputed facts; a supporting memorandum of points and authorities; and affidavits or declarations that set forth such facts as would be admissible at the hearing and show affirmatively that the affiant is competent to testify to the matters stated therein. A memorandum of points and authorities in support or opposition shall not exceed 35 pages.

(e) Rulings on Motion

The Hearing Officer may promptly deny or defer decisions on any motion for summary disposition, however, only the Hearing Panel or, if applicable, the Extended Hearing Panel, may grant a motion for summary disposition, except the Hearing Officer may grant motions for summary disposition with respect to questions of jurisdiction. The Hearing Panel or, if applicable, the Extended Hearing Panel, may grant the motion for summary disposition if there is no genuine issue with regard to any material fact and the Party that files the motion is entitled to summary disposition as a matter of law. If a Party files a motion under paragraph (a), the facts alleged in the pleadings of the Party against whom the motion is made shall be taken as true, except as modified by stipulations or admissions made by the non-moving Party, by uncontested affidavits or declarations, or by facts officially noticed pursuant to Rule 10.9145. If a Party opposing a motion for summary disposition made under paragraph (a) cannot present, by affidavit prior to the hearing, facts essential to justify the Party's opposition to the motion, the Hearing Panel

or, if applicable, the Extended Hearing Panel, may deny the motion for summary disposition or defer the decision on the motion.

Rule 10.9265. Record of Hearing

(a) Recordation

A hearing shall be recorded by a court reporter and a transcript shall be prepared. Unless otherwise ordered by a Hearing Officer, a pre-hearing conference shall be recorded by a court reporter and a transcript shall be prepared.

(b) Availability of a Transcript

A transcript of a pre-hearing conference and a transcript of a hearing shall be available to a Party for purchase from the court reporter at prescribed rates. A witness may purchase from the court reporter a transcript of his or her own testimony.

(c) Transcript Correction

Prior to the filing of post-hearing briefs or proposed findings and conclusions, or within such earlier time as ordered by the Hearing Officer, a Party or witness may seek to correct his or her transcript. A proposed correction of the transcript shall be submitted to the Hearing Officer by affidavit. Upon notice to all Parties to the disciplinary proceeding, the Hearing Officer may order the correction to the transcript as requested or sua sponte.

Rule 10.9266. Proposed Findings of Fact, Conclusions of Law, and Post-Hearing Briefs

(a) Discretion of Hearing Officer to Require Proposed Findings of Fact, Conclusions of Law, and Post-Hearing Briefs

At the discretion of the Hearing Officer, the Parties may be ordered to file proposed findings of facts and conclusions of law, or post-hearing briefs, or both. The Hearing Officer may order that such proposed findings and conclusions be filed together with, or as part of, post-hearing briefs.

(b) Reference to Record Required

Proposed findings of fact or other statements of fact in briefs shall be supported by specific references to the record.

(c) Period for Filing

In any case in which the Hearing Officer ordered the filing of proposed findings or conclusions of law, or post-hearing briefs, the Hearing Officer shall, after consultation with the Parties, prescribe the period within which proposed findings and conclusions of

law and post-hearing briefs are to be filed. Such period shall be reasonable under all the circumstances but the total period allowed for the filing of post-hearing submissions shall not exceed 60 days after the conclusion of the hearing unless the Hearing Officer, for good cause shown, permits a different period and sets forth in an order the reasons why a longer period is necessary.

(d) Form, Length of Papers

Unless the Hearing Officer orders otherwise, each post-hearing submission shall not exceed 25 pages, exclusive of cover sheets, tables of contents, and tables of authorities.

Rule 10.9267. Record; Supplemental Documents Attached to Record; Retention

(a) Contents of the Record, Retention

The record shall consist of:

(1) the complaint, answers, each notice of hearing, pre-hearing order, and any amendments thereto;

(2) each application, motion, submission, and other paper, and any amendments, motions, objections, and exceptions to or regarding them;

(3) each transcript of a pre-hearing conference and of a hearing, and each stipulation, transcript of testimony, Document, and other item admitted into evidence;

(4) each written communication accepted at the discretion of the Hearing Officer;

(5) with respect to a motion to disqualify a Hearing Officer under Rule 10.9233 or a Panelist under Rule 10.9234, each affidavit or transcript of testimony taken and the ruling made in connection with the request;

(6) all proposed findings and conclusions;

(7) each written ruling, order, and decision issued by the Chief Hearing Officer, Hearing Officer, Hearing Panel or, if applicable, Extended Hearing Panel; and,

(8) any other Document or item accepted into the record by the Hearing Officer, the Hearing Panel or, if applicable, the Extended Hearing Panel.

(b) Supplemental Documents Attached To Record; Retention

(1) A supplemental Document attached to the record is any Document submitted to the Hearing Officer that did not become part of the record, including:

(A) a Document not admitted by the Hearing Officer, Hearing Panel or, if applicable, the Extended Hearing Panel;

(B) any matter stricken from any filing or stricken during an oral presentation, including any matter stricken from any filing or stricken during any oral presentation because the Adjudicator determined it was scandalous or impertinent as provided in Rule 10.9136(e); and

(C) a list of Documents, if any, that a Respondent unsuccessfully sought by motion to inspect and copy under Rule 10.9251(c).

(2) A supplemental Document attached to the record shall not constitute part of the record, but shall be retained until the date upon which the Exchange's decision becomes final disciplinary action or, if applicable, upon the conclusion of any review by the SEC or the federal courts.

(c) Substitution of Copies

Parties may submit to the Hearing Officer for substitution a true copy of a Document in the record.

Rule 10.9268. Decision of Hearing Panel or Extended Hearing Panel

(a) Majority Decision

Within 60 days after the final date allowed for filing proposed findings of fact, conclusions of law, and post-hearing briefs, or by a date established at the discretion of the Chief Hearing Officer, the Hearing Officer shall prepare a written decision that reflects the views of the Hearing Panel or, if applicable, the Extended Hearing Panel, as determined by majority vote.

(b) Contents of Decision

The decision shall include:

(1) a statement describing the investigative or other origin of the disciplinary proceeding, if not otherwise contained in the record;

(2) the specific statutory or rule provisions that were alleged to have been violated;

(3) a statement setting forth the findings of fact with respect to any act or practice the Respondent was alleged to have committed or omitted;

(4) the conclusions of the Hearing Panel, or Extended Hearing Panel, as to whether the Respondent violated any provision alleged in the complaint;

(5) a statement of the Hearing Panel, or the Extended Hearing Panel, in support of the disposition of the principal issues raised in the proceeding;

(6) a statement describing any sanction imposed, the reasons therefor, and the date upon which such sanction shall become effective. Unless otherwise provided in the decision, the sanction(s) shall become effective pursuant to paragraph (f) of this Rule; and

(7) a statement, when the sanctions include a permanent cease and desist order, that is consistent with the requirements of Rule 10.9291(a) concerning the content, scope, and form of a permanent cease and desist order.

(c) Dissenting Opinion

Within 65 days after the final date allowed for filing proposed findings of fact and conclusions of law, and post-hearings briefs, or by a date established at the discretion of the Chief Hearing Officer, the Hearing Officer or any Panelist may prepare a written dissenting opinion.

(d) Service, Notice, and Dissemination Requirements

The Office of Hearing Officers shall promptly serve the decision of the Hearing Panel, or the Extended Hearing Panel, and any dissenting opinion on the Parties; publish notice of the decision and any dissenting opinion in the Central Registration Depository; and provide a copy of the decision and any dissenting opinion to each ETP Holder with which a Respondent is associated.

(e) Review

(1) If a request for review is not timely filed pursuant to Rule 10.9310, the majority decision shall constitute final disciplinary action of the Exchange for purposes of Exchange Act Rule 19d-1(c)(1).

(2) A majority decision with respect to an ETP Holder that is an affiliate of the Exchange shall constitute final disciplinary action of the Exchange for purposes of SEC Rule 19d-1(c)(1) and may not be reviewed pursuant to Rule 10.9310.

(f) Effectiveness of Sanctions

Unless otherwise provided in the majority decision issued under paragraph (a) of this Rule:

(1) a sanction (other than a bar or an expulsion) specified in a decision constituting final disciplinary action of the Exchange for purposes of Exchange Act Rule 19d-1(c)(1) shall become effective on a date to be determined by the Exchange; and

(2) a bar or an expulsion specified in a decision shall become effective immediately upon the decision becoming the final disciplinary action of the Exchange for purposes of Exchange Act Rule 19d-1(c)(1).

Rule 10.9269. Default Decisions

(a) Issuance of Default Decisions

(1) The Hearing Officer may issue a default decision against a Respondent that fails to answer the complaint within the time afforded under Rule 10.9215, or a Party that fails to appear at a pre-hearing conference held pursuant to Rule 10.9241 of which the Party has due notice, or a Party that fails to appear at any hearing that the Party is required to attend under the Rule 10.9200 Series of which the Party has due notice.

(2) If the defaulting Party is the Respondent, the Hearing Officer may deem the allegations against that Respondent admitted. If the Defaulting Party is Enforcement, the Hearing Officer may issue a default decision ordering that the complaint be dismissed with prejudice.

(3) The Hearing Officer may order a Party that fails to appear at the prehearing conference or the hearing to pay the costs incurred by other Parties in connection with their appearance.

(4) The Office of Hearing Officers shall provide a copy of the default decision to each ETP Holder with which a Respondent is associated.

(b) Contents of Decision

The contents of a default decision shall conform to the requirements of Rule 10.9268(b).

(c) Review of Default Decision

Party may, for good cause shown, file a motion to set aside a default, dismissal, and the imposition of costs. Upon a showing of good cause, the Hearing Officer that entered the original order shall decide the motion. If the Hearing Officer that issued the original order is not available, the Chief Hearing Officer shall appoint another Hearing Officer to decide the motion.

(d) Final Disciplinary Action of the Exchange; Effectiveness of Sanctions

If a request for a review of a default decision is not filed pursuant to Rule 10.9310 within 25 days after the date the Office of Hearing Officers serves it on the Parties, the default decision shall become the final disciplinary action of the Exchange for purposes of Exchange Act Rule 19d-1(c)(1). Unless otherwise provided in the default decision, the sanctions shall become effective on a date to be determined by Regulatory Staff, except that a bar or expulsion shall become effective immediately upon the default decision becoming the final disciplinary action of the Exchange. The decision shall be served on a Respondent by courier or other means reasonably likely to obtain prompt service when the sanction is a bar or an expulsion.

Rule 10.9270. Settlement Procedure

(a) When Offer Allowed; No Stay of Proceeding

A Respondent who is notified that a proceeding has been instituted against him or her may propose in writing an offer of settlement at any time. If a Respondent proposes an offer of settlement before the hearing on the merits has begun, the making of an offer of settlement shall not stay the proceeding, unless otherwise decided by the Hearing Officer. If a Respondent proposes an offer of settlement after the hearing on the merits has begun, the making of an offer of settlement shall not stay the proceeding, unless otherwise decided by the Hearing Panel or, if applicable, the Extended Hearing Panel.

(b) Settlement Offer Shall Conform to Rule

A Respondent who makes an offer of settlement shall do so in conformity with the provisions of this Rule and shall not make such an offer of settlement frivolously or propose a sanction inconsistent with the seriousness of the violations to be found.

(c) Content and Signature Requirements

An offer of settlement shall be in writing and signed by the person making the offer, and, if the person is represented by counsel or a representative, signed also by the counsel or representative. The offer of settlement shall contain in reasonable detail:

(1) a statement describing the investigative or other origin of the disciplinary action;

(2) the specific statutory or rule provisions that the ETP Holder or Associated Person is alleged to have violated;

(3) a statement containing the acts or practices which the ETP Holder or Associated Person is alleged to have engaged in or omitted;

(4) a statement consenting to findings of fact and violations consistent with the statements contained in the offer of settlement required by paragraphs (c)(2) and (c)(3);

(5) a proposed sanction to be imposed that is consistent with the Exchange's then current sanction guidelines, if applicable, or, if inconsistent with the sanction guidelines, a detailed statement supporting the proposed sanction;

(6) a description of the proposed sanction and the effective date of any sanction(s) imposed, or a statement that the effective date of the sanction(s) will be a date to be determined by Regulatory Staff; and

(7) if applicable, a proposed permanent cease and desist order to be imposed that is consistent with the requirements of Rule 10.9291(a) concerning the content, scope, and form of a permanent cease and desist order.

(d) Waiver

(1) If a Respondent submits an offer of settlement, by the submission such Respondent waives:

(A) any right of such Respondent to a hearing before a Hearing Panel or, if applicable, an Extended Hearing Panel, and any right of review by the Exchange Board of Directors, the SEC, and the courts, or any right otherwise to challenge or contest the validity of the order issued, if the offer of settlement and order of acceptance are accepted;

(B) any right of such Respondent to claim bias or prejudgment of the Chief Hearing Officer, Hearing Officer, a Hearing Panel or, if applicable, an Extended Hearing Panel, a Panelist on a Hearing Panel, or, if applicable, an Extended Hearing Panel, the CRO, the Exchange Board of Directors, Counsel to the Exchange Board of Directors, or any Director, in connection with such person's or body's participation in discussions

regarding the terms and conditions of the offer of settlement and the order of acceptance, or other consideration of the offer of settlement and order of acceptance, including acceptance, or rejection of such offer of settlement and order of acceptance; and

(C) any right of such Respondent to claim that a person or body violated the ex parte prohibitions of Rule 10.9143 or the separation of functions prohibitions of Rule 10.9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of the offer of settlement and the order of acceptance, or other consideration of the offer of settlement and order of settlement, including acceptance or rejection of such offer of settlement and order of acceptance.

(2) If an offer of settlement and an order of acceptance are rejected, the Respondent shall be bound by the waivers made in this paragraph (d) for conduct by persons or bodies occurring during the period beginning from the date the offer of settlement was submitted and ending upon the rejection of the offer of settlement and order of acceptance.

(e) Contested Offers of Settlement Deemed Rejected

If a Respondent makes an offer of settlement and Enforcement opposes it, the offer of settlement is contested. A contested offer of settlement shall be deemed rejected, shall not be transmitted to the Office of Hearing Officers, CRO, or Hearing Panel or Extended Hearing Panel, and shall not constitute a part of the record in any proceeding against the Respondent making the offer.

(f) Uncontested Offers of Settlement

If a Respondent makes an offer of settlement and Enforcement does not oppose it, the offer of settlement is uncontested. If an offer of settlement is determined to be uncontested by Enforcement before a hearing on the merits has begun, Enforcement shall transmit the uncontested offer of settlement and a proposed order of acceptance to the CRO with its recommendation. If an offer of settlement is determined to be uncontested by Enforcement after a hearing on the merits has begun, Enforcement shall transmit the offer of settlement and a proposed order of acceptance to the Hearing Panel or, if applicable, the Extended Hearing Panel to be accepted or not accepted.

(1) A proposed order of acceptance shall make findings of fact, including a statement of the rule, regulation, or statutory provision violated, and impose sanctions (including, if applicable, a permanent

cease and desist order) consistent with the terms of the offer of settlement.

(2) Before an offer of settlement and an order of acceptance shall become effective, they shall be submitted to and accepted by the CRO, the Hearing Panel, or if applicable, Extended Hearing Panel. The CRO, Hearing Panel, or if applicable, Extended Hearing Panel, may or may not accept such offer of settlement and order of acceptance.

(3) If the offer of settlement and order of acceptance are accepted by the CRO, the Hearing Panel or, if applicable, Extended Hearing Panel, they shall be issued and shall be sent to each Director and each member of the Committee for Review via courier, express delivery or electronic means. The offer of settlement and order of acceptance shall become final 25 days after they are sent to each Director and each member of the Committee for Review, unless review by the Exchange Board of Directors is requested pursuant to Rule 10.9310(a)(1). Enforcement shall provide a copy of an issued order of acceptance to each ETP Holder with which a Respondent is associated.

(g) Final Disciplinary Action of the Exchange

The proceeding shall conclude as of the date the order of acceptance is final. The final order of acceptance shall constitute final disciplinary action of the Exchange. The sanction shall take effect as set forth in the order.

(h) Uncontested Offer of Settlement Not Accepted

If an uncontested offer of settlement or an order of acceptance is not accepted by the CRO, the Hearing Panel or the Extended Hearing Panel, the Respondent shall be notified in writing and the offer of settlement and proposed order of acceptance shall be deemed withdrawn. An offer and a proposed order of acceptance that are not accepted shall not constitute a part of the record in any proceeding against the Respondent making the offer.

(i) Disciplinary Proceeding With Multiple Respondents

When a disciplinary proceeding names multiple Respondents, settlement offers may be accepted or rejected as to any one or all of the Respondents submitting offers. The proceedings shall thereafter be terminated as to those Respondents whose offers of settlement are accepted, but such Respondents may be required to participate in any hearing conducted as to those Respondents that did not submit offers of settlement or whose offers of settlement were rejected.

(j) No Prejudice from Rejected Offer of Settlement

If an offer of settlement is rejected by the CRO, a Hearing Panel or Extended Hearing Panel, the Respondent shall not be prejudiced by the offer, which may not be introduced into evidence in connection with the determination of the issues involved in the pending complaint or in any other proceeding.

Rule 10.9280. Contemptuous Conduct

(a) Persons Subject to Sanctions

If a Party, attorney for a Party, or other person authorized to represent others by Rule 10.9141, engages in conduct in violation of an order of a Hearing Officer, a Hearing Panel or, if applicable, an Extended Hearing Panel, or other contemptuous conduct during a proceeding, a Hearing Officer, Hearing Panel or, if applicable, an Extended Hearing Panel, may:

(1) subject the Party, attorney for a Party, or other person authorized to represent others by Rule 10.9141, to the sanctions set forth in paragraph (b); and

(2) exclude an attorney for a Party, or other person authorized to represent others by Rule 10.9141, under Rule 10.9150.

(b) Sanctions Other Than Exclusion

A Hearing Officer, Hearing Panel or, if applicable, an Extended Hearing Panel, may make such orders as are just in regard to a Party, an attorney for a Party, or other person authorized to represent others by Rule 10.9141.

(1) Such orders may include:

(A) an order providing that the matters on which the order is made or any other designated facts shall be taken to be established for the purposes of the disciplinary proceeding in accordance with the claim of the Party obtaining the order;

(B) an order providing that the disobedient Party may not support or oppose designated claims or defenses, or may not introduce designated matters in evidence;

(C) an order providing that pleadings or a specified part of the pleading shall be stricken, or an order providing that the proceeding shall be stayed until the Party subject to the order obeys it;

(D) in lieu of any of the foregoing orders or in addition thereto, an order providing that contemptuous conduct includes the failure to obey any order; and

(E) an order as provided in subparagraphs (A), (B), and (C) where a Party has failed to comply with an order to produce a person for examination, unless the Party failing to comply shows that such Party is unable to produce such person for examination.

(2) A Party that without substantial justification fails to disclose information required by the Rule 10.9240 Series and the Rule 10.9250 Series or otherwise required by order of the Hearing Officer, Hearing Panel or, if applicable, the Extended Hearing Panel, shall not, unless such failure is harmless, be permitted to use as evidence at a hearing, in a motion or in any other filing of papers, or in oral argument, any witness or information not so disclosed. In addition to, or in lieu of this sanction, the Hearing Officer, Hearing Panel or, if applicable, the Extended Hearing Panel, on motion and after affording an opportunity to be heard, may impose other appropriate sanctions. These sanctions may include any of the sanctions provided for in paragraphs (b)(1)(A) through (C).

(c) Review of Exclusions

If an attorney for a Party, or other person authorized to represent others by Rule 10.9141, is excluded from a disciplinary hearing or conference, or any portion thereof, such attorney or other person may seek review of the exclusion by filing a motion to vacate with the Chief Hearing Officer. Such motion to vacate shall be filed and served on all Parties within five days after service of the exclusion order. Any response shall be filed with the Chief Hearing Officer and served on all Parties within five days after the service of the motion to vacate. The Chief Hearing Officer shall consider such motion on an expedited basis and promptly issue a written order. The filing of a motion to vacate shall stay all aspects of the disciplinary proceeding until at least seven days after service of the order of the Chief Hearing Officer. The review proceedings shall be conducted on the basis of the written record without oral argument.

(d) Adjournment

The hearing, conferences, or other activities relating to the disciplinary proceeding shall be stayed pending the review by the Chief Hearing Officer of an exclusion order in paragraph (c). In the event that the Chief Hearing Officer upholds an exclusion of an attorney or other person authorized to represent others by Rule 10.9141, the Hearing Officer may, upon motion by a Party represented by an attorney or other person subject to an order of exclusion, grant an adjournment to allow the retention of new counsel or selection of a new representative. In determining whether to grant an adjournment or the

length of an adjournment, the Hearing Officer shall consider whether there are other counsel or representatives of record on behalf of the Party, the availability of other counsel or other members of an excluded attorney's firm, or the availability of other representatives for the Party, and any other relevant factors.

Rule 10.9290. Expedited Disciplinary Proceedings

For any disciplinary proceeding, the subject matter of which also is subject to a temporary cease and desist proceeding initiated pursuant to Rule 10.9810 or a temporary cease and desist order, hearings shall be held and decisions shall be rendered at the earliest possible time. An expedited hearing schedule shall be determined at a pre-hearing conference held in accordance with Rule 10.9241.

Rule 10.9291. Permanent Cease and Desist Orders

(a) Content, Scope and Form Requirements

When a decision issued under Rule 10.9268 or Rule 10.9269 or an order of acceptance issued under Rule 10.9270 imposes a permanent cease and desist order, it shall:

(1) order a Respondent (and any successor of a Respondent, where the Respondent is an ETP Holder) to cease and desist permanently from violating a specific rule or statutory provision;

(2) set forth the violation; and

(3) describe in reasonable detail the act or acts the Respondent (and any successor of a Respondent, where the Respondent is an ETP Holder) shall take or refrain from taking.

(b) Delivery Requirement

Where a Respondent is an ETP Holder, Respondent shall deliver a copy of a permanent cease and desist order, within one business day of receiving it, to its Associated Persons.

RULE 10.9300. REVIEW OF DISCIPLINARY PROCEEDING BY EXCHANGE BOARD OF DIRECTORS

Rule 10.9310. Review by Exchange Board of Directors

(a) Request for Review

(1)(A) Any Party, any Director, and any member of the Committee for Review may require a review by the Exchange Board of Directors of any determination or penalty, or both, imposed by a Hearing Panel or Extended Hearing Panel under the Rule 10.9200 Series, except that none of the aforementioned persons may request a review by the

Exchange Board of Directors of a decision concerning an Exchange ETP Holder that is an affiliate. A request for review shall be made by filing with the Secretary of the Exchange a written request therefor, which states the basis and reasons for such review, within 25 days after notice of the determination and/or penalty is served upon the Respondent. The Secretary of the Exchange shall give notice of any such request for review to the Parties.

(B) In addition to the provisions for review by the Exchange Board of Directors set forth in Rule 10.9310(a)(1)(A):

(i) Any Director and any member of the Committee for Review may require a review by the Exchange Board of Directors of any determination or penalty, or both, imposed in connection with a letter of acceptance, waiver, and consent under Rule 10.9216 or an offer of settlement determined to be uncontested before a hearing on the merits has begun under Rule 10.9270(f), except that none of the aforementioned persons may request a review by the Exchange Board of Directors of a determination or penalty concerning an ETP Holder that is an affiliate. A request for review shall be made by filing with the Secretary of the Exchange a written request therefor, which states the basis and reasons for such review, within 25 days after a letter of acceptance, waiver, and consent or an offer of settlement has been sent to each Director and each member of the Committee for Review pursuant to Rule 10.9216(a)(4) or Rule 10.9270(f)(3). The Secretary of the Exchange shall give notice of any such request for review to the Parties.

(ii) Any Party may require a review by the Exchange Board of Directors of any rejection by the CRO of a letter of acceptance, waiver, and consent under Rule 10.9216 or an offer of settlement determined to be uncontested before a hearing on the merits has begun under Rule 10.9270(f), except that no Party may request a review by the Exchange Board of Directors of a rejection of a letter of acceptance, waiver, and consent or an offer of settlement concerning an Exchange ETP Holder that is an affiliate. A request for review shall be made by filing with the Secretary of the Exchange a written request therefor, which states the basis and reasons for such review, within 25 days after notification pursuant to Rule 10.9216(a)(3) or Rule 10.9270(h) that a letter of acceptance, waiver, and consent, or an uncontested offer of settlement or an order of acceptance is not accepted by the CRO. The Secretary of the Exchange shall give notice of any such request for review to the Parties.

(2) In connection with any review under paragraph (a)(1)(A), the Secretary of the Exchange shall direct the Office of Hearing Officers to complete and transmit a record of the disciplinary proceeding in accordance with Rule 10.9267. Within 21 days after the Secretary of the Exchange gives notice of a request for review to the Parties, or at such later time as the Secretary of the Exchange may designate, the Office of Hearing Officers shall assemble and prepare an index to the record, transmit the record and the index to the Secretary of the Exchange, and serve copies of the index upon all Parties. The Hearing Officer who participated in the disciplinary proceeding, or the Chief Hearing Officer, shall certify that the record transmitted to the Secretary of the Exchange is complete.

(b) Review by Exchange Board of Directors

Any review by the Exchange Board of Directors shall be based on oral arguments and written briefs and shall be limited to consideration of the record before the Hearing Panel or Extended Hearing Panel. The Committee for Review may, but is not required to, appoint an appeals panel to conduct a review under this subsection and make a recommendation to the Committee for Review. An appeals panel appointed by the Committee for Review would consist of at least three and no more than five individuals. An appeals panel appointed by the Committee for Review would be composed of at least one director and one ETP Holder or individual associated with an ETP Holder. Upon review, and with the advice of the Committee for Review, the Exchange Board of Directors, by the affirmative vote of a majority of the Exchange Board of Directors then in office, may sustain any determination or penalty imposed, (including the terms of any permanent cease and desist order), or both, may modify or reverse any such determination, and may increase, decrease or eliminate any such penalty, or impose any penalty permitted under the Exchange's rules, as it deems appropriate. Unless the Exchange Board of Directors otherwise specifically directs, the determination and penalty, if any, of the Exchange Board of Directors after review shall be final and conclusive subject to the provisions for review of the Exchange Act.

(c) Remand

Notwithstanding the foregoing, if either Party upon review applies to the Exchange Board of Directors for leave to adduce additional evidence, and shows to the satisfaction of the Exchange Board of Directors that the additional evidence is material and that there were reasonable grounds for failure to adduce it before the Hearing Panel or Extended Hearing Panel, the Exchange Board of Directors may remand the case for further proceedings, in whatever manner and on whatever conditions the Exchange Board of Directors considers appropriate.

(d) Chief Executive Officer

Notwithstanding any other provisions of this Rule 10.9000 Series, the Chief Executive Officer may not require a review by the Exchange Board of Directors under this Rule and shall be recused from deliberations and actions of the Exchange Board of Directors with respect to matters to be reviewed by the Exchange Board of Directors under this Rule.

RULE 10.9500. OTHER PROCEEDINGS

Rule 10.9520. Eligibility Proceedings

Rule 10.9521. Purpose and Definitions

(a) Purpose

The Rule 10.9520 Series sets forth procedures for an Associated Person to become or remain associated with an ETP Holder, notwithstanding the existence of a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act and for a current ETP Holder or Associated Person to obtain relief from the eligibility or qualification requirements of the Exchange's Rules. Such actions hereinafter are referred to as "eligibility proceedings."

(b) Definitions

(1) The term "Application" means FINRA's Form MC-400 for Associated Persons or Form MC-400A for ETP Holders, filed with FINRA's Department of Registration and Disclosure ("RAD").

(2) The term "disqualified ETP Holder" means a broker, dealer, municipal securities broker or dealer, government securities broker or dealer, or ETP Holder that is or becomes subject to a disqualification or is otherwise ineligible for an ETP under Exchange rules.

(3) The term "disqualified person" means an Associated Person or person seeking to become an Associated Person who is or becomes subject to a disqualification or is otherwise ineligible for association under Exchange rules.

(4) The term "sponsoring ETP Holder" means the ETP Holder or applicant for an ETP pursuant to Exchange rules that is sponsoring the association or continued association of a disqualified person to be admitted, readmitted, or permitted to continue in association.

Rule 10.9522. Initiation of Eligibility Proceeding; Member Regulation Consideration

(a) Initiation by the Exchange

(1) Issuance of Notice of Disqualification or Ineligibility

If Exchange staff has reason to believe that a disqualification exists or that an ETP Holder or Associated Person otherwise fails to meet the eligibility requirements of the Exchange, Exchange staff shall issue a written notice to the ETP Holder or applicant for an ETP under Exchange rules. The notice shall specify the grounds for such disqualification or ineligibility. Exchange staff shall not issue such written notice to ETP Holders or applicants for an ETP under Exchange rules with respect to disqualifications arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Exchange Act or arising under Section 3(a)(39)(E) of the Exchange Act, unless the ETP Holder or applicant for an ETP under Exchange rules is required to file an application pursuant to a Regulatory Bulletin entitled "Eligibility Proceedings: Exchange Rule 10.9520 Series to Establish Procedures Applicable to ETP Holders and Associated Persons Subject to Certain Statutory Disqualifications" (the "SD Information Memo").

(2) Notice Regarding an ETP Holder

A notice issued to a disqualified ETP Holder shall state that the disqualified ETP Holder may apply for relief by filing an application or, in the case of a matter set forth in Rule 10.9522(e)(1), a written request for relief, within ten business days after service of the notice. If the ETP Holder fails to file the application or, where appropriate, the written request for relief, within the 10-day period, the ETP of the ETP Holder shall be canceled, unless the Department of Member Regulation grants an extension for good cause shown.

(3) Notice Regarding an Associated Person

A notice issued regarding a disqualified person to an ETP Holder or applicant for an ETP under Exchange rules shall state that such ETP Holder or applicant for membership may file an application on behalf of itself and such Associated Person or, in the case of a matter set forth in Rule 10.9522(e)(1), a written request for relief, within ten business days after service of the notice. If the ETP Holder fails to file the application or, where appropriate, the written request for relief, within the 10-day period, the registration of the disqualified person shall be revoked, unless the Department of Member Regulation grants an extension for good cause shown.

(4) Service

A notice issued under this paragraph (a) shall be served pursuant to Rules 10.9131 and 10.9134.

(b) Obligation of ETP Holder to Initiate Proceeding

(1) An ETP Holder shall file an application or, in the case of a matter set forth in Rule 10.9522(e)(1), a written request for relief, with RAD, if the ETP Holder determines prior to receiving a notice under paragraph (a) that:

(A) it has become a disqualified ETP Holder;

(B) a Person Associated with such ETP Holder or whose association is proposed by an applicant for an ETP under Exchange rules has become a disqualified person; or

(C) the ETP Holder, or applicant for an ETP under Exchange rules wishes to sponsor the association of an Associated Person who is a disqualified person.

(2) For any disqualifications arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Exchange Act or arising under Section 3(a)(39)(E) of the Exchange Act, an ETP Holder shall not file an application unless instructed to do so by the SD Information Memo.

(c) Withdrawal of Application

An ETP Holder may withdraw its application or written request for relief prior to a hearing by filing a written notice with RAD pursuant to Rules 10.9135, 10.9136, and 10.9137. An ETP Holder may withdraw its application after the start of a hearing but prior to the issuance of a decision by the Exchange Board of Directors by filing a written notice with RAD and the CRO pursuant to Rules 10.9135, 10.9136, and 10.9137.

(d) Ex Parte Communications

The prohibitions against ex parte communications set forth in Rule 10.9143 shall become effective under the Rule 10.9520 Series when Exchange staff has initiated the eligibility proceeding and Exchange staff has knowledge that an ETP Holder intends to file an application or written request for relief pursuant to the Rule 10.9520 Series.

(e) Member Regulation Consideration

(1) Matters that may be Approved by the Department of Member Regulation without the Filing of an Application

The Department of Member Regulation, as it deems consistent with the public interest and the protection of investors, is authorized to approve a written request for relief from the eligibility requirements by a disqualified ETP Holder or a sponsoring ETP Holder without the filing of an application by such disqualified ETP Holder or sponsoring ETP Holder if a disqualified ETP Holder or disqualified person is subject to one or more of the following conditions but is not otherwise subject to disqualification:

(A) a disqualified ETP Holder or disqualified person is subject to a disqualification based on an injunction that was entered ten or more years prior to the proposed admission or continuance by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, entity or person required to be registered under the Commodity Exchange Act, or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

(B) a sponsoring ETP Holder makes a request to change the supervisor of a disqualified person; or

(C) a disqualified ETP Holder or sponsoring ETP Holder is a member of both the Exchange and another self-regulatory organization; and:

(i) the other self-regulatory organization intends to file a Notice under Exchange Act Rule 19h-1 approving the membership continuance of the disqualified ETP Holder or, in the case of a sponsoring ETP Holder, the proposed association or continued association of the disqualified person; and

(ii) the Department of Member Regulation concurs with that determination.

(2) Matters that may be Approved by the Department of Member Regulation after the Filing of an Application

The Department of Member Regulation, as it deems consistent with the public interest and the protection of investors, is authorized to approve an application filed by a disqualified ETP Holder or sponsoring ETP Holder if the disqualified ETP Holder or disqualified person is subject to one or more of the following conditions but is not otherwise subject to disqualification (other than a matter set forth in paragraph (e)(1)):

(A) The disqualified person is already a participant in, a member of, or a person associated with a member of, a self-regulatory organization (other than the Exchange), and the terms and conditions of the proposed admission to the Exchange are the same in all material respects as those imposed or not disapproved in connection with such Associated Person's prior admission or continuance pursuant to an order of the SEC under Exchange Act Rule 19h-1 or other substantially equivalent written communication;

(B) The Department of Member Regulation finds, after reasonable inquiry, that except for the identity of the employer concerned, the terms and conditions of the proposed admission or continuance are the same in all material respects as those imposed or not disapproved in connection with a prior admission or continuance of the disqualified person pursuant to an order of the SEC under Exchange Act Rule 19h-1 or other substantially equivalent written communication, and that there is no intervening conduct or other circumstance that would cause the employment to be inconsistent with the public interest or the protection of investors;

(C) The disqualification previously was a basis for the institution of an administrative proceeding pursuant to a provision of the federal securities laws, and was considered by the SEC in determining a sanction against such disqualified person in the proceeding; and the SEC concluded in such proceeding that it would not restrict or limit the future securities activities of such disqualified person in the capacity now proposed, or, if it imposed any such restrictions or limitations for a specified time period, such time period has elapsed;

(D) The disqualification consists of a court order or judgment of injunction or conviction, and such order or judgment:

(i) expressly includes a provision that, on the basis of such order or judgment, the SEC will not institute a proceeding against such Associated Person pursuant to Section 15(b) or 15B of the Exchange Act or that the future securities activities of such Associated Persons in the capacity now proposed will not be restricted or limited; or

(ii) includes such restrictions or limitations for a specified time period and such time period has elapsed;

(E) The disqualified person's functions are purely clerical and/or ministerial in nature; or

(F) The disqualification arises from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Exchange Act or arises under Section 3(a)(39)(E) of the Exchange Act.

(3) Rights of Disqualified ETP Holder, Sponsoring ETP Holder, Disqualified Person, and Department of Member Regulation

(A) In the event the Department of Member Regulation does not approve a written request for relief from the eligibility requirements pursuant to paragraph (e)(1), the disqualified ETP Holder or sponsoring ETP Holder may file an application, and such ETP Holder shall have the right to proceed under Rule 10.9523 or 10.9524, as applicable. The Department of Member Regulation may require a disqualified ETP Holder or sponsoring ETP Holder to file an application with RAD, notwithstanding the provisions of paragraph (e)(1).

(B) In the event the Department of Member Regulation does not approve an application pursuant to paragraph (e)(2), the disqualified ETP Holder or sponsoring ETP Holder shall have the right to proceed under Rule 10.9523 or 10.9524, as applicable.

Rule 10.9523. Acceptance of Member Regulation Recommendations and Supervisory Plans by Consent Pursuant to Exchange Act Rule 19h-1

(a) With respect to all disqualifications, except those arising solely from findings or orders specified in Section 15(b)(4)(D), (E) or (H) of the Exchange Act or arising under Section 3(a)(39)(E) of the Exchange Act, after an application is filed, the Department of Member Regulation may recommend the membership or continued membership of a disqualified ETP Holder or sponsoring ETP Holder or the association or continuing association of a disqualified person pursuant to a supervisory plan where the disqualified ETP Holder, sponsoring ETP Holder, and/or disqualified person, as the case may be,

consent to the recommendation and the imposition of the supervisory plan. The disqualified ETP Holder, sponsoring ETP Holder, and/or disqualified person, as the case may be, shall execute a letter consenting to the imposition of the supervisory plan.

(1) If a disqualified ETP Holder, sponsoring ETP Holder, and/or disqualified person submitted an executed letter consenting to a supervisory plan, by the submission of such letter, the disqualified ETP Holder, sponsoring ETP Holder and/or disqualified person waive:

(A) the right to a hearing before a Hearing Panel and any right of appeal to the Exchange Board of Directors, the SEC, and the courts, or otherwise challenge the validity of the supervisory plan, if the supervisory plan is accepted.

(B) any right of the disqualified ETP Holder, sponsoring ETP Holder, and/or disqualified person to claim bias or prejudgment by the Department of Member Regulation, the CRO, the Exchange Board of Directors, or any member of the Exchange Board of Directors, in connection with such person's or body's participation in discussions regarding the terms and conditions of the Department of Member Regulation's recommendation or the supervisory plan, or other consideration of the recommendation or supervisory plan, including acceptance or rejection of such recommendation or supervisory plan; and

(C) any right of the disqualified ETP Holder, sponsoring ETP Holder, and/or disqualified person to claim that a person violated the ex parte prohibitions of Rule 10.9143 or the separation of functions prohibitions of Rule 10.9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of the recommendation or supervisory plan, or other consideration of the recommendation or supervisory plan, including acceptance or rejection of such recommendation or supervisory plan.

(2) If a recommendation or supervisory plan is rejected, the disqualified ETP Holder, sponsoring ETP Holder, and/or disqualified person shall be bound by the waivers made under paragraph (a)(1) for conduct by persons or bodies occurring during the period beginning on the date the supervisory plan was submitted and ending upon the rejection of the supervisory plan and shall have the right to proceed under this rule and Rule 10.9524, as applicable.

(3) If the disqualified ETP Holder, sponsoring ETP Holder, and/or disqualified person execute the letter consenting to the supervisory

plan, it shall be submitted to the CRO by the Department of Member Regulation with a proposed Notice under SEA Rule 19h-1, where required. The CRO may accept or reject the recommendation of the Department of Member Regulation and the supervisory plan.

(4) If the recommendation and supervisory plan is accepted by the CRO, it shall be deemed final and, where required, the proposed Notice under Exchange Act Rule 19h-1 will be filed by the Exchange. If the recommendation and supervisory plan are rejected by the CRO, the Exchange may take any other appropriate action with respect to the disqualified ETP Holder, sponsoring ETP Holder, and/or disqualified person. If the recommendation and supervisory plan are rejected, the disqualified ETP Holder, sponsoring ETP Holder, and/or disqualified person shall not be prejudiced by the execution of the letter consenting to the supervisory plan under this paragraph (a) and the letter may not be introduced into evidence in any proceeding.

(b) With respect to disqualifications arising solely from findings or orders specified in Section 15(b)(4)(D), (E) or (H) of the Exchange Act or arising under Section 3(a)(39)(E) of the Exchange Act, after an application is filed, in approving an application under Rule 10.9522(e)(2)(F), the Department of Member Regulation is authorized to accept the membership or continued membership of a disqualified ETP Holder or sponsoring ETP Holder or the association or continuing association of a disqualified person pursuant to a supervisory plan where the disqualified ETP Holder, sponsoring ETP Holder, and/or disqualified persons, as the case may be, consent to the imposition of the supervisory plan. The disqualified ETP Holder, sponsoring ETP Holder, and/or disqualified person, as the case may be, shall execute a letter consenting to the imposition of the supervisory plan. The Department of Member Regulation shall prepare a proposed Notice under Exchange Act Rule 19h-1, where required, and the Exchange shall file such Notice.

(1) If a disqualified ETP Holder, sponsoring ETP Holder, and/or disqualified person submitted an executed letter consenting to a supervisory plan, by the submission of such letter, the disqualified ETP Holder, sponsoring ETP Holder and/or disqualified person waive:

(A) the right of appeal to the Exchange Board of Directors, the SEC, and the courts, or otherwise challenge the validity of the supervisory plan, if the supervisory plan is accepted;

(B) any right of the disqualified ETP Holder, sponsoring ETP Holder, and/or disqualified person to claim bias or prejudgment by the Department of Member Regulation or the CRO in connection with such person's or body's participation in discussions regarding the terms and conditions of the

Department of Member Regulation's recommended supervisory plan, or other consideration of the supervisory plan, including acceptance or rejection of such recommendation or supervisory plan; and

(C) any right of the disqualified ETP Holder, sponsoring ETP Holder, and/or disqualified person to claim that a person violated the ex parte prohibitions of Rule 10.9143 or the separation of functions prohibitions of Rule 10.9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of the supervisory plan, or other consideration of the supervisory plan, including acceptance or rejection of such supervisory plan.

(2) If the supervisory plan is rejected, the disqualified ETP Holder, sponsoring ETP Holder, and/or disqualified person shall be bound by the waivers made under paragraph (b)(1) for conduct by persons or bodies occurring during the period beginning on the date the supervisory plan was submitted and ending upon the rejection of the supervisory plan and shall have the right to proceed under Rule 10.9524.

Rule 10.9524. Exchange Board of Directors Consideration

(a) Request for Review

A disqualified ETP Holder, sponsoring ETP Holder, or applicant may request that the Exchange Board of Directors review a decision to reject a supervisory plan under Rule 10.9523. A request for review shall be made by filing with the Secretary of the Exchange a written request therefor, which states the basis and reasons for such review, within 25 days after notice of the decision is served. The Secretary of the Exchange shall give notice of any such request for review to the CRO and the Department of Member Regulation.

(b) Review by Exchange Board of Directors

Any review by the Exchange Board of Directors shall be based on oral arguments and written briefs and shall be limited to consideration of the record before the Department of Member Regulation and the CRO. Upon review, the Exchange Board of Directors, by the affirmative vote of a majority of the Exchange Board of Directors then in office, may sustain, modify, or reverse any such decision. Unless the Exchange Board of Directors otherwise specifically directs, the decision of the Exchange Board of Directors after review shall be final and conclusive subject to the provisions for review of the Exchange Act.

(c) Remand

Notwithstanding the foregoing, if either Party upon review applies to the Exchange Board of Directors for leave to adduce additional evidence, and shows to the satisfaction of the Exchange Board of Directors that the additional evidence is material and that there was reasonable ground for failure to adduce it previously, the Exchange Board of Directors may remand the matter for further proceedings, in whatever manner and on whatever conditions the Exchange Board of Directors considers appropriate.

Rule 10.9525. Reserved.

Rule 10.9526. Reserved.

Rule 10.9527. Application to SEC for Review

The right to have any action taken pursuant to this Rule Series reviewed by the SEC is governed by Section 19 of the Exchange Act. The filing of an application for review shall not stay the effectiveness of final action by the Exchange, unless the SEC otherwise orders.

Rule 10.9550. Expedited Proceedings

Rule 10.9551. Reserved.

Rule 10.9552. Failure to Provide Information or Keep Information Current

(a) Notice of Suspension of an ETP Holder or Associated Person if Corrective Action is Not Taken

If an ETP Holder or Associated Person fails to provide any information, report, material, data, or testimony requested or required to be filed pursuant to the Exchange's Rules, or fails to keep its ETP application or supporting documents current, Regulatory Staff may provide written notice to such ETP Holder or Associated Person specifying the nature of the failure and stating that the failure to take corrective action within 21 days after service of the notice will result in suspension of the ETP of the ETP Holder or of association of the Associated Person with any ETP Holder.

(b) Service of Notice of Suspension

Except as provided below, Regulatory Staff shall serve the ETP Holder or Associated Person (or counsel representing the ETP Holder or Associated Person, or other person authorized to represent others under Rule 10.9141, when counsel or other person authorized to represent others under Rule 10.9141 agrees to accept service for the ETP Holder or Associated Person) with such notice in accordance with Rule 10.9134 or by email. A copy of a notice under this Rule that is served on a Person Associated with an ETP Holder also shall be served on such ETP Holder. Papers served on an ETP Holder by email shall be sent to the email address on file with the Exchange and shall also be served by either overnight courier or personal delivery in conformity with paragraphs

(a)(1) and (3) and (b)(1) and (2) of Rule 10.9134. Papers served on a person by email shall be sent to the person's last known email address and shall also be served by either overnight courier or personal delivery in conformity with paragraphs (a)(1) and (3) and (b)(1) of Rule 10.9134. Papers served on counsel for an ETP Holder or Associated Person, or other person authorized to represent others under Rule 10.9141, by email shall be sent to the email address that counsel or other person authorized to represent others under Rule 10.9141 provides and shall also be served by either 100 of 112 overnight courier or personal delivery in conformity with paragraphs (a)(1) and (3) of Rule 10.9134. Service is complete upon sending the notice by email, mailing the notice by U.S. Postal Service first class mail, first class certified mail, first class registered mail, or Express Mail, sending the notice through a courier service, or delivering it in person, except that, where duplicate service is required, service is complete when the duplicate service is complete.

(c) Contents of Notice

A notice issued under this Rule shall state the specific grounds and include the factual basis for the Exchange action. The notice shall state when the Exchange action will take effect and explain what the respondent must do to avoid such action. The notice shall state that the respondent may file a written request for a hearing with the Office of Hearing Officers pursuant to Rule 10.9559. The notice also shall inform the respondent of the applicable deadline for filing a request for a hearing and shall state that a request for a hearing must set forth with specificity any and all defenses to the Exchange action. In addition, the notice shall explain that, pursuant to Rules 10.8310(a) and 10.9559(n), a Hearing Officer or, if applicable, Hearing Panel, may approve, modify or withdraw any and all sanctions or limitations imposed by the notice, and may impose any other fitting sanction.

(d) Effective Date of Suspension

The suspension referenced in a notice issued and served under this Rule shall become effective 21 days after service of the notice, unless stayed by a request for a hearing pursuant to Rule 10.9559.

(e) Request for Hearing

An ETP Holder or Associated Person served with a notice under this Rule may file with the Office of Hearing Officers a written request for a hearing pursuant to Rule 10.9559. A request for a hearing shall be made before the effective date of the notice, as indicated in paragraph (d) of this Rule. A request for a hearing must set forth with specificity any and all defenses to the Exchange action.

(f) Request for Termination of the Suspension

An ETP Holder or Associated Person subject to a suspension pursuant to this Rule may file a written request for termination of the suspension on the ground of full compliance

with the notice or decision. Such request shall be filed with the head of the Exchange department or office that issued the notice or, if another Exchange department or office is named as the party handling the matter on behalf of the issuing department or office, with the head of the Exchange department or office that is so designated. The head of the appropriate department or office may grant relief for good cause shown.

(g) Settlement Procedure

Uncontested offers of settlement shall be permitted under this Rule and shall conform to the requirements of Rule 10.9270, except that, if an uncontested offer of settlement, made under Rule 10.9270(e) after a hearing on the merits has begun, is accepted by the Hearing Officer, the Hearing Officer shall issue the order of acceptance, which shall constitute final Exchange action. Contested offers of settlement shall not be considered in proceedings initiated under this Rule.

(h) Defaults

An ETP Holder or Associated Person who is suspended under this Rule and fails to request termination of the suspension within three months of issuance of the original notice of suspension will automatically be expelled or barred.

Rule 10.9553. Reserved.

Rule 10.9554. Failure to Comply with an Arbitration Award or Related Settlement or an Order of Restitution or Settlement Providing for Restitution

(a) Notice of Suspension or Cancellation

If an ETP Holder or Associated Person fails to comply with an arbitration award or a settlement agreement related to an arbitration or mediation under the Exchange's Rules, or an Exchange order of restitution or Exchange settlement agreement providing for restitution, Regulatory Staff may provide written notice to such ETP Holder or Associated Person stating that the failure to comply within 21 days of service of the notice will result in a suspension or cancellation of the ETP or a suspension from associating with any ETP Holder. When an ETP Holder or Associated Person fails to comply with an arbitration award or a settlement agreement related to an arbitration or mediation involving a customer, a claim of inability to pay is no defense.

(b) Service of Notice of Suspension or Cancellation

Except as provided below, Regulatory Staff shall serve the ETP Holder or Associated Person (or counsel representing the ETP Holder or Associated Person, or other person authorized to represent others under Rule 10.9141, when counsel or other person authorized to represent others under Rule 10.9141 agrees to accept service for the ETP Holder or Associated Person) with such notice in accordance with Rule 10.9134 or by email. A copy of a notice under this Rule that is served on a Person Associated with an

ETP Holder also shall be served on such ETP Holder. Papers served on an ETP Holder by email shall be sent to the email address on file with the Exchange and shall also be served by either overnight courier or personal delivery in conformity with paragraphs (a)(1) and (3) and (b)(1) and (2) of Rule 10.9134. Papers served on a person by email shall be sent to the person's last known email address and shall also be served by either overnight courier or personal delivery in conformity with paragraphs (a)(1) and (3) and (b)(1) of Rule 10.9134. Papers served on counsel for an ETP Holder or Associated Person, or other person authorized to represent others under Rule 10.9141, by email shall be sent to the email address that counsel or other person authorized to represent others under Rule 10.9141 provides and shall also be served by either overnight courier or personal delivery in conformity with paragraphs (a)(1) and (3) of Rule 10.9134. Service is complete upon sending the notice by email, mailing the notice by U.S. Postal Service first class mail, first class certified mail, first class registered mail, or Express Mail, sending the notice through a courier service, or delivering it in person, except that, where duplicate service is required, service is complete when the duplicate service is complete.

(c) Contents of Notice

A notice issued under this Rule shall state the specific grounds and include the factual basis for the Exchange action. The notice shall state when the Exchange action will take effect and explain what the respondent must do to avoid such action. The notice shall state that the respondent may file a written request for a hearing with the Office of Hearing Officers pursuant to Rule 10.9559. The notice also shall inform the respondent of the applicable deadline for filing a request for a hearing and shall state that a request for a hearing must set forth with specificity any and all defenses to the Exchange action. In addition, the notice shall explain that, pursuant to Rules 10.8310(a) and 10.9559(n), a Hearing Officer or, if applicable, Hearing Panel, may approve, modify or withdraw any and all sanctions or limitations imposed by the notice, and may impose any other fitting sanction.

(d) Effective Date of Suspension or Cancellation

The suspension or cancellation referenced in a notice issued and served under this Rule shall become effective 21 days after service of the notice, unless stayed by a request for a hearing pursuant to Rule 10.9559.

(e) Request for Hearing

An ETP Holder or Associated Person served with a notice under this Rule may file with the Office of Hearing Officers a written request for a hearing pursuant to Rule 10.9559. A request for a hearing shall be made before the effective date of the notice, as indicated in paragraph (d) of this Rule. A request for a hearing must set forth with specificity any and all defenses to the Exchange action.

(f) Failure to Request Hearing

If an ETP Holder or Associated Person does not timely request a hearing, the suspension or cancellation specified in the notice shall become effective 21 days after the service of the notice and the notice shall constitute final Exchange action.

(g) Request for Termination of the Suspension

An ETP Holder or Associated Person subject to a suspension under this Rule may file a written request for termination of the suspension on the ground of full compliance with the notice or decision. Such request shall be filed with the head of the Exchange department or office that issued the notice or, if another department or office is named as the party handling the matter on behalf of the issuing department or office, with the head of the department or office that is so designated. The appropriate head of the department or office may grant relief for good cause shown.

Rule 10.9555. Failure to Meet the Eligibility or Qualification Standards or Prerequisites for Access to Services

(a) Notice to ETP Holder or Associated Person of Suspension, Cancellation, Bar, or Limitation or Prohibition on Access to Services

(1) If an ETP Holder or Associated Person does not meet the eligibility or qualification standards set forth in the Exchange's Rules, Exchange staff may provide written notice to such ETP Holder or Associated Person stating that the failure to become eligible or qualified will result in a suspension or cancellation of an ETP or a suspension or bar from associating with any ETP Holder.

(2) If an ETP Holder or Associated Person does not meet the prerequisites for access to services offered by the Exchange or an ETP Holder thereof or cannot be permitted to continue to have access to services offered by the Exchange or an ETP Holder thereof with safety to investors, creditors, ETP Holder, or the Exchange, Exchange staff may provide written notice to such ETP Holder or Associated Person limiting or prohibiting access to services offered by the Exchange or an ETP Holder thereof.

(b) Service of Notice

Except as provided below, Exchange staff shall serve the ETP Holder or Associated Person (or counsel representing the ETP Holder or Associated Person, or other person authorized to represent others under Rule 10.9141, when counsel or other person authorized to represent others under Rule 10.9141 agrees to accept service for the ETP Holder or Associated Person) with such notice in accordance with Rule 10.9134 or by email. A copy of a notice under this Rule that is served on a Person Associated with an ETP Holder also shall be served on such ETP Holder. Papers served on an ETP Holder by email shall be sent to the email address on file with the Exchange and shall also be

served by either overnight courier or personal delivery in conformity with paragraphs (a)(1) and (3) and (b)(1) and (2) of Rule 10.9134. Papers served on a person by email shall be sent to the person's last known email address and shall also be served by either overnight courier or personal delivery in conformity with paragraphs (a)(1) and (3) and (b)(1) of Rule 10.9134. Papers served on counsel for an ETP Holder or Associated Person, or other person authorized to represent others under Rule 10.9141, by email shall be sent to the email address that counsel or other person authorized to represent others under Rule 10.9141 provides and shall also be served by either overnight courier or personal delivery in conformity with paragraphs (a)(1) and (3) of Rule 10.9134. Service is complete upon sending the notice by email, mailing the notice by U.S. Postal Service first class mail, first class certified mail, first class registered mail, or Express Mail, sending the notice through a courier service, or delivering it in person, except that, where duplicate service is required, service is complete when the duplicate service is complete.

(c) Contents of Notice

A notice issued under this Rule shall state the specific grounds and include the factual basis for the Exchange action. The notice shall state when the Exchange action will take effect and explain what the respondent must do to avoid such action. The notice shall state that the respondent may file a written request for a hearing with the Office of Hearing Officers pursuant to Rule 10.9559. The notice also shall inform the respondent of the applicable deadline for filing a request for a hearing and shall state that a request for a hearing must set forth with specificity any and all defenses to the Exchange action. In addition, the notice shall explain that, pursuant to Rules 10.8310(a) and 10.9559(n), a Hearing Officer or, if applicable, Hearing Panel, may approve, modify or withdraw any and all sanctions or limitations imposed by the notice, and may impose any other fitting sanction.

(d) Effective Date of Limitation, Prohibition, Suspension, Cancellation or Bar

The limitation, prohibition, suspension, cancellation or bar referenced in a notice issued under this Rule shall become effective 14 days after service of the notice, except that the effective date for a notice of a limitation or prohibition on access to services offered by the Exchange or an ETP Holder thereof with respect to services to which the ETP Holder or Associated Person does not have access shall be upon service of the notice. A request for a hearing, pursuant to Rule 10.9559, shall stay the effectiveness of the notice, except that the effectiveness of a notice of a limitation or prohibition on access to services offered by the Exchange or an ETP Holder thereof with respect to services to which the ETP Holder or Associated Person does not have access shall not be stayed by a request for a hearing.

(e) Request for Hearing

An ETP Holder or Associated Person served with a notice under this Rule may file with the Office of Hearing Officers a written request for a hearing pursuant to Rule 10.9559. A

request for a hearing shall be made within 14 days after service of the notice. A request for a hearing must set forth with specificity any and all defenses to the Exchange action.

(f) Failure to Request Hearing

If an ETP Holder or Associated Person does not timely request a hearing, the limitation, prohibition, suspension, cancellation or bar specified in the notice shall become effective 14 days after service of the notice, except that the effective date for a notice of a limitation or prohibition on access to services offered by the Exchange or an ETP Holder thereof with respect to services to which the ETP Holder or Associated Person does not have access shall be upon service of the notice. The notice shall constitute final Exchange action if the ETP Holder or Associated Person does not request a hearing within 14 days after service of the notice.

(g) Request for Termination of the Limitation, Prohibition or Suspension

An ETP Holder or Associated Person subject to a limitation, prohibition or suspension under this Rule may file a written request for termination of the limitation, prohibition or suspension on the ground of full compliance with the notice or decision. Such request shall be filed with the head of the Exchange department or office that issued the notice or, if another department or office is named as the party handling the matter on behalf of the issuing department or office, with the head of the department or office that is so designated. The appropriate head of the department or office may grant relief for good cause shown.

Rule 10.9556. Failure to Comply with Temporary and Permanent Cease and Desist Orders

(a) Notice of Suspension, Cancellation or Bar

If an ETP Holder or Associated Person fails to comply with a temporary or permanent cease and desist order issued under the Rule 10.9200, 10.9300 or 10.9800 Series, Regulatory Staff, after receiving written authorization from the Exchange's CRO or such other senior officer as the CRO may designate, may issue a notice to such ETP Holder or Associated Person stating that the failure to comply with the temporary or permanent cease and desist order within seven days of service of the notice will result in a suspension or cancellation of an ETP or a suspension or bar from associating with any ETP Holder.

(b) Service of Notice

Regulatory Staff shall serve the ETP Holder or Associated Person subject to a notice issued under this Rule (or upon counsel representing the ETP Holder or Associated Person, or other person authorized to represent others under Rule 10.9141, when counsel or other person authorized to represent others under Rule 10.9141 agrees to accept service for the ETP Holder or Associated Person) by email, overnight courier or personal

delivery. Papers served on an ETP Holder, Associated Person or counsel for such ETP Holder or Associated Person, or other person authorized to represent others under Rule 10.9141 by overnight courier or personal delivery shall conform to paragraphs (a)(1) and (3) and, with respect to an ETP Holder or Associated Person, (b)(1) and (2) of Rule 10.9134. Papers served on an ETP Holder by email shall be sent to the email address on file with the Exchange and shall also be served by either overnight courier or personal delivery in conformity with paragraphs (a)(1) and (3) and (b)(1) and (2) of Rule 10.9134. Papers served on a person by email shall be sent to the person's last known email address and shall also be served by either overnight courier or personal delivery in conformity with paragraphs (a)(1) and (3) and (b)(1) of Rule 10.9134. Papers served on counsel for an ETP Holder or Associated Person, or other person authorized to represent others under Rule 10.9141 by email shall be sent to the email address that counsel or other person authorized to represent others under Rule 10.9141 provides and shall also be served by either overnight courier or personal delivery in conformity with paragraphs (a)(1) and (3) of Rule 10.9134. A copy of a notice under this Rule that is served on a Associated Person associated with an ETP Holder also shall be served on such ETP Holder. Service is complete upon sending the notice by email or overnight courier or delivering it in person, except that, where duplicate service is required, service is complete upon sending the duplicate service.

(c) Contents of Notice

The notice shall explicitly identify the provision of the permanent or temporary cease and desist order that is alleged to have been violated and shall contain a statement of facts specifying the alleged violation. The notice shall state when the Exchange action will take effect and explain what the respondent must do to avoid such action. The notice shall state that the respondent may file a written request for a hearing with the Office of Hearing Officers pursuant to Rule 10.9559. The notice also shall inform the respondent of the applicable deadline for filing a request for a hearing and shall state that a request for a hearing must set forth with specificity any and all defenses to the Exchange action. In addition, the notice shall explain that, pursuant to Rules 10.8310(a) and 10.9559(n), a Hearing Officer or, if applicable, Hearing Panel, may approve, modify or withdraw any and all sanctions or limitations imposed by the notice, and may impose any other fitting sanction.

(d) Effective Date of Suspension, Cancellation or Bar

The suspension, cancellation or bar referenced in a notice issued and served under this Rule shall become effective seven days after service of the notice, unless stayed by a request for a hearing pursuant to Rule 10.9559.

(e) Request for a Hearing

An ETP Holder or Associated Person served with a notice under this Rule may file with the Office of Hearing Officers a written request for a hearing pursuant to Rule 10.9559. A request for a hearing shall be made before the effective date of the notice, as indicated in

paragraph (d) of this Rule. A request for a hearing must set forth with specificity any and all defenses to the Exchange action.

(f) Failure to Request Hearing

If an ETP Holder or Associated Person does not timely request a hearing, the suspension, cancellation or bar specified in the notice shall become effective seven days after the service of the notice and the notice shall constitute final Exchange action.

(g) Request for Termination of the Suspension

An ETP Holder or Associated Person subject to a suspension imposed after the process described in paragraphs (a) through (f) of this Rule may file a written request for termination of the suspension on the ground of full compliance with the notice or decision. Such request shall be filed with the head of the Exchange department or office that issued the notice or, if another department or office is named as the party handling the matter on behalf of the issuing department or office, with the head of the department or office that is so designated. The appropriate head of the department or office may grant relief for good cause shown.

(h) Subsequent Proceedings

If an ETP Holder or Associated Person fails to comply with a temporary or permanent cease and desist order issued under the Rule 10.9200, 10.9300, or 10.9800 Series, and has previously been served under paragraph (a) of this Rule with a notice for a failure to comply with any provision of the same temporary or permanent cease and desist order, Regulatory Staff, after receiving written authorization from the CRO, may file a petition with the Office of Hearing Officers seeking a hearing pursuant to Rule 10.9559 and the imposition of any fitting sanctions for such ETP Holder's or Associated Person's failure to comply with the temporary or permanent cease and desist order.

(1) The petition shall be served in accordance with paragraph (b) of this Rule, and it shall be filed with the Office of Hearing Officers.

(2) The petition shall explicitly identify the provision of the permanent or temporary cease and desist order that is alleged to have been violated, contain a statement of facts specifying the alleged violation, describe with particularity the sanctions that Regulatory Staff seeks to have imposed, and note that a hearing under Rule 10.9559 is requested. Regulatory Staff may seek the imposition of any fitting sanction.

(3) Upon the filing of the petition, Rule 10.9559 shall govern the proceeding. Respondent's full compliance with the temporary or permanent cease and desist order is not a ground for dismissing a proceeding brought pursuant to this paragraph (h).

(4) After having filed the petition, Regulatory Staff can withdraw it without prejudice and shall be permitted to refile a petition based on allegations concerning the same facts and circumstances that are set forth in the withdrawn petition.

Rule 10.9557. Procedures for Regulating Activities Under Exchange Act Rule 15c3-1

(a) Notice of Requirements and/or Restrictions; Exchange Action

Exchange staff may issue a notice directing an ETP Holder to comply with the provisions of Exchange Act Rule 15c3-1. A notice served under this Rule shall constitute Exchange action.

(b) Service of Notice

Exchange staff shall serve the ETP Holder subject to a notice issued under this Rule (or counsel representing the ETP Holder, or other person authorized to represent others under Rule 10.9141, when counsel or other person authorized to represent others under Rule 10.9141 agrees to accept service for the ETP Holder) by email, overnight courier or personal delivery. Papers served by overnight courier or personal delivery shall conform to paragraphs (a)(1) and (3) and (b)(1) and (2) of Rule 10.9134. Papers served on a ETP Holder by email shall be sent to the email address on file with the Exchange and shall also be served by either overnight courier or personal delivery in conformity with paragraphs (a)(1) and (3) and (b)(1) and (2) of Rule 10.9134. Papers served on counsel for an ETP Holder, or other person authorized to represent others under Rule 10.9141 by email shall be sent to the email address that counsel or other person authorized to represent others under Rule 10.9141 provides and shall also be served by either overnight courier or personal delivery in conformity with paragraphs (a)(1) and (3) of Rule 10.9134. Service is complete upon sending the notice by email or overnight courier or delivering it in person, except that, where duplicate service is required, service is complete upon sending the duplicate service.

(c) Contents of Notice

A notice issued under this Rule shall:

(1) state the specific grounds and include the factual basis for the Exchange action;

(2) specify the date of the notice and the requirements and/or restrictions being imposed by the notice;

(3) state that the requirements and/or restrictions imposed by the notice are immediately effective;

(4) specify the conditions for complying with and, where applicable, avoiding or terminating the requirements and/or restrictions imposed by the notice;

(5) inform the ETP Holder that, pursuant to paragraph (f) of this Rule, the failure to comply with the requirements and/or restrictions imposed by an effective notice under this Rule shall be deemed, without further notice from Exchange staff, to result in automatic and immediate suspension unless Exchange staff issues a letter of withdrawal of all requirements and/or restrictions imposed by the notice pursuant to paragraph (g)(2) of this Rule;

(6) explain that the ETP Holder may make a request for a letter of withdrawal of the notice pursuant to paragraph (e) of this Rule;

(7) state that, in addition to making a request for a letter of withdrawal of the notice, the ETP Holder may file a written request for a hearing with the Office of Hearing Officers pursuant to Rule 10.9559;

(8) inform the ETP Holder of the applicable deadline for filing a request for a hearing and state that a request for a hearing must set forth with specificity any and all defenses to the Exchange action; and

(9) explain that, pursuant to Rule 10.9559(n), a Hearing Panel may approve or withdraw the requirements and/or restrictions imposed by the notice, and that if the Hearing Panel approves the requirements and/or restrictions imposed by the notice and finds that the ETP Holder has not complied with all of them, the Hearing Panel shall impose an immediate suspension on the ETP Holder.

(d) Effectiveness of the Requirements and/or Restrictions

The requirements and/or restrictions imposed by a notice issued and served under this Rule are immediately effective, except that a timely request for a hearing shall stay the effective date for ten business days after service of the notice or until the Office of Hearing Officers issues a written order under Rule 10.9559(o)(4)(A) (whichever period is less), unless the Exchange's CRO (or such other senior officer as the CRO may designate) determines that such a stay cannot be permitted with safety to investors, creditors or other ETP Holders. Such a determination by the Exchange's CRO (or such other senior officer as the CRO may designate) cannot be appealed. An extension of the stay period is not permitted. Where a timely request for a hearing stays the action for ten business days after service of the notice or until the Office of Hearing Officers issues a written order under Rule 10.9559(o)(4)(A) (whichever period is less), the notice shall not be deemed to have taken effect during that entire period.

Any requirements and/or restrictions imposed by an effective notice shall remain in effect unless Exchange staff shall remove or reduce the requirements and/or restrictions pursuant to a letter of withdrawal of the notice issued as set forth in paragraph (g)(2) of this Rule.

(e) Request for a Letter of Withdrawal of the Notice; Request for a Hearing

An ETP Holder served with a notice under this Rule may request from Exchange staff a letter of withdrawal of the notice pursuant to paragraph (g)(2) of this Rule and/or file with the Office of Hearing Officers a written request for a hearing pursuant to Rule 10.9559.

(1) A request for a letter of withdrawal of the notice may be made at any time after service of a notice under this Rule. The ETP Holder making the request must demonstrate to the satisfaction of Exchange staff that the requirements and/or restrictions imposed by the notice should be removed or reduced. If such a request is denied by Exchange staff, the ETP Holder shall not be precluded from making a subsequent request or requests.

(2) A request for a hearing shall be made within two business days after service of a notice under this Rule. A request for a hearing must set forth with specificity any and all defenses to the Exchange action. A request for a hearing may seek to contest:

(A) the validity of the requirements and/or restrictions imposed by the notice (as the same may have been reduced by a letter of withdrawal pursuant to paragraph (g)(2) of this Rule, where applicable); and/or

(B) Exchange staff's determination not to issue a letter of withdrawal of all requirements and/or restrictions imposed by the notice, if such was requested by the ETP Holder.

(f) Enforcement of Notice

An ETP Holder that has failed to comply with the requirements and/or restrictions imposed by an effective notice under this Rule shall be deemed, without further notice from Exchange staff, automatically and immediately suspended. Such suspension shall remain in effect unless Exchange staff shall issue a letter, pursuant to paragraph (g)(2) of this Rule, stating that the suspension is lifted.

(g) Additional Requirements and/or Restrictions or the Removal or Reduction of Requirements and/or Restrictions; Letter of Withdrawal of the Notice

(1) Additional Requirements and/or Restrictions

If a ETP Holder continues to violate the provisions of Exchange Act Rule 15c3-1, notwithstanding an effective notice, Exchange staff may impose additional requirements and/or restrictions by serving an additional notice under paragraph (b) of this Rule. The additional notice shall inform the ETP Holder that it may apply for relief from the additional requirements and/or restrictions by filing a written request for a letter of withdrawal of the notice and/or a written request for a hearing before the Office of Hearing Officers under Rule 10.9559. The procedures delineated in this Rule shall be applicable to such additional notice.

(2) Removal or Reduction of Requirements and/or Restrictions and/or Lifting of Suspension; Letter of Withdrawal

(A) Removal or Reduction of Requirements and/or Restrictions

If, upon the ETP Holder's demonstration to the satisfaction of Exchange staff, Exchange staff determines that any requirements and/or restrictions imposed by a notice under this Rule should be removed or reduced, Exchange staff shall serve the ETP Holder, pursuant to paragraph (b) of this Rule, a written letter of withdrawal that shall, in the sole discretion of Exchange staff, withdraw the notice in whole or in part. A notice that is withdrawn in part shall remain in force, unless Exchange staff shall remove the remaining requirements and/or restrictions.

(B) Lifting of Suspension

If, upon the ETP Holder's demonstration to the satisfaction of Exchange staff, Exchange staff determines that a suspension imposed by a notice under this Rule should be lifted, Exchange staff shall serve the ETP Holder, pursuant to paragraph (b) of this Rule, a letter that shall, in the sole discretion of Exchange staff, lift the suspension. Where all or some of the requirements and/or restrictions imposed by a notice issued under this Rule remain in force, the letter shall state that the ETP Holder's failure to continue to comply with those requirements and/or restrictions that remain effective shall result in the ETP Holder being immediately suspended.

(h) Exchange Staff

For purposes of this Rule, "Exchange staff" shall mean:

(1) the head of the Exchange department or office that issued the notice, or his or her written officer delegate; or

(2) if another department or office is named as the party handling the matter on behalf of the issuing department or office, the head of the department or office that is so designated, or his or her written officer delegate.

Rule 10.9558. Summary Proceedings for Actions Authorized by Section 6(d)(3) of the Exchange Act

(a) Notice of Initiation of Summary Proceedings

The Exchange's CRO or such other senior officer as the CRO may designate may provide written authorization to Exchange staff to issue on a case-by-case basis a written notice that summarily:

> (1) suspends an ETP Holder or Associated Person who has been and is expelled or suspended from any self-regulatory organization or barred or suspended from being associated with an ETP Holder of any self-regulatory organization;

(2) suspends an ETP Holder that is in such financial or operating difficulty that Exchange staff determines and so notifies the SEC that the ETP Holder cannot be permitted to continue to do business as an ETP Holder with safety to investors, creditors, other ETP Holders, or the Exchange; or

(3) limits or prohibits any person with respect to access to services offered by the Exchange if paragraphs (a)(1) or (2) of this Rule or the provisions of Section 6(d)(3) of the Exchange Act applies to such person or, in the case of a person who is not an ETP Holder or Associated Person, if the Exchange's CRO or such other senior officer as the CRO may designate determines that such person does not meet the qualification requirements or other prerequisites for such access and such person cannot be permitted to continue to have such access with safety to investors, creditors, ETP Holders, or the Exchange, and so notifies the SEC.

(b) Service of Notice

Exchange staff shall serve the ETP Holder or Associated Person or other person subject to a notice issued under this Rule (or counsel representing the ETP Holder or Associated Person, or other person authorized to represent others under Rule 10.9141, when counsel or other person authorized to represent others under Rule 10.9141 agrees to accept service for the ETP Holder or Associated Person) by email, overnight courier or personal delivery. Papers served by overnight courier or personal delivery shall conform to paragraphs (a)(1) and (3) and (b)(1) and (2) of Rule 10.9134. Papers served on an ETP Holder by email shall be sent to the email address on file with the Exchange staff and shall also be served by either overnight courier or personal delivery in conformity with paragraphs (a)(1) and (3) and (b)(1) and (2) of Rule 10.9134. Papers served on a person by email shall be sent to the person's last known email address and shall also be served by either overnight courier or personal delivery in conformity with paragraphs (a)(1) and (3) and (b)(1) of Rule 10.9134. Papers served on counsel for an ETP Holder or Associated Person, or other person authorized to represent others under Rule 10.9141 by email shall be sent to the email address that counsel or other person authorized to represent others under Rule 10.9141 provides and shall also be served by either overnight courier or personal delivery in conformity with paragraphs (a)(1) and (3) of Rule 10.9134. A copy of a notice under this Rule that is served on a Associated Person associated with an ETP Holder also shall be served on such ETP Holder. Service is complete upon sending the notice by email or overnight courier or delivering it in person, except that, where duplicate service is required, service is complete upon sending the duplicate service.

(c) Contents of Notice

A notice issued under this Rule shall state the specific grounds and include the factual basis for the Exchange action. The notice shall state when the Exchange action will take effect and explain what the respondent must do to avoid such action. The notice shall

state that the respondent may file a written request for a hearing with the Office of Hearing Officers pursuant to Rule 10.9559. The notice also shall inform the respondent of the applicable deadline for filing a request for a hearing and shall state that a request for a hearing must set forth with specificity any and all defenses to the Exchange action. In addition, the notice shall explain that, pursuant to Rules 10.8310(a) and 10.9559(n), a Hearing Officer or, if applicable, Hearing Panel, may approve, modify or withdraw any and all sanctions or limitations imposed by the notice, and may impose any other fitting sanction.

(d) Effective Date of Limitation, Prohibition or Suspension

The limitation, prohibition or suspension referenced in a notice issued and served under this Rule is immediately effective. The limitation, prohibition or suspension specified in the notice shall remain in effect unless, after a timely written request for a hearing and written request for a stay, the Chief Hearing Officer or Hearing Officer assigned to the matter finds good cause exists to stay the limitation, prohibition or suspension.

(e) Request for a Hearing and Stay

An ETP Holder or Associated Person or other person subject to a notice issued under this Rule may file with the Office of Hearing Officers a written request for a hearing pursuant to Rule 10.9559. A request for a hearing shall be made within seven days after service of the notice issued under this Rule. A request for a hearing must set forth with specificity any and all defenses to the Exchange action.

An ETP Holder or Associated Person or other person subject to a notice issued under this Rule may, concurrent with or after filing a request for a hearing, file with the Office of Hearing Officers a written request for a stay of the limitation, prohibition or suspension specified in the notice. A request for a stay must set forth with specificity any and all relevant facts and arguments supporting the request for a stay.

(f) Failure to Request Hearing

If an ETP Holder or Associated Person or other person subject to a notice issued under this Rule does not timely request a hearing within the time period specified in paragraph (e) of this Rule, the notice shall constitute final Exchange action.

(g) Request for Termination of the Limitation, Prohibition or Suspension

An ETP Holder or Associated Person or other person subject to a limitation, prohibition or suspension under this Rule may file a written request for termination of the limitation, prohibition or suspension on the ground of full compliance with the notice or decision. Such request shall be filed with the head of the Exchange department or office that issued the notice or, if another department or office is named as the party handling the matter on behalf of the issuing department or office, with the head of the department or office that

is so designated. The appropriate head of the department or office may grant relief for good cause shown.

Rule 10.9559. Hearing Procedures for Expedited Proceedings Under the Rule 10.9550 Series

(a) Applicability

The hearing procedures under this Rule shall apply to an ETP Holder, Associated Person or other person who is served with a notice issued under the Rule 10.9550 Series and who timely requests a hearing or who is served with a petition instituting an expedited proceeding under Rule 10.9556(h). For purposes of this Rule, such ETP Holders, Associated Persons or other persons shall be referred to as respondents.

(b) Computation of Time

Rule 10.9138 shall govern the computation of time in proceedings brought under the Rule 10.9550 Series, except that intermediate Saturdays, Sundays and Federal holidays shall be included in the computation in proceedings brought under Rules 10.9556 through 10.9558, unless otherwise specified.

(c) Stays

(1) Unless the Chief Hearing Officer or the Hearing Officer assigned to the matter orders otherwise for good cause shown, a timely request for a hearing shall stay the effectiveness of a notice issued under Rules 10.9552 through 10.9556, except that: (A) the effectiveness of a notice of a limitation or prohibition on access to services offered by the Exchange or an ETP Holder thereof under Rule 10.9555 with respect to services to which the ETP Holder, Associated Person or other person does not have access shall not be stayed by a request for a hearing; and (B) this paragraph has no applicability to a petition instituting an expedited proceeding under Rule 10.9556(h).

(2) A timely request for a hearing shall stay the effectiveness of a notice issued under Rule 10.9557 for ten business days after service of the notice or until the Office of Hearing Officers issues a written order under Rule 10.9559(o)(4)(A) (whichever period is less), unless the Exchange's CRO (or such other senior officer as the CRO may designate) determines that a notice under Rule 10.9557 shall not be stayed. Where a notice under Rule 10.9557 is stayed by a request for a hearing, such stay shall remain in effect only for ten business days after service of the notice or until the Office of Hearing Officers issues a written order under Rule 10.9559(o)(4)(A) (whichever period is less) and shall not be extended.

(3) A timely request for a hearing shall not stay the effectiveness of a notice issued under Rule 10.9558, unless the Chief Hearing Officer or the Hearing Officer assigned to the matter orders otherwise for good cause shown.

(d) Appointment and Authority of Hearing Officer and/or Hearing Panel

(1) For proceedings initiated under Rules 10.9554 and 10.9556(h), the Chief Hearing Officer shall appoint a Hearing Officer to preside over and act as the sole adjudicator for the matter.

(2) For proceedings initiated under Rules 10.9552, 10.9555, 10.9556 (except Rule 10.9556(h)), 10.9557 and 10.9558, the Chief Hearing Officer shall appoint a Hearing Panel composed of a Hearing Officer and two Panelists. The Hearing Officer shall serve as the chair of the Hearing Panel. For proceedings initiated under Rules 10.9552, 10.9555, 10.9556 (except Rule 10.9556(h)), 10.9557 and 10.9558, the Chief Hearing Officer shall select as Panelists persons who meet the qualifications delineated in Rules 10.9231 and 10.9232.

(3) Rules 10.9231(e), 10.9233 and 10.9234 shall govern disqualification, recusal or withdrawal of a Hearing Officer or, if applicable, Hearing Panelist.

(4) A Hearing Officer appointed pursuant to this provision shall have authority to do all things necessary and appropriate to discharge his or her duties as set forth under Rules 10.9235 and 10.9280.

(5) Hearings under the Rule 10.9550 Series shall be held by telephone conference, unless the Hearing Officer orders otherwise for good cause shown.

(6) For good cause shown, or with the consent of all of the parties to a proceeding, the Hearing Officer or, if applicable, the Hearing Panel may extend or shorten any time limits prescribed by this Rule other than those relating to Rule 10.9557.

(e) Consolidation or Severance of Proceedings

Rule 10.9214 shall govern the consolidation or severance of proceedings, except that, where one of the notices that are the subject of consolidation under this Rule requires that a hearing be held before a Hearing Panel, the hearing of the consolidated matters shall be held before a Hearing Panel. Where two consolidated matters contain different timelines under this Rule, the Chief Hearing Officer or Hearing Officer assigned to the matter has discretion to determine which timeline is appropriate under the facts and circumstances of the case. Where one of the consolidated matters includes an action brought under a Rule

that does not permit a stay of the effectiveness of the notice or where Exchange's CRO (or such other senior officer as the CRO may designate), in the case of Rule 10.9557, or the Hearing Officer, in the case of Rule 10.9558(d), determines that a request for a hearing shall not stay the effectiveness of the notice, the limitation, prohibition, condition, requirement, restriction, or suspension specified in the notice shall not be stayed pending resolution of the case.

(f) Time of Hearing

(1) A hearing shall be held within five business days after a respondent subject to a notice issued under Rule 10.9557 files a written request for a hearing with the Office of Hearing Officers.

(2) A hearing shall be held within ten days after a respondent is served a petition seeking an expedited proceeding issued under Rule 10.9556(h).

(3) A hearing shall be held within 14 days after a respondent subject to a notice issued under Rules 10.9556 (except Rule 10.9556(h)) and 10.9558 files a written request for a hearing with the Office of Hearing Officers.

(4) A hearing shall be held within 30 days after a respondent subject to a notice issued under Rules 10.9552 through 10.9555 files a written request for a hearing with the Office of Hearing Officers.

(5) The timelines established by paragraphs (f)(1) through (f)(4) confer no substantive rights on the parties.

(g) Notice of Hearing

The Hearing Officer shall issue a notice stating the date, time, and place of the hearing as follows:

(1) At least two business days prior to the hearing in the case of an action brought pursuant to Rule 10.9557;

(2) At least six days prior to the hearing in the case of an action brought pursuant to Rule 10.9556(h);

(3) At least seven days prior to the hearing in the case of an action brought pursuant to Rules 10.9556 (except Rule 10.9556(h)) and 10.9558; and

(4) At least 21 days prior to the hearing in the case of an action brought pursuant to Rules 10.9552 through 10.9555.

(h) Transmission of Documents

(1) Not less than two business days before the hearing in an action brought under Rule 10.9557, not less than six days before the hearing in an action brought under Rule 10.9556(h), not less than seven days before the hearing in an action brought under Rules 10.9556 (except Rule 10.9556(h)) and 10.9558, and not less than 14 days before the hearing in an action brought under Rules 10.9552 through 10.9555, Exchange staff shall provide to the respondent who requested the hearing or the respondent who has received a petition pursuant to Rule 10.9556(h), by email, overnight courier or personal delivery, all documents that were considered in issuing the notice unless a document meets the criteria of Rule 10.9251(b)(1)(A), (B), (C) or (b)(2). Documents served by email shall also be served by either overnight courier or personal delivery. A document that meets the criteria in this paragraph shall not constitute part of the record, but shall be retained until the date upon which the Exchange's final decision is served or, if applicable, upon the conclusion of any review by the SEC or the federal courts.

(2) Not less than two business days before the hearing in an action brought under Rule 10.9557, not less than three days before the hearing in an action brought under Rules 10.9556 and 10.9558, and not less than seven days before the hearing in an action brought under Rules 10.9552 through 10.9555, the parties shall exchange proposed exhibit and witness lists. The exhibit and witness lists shall be served by email, overnight courier or personal delivery. Documents served by email shall also be served by either overnight courier or personal delivery.

(i) Evidence

Formal rules of evidence shall not apply to a hearing under this Rule Series. Rules 10.9262 and 10.9263 shall govern testimony and the admissibility of evidence.

(j) Additional Information

The Hearing Officer or, if applicable, the Hearing Panel may direct the Parties to submit additional information.

(k) Record of Hearing

Rule 10.9265 shall govern the requirements for the record of the hearing.

(l) Record of Proceeding

Rule 10.9267 shall govern the record of the proceeding.

(m) Failure to Appear at a Pre-Hearing Conference or Hearing or to Comply with a Hearing Officer Order Requiring the Production of Information

Failure of any respondent to appear before the Hearing Officer or, if applicable, the Hearing Panel at any status conference, pre-hearing conference or hearing, or to comply with any order of the Hearing Officer or, if applicable, Hearing Panel requiring production of information to support any defense to the notice or petition that respondent has raised, shall be considered an abandonment of the respondent's defense and waiver of any opportunity for a hearing provided by the Rule 10.9550 Series. In such cases:

(1) The notice issued under the Rule 10.9550 Series shall be deemed to be final Exchange action. The Hearing Officer or, if applicable, the Hearing Panel may permit the hearing to go forward as to those parties who appear and otherwise comply with this Rule.

(2) The Hearing Officer may issue a default decision against a respondent who is the subject of a petition filed pursuant to Rule 10.9556(h) and may deem the allegations against that respondent admitted. The contents of a default decision shall conform to the content requirements of Rule 10.9559(p). A respondent may, for good cause shown, file a motion to set aside a default. Upon a showing of good cause, the Hearing Officer that entered the original order shall decide the motion. If the Hearing Officer is not available, the Chief Hearing Officer shall appoint another Hearing Officer to decide the motion. If a default decision is not called for review pursuant to Rule 10.9559(q), the default decision shall become the final Exchange action.

(n) Sanctions, Costs and Remands

(1) In any action brought under the Rule 10.9550 Series, other than an action brought under Rule 10.9556(h) or Rule 10.9557, the Hearing Officer or, if applicable, the Hearing Panel may approve, modify or withdraw any and all sanctions, requirements, restrictions or limitations imposed by the notice and, pursuant to Rule 10.8310(a), may also impose any other fitting sanction.

(2) In an action brought under Rule 10.9556(h), the Hearing Officer may impose any fitting sanction.

(3) In an action brought under Rule 10.9557, the Hearing Panel shall approve or withdraw the requirements and/or restrictions imposed by the notice. If the Hearing Panel approves the requirements and/or restrictions and finds that the respondent has not complied with all of them, the Hearing Panel shall impose an immediate suspension on the respondent that shall remain in effect unless Exchange staff issues a letter of withdrawal of all requirements and/or restrictions pursuant to Rule 10.9557(g)(2).

(4) The Hearing Officer or, if applicable, the Hearing Panel may impose costs pursuant to Rule 10.8330 regarding all actions brought under the Rule 10.9550 Series.

(5) In any action brought under the Rule 10.9550 Series, other than an action brought under Rule 10.9557, the Hearing Officer or, if applicable, the Hearing Panel may remand the matter to the department or office that issued the notice for further consideration of specified matters.

(o) Timing of Decision

(1) Proceedings initiated under Rule 10.9554

Within 60 days of the date of the close of the hearing, the Hearing Officer shall prepare a proposed written decision and provide it to the Exchange Board of Directors.

(2) Proceedings initiated under Rules 10.9556 and 10.9558

Within 21 days of the date of the close of the hearing, the Hearing Officer shall prepare a proposed written decision that reflects the views of the Hearing Panel, as determined by majority vote, and provide it to the Exchange Board of Directors.

(3) Proceedings initiated under Rules 10.9552 and 10.9555

Within 60 days of the date of the close of the hearing, the Hearing Officer shall prepare a proposed written decision that reflects the views of the Hearing Panel, as determined by majority vote, and provide it to the Exchange Board of Directors.

(4) Proceedings initiated under Rule 10.9557

(A) Written Order

Within two business days of the date of the close of the hearing, the Office of Hearing Officers shall issue a written order that reflects the Hearing Panel's summary determinations, as decided by majority vote, and shall serve the Hearing Panel's written order on the Parties. The Hearing Panel's written order under Rule 10.9557 is effective when issued. The Hearing Panel's written order will be followed by a written decision explaining the reasons for the Hearing Panel's summary determinations, as required by paragraphs (o)(4)(B) and (p) of this Rule.

(B) Written Decision

Within seven days of the issuance of the Hearing Panel's written order, the Office of Hearing Officers shall issue a written decision that complies with the requirements of paragraph (p) of this Rule and shall serve the Hearing Panel's written decision on the Parties.

(5) If not timely called for review by the Exchange Board of Directors pursuant to paragraph (q) of this Rule, the Hearing Officer's or, if applicable, the Hearing Panel's written decision shall constitute final Exchange action. For decisions issued under Rules 10.9552 through 10.9556 and 10.9558, the Office of Hearing Officers shall promptly serve the decision of the Hearing Officer or, if applicable, the Hearing Panel on the Parties and provide a copy to each ETP Holder with which the respondent is associated.

(6) The timelines established by paragraphs (o)(1) through (5) confer no substantive rights on the parties.

(p) Contents of Decision

The decision, which for purposes of Rule 10.9557 means the written decision issued under paragraph (o)(4)(B) of this Rule, shall include:

(1) a statement describing the investigative or other origin of the notice issued under the Rule 10.9550 Series;

(2) the specific statutory or rule provision alleged to have been violated or providing the authority for the Exchange action;

(3) a statement setting forth the findings of fact with respect to any act or practice the respondent was alleged to have committed or omitted or any condition specified in the notice;

(4) the conclusions of the Hearing Officer or, if applicable, Hearing Panel regarding the alleged violation or condition specified in the notice;

(5) a statement of the Hearing Officer or, if applicable, Hearing Panel in support of the disposition of the principal issues raised in the proceeding; and

(6) a statement describing any sanction, requirement, restriction or limitation imposed, the reasons therefore, and the date upon which such sanction, requirement, restriction or limitation shall become effective.

(q) Call for Review by the Exchange Board of Directors

(1) For proceedings initiated under the Rule 10.9550 Series (other than Rule 10.9557), the Exchange Board of Directors may call for review a proposed decision prepared by a Hearing Officer or, if applicable, Hearing Panel in accordance with Rule 10.9310. For proceedings initiated under Rule 10.9557, the Exchange Board of Directors may call for review a written decision issued under paragraph (o)(4)(B) of this Rule by a Hearing Panel in accordance with Rule 10.9310.

(r) Application to SEC for Review

The right to have any action pursuant to this Rule reviewed by the SEC is governed by Section 19 of the Exchange Act. The filing of an application for review by the SEC shall not stay the effectiveness of final Exchange action, unless the SEC otherwise orders.

Rule 10.9560. Expedited Suspension Proceeding

(a) Initiation of Proceeding

(1) Scope of Authority

With the prior written authorization of the Chief Regulatory Officer ("CRO") or such other senior officers as the CRO may designate, Enforcement may initiate an expedited suspension proceeding with respect to alleged violations of Rule 11.12.11 (Disruptive Quoting and Trading Activity Prohibited).

(2) Service of Notice

Enforcement shall initiate the proceeding by serving a notice on an ETP Holder or Associated Person of an ETP Holder (hereinafter "Respondent"). Enforcement shall serve the notice by personal service or overnight commercial courier. The notice shall be effective upon service.

(3) Content of Notice

The notice shall state whether Enforcement is requesting the Respondent to be required to take action or to refrain from taking action. The notice shall be accompanied by:

(A) a declaration of facts, signed by a person with knowledge of the facts contained therein, that specifies the acts that constitute the alleged violation; and

(B) a proposed order that contains the required elements of a suspension order (except the date and hour of the order's issuance), which are set forth in sub-paragraph (d)(2) of this Rule).

(b) Appointment of Hearing Officers and Hearing Panel

(1) As soon as practicable after Enforcement initiates a suspension proceeding, a Hearing Panel shall be assigned in accordance with paragraphs (a) and (b) of Rule 10.9231.

(2) If at any time a Hearing Officer determines that he or she has a conflict of interest or bias or circumstances otherwise exist where his or her fairness might reasonably be questioned, or if a Party files a motion to disqualify a Hearing Officer, the recusal and disqualification proceeding shall be conducted in accordance with Rules 10.9233(a), except that:

(A) a motion seeking disqualification of a Hearing Officer must be filed no later than 5 days after the announcement of the Hearing Panel; and

(B) Enforcement may file a brief in opposition to the Respondent's motion no later than 5 days after service thereof.

(c) Hearing

(1) When Held. The hearing shall be held not later than 15 days after service of the notice initiating the suspension proceeding, unless otherwise extended by the Chairman of the Hearing Panel with the consent of the Parties for good cause shown. If a Hearing Officer is recused or disqualified, the hearing shall be held not later than five days after a replacement Hearing Officer is appointed.

(2) Service of Notice of Hearing. A notice of date, time, and place of the hearing shall be served on the Parties not later than seven days before the hearing, unless otherwise ordered by the Chairman of the Hearing Panel. Service shall be made by personal service or overnight commercial courier. The notice shall be effective upon service.

(3) Authority of Hearing Officers. A Hearing Officer shall have authority to do all things necessary and appropriate to discharge his or her duties as set forth in Rules 10.9235 and 10.9280.

(4) Witnesses. A person who is subject to the jurisdiction of the Exchange shall testify under oath or affirmation. The oath or affirmation shall be administered by a court reporter or a notary public.

(5) Additional Information. At any time during its consideration, the Hearing Panel may direct a Party to submit additional information. Any additional information submitted shall be provided to all Parties at least one day before the Hearing Panel renders its decision.

(6) Transcript. The hearing shall be recorded by a court reporter and a written transcript thereof shall be prepared. A transcript of the hearing shall be available to the Parties for purchase from the court reporter at prescribed rates. A witness may purchase a copy of

the transcript of his or her own testimony from the court reporter at prescribed rates. Proposed corrections to the transcript may be submitted by affidavit to the Hearing Panel within a reasonable time determined by the Hearing Panel. Upon notice to all the Parties to the proceeding, the Hearing Panel may order corrections to the transcript as requested or sua sponte.

(7) Record and Evidence Not Admitted. The record shall consist of the notice initiating the proceeding, the declaration, and the proposed order described in subparagraph (a)(3) above; the transcript of the hearing; all evidence considered by the Hearing Panel; and any other document or item accepted into the record by the Hearing Panel. Enforcement shall be the custodian of the record. Proffered evidence that is not accepted into the record by the Hearing Panel shall be retained by the custodian of the record until the date when the Exchange's decision becomes final or, if applicable, upon the conclusion of any review by the SEC or the federal courts.

(8) Failure to Appear at a Hearing. If a Respondent fails to appear at a hearing for which it has notice, the allegations in the notice and accompanying declaration may be deemed admitted, and the Hearing Panel may issue a suspension order without further proceedings. If Enforcement fails to appear at a hearing for which it has notice, the Hearing Panel may order that the suspension proceeding be dismissed.

(d) Issuance of Suspension Order by Hearing Panel

(1) Basis for Issuance. The Hearing Panel shall issue a written decision stating whether a suspension order shall be imposed. The Hearing Panel shall issue the decision not later than ten days after receipt of the hearing transcript, unless otherwise extended by the Chairman of the Hearing Panel with the consent of the Parties for good cause shown. A suspension order shall be imposed if the Hearing Panel finds:

(A) by a preponderance of the evidence that the alleged violation specified in the notice has occurred; and

(B) that the violative conduct or continuation thereof is likely to result in significant market disruption or other significant harm to investors.

(2) Content, Scope, and Form of Order. A suspension order shall:

(A) be limited to: (i) ordering a Respondent to cease and desist from violating Rule 11.12.11, and/or (ii) ordering a Respondent to cease and desist from providing access to the Exchange to a client of Respondent that is causing violations of Rule 11.12.11;

(B) set forth the alleged violation and the significant market disruption or other significant harm to investors that is likely to result without the issuance of an order;

(C) describe in reasonable detail the act or acts the Respondent is to take or refrain from taking and to suspend the Respondent unless and until such action is taken or refrained from; and

(D) include the date and hour of its issuance.

(3) Duration of Order. A suspension order shall remain effective and enforceable unless modified, set aside, limited, or revoked pursuant to paragraph (e), below.

(4) Service. The Hearing Panel's decision and any suspension order shall be served by personal service or overnight commercial courier. The suspension order shall be effective upon service.

(e) Review by Hearing Panel

At any time after the Respondent is served with a suspension order, a Party may apply to the Hearing Panel to have the order modified, set aside, limited, or revoked. The application shall set forth with specificity the facts that support the request. The opposing Party shall have an opportunity to respond to the request within a period of time set by the Chairman of the Hearing Panel. The Hearing Panel shall respond to the request in writing within ten days after receipt of the request, unless otherwise extended by the Chairman of the Hearing Panel with the consent of the Parties for good cause shown. The Hearing Panel's response shall be served on the Respondent via personal service or overnight commercial courier. The filing of an application under this Rule shall not stay the effectiveness of the suspension order.

(f) Call for Review by the Exchange Board of Directors

If there is no pending application to the Hearing Panel to have a suspension order modified, set aside, limited, or revoked, the Exchange Board of Directors, in accordance with Rule 10.9310, may call for review the Hearing Panel decision on whether to issue a suspension order. A call for review by the Exchange Board of Directors shall not stay the effectiveness of a suspension order.

(g) Application to SEC for Review

If there is no call for review by the Exchange Board of Directors, sanctions imposed pursuant to this Rule constitute final and immediately effective disciplinary sanctions imposed by the Exchange. If there is a call for review by the Exchange Board of Directors, their decision shall constitute final and immediately effective disciplinary sanctions imposed by the Exchange. The right to have any action under this Rule reviewed by the SEC is governed by Section 19 of the Exchange Act. The filing of an application for review shall not stay the effectiveness of a suspension order unless the SEC otherwise orders.

RULE 10.9600. PROCEDURES FOR EXEMPTIONS

Rule 10.9610. Application

(a) Where to File

An ETP Holder seeking exemptive relief as permitted under Rule 10.8211 shall file a written application with the appropriate department or staff of the Exchange and provide a copy of the application to the CRO.

(b) Content

An application filed pursuant to this Rule shall contain the ETP Holder's name and address, the name of a Person Associated with ETP Holder who will serve as the primary contact for the application, the Rule from which the ETP Holder is seeking an exemption, and a detailed statement of the grounds for granting the exemption. If the ETP Holder does not want the application or the decision on the application to be publicly available in whole or in part, the ETP Holder also shall include in its application a detailed statement, including supporting facts, showing good cause for treating the application or decision as confidential in whole or in part.

(c) Applicant

An ETP Holder that files an application under this Rule is referred to as "Applicant" hereinafter in the Rule 10.9600 Series.

Rule 10.9620. Decision

After considering an application, Exchange staff shall issue a written decision setting forth its findings and conclusions. The decision shall be served on the Applicant pursuant to Rules 10.9132 and 10.9134. After the decision is served on the Applicant, the application and decision may be publicly available.

Rule 10.9630. Appeal

(a) Notice

An Applicant may file a written notice of appeal within 15 calendar days after service of a decision issued under Rule 10.9620. The notice of appeal shall be filed with the CRO, with a copy of the notice also provided to the appropriate department or staff of the Exchange. The notice of appeal shall contain a brief statement of the findings and conclusions as to which exception is taken. Appeals of decisions issued by Exchange staff pursuant to Rule 10.9620 shall be decided by the CRO. If the Applicant does not want the decision on the appeal to be publicly available in whole or in part, the Applicant also shall include in its notice of appeal a detailed statement, including supporting facts, showing good cause for treating the decision as confidential in whole or in part. The notice of appeal shall be signed by the Applicant.

(b) Expedited Review

Where the failure to promptly review a decision to deny a request for exemption would unduly or unfairly harm the applicant, the CRO shall provide expedited review.

(c) Withdrawal of Appeal

An Applicant may withdraw its notice of appeal at any time by filing a written notice of withdrawal of appeal with the CRO.

(d) Oral Argument

Following the filing of a notice of appeal, the CRO may order oral argument. The CRO may consider any new evidence if the Applicant can show good cause for not including it in its application.

(e) Decision

After considering all matters on appeal, the CRO shall affirm, modify, or reverse the decision issued under Rule 10.9620. The CRO shall issue a written decision setting forth its findings and conclusions and serve the decision on the Applicant. The decision shall be served pursuant to Rules 10.9132 and 10.9134. The decision shall be effective upon service and shall constitute final action of the Exchange.

RULE 10.9700. Reserved.

RULE 10.9800. TEMPORARY CEASE AND DESIST ORDERS

Rule 10.9810. Initiation of Proceeding

(a) Enforcement; Service and Filing of Notice

With the prior written authorization of the Exchange's CRO or such other senior officers as the CRO may designate, Enforcement may initiate a temporary cease and desist proceeding with respect to alleged violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder; Exchange Act Rules 15g-1 through 15g-9; or Rule 11.3.1 (if the alleged violation is unauthorized trading, or misuse or conversion of customer assets, or based on violations of Section 17(a) of the Securities Act). Enforcement shall initiate the proceeding by serving a notice on an ETP Holder or Associated Person (hereinafter "Respondent") (or upon counsel representing the Respondent, or other person authorized to represent others under Rule 10.9141, when counsel or other person authorized to represent others under Rule 10.9141 agrees to accept service for the Respondent) and filing a copy thereof with the Office of Hearing Officers. Enforcement shall serve the notice by personal service, overnight commercial courier, or email. If service is made by email, Enforcement shall send an additional copy of the notice by personal service or overnight commercial courier. Service is complete upon sending the notice by email or

overnight courier or delivering it in person, except that, where duplicate service is required, service is complete when the duplicate service is complete. The notice shall be effective when service is complete.

(b) Contents of Notice

The notice shall set forth the rule or statutory provision that the Respondent is alleged to have violated and that Enforcement is seeking to have the Respondent ordered to cease violating. The notice also shall state whether Enforcement is requesting the Respondent to be required to take action, refrain from taking action or both. The notice shall be accompanied by:

(1) a declaration of facts, signed by a person with knowledge of the facts contained therein, that specifies the acts or omissions that constitute the alleged violation;

(2) a memorandum of points and authorities setting forth the legal theories upon which Enforcement relies; and

(3) a proposed order that contains the required elements of a temporary cease and desist order (except the date and hour of the order's issuance), which are set forth in Rule 10.9840(b).

(c) Authority to Approve Settlements

If the Parties agree to the terms of the proposed temporary cease and desist order, the Hearing Officer shall have the authority to approve and issue the order.

(d) Filing of Underlying Complaint

If Enforcement has not issued a complaint under Rule 10.9211 against the Respondent relating to the subject matter of the temporary cease and desist proceeding and alleging violations of the rule or statutory provision specified in the notice described in paragraph (b), Enforcement shall serve and file such a complaint with the notice initiating the temporary cease and desist proceeding. Service of the complaint can be made in accordance with the service provisions in paragraph (a).

Rule 10.9820. Appointment of Hearing Officer and Hearing Panel

(a) As soon as practicable after Enforcement files a copy of the notice initiating a temporary cease and desist proceeding with the Office of Hearing Officers, the Chief Hearing Officer shall assign a Hearing Officer to preside over the temporary cease and desist proceeding. The Chief Hearing Officer shall appoint two Panelists to serve on a Hearing Panel with the Hearing Officer. The Panelists shall be appointed pursuant to Rule 10.9231.

(b) If at any time a Hearing Officer or Hearing Panelist determines that he or she has a conflict of interest or bias or circumstances otherwise exist where his or her fairness might reasonably be questioned, or if a Party files a motion to disqualify a Hearing Officer or Hearing Panelist, the recusal and disqualification proceeding shall be conducted in accordance with Rules 10.9233 and 10.9234, except that:

(1) a motion seeking disqualification of a Hearing Officer or Hearing Panelist must be filed no later than 5 days after the later of the events described in paragraph (b) of Rules 10.9233 and 10.9234; and

(2) the Chief Hearing Officer shall appoint a replacement Panelist using the criteria set forth in paragraph (a) of this Rule.

Rule 10.9830. Hearing

(a) When Held

The hearing shall be held not later than 15 days after service of the notice and filing initiating the temporary cease and desist proceeding, unless otherwise extended by the Chief Hearing Officer or Deputy Chief Hearing Officer for good cause shown. If a Hearing Officer or Hearing Panelist is recused or disqualified, the hearing shall be held not later than five days after a replacement Hearing Officer or Hearing Panelist is appointed.

(b) Service of Notice of Hearing

The Office of Hearing Officers shall serve a notice of date, time, and place of the hearing on Enforcement and the Respondent (or upon counsel representing the Respondent, or other person authorized to represent others under Rule 10.9141, when counsel or other person authorized to represent others under Rule 10.9141 agrees to accept service for the Respondent) not later than seven days before the hearing, unless otherwise ordered by the Hearing Officer. Service shall be made by personal service, overnight commercial courier, or email. If service is made by email, the Office of Hearing Officers shall send an additional copy of the notice by personal service or overnight commercial courier. Service is complete upon sending the notice by email or overnight courier or delivering it in person, except that, where duplicate service is required, service is complete when the duplicate service is complete. The notice shall be effective when service is complete.

(c) Authority of Hearing Officer

The Hearing Officer shall have authority to do all things necessary and appropriate to discharge his or her duties as set forth under Rule 10.9235.

(d) Witnesses

A person who is subject to the jurisdiction of the Exchange shall testify under oath or affirmation. The oath or affirmation shall be administered by a court reporter or a notary public.

(e) Additional Information

Prior to the hearing, the Hearing Officer may order a Party to furnish to all other Parties and the Hearing Panel such information as deemed appropriate, including any or all of the pre-hearing submissions described in Rule 10.9242(a). The documentary evidence submitted by the Parties pursuant to this paragraph shall not become part of the record, unless the Hearing Officer or Hearing Panel orders some or all of such evidence included pursuant to Rule 10.9830(g). At any time during the Hearing Panel's consideration, the Hearing Panel may direct a Party to submit additional information. Any additional information submitted shall be provided to all Parties at least one day before the Hearing Panel renders its decision.

(f) Transcript

The hearing shall be recorded by a court reporter and a written transcript thereof shall be prepared. A transcript of the hearing shall be available to the Parties for purchase from the court reporter at prescribed rates. A witness may purchase a copy of the transcript of his or her own testimony from the court reporter at prescribed rates. Proposed corrections to the transcript may be submitted by affidavit to the Hearing Panel within a reasonable time determined by the Hearing Panel. Upon notice to all the Parties to the proceeding, the Hearing Panel may order corrections to the transcript as requested or sua sponte.

(g) Record and Evidence Not Admitted

The record shall consist of the notice initiating the proceeding, the declaration, and the proposed order described in Rule 10.9810(b); the transcript of the hearing; all evidence considered by the Hearing Panel; and any other document or item accepted into the record by the Hearing Officer or the Hearing Panel. The Office of Hearing Officers shall be the custodian of the record. Proffered evidence that is not accepted into the record by the Hearing Panel shall be retained by the custodian of the record until the date when the Exchange's decision becomes final or, if applicable, upon the conclusion of any review by the SEC or the federal courts.

(h) Failure to Appear at Hearing

If a Respondent fails to appear at a hearing for which it has notice, the allegations in the notice and accompanying declaration may be deemed admitted, and the Hearing Panel may issue a temporary cease and desist order without further proceedings. If Enforcement fails to appear at a hearing for which it has notice, the Hearing Panel may order that the temporary cease and desist proceeding be dismissed.

Rule 10.9840. Issuance of Temporary Cease and Desist Order by Hearing Panel

(a) Basis for Issuance

The Hearing Panel shall issue a written decision stating whether a temporary cease and desist order shall be imposed. The Hearing Panel shall issue the decision not later than ten days after receipt of the hearing transcript, unless otherwise extended by the Chief Hearing Officer or Deputy Chief Hearing Officer for good cause shown. A temporary cease and desist order shall be imposed if the Hearing Panel finds:

(1) that Enforcement has made a showing of a likelihood of success on the merits; and

(2) that the alleged violative conduct or continuation thereof is likely to result in significant dissipation or conversion of assets or other significant harm to investors prior to the completion of the underlying disciplinary proceeding under the Rule 10.9200 and 10.9300 Series.

(b) Content, Scope, and Form of Order

A temporary cease and desist order shall:

(1) be limited to ordering a Respondent (and any successor of a Respondent, where the Respondent is an ETP Holder) to cease and desist from violating a specific rule or statutory provision, and, where applicable, to ordering a Respondent (and any successor of a Respondent, where the Respondent is an ETP Holder) to cease and desist from dissipating or converting assets or causing other harm to investors;

(2) set forth the alleged violation and the significant dissipation or conversion of assets or other significant harm to investors that is likely to result without the issuance of an order;

(3) describe in reasonable detail the act or acts the Respondent (and any successor of a Respondent, where the Respondent is an ETP Holder) shall take, refrain from taking, or both; and

(4) include the date and hour of its issuance.

(c) Duration of Order

A temporary cease and desist order shall remain effective and enforceable until the issuance of a decision under Rule 10.9268 or Rule 10.9269, or until a settlement offer is accepted pursuant to Rule 10.9270.

(d) Service and Dissemination Requirements

The Office of Hearing Officers shall serve the Hearing Panel's decision and any temporary cease and desist order on Enforcement and the Respondent (or upon counsel representing the Respondent, or other person authorized to represent others under Rule 10.9141, when counsel or other person authorized to represent others under Rule 10.9141 agrees to accept service for the Respondent) by personal service, overnight commercial courier, or email. If service is made by email, the Office of Hearing Officers shall send an additional copy of the Hearing Panel's decision and any temporary cease and desist order by personal service or overnight commercial courier. Service is complete upon sending the notice by email or overnight courier, or delivering it in person, except that, where duplicate service is required, service is complete when the duplicate service is complete. The temporary cease and desist order shall be effective when service is complete. The Office of Hearing Officers shall provide a copy of the temporary cease and desist order to each ETP Holder with which a Respondent is associated.

(e) Delivery Requirement

Where a Respondent is an ETP Holder, Respondent shall deliver a copy of a temporary cease and desist order, within one business day of receiving it, to its Associated Persons.

Rule 10.9850. Review by Hearing Panel

At any time after the Office of Hearing Officers serves the Respondent (or counsel representing the Respondent, or other person authorized to represent others under Rule 10.9141, when counsel or other person authorized to represent others under Rule 10.9141 agrees to accept service for the Respondent) with a temporary cease and desist order, a Party may apply to the Hearing Panel to have the order modified, set aside, limited, or suspended. The application shall set forth with specificity the facts that support the request. The Hearing Panel that presided over the temporary cease and desist order proceeding shall retain jurisdiction to modify, set aside, limit, or suspend the temporary cease and desist order, unless at the time the application is filed a Hearing Panel has already been appointed in the underlying disciplinary proceeding commenced under Rule 10.9211 in which case the Hearing Panel appointed in the disciplinary proceeding has jurisdiction. The Hearing Panel shall respond to the request in writing within ten days after receipt of the request, unless otherwise extended by the Chief Hearing Officer or Deputy Chief Hearing Officer for good cause shown. The Hearing Panel's response shall be served on the Respondent (or upon counsel representing the Respondent, or other person authorized to represent others under Rule 10.9141, when counsel or other person authorized to represent others under Rule 10.9141 agrees to accept service for the Respondent) via personal service, overnight commercial courier, or email. If service is made by email, the Office of Hearing Officers shall send an additional copy of the temporary cease and desist order by personal service or overnight commercial courier. The filing of an application under this Rule shall not stay the effectiveness of the temporary cease and desist order.

Rule 10.9860. Violation of Temporary Cease and Desist Orders

A Respondent who violates a temporary cease and desist order imposed under this Rule Series may have its association or ETP suspended or canceled or be subject to any fitting sanction under Rule 10.9556. The Exchange's CRO or such other senior officer as the CRO may designate must authorize the initiation of any such proceeding in writing.

Rule 10.9870. Application to SEC for Review

Temporary cease and desist orders issued pursuant to this Rule Series constitute final and immediately effective disciplinary sanctions imposed by the Exchange. The right to have any action under this Rule Series reviewed by the SEC is governed by Section 19 of the Exchange Act. The filing of an application for review shall not stay the effectiveness of the temporary cease and desist order, unless the SEC otherwise orders.

RULE 11 [BUSINESS CONDUCT]RULES OF FAIR PRACTICE; BOOKS AND RECORDS; SUPERVISION; EXTENSIONS OF CREDIT; TRADING PRACTICES

Rules of Fair Practice

Rule 11.3.1. Business Conduct of ETP Holders

An ETP Holder, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade.

Commentary:

.01 An ETP Holder may not split any order into multiple smaller orders for any purpose other than seeking the best execution for the entire order.

Rule 11.3.2. Violations Prohibited

No ETP Holder shall engage in conduct in violation of the Exchange Act, the rules or regulations thereunder, the By-Laws, Exchange Rules or any policy or written interpretation of the By-Laws or Exchange Rules by the Board or an appropriate Exchange Committee. Every ETP Holder shall so supervise Persons Associated with the ETP Holder as to assure compliance with those requirements.

Rule 11.3.3. Use of Fraudulent Devices

No ETP Holder shall effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance.

Rule 11.3.4. False Statements

No ETP Holder or applicant for an ETP shall make any false statements or

misrepresentations in any application, report or other communication to the Exchange. No ETP Holder shall make any false statement or misrepresentation to any Exchange committee, officer, the Board or any designated self- regulatory organization in connection with any matter within the jurisdiction of the Exchange.

Rule 11.3.5. Advertising Practices

(a) No ETP Holder, directly or indirectly, in connection with the purchase or sale of any security that has listed or unlisted trading privileges on the Exchange, shall publish, circulate or distribute any advertisement, sales literature or market letter or make oral statements or presentations which the ETP Holder knows, or in the exercise of reasonable care should know, contain any untrue statement of material fact or which is otherwise false or misleading. Exaggerated or misleading statements or claims are prohibited.

(b) Advertisements, sales literature and market letters shall contain the name of the ETP Holder, the person or firm preparing the material, if other than the ETP Holder, and the date on which it was first published, circulated or distributed (except that in advertisements only the name of the ETP Holder need be stated).

(c) No cautionary statements or caveats, often called hedge clauses, may be used if they could mislead the reader or are inconsistent with the content of the material.

(d) Each item of advertising and sales literature and each market letter shall be approved by signature or initial, prior to use, by an officer, partner or other official the ETP Holder has designated to supervise all such matters.

(e) A separate file of all advertisements, sales literature and market letters, including the names of the persons who prepared them and/or approved their use, shall be maintained by the ETP Holder for a period of three years from the date of each use (for the first two years in a place readily accessible to examination or spot checks). Each ETP Holder shall file with the Exchange, or the designated self-regulatory organization for such ETP Holder, within five business days after initial use, each advertisement (i.e., any material for use in any newspaper or magazine or other public media or by radio, telephone, recording, motion picture or television, except tombstone advertisements), unless such advertisement may be published under the rules of another self-regulatory organization regulating the ETP Holder under the Act.

(f) Testimonial material based on experience with the ETP Holder or concerning any advice, analysis, report or other investment related service rendered by the ETP Holder must make clear that such testimony is not necessarily indicative of future performance or results obtained by others. Testimonials also shall state whether any compensation has been paid to the maker, directly or indirectly, and if the material implies special experience or expert opinion, the qualifications of the maker of the testimonial should be given.

(g) Any statement to the effect that a report or analysis or other service will be furnished

free or without any charge shall not be made unless such report or analysis or other service actually is or will be furnished entirely free and without condition or obligation.

(h) No claim or implication may be made for research or other facilities beyond those which the ETP Holder actually possesses or has reasonable capacity to provide.

Rule 11.3.6. Fair Dealing with Customers

All ETP Holders have a fundamental responsibility for fair dealing with their customers. Practices which do not represent fair dealing include, but are not limited to, the following:

(a) Recommending speculative securities to customers without knowledge of or an attempt to obtain information concerning the customers' other securities holdings, their financial situation and other necessary data. This prohibition has particular application to high pressure telephonic sales campaigns.

(b) Excessive activity in customer accounts (churning or overtrading) in relation to the objectives and financial situation of the customer.

(c) Establishment of fictitious accounts in order to execute transactions which otherwise would be prohibited or which are against firm policy.

(d) Causing the execution of transactions which are unauthorized by customers or the sending of confirmations in order to cause customers to accept transactions not actually agreed upon;

(e) Unauthorized use or borrowing of customer funds or securities; and

(f) Recommending the purchase of securities or the continuing purchase of securities in amounts which are inconsistent with the reasonable expectation that the customer has the financial ability to meet such a commitment.

Commentary:

.01 ETP Holders who handle customer orders on the Exchange shall establish and enforce fixed standards for queuing and executing customer orders.

Rule 11.3.7. Recommendations to Customers

(a) In recommending to a customer the purchase, sale or exchange of any security, an ETP Holder shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts disclosed by such customer, after reasonable inquiry by the ETP Holder, as to the customer's other securities holdings and as to the customer's financial situation and needs.

(b) An ETP Holder may use material referring to past recommendations if it sets forth all recommendations as to the same type, kind, grade or classification of securities made by the ETP Holder within the last year. Longer periods of years may be covered if they are consecutive and include the most recent year. Such material must also name each security recommended and give the date and nature of each recommendation (e.g., whether to buy or sell), the price at the time of the recommendation, the price at which, or the price within which, the recommendation was to be acted upon, and the fact that the period was one of generally failing or rising markets, if such was the case.

Rule 11.3.8. The Prompt Receipt and Delivery of Securities

(a) Purchases. No ETP Holder may accept a customer's purchase order for any security until it has first ascertained that the customer placing the order or its agent agrees to receive securities against payment in an amount equal to any execution, even though such an execution may represent the purchase of only a part of a larger order.

(b) Sales.

(1) No ETP Holder shall execute a sale order for any customer in any security unless:

(A) the other customer has possession of the security; or

(B) the customer is long the security in his account with the ETP Holder; or

(C) reasonable assurance is received by the ETP Holder from the customer that the security will be delivered to it in good deliverable form within three (3) business days of the execution of the order; or

(D) the security is on deposit in good deliverable form with (A) an ETP Holder of the Exchange, (B) a member of another self-regulatory organization or (C) any organization subject to state or federal banking regulations, and instructions have been forwarded to such member or organization to deliver the securities against payment.

(2) In order to satisfy the "requirement of reasonable assurance" contained in sub-paragraph (1)(iii) above, the ETP Holder, at the time it takes the order, shall make a notation on the order ticket which reflects the ETP Holder’s conversation with the customer as to the present location of the securities in question, whether they are in good deliverable form and his ability to deliver them to the ETP Holder within three business days.

Rule 11.3.9. Charges for Services Performed

An ETP Holder’s charges, if any, for services performed (including miscellaneous services such as collection of moneys due for principal, dividends or interest; exchange or transfer of securities; appraisals, safekeeping or custody of securities; and other services)

shall be reasonable and not unfairly discriminatory among customers.

Rule 11.3.10. Use of Information

An ETP Holder who, in the capacity of payment agent, transfer agent, or any other similar capacity, or in any fiduciary capacity, has received information as to the ownership of securities shall not make use of such information for soliciting purchases, sales or exchanges except at the request, and on behalf, of the issuer.

Rule 11.3.11. Publication of Transactions and Quotations

No ETP Holder shall report to the Exchange or publish or cause to be published any transaction as a purchase or sale of any security unless such ETP Holder believes that such transaction was a bona fide purchase or sale of such security, and no ETP Holder shall purport to quote the bid or asked price for any security, unless such ETP Holder believes that such quotation represents a bona fide bid for, or offer of, such security.

Rule 11.3.12. Offers at Stated Prices

No ETP Holder shall make an offer to buy from or sell to any person any security at a stated price unless such ETP Holder is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell.

Rule 11.3.13. Payment Designed to Influence Market Prices, Other than Paid Advertising

No ETP Holders shall directly or indirectly, give, permit to be given, or offer to give anything of value to any person for the purpose of influencing or rewarding the action of such person in connection with the publication or circulation in any newspaper, investment service or similar publication of any matter which has, or is intended to have, an effect upon the market price of any security; provided, that this Rule shall not be construed to apply to a matter which is clearly identifiable as paid advertising.

Rule 11.3.14. Disclosure on Confirmations

An ETP Holder, at or before the completion of each transaction with a customer, shall give or send to such customer such written notification or confirmation of the transaction as is required by Commission Rule 10b-10.

Rule 11.3.15. Disclosure of Control

An ETP Holder controlled by, controlling, or under common control with, the issuer of any security, shall disclose to a customer the existence of such control before entering into any contract with or for such customer for the purchase or sale or such security, and if such disclosure is not made in writing, it shall be supplemented by the giving or sending of a written disclosure to the customer at or before completion of the transaction.

Rule 11.3.16. Discretionary Accounts

(a) No ETP Holder shall effect any purchase or sale transactions with, or for, any customer's account in respect of which such ETP Holder is vested with any discretionary power if such transactions are excessive in size or frequency in view of the financial resources and character of such account.

(b) No ETP Holder shall exercise any discretionary power in a customer's account unless such customer has given prior written authorization and the account has been accepted by the ETP Holder, as evidenced in writing by a person duly designated by the ETP Holder.

(c) The ETP Holder shall approve promptly in writing each discretionary order entered and shall review all discretionary accounts at frequent intervals in order to detect and prevent transactions which are excessive in size or frequency in view of the financial resources and character of the account. The ETP Holder shall designate a partner, officer or manager in each office, including the main office, to carry out the approval and review procedures.

(d) This Rule shall not apply to an order by a customer for the purchase or sale of a definite amount of a specified security which order gives the ETP Holder discretion only over the time and price of execution.

Rule 11.3.17. Customer's Securities or Funds

No ETP Holder shall make improper use of a customer's securities or funds.

Rule 11.3.18. Prohibition Against Guarantees

No ETP Holder shall guarantee, directly or indirectly, a customer against loss in any securities account of such customer carried by the ETP Holder or in any securities transaction effected by the ETP Holder with or for such customer.

Rule 11.3.19. Sharing in Accounts; Extent Permissible

No ETP Holder shall share, directly or indirectly, in the profits or losses in any account of a customer carried by the ETP Holder or any other ETP Holder, unless authorized by the customer or ETP Holder carrying the account; and an ETP Holder shall share in the profits or losses in any account of such customer only in direct proportion to the financial contributions made to such account by the ETP Holder. Accounts of the immediate family of an ETP Holder shall be exempt from this direct proportionate share limitation. For purposes of this Rule, the term "immediate family" shall include parents, mother-in-law, father-in-law, husband or wife, children or any other relative to whose support the ETP Holder contributes directly or indirectly.

Rule 11.3.20. Installment or Partial Payment Sales

(a) No ETP Holder shall take or carry any account or make a transaction for any customer under any arrangement which contemplates or provides for the purchase of any security for the account of the customer, or for the sale of any security to the customer, where payment for the security is to be made to the ETP Holder by the customer over a period of time in installments or by a series or partial payments, unless:

(1) in the event such ETP Holder acts as an agent or broker in such transaction, the ETP Holder promptly shall make an actual purchase of the security for the account of the customer, take possession or control of such security and maintain possession or control thereof so long as the ETP Holder remains under an obligation to deliver the security to the customer;

(2) in the event such ETP Holder acts as a principal in such transaction, the ETP Holder shall own, at the time of such transaction, such security and shall maintain possession or control thereof so long as he remains under an obligation to deliver the security to the customer; and

(3) if applicable to such ETP Holder, the provisions of Regulation T of the Federal Reserve Board shall be satisfied.

(b) No ETP Holder, whether acting as principal or agent, shall make, in connection with any transaction referred to in this Rule, any agreement with his customer under which such ETP Holder shall be allowed to pledge or hypothecate any security involved in such transaction in contravention of Commission Rules 8c-1 and 15c3-3.

Rule 11.3.21 Telephone Solicitation

(a) Telemarketing Restrictions. No ETP Holder or Associated Person of an ETP Holder shall make an outbound telephone call to:

(1) any person's residence at any time other than between 8:00 a.m. and 9:00 p.m. local time at the called person's location;

(2) any person that previously has stated that he or she does not wish to receive any outbound telephone calls made by or on behalf of the ETP Holder; or

(3) any person who has registered his or her telephone number on the Federal Trade Commission's national do-not-call registry.

(b) Caller Disclosures. No ETP Holder or Associated Person of an ETP Holder shall make an outbound telephone call to any person without disclosing truthfully, promptly and in a clear and conspicuous manner to the called person the following information:

(1) the identity of the caller and the ETP Holder;

(2) the telephone number or address at which the caller may be contacted; and

(3) that the purpose of the call is to solicit the purchase of securities or related services.

The telephone number provided may not be a 900 number or any other number for which charges exceed local or long-distance transmission charges.

(c) Exceptions. The prohibition of paragraph (a)(1) does not apply to outbound telephone calls by an ETP Holder or an Associated Person of an ETP Holder if:

(1) the ETP Holder has received that person's express prior consent;

(2) the ETP Holder has an established business relationship with the person; or

(3) the person called is a broker or dealer.

(d) ETP Holder's Firm-Specific Do-Not-Call List.

(1) Each ETP Holder shall make and maintain a centralized list of persons who have informed the ETP Holder or any of its Associated Persons of an ETP Holder that they do not wish to receive outbound telephone calls.

(2) Prior to engaging in telemarketing, an ETP Holder must institute procedures to comply with paragraphs (a) and (b). Such procedures must meet the following minimum standards:

(A) Written policy. ETP Holders must have a written policy for maintaining the do-not-call list described under paragraph (d)(1).

(B)Training of personnel engaged in telemarketing. Personnel engaged in any aspect of telemarketing must be informed and trained in the existence and use of the do-not-call list.

(C) Recording, disclosure of do-not-call requests. If an ETP Holder receives a request from a person not to receive calls from that ETP Holder, the ETP Holder must record the request and place the person's name, if provided, and telephone number on the ETP Holder's firm-specific do-not-call list at the time the request is made. ETP Holders must honor a person's do-not-call request within a reasonable time from the date such request is made. This period may not exceed 30 days from the date of such request. If such requests are recorded or maintained by a party other than the ETP Holder on whose behalf the outbound telephone call is made, the ETP Holder on whose behalf the outbound telephone call is made will be liable for any failures to honor the do-not-call request.

(D) Identification of telemarketers. An ETP Holder or Associated Person of an ETP Holder making an outbound telephone call must make the caller disclosures set forth in paragraph (b).

(E) Affiliated persons or entities. In the absence of a specific request by the person to the contrary, a person's do-not-call request shall apply to the ETP Holder making the call, and shall not apply to affiliated entities unless the consumer reasonably would expect them to be included given the identification of the caller and the product being advertised.

(F) Maintenance of do-not-call lists. An ETP Holder making outbound telephone calls must maintain a record of a person's request not to receive further calls.

(e) Do-Not-Call Safe Harbors.

(1) An ETP Holder or Associated Person of an ETP Holder making outbound telephone calls will not be liable for violating paragraph (a)(3) if:

(A) the ETP Holder has an established business relationship with the called person. A person's request to be placed on the ETP Holder's firm-specific do-not-call list terminates the established business relationship exception to the national do-not-call registry provision for that ETP Holder even if the person continues to do business with the ETP Holder;

(B) the ETP Holder has obtained the person's prior express written consent. Such consent must be clearly evidenced by a signed, written agreement (which may be obtained electronically under the E-Sign Act) between the person and the ETP Holder, which states that the person agrees to be contacted by the ETP Holder and includes the telephone number to which the calls may be placed; or

(C) the ETP Holder or Associated Person of an ETP Holder making the call has a personal relationship with the called person.

(2) An ETP Holder or Associated Person of an ETP Holder making outbound telephone calls will not be liable for violating paragraph (a)(3) if the ETP Holder or Associated Person of an ETP Holder demonstrates that the violation is the result of an error and that as part of the ETP Holder's routine business practice:

(A) the ETP Holder has established and implemented written procedures to comply with paragraphs (a) and (b);

(B) the ETP Holder has trained its personnel, and any entity assisting in its compliance, in the procedures established pursuant to paragraph (e)(2)(A);

(C) the ETP Holder has maintained and recorded a list of telephone numbers that it may not contact in compliance with paragraph (d); and

(D) the ETP Holder uses a process to prevent outbound telephone calls to any telephone number on the ETP Holder's firm-specific do-not-call list or the national do-not-call registry, employing a version of the national do-not-call

registry obtained from the Federal Trade Commission no more than 31 days prior to the date any call is made, and maintains records documenting this process.

(f) Wireless Communications. The provisions set forth in this Rule are applicable to ETP Holders and Associated Persons of an ETP Holder making outbound telephone calls to wireless telephone numbers.

(g) Outsourcing Telemarketing. If an ETP Holder uses another appropriately registered or licensed entity or person to perform telemarketing services on its behalf, the ETP Holder remains responsible for ensuring compliance with all provisions contained in this Rule.

(h) Billing Information. For any telemarketing transaction, no ETP Holder or Associated Person of an ETP Holder shall cause billing information to be submitted for payment, directly or indirectly, without the express informed consent of the customer. Each ETP Holder or Associated Person of an ETP Holder must obtain the express informed consent of the person to be charged and to be charged using the identified account.

In any telemarketing transaction involving preacquired account information, the following requirements must be met to evidence express informed consent:

(1) In any telemarketing transaction involving preacquired account information and a free-to-pay conversion feature, the ETP Holder or Associated Person of an ETP Holder must:

(A) obtain from the customer, at a minimum, the last four digits of the account number to be charged;

(B) obtain from the customer an express agreement to be charged and to be charged using the account number pursuant to paragraph (h)(1)(A); and

(C) make and maintain an audio recording of the entire telemarketing transaction.

(2) In any other telemarketing transaction involving preacquired account information not described in paragraph (h)(1), the ETP Holder or Associated Person of an ETP Holder must:

(A) identify the account to be charged with sufficient specificity for the customer to understand what account will be charged; and

(B) obtain from the customer an express agreement to be charged and to be charged using the account number identified pursuant to paragraph (h)(2)(A).

(i) Caller Identification Information.

(1) Any ETP Holder that engages in telemarketing must transmit or cause to be transmitted the telephone number and, when made available by the ETP Holder's

telephone carrier, the name of the ETP Holder to any caller identification service in use by a recipient of an outbound telephone call.

(2) The telephone number so provided must permit any person to make a do-not-call request during regular business hours.

(3) Any ETP Holder that engages in telemarketing is prohibited from blocking the transmission of caller identification information.

(j) Unencrypted Consumer Account Numbers. No ETP Holder or Associated Person of an ETP Holder shall disclose or receive, for consideration, unencrypted consumer account numbers for use in telemarketing. The term "unencrypted" means not only complete, visible account numbers, whether provided in lists or singly, but also encrypted information with a key to its decryption. This paragraph will not apply to the disclosure or receipt of a customer's billing information to process pursuant to a telemarketing transaction.

(k) Abandoned Calls.

(1) No ETP Holder or Associated Person of an ETP Holder shall "abandon" any outbound telephone call. An outbound telephone call is "abandoned" if a called person answers it and the call is not connected to an ETP Holder or Associated Person of an ETP Holder within two seconds of the called person's completed greeting.

(2) An ETP Holder or Associated Person of an ETP Holder shall not be liable for violating paragraph (k)(1) if:

(A) the ETP Holder or Associated Person of an ETP Holder employs technology that ensures abandonment of no more than three percent of all outbound telephone calls answered by a person, measured over the duration of a single calling campaign, if less than 30 days, or separately over each successive 30-day period or portion thereof that the campaign continues;

(B) the ETP Holder or Associated Person of an ETP Holder, for each outbound telephone call placed, allows the telephone to ring for at least 15 seconds or 4 rings before disconnecting an unanswered call;

(C) whenever an ETP Holder or Associated Person of an ETP Holder is not available to speak with the person answering the outbound telephone call within two seconds after the person's completed greeting, the ETP Holder or Associated Person of an ETP Holder promptly plays a prerecorded message that states the name and telephone number of the ETP Holder or Associated Person of an ETP Holder on whose behalf the call was placed; and

(D) the ETP Holder or Associated Person of an ETP Holder retains records

establishing compliance with paragraph (k)(2).

(l) Prerecorded Messages.

(1) No ETP Holder or Associated Person of an ETP Holder shall initiate any outbound telephone call that delivers a prerecorded message, other than a prerecorded message permitted for compliance with the call abandonment safe harbor in paragraph (k)(2)(C), unless:

(A) the ETP Holder has obtained from the called person an express agreement, in writing, that:

(i) the ETP Holder obtained only after a clear and conspicuous disclosure that the purpose of the agreement is to authorize the ETP Holder to place prerecorded calls to such person;

(ii) the ETP Holder obtained without requiring, directly or indirectly, that the agreement be executed as a condition of purchasing any good or service;

(iii) evidences the willingness of the called person to receive calls that deliver prerecorded messages by or on behalf of the ETP Holder; and

(iv) includes such person's telephone number and signature (which may be obtained electronically under the E-Sign Act);

(B) the ETP Holder allows the telephone to ring for a least 15 seconds or four rings before disconnecting an unanswered call and, within two seconds after the completed greeting of the called person, plays a prerecorded message that promptly provides the disclosures in paragraph (b), followed immediately by a disclosure of one or both of the following:

(i) in the case of a call that could be answered in person, that the called person can use an automated interactive voice and/or keypress-activated opt-out mechanism to assert a firm-specific do-not-call request pursuant to the ETP Holder's procedures instituted under paragraph (d)(2)(C) at any time during the message. The mechanism must automatically add the number called to the ETP Holder's firm-specific do-not-call list; once invoked, immediately disconnect the call; and be available for use at any time during the message; and

(ii) in the case of a call that could be answered by an answering machine or voicemail service, that the call recipient can use a toll-free telephone number to assert a firm-specific do-not-call request pursuant to the ETP Holder's procedures instituted under paragraph (d)(2)(C). The number provided must connect directly to an automated interactive voice or keypress-activated opt-out mechanism that automatically adds the number called to the ETP Holder's firm-specific do-not-call list; immediately thereafter disconnects the call; and is

accessible at any time throughout the duration of the telemarketing campaign; and

(C) the ETP Holder complies with all other requirements of this Rule and other applicable federal and state laws.

(2) Any call that complies with all applicable requirements of paragraph (l) shall not be deemed to violate paragraph (k).

(m) Credit Card Laundering. Except as expressly permitted by the applicable credit card system, no ETP Holder or Associated Person of an ETP Holder shall:

(1) present to or deposit into the credit card system for payment a credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the ETP Holder;

(2) employ, solicit, or otherwise cause a merchant, or an employee, representative or agent of the merchant, to present to or to deposit into the credit card system for payment a credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the merchant; or

(3) obtain access to the credit card system through the use of a business relationship or an affiliation with a merchant, when such access is not authorized by the merchant agreement or the applicable credit card system.

(n) Definitions. For purposes of this Rule:

(1) The term “account activity” includes, but is not limited to, purchases, sales, interest credits or debits, charges or credits, dividend payments, transfer activity, securities receipts or deliveries, and/or journal entries relating to securities or funds in the possession or control of the ETP Holder.

(2) The term “acquirer” means a business organization, financial institution, or an agent of a business organization or financial institution that has authority from an organization that operates or licenses a credit card system to authorize merchants to accept, transmit, or process payment by credit card through the credit card system for money, goods or services, or anything else of value.

(3) The term “billing information” means any data that enables any person to access a customer’s or donor’s account, such as a credit or debit card number, a brokerage, checking, or savings account number, or a mortgage loan account number. A “donor” means any person solicited to make a charitable contribution. A “charitable contribution” means any donation or gift of money or any other thing of value, for example a transfer to a pooled income fund.

(4) The term “broker-dealer of record” refers to the broker or dealer identified on a customer’s account application for accounts held directly at a mutual fund or variable insurance product issuer.

(5) The term “caller identification service” means a service that allows a telephone subscriber to have the telephone number and, where available, name of the calling party transmitted contemporaneously with the telephone call, and displayed on a device in or connected to the subscriber’s telephone.

(6) The term “cardholder” means a person to whom a credit card is issued or who is authorized to use a credit card on behalf of or in addition to the person to whom the credit card is issued.

(7) The term “credit” means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(8) The term “credit card” means any card, plate, coupon book, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.

(9) The term “credit card sales draft” means any record or evidence of a credit card transaction.

(10) The term “credit card system” means any method or procedure used to process credit card transactions involving credit cards issued or licensed by the operator of that system.

(11) The term “customer” means any person who is or may be required to pay for goods or services through telemarketing.

(12) The term “established business relationship” means a relationship between an ETP Holder and a person if:

(A) the person has made a financial transaction or has a security position, a money balance, or account activity with the ETP Holder or at a clearing firm that provides clearing services to such ETP Holder within the 18 months immediately preceding the date of an outbound telephone call;

(B) the ETP Holder is the broker-dealer of record for an account of the person within the 18 months immediately preceding the date of an outbound telephone call; or

(C) the person has contacted the ETP Holder to inquire about a product or service offered by the ETP Holder within the three months immediately preceding the date of an outbound telephone call.

A person’s established business relationship with an ETP Holder does not extend to the

ETP Holder's affiliated entities unless the person would reasonably expect them to be included. Similarly, a person's established business relationship with an ETP Holder's affiliate does not extend to the ETP Holder unless the person would reasonably expect the ETP Holder to be included.

(13) The term "free-to-pay conversion" means, in an offer or agreement to sell or provide any goods or services, a provision under which a customer receives a product or service for free for an initial period and will incur an obligation to pay for the product or service if he or she does not take affirmative action to cancel before the end of that period.

(14) The term "merchant" means a person who is authorized under a written contract with an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution.

(15) The term "merchant agreement" means a written contract between a merchant and an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution.

(16) The term "outbound telephone call" means a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution from a donor.

(17) The term "person" means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

(18) The term "personal relationship" means any family member, friend, or acquaintance of the person making an outbound telephone call.

(19) The term "preacquired account information" means any information that enables an ETP Holder or Associated Person of an ETP Holder to cause a charge to be placed against a customer's or donor's account without obtaining the account number directly from the customer or donor during the telemarketing transaction pursuant to which the account will be charged.

(20) The term "telemarketer" means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor.

(21) The term "telemarketing" means consisting of or relating to a plan, program, or campaign involving at least one outbound telephone call, for example cold-calling. The term does not include the solicitation of sales through the mailing of written marketing materials, when the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the marketing materials and during those calls takes orders only without further

solicitation. For purposes of the previous sentence, the term "further solicitation" does not include providing the customer with information about, or attempting to sell, anything promoted in the same marketing materials that prompted the customer's call.

Commentary:

.01 ETP Holders and Associated Persons of an ETP Holder that engage in telemarketing also are subject to the requirements of relevant state and federal laws and rules, including but not limited to the Telemarketing and Consumer Fraud and Abuse Prevention Act, the Telephone Consumer Protection Act, and the rules of the Federal Communications Commission ("FCC") relating to telemarketing practices and the rights of telephone consumers.

.02 It is considered conduct inconsistent with just and equitable principles of trade and a violation of Exchange Rule 3.1 for any ETP Holder or Associated Person of an ETP Holder to:

(1) call a person repeatedly or continuously in a manner likely to annoy or be offensive; or

(2) use threats, intimidation, or profane or obscene language in calling any person.

Books and Records

Rule 11.4.1. Requirements

Each ETP Holder shall make and keep books, accounts, records, memoranda and correspondence in conformity with Section 17 of the Exchange Act and the rules thereunder, with all other applicable laws and the rules, regulations and statements of policy promulgated thereunder, and with Exchange Rules.

Rule 11.4.2. Furnishing of Records

Every ETP Holder shall furnish to the Exchange, upon request and in a time and manner required by the Exchange, current copies of any financial information filed with the Commission, as well as any records, files, or financial information pertaining to transactions executed on or through the Exchange. Further, the Exchange shall be allowed access, at any time, to the books and records of the ETP Holder in order to obtain or verify information related to transactions executed on or through the Exchange or activities relating to the Exchange.

Commentary:

.01 Consistent with the responsibility of the Exchange and the Commission to provide for timely regulatory investigations, the Exchange has adopted the following time parameters

within which ETP Holders are required to respond to Exchange requests for trading data:

1st Request	10 business days
2nd Request	5 business days
3rd Request	5 business days

The third request letter will be sent to the ETP Holder's compliance officer and/or senior officer.

.02 Regulatory Data Submission Requirement. ETP Holders shall submit to the Exchange such Exchange-related order, market and transaction data as the Exchange may specify, in such form and on such schedule as the Exchange may require.

Rule 11.4.3. Record of Written Complaints

Each ETP Holder shall keep and preserve for a period of not less than four years a file of all written complaints of customers and action taken by the ETP Holder in respect thereof, if any. Further, for the first two years of the four-year period, the ETP Holder shall keep such file in a place readily accessible to examination or spot checks.

A "complaint" shall mean any written statement of a customer or any person acting on behalf of a customer alleging a grievance involving the activities of an ETP Holder or persons under the control of the ETP Holder in connection with (1) the solicitation or execution of any transaction conducted or contemplated to be conducted through the facilities of the Exchange or (2) the disposition of securities or funds of that customer which activities are related to such a transaction.

Rule 11.4.4. Disclosure of Financial Condition

An ETP Holder shall make available for inspection by a customer, upon request, the information relative to such ETP Holder's financial condition disclosed in its most recent balance sheet prepared either in accordance with such ETP Holder's usual practice or as required by any State or Federal securities laws, or any rule or regulation thereunder. Further, an ETP Holder shall send to its customers the statements required by Commission Rule 17a-5(c).

As used in paragraph (a) of this Rule, the term "customer" has the same meaning as set forth in Commission Rule 17a-5(c)(4).

Supervision

Rule 11.5.1. Written Procedures

Each ETP Holder shall establish, maintain and enforce written procedures which will enable it to supervise properly the activities of Associated Persons of the ETP Holder and to assure their compliance with applicable securities laws, rules, regulations and

statements of policy promulgated thereunder, with the rules of the designated self-regulatory organization, where appropriate, and with Exchange Rules.

Rule 11.5.2. Responsibility of ETP Holders

Final responsibility for proper supervision shall rest with the ETP Holder. The ETP Holder shall designate a partner, officer or manager in each office of supervisory jurisdiction, including the main office, to carry out the written supervisory procedures. A copy of such procedures shall be kept in each such office.

Rule 11.5.3. Records

Each ETP Holder shall be responsible for making and keeping appropriate records for carrying out the ETP Holder's supervisory procedures.

Rule 11.5.4. Review of Activities and Annual Inspection

Each ETP Holder shall review the activities of each office, which shall include the periodic examination of customer accounts to detect and prevent irregularities or abuses. Each ETP Holder shall conduct at least annually an inspection of each office of the ETP Holder.

Rule 11.5.5. Prevention of the Misuse of Material, Nonpublic Information

(a) Every ETP Holder must establish, maintain and enforce written policies and procedures reasonably designed, taking into consideration the nature of such ETP Holder's business, to prevent the misuse of material, non-public information by such ETP Holder or Persons Associated with such ETP Holder. Any ETP Holder or Associated Person who becomes aware of a possible misuse of material, non-public information must promptly notify the Exchange's Regulatory staff.

(b) Any ETP Holder who fails to file a compliance acknowledgment form in a timely manner shall be subject to a late filing charge of $500.00 for each occurrence. Repeated or aggravated failure to file may be referred to Enforcement for appropriate disciplinary action.

Commentary:

.01 For purposes of Rule 11.5.5, conduct constituting the misuse of material, non-public information includes, but is not limited to, the following:

> A. Trading in any securities issued by a corporation, or in any related securities or related options or other derivative securities, while in possession of material, nonpublic information concerning that issuer; or

B. Trading in a security or related options or other derivative securities, while in possession of material non-public information concerning imminent transactions in the security or related securities; or

C. Disclosing to another person or entity any material, non-public information involving a corporation whose shares are publicly traded or an imminent transaction in an underlying security or related securities for the purpose of facilitating the possible misuse of such material, non-public information..

.02 Reserved.

.03 Rule 11.5.5 provides that each ETP Holder for which the Exchange is the DEA should establish, maintain, and enforce written policies and procedures similar to the following, as applicable:

A. All Associated Persons must be advised in writing of the prohibition against the misuse of material, non-public information; and

B. All Associated Persons of the ETP Holder must sign attestations affirming their awareness of, and agreement to abide by the aforementioned prohibitions. These signed attestations must be maintained for at least three years, the first two years in an easily accessible place; and

C. Each ETP Holder must receive and retain copies of trade confirmations and monthly account statements for each account in which an Associated Person: has a direct or indirect financial interest or makes investment decisions. The activity in such brokerage accounts should be reviewed at least quarterly by the ETP Holder for the express purpose of detecting the possible misuse of material, non-public information; and

D. All Associated Persons must disclose to the ETP Holder whether they, or any person in whose account they have a direct or indirect financial interest, or make investment decisions, are an officer, director or 10% shareholder in a company whose shares are publicly traded. Any transaction in the stock (or option thereon) of such company shall be reviewed to determine whether the transaction may have involved a misuse of material non-public information.

Maintenance of the foregoing policies and procedures may not, in all cases, satisfy the requirements and intent of Rule 11.5.5. The

adequacy of each ETP Holder's policies and procedures will depend upon the nature of each ETP Holder's business.

.04 ETP Holders acting as a registered Market Maker in UTP Exchange Traded Products, and their affiliates, shall also establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments.

Rule 11.5.6. Anti-Money Laundering Compliance Program

Each ETP Holder shall develop and implement an anti-money laundering program reasonably designed to achieve and monitor compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, *et seq.*), and the implementing regulations promulgated thereunder by the Department of the Treasury. Each ETP Holder's anti-money laundering program must be approved, in writing, by a member of its senior management.

The anti-money laundering programs required by the Rule shall, at a minimum:

(1) establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder;

(2) establish and implement policies and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations thereunder;

(3) provide for independent testing for compliance to be conducted by the ETP Holder's personnel or by a qualified outside party;

(4) designate, and identify to the Exchange (by name, title, mailing address, email address, telephone number, and facsimile number), a person or persons responsible for implementing and monitoring the day-to-day operations and internal controls of the program and provide prompt notification to the Exchange regarding any change in such designation(s); and

(5) provide ongoing training for appropriate persons.

In the event that any of the provisions of this Rule 11.5.6 conflict with any of the provisions of another applicable self-regulatory organization's rule requiring the development and implementation of an anti-money laundering compliance program, the provisions of the rule of the ETP Holder's Designated Examining Authority shall apply.

Rule 11.5.7. Annual Certification of Compliance and Supervisory Processes

Each ETP Holder shall have its chief executive officer (or equivalent officer) certify annually, as set forth in Commentary .01, that the ETP Holder has in place processes to establish, maintain, review, test and modify written compliance policies and written supervisory procedures reasonably designed to achieve compliance with applicable Rules of the Exchange and federal securities laws and regulations.

Commentary:

.01 Annual Compliance and Supervision Certification. The Exchange is issuing this Commentary to Rule 11.5.7, which requires that the ETP Holder's chief executive officer (or equivalent officer) execute annually a certification that the ETP Holder has in place processes to establish, maintain, review, test and modify written compliance policies and written supervisory procedures reasonably designed to achieve compliance with applicable Rules of the Exchange and federal securities laws and regulations. The certification for each ensuing year shall be effected no later than on the anniversary date of the previous year's certification. The certification shall state the following:

Annual Compliance and Supervision Certification

The undersigned is the chief executive officer (or equivalent officer) of [name of ETP Holder corporation/partnership/sole proprietorship] (the "ETP Holder"). As required by Rule 11.5.7, the undersigned makes the following certification:

1. The ETP Holder has in place processes to:

(a) establish, maintain and review policies and procedures reasonably designed to achieve compliance with applicable Rules of the NYSE National, Inc. and federal securities laws and regulations;

(b) modify such policies and procedures as business, regulatory and legislative changes and events dictate; and

(c) test the effectiveness of such policies and procedures on a periodic basis, the timing and extent of which is reasonably designed to ensure continuing compliance with Rules of the NYSE National, Inc. and federal securities laws and regulations.

2. The undersigned chief executive officer (or equivalent officer) has conducted one or more meetings with the chief compliance officer in the preceding 12 months, the subject of which satisfy the obligations set forth in Commentary .01 to Rule 11.5.7.

3. The ETP Holder's processes, with respect to paragraph 1 above, are evidenced in a report reviewed by the chief executive officer (or equivalent officer), chief compliance officer, and such other officers as the ETP Holder may deem necessary to make this certification. The final report has been submitted to the

ETP Holder's board of directors and audit committee or will be submitted to the ETP Holder's board of directors and audit committee (or equivalent bodies) at the earlier of their next scheduled meetings or within 45 days of the date of execution of this certification.

4. The undersigned chief executive officer (or equivalent officer) has consulted with the chief compliance officer and other officers as applicable (referenced in paragraph 3 above) and such other employees, outside consultants, lawyers and accountants, to the extent deemed appropriate, in order to attest to the statements made in this certification.

The Exchange provides the following guidance in completing the Certification above. Included in the processes requirement is an obligation on the part of the ETP Holder to conduct one or more meetings annually between the chief executive officer (or equivalent officer) and the chief compliance officer to: (1) discuss and review the matters that are subject of the certification; (2) discuss and review the ETP Holder's compliance efforts as of the date of such meetings; and (3) identify and address significant compliance problems and plans for emerging business areas.

The report required in paragraph 3 of the certification must document the ETP Holder's processes for establishing, maintaining, reviewing, testing and modifying compliance policies, that are reasonably designed to achieve compliance with applicable Exchange rules and federal securities laws and regulations, and any principal designated by the ETP Holder may prepare the report. The report must be produced prior to execution of the certification and be reviewed by the chief executive officer (or equivalent officer), chief compliance officer and any other officers the ETP Holder deems necessary to make the certification and must be provided to the ETP Holder's board of directors and audit committee in final form either prior to execution of the certification or at the earlier of their next scheduled meetings or within 45 days of execution of the certification. The report should include the manner and frequency in which the processes are administered, as well as the identification of officers and supervisors who have responsibility for such administration. The report need not contain any conclusions produced as a result of following the processes set forth therein. The report may be combined with any other compliance report or other similar report required by any other self-regulatory organization provided that: (1) such report is clearly titled in a manner indicating that it is responsive to the requirements of the certification and Rule 11.5.7; (2) an ETP Holder that submits a report for review in response to an Exchange request must submit the report in its entirety; and (3) the ETP Holder makes such report in a timely manner, i.e., annually.

Extensions of Credit

Rule 11.6.1. Extensions of Credit - Prohibitions and Exemptions

(a) An ETP Holder shall not effect a securities transaction through Exchange facilities in a manner contrary to the regulations of the Board of Governors of the Federal Reserve System.

(b) In instances where the Exchange has been designated the appropriate examining authority, the Exchange is authorized to grant extensions of time under sections 220.4(c)(3)(ii) and 220.8(d) of Regulation T adopted by the Board of Governors of the Federal Reserve System as well as under Commission Rule 15c3-3(n).

(c) The margin which must be maintained in margin accounts of customers shall be as follows:

(1) 25% of the current market value of all securities "long" in the account; plus

(2) $2.50 per share or 100% of the current market value, whichever amount is greater, of each stock "short" in the account selling at less than $5.00 per share; plus

(3) $5.00 per share or 30% of the current market value, whichever amount is greater, of each stock "short" in the account selling at $5.00 per share or above; plus

(4) 5% of the principal amount or 30% of the current market value, whichever amount is greater, of each bond "short in the account.

Rule 11.6.2. Day Trading Margin

(a) The term "day trading" means the purchasing and selling of the same security on the same day. A "day trader" is any customer whose trading shows a pattern of day trading.

(b) Whenever day trading occurs in a customer's margin account the margin to be maintained shall be the margin on the "long" or "short" transaction, whichever occurred first, as required pursuant to Exchange Rule 11.6.1(c). When day trading occurs in the account of a day trader, the margin to be maintained shall be the margin on the "long" or "short" transaction, whichever occurred first, as required for initial margin by Regulation T of the Board of Governors of the Federal Reserve System, or as required pursuant to Exchange Rule 11.6.1(c), whichever amount is greater.

(c) No ETP Holder shall permit a public customer to make a practice, directly or indirectly, of effecting transactions in a cash account where the cost of securities purchased is met by the sale of the same securities. No ETP Holder shall permit a public customer to make a practice of selling securities with them in a cash account which are to be received against payment from another broker- dealer where such securities were purchased and are not yet paid for.

Trading Practice Rules

Rule 11.12.1. Market Manipulation

No ETP Holder shall execute or cause to be executed or participate in an account for which there are executed purchases of any security at successively higher prices, or sales of any security at successively lower prices, for the purpose of creating or inducing a

false, misleading or artificial appearance of activity in such security on the Exchange or for the purpose of unduly or improperly influencing the market price for such security or for the purpose of establishing a price which does not reflect the true state of the market in such security.

Rule 11.12.2. Fictitious Transactions

No ETP Holder, for the purpose of creating or inducing a false or misleading appearance of activity in a security traded on the Exchange or creating or inducing a false or misleading appearance with respect to the market in such security shall:

(a) execute any transaction in such security which involves no change in the beneficial ownership thereof, or

(b) enter any order or orders for the purchase of such security with the knowledge that an order or orders of substantially the same size, and at substantially the same price, for the sale of such security, has been or will be entered by or for the same or different parties, or

(c) enter any order or orders for the sale of any such security with the knowledge that an order or orders of substantially the same size, and at substantially the same price, for the purchase of such security, has been or will be entered by or for the same or different parties.

Rule 11.12.3. Excessive Sales by an ETP Holder

No ETP Holder shall execute purchases or sales or any security traded on the Exchange for any account in which such ETP Holder is directly or indirectly interested, which purchases or sales are excessive in view of the ETP Holder's financial resources or in view of the market for such security.

Rule 11.12.4. Manipulative Transactions

(a) No ETP Holder shall participate or have any interest, directly or indirectly, in the profits of a manipulative operation or knowingly manage or finance a manipulative operation.

(b) Any pool, syndicate or joint account organized or used intentionally for the purpose of unfairly influencing the market price of a security shall be deemed to be a manipulative operation.

(c) The solicitation of subscriptions to or the acceptance of discretionary orders from any such pool, syndicate or joint account shall be deemed to be managing a manipulative operation.

(d) The carrying on margin of a position in such security or the advancing of credit through loans to any such pool, syndicate or joint account shall be deemed to be

financing a manipulative operation.

Rule 11.12.5. Dissemination of False Information

No ETP Holder shall make any statement or circulate and disseminate any information concerning any security traded on the Exchange which such ETP Holder knows or has reasonable grounds for believing is false or misleading or would improperly influence the market price of such security.

Rule 11.12.6. Prohibition Against Trading Ahead of Customer Orders

(a) Except as provided herein, an ETP Holder that accepts and holds an order in an equity security from its own customer or a customer of another broker-dealer without immediately executing the order is prohibited from trading that security on the same side of the market for its own account at a price that would satisfy the customer order, unless it immediately thereafter executes the customer order up to the size and at the same or better price at which it traded for its own account.

(b) An ETP Holder must have a written methodology in place governing the execution and priority of all pending orders that is consistent with the requirements of this Rule and NASD Rule 2320. An ETP Holder also must ensure that this methodology is consistently applied.

Commentary:

.01 Large Orders and Institutional Account Exceptions. With respect to orders for customer accounts that meet the definition of an "institutional account" as defined in NASD Rule 3110, or for orders of 10,000 shares or more (unless such orders are less than $100,000 in value), an ETP Holder is permitted to trade a security on the same side of the market for its own account at a price that would satisfy such customer order, provided that the ETP Holder has provided clear and comprehensive written disclosure to such customer at account opening and annually thereafter that:

(a) discloses that the ETP Holder may trade proprietarily at prices that would satisfy the customer order, and

(b) provides the customer with a meaningful opportunity to opt in to the Rule 11.12.6 protections with respect to all or any portion of its order.

If the customer does not opt in to the Rule 11.12.6 protections with respect to all or any portion of its order, the ETP Holder may reasonably conclude that such customer has consented to the ETP Holder trading a security on the same side of the market for its own account at a price that would satisfy the customer's order.

In lieu of providing written disclosure to customers at account opening and annually thereafter, an ETP Holder may provide clear and comprehensive oral disclosure to and

obtain consent from the customer on an order-by-order basis, provided that the ETP Holder documents who provided such consent and such consent evidences the customer's understanding of the terms and conditions of the order.

.02 No-Knowledge Exception

(a) With respect to NMS stocks, as defined in Rule 600 of SEC Regulation NMS, if an ETP Holder implements and utilizes an effective system of internal controls, such as appropriate information barriers, that operate to prevent one trading unit from obtaining knowledge of customer orders held by a separate trading unit, those other trading units trading in a proprietary capacity may continue to trade at prices that would satisfy the customer orders held by the separate trading unit. An ETP Holder that structures its order handling practices in NMS stocks to permit its market-making desk to trade at prices that would satisfy customer orders held by a separate trading unit must disclose in writing to its customers, at account opening and annually thereafter, a description of the manner in which customer orders are handled by the ETP Holder and the circumstances under which the ETP Holder may trade proprietarily at its market-making desk at prices that would satisfy the customer order.

(b) If an ETP Holder implements and utilizes appropriate information barriers in reliance on this exception, the ETP Holder must uniquely identify such information barriers as prescribed in FINRA Rule 7440(b)(19), which is incorporated by reference in Rule 6.7440.

.03 Riskless Principal Exception. The obligations under this Rule shall not apply to an ETP Holder's proprietary trade if such proprietary trade is for the purposes of facilitating the execution, on a riskless principal basis, of an order from a customer (whether its own customer or the customer of another broker-dealer) (the "facilitated order"), provided that the ETP Holder:

(a) submits a report, contemporaneously with the execution of the facilitated order, identifying the trade as riskless principal to the Exchange (or another self-regulatory organization if not required under Exchange rules); and

(b) has written policies and procedures to ensure that riskless principal transactions for which the ETP Holder is relying upon this exception comply with applicable Exchange rules. At a minimum these policies and procedures must require that the customer order was received prior to the offsetting principal transaction, and that the offsetting principal transaction is at the same price as the customer order exclusive of any markup or markdown, commission equivalent or other fee and is allocated to a riskless principal or customer account in a consistent manner and within 60 seconds of execution.

An ETP Holder must have supervisory systems in place that produce records that enable the ETP Holder and the Exchange to reconstruct accurately, readily, and in a time-

sequenced manner all facilitated orders for which the ETP Holder relies on this exception.

.04 ISO Exception. An ETP Holder shall be exempt from the obligation to execute a customer order in a manner consistent with this Rule with regard to trading for its own account that is the result of an intermarket sweep order routed in compliance with Rule 600(b)(30)(ii) of SEC Regulation NMS ("ISO") where the customer order is received after the ETP Holder routed the ISO. Where an ETP Holder routes an ISO to facilitate a customer order and that customer has consented to not receiving the better prices obtained by the ISO, the ETP Holder also shall be exempt with respect to any trading for its own account that is the result of the ISO with respect to the consenting customer's order.

.05 Odd Lot and Bona Fide Error Transaction Exceptions. The obligations under this Rule shall not apply to an ETP Holder's proprietary trade that is (1) to offset a customer order that is in an amount less than a normal unit of trading; or (2) to correct a bona fide error. An ETP Holder is required to demonstrate and document the basis upon which a transaction meets the bona fide error exception.

.06 Minimum Price Improvement Standards. The minimum amount of price improvement necessary for an ETP Holder to execute an order on a proprietary basis when holding an unexecuted limit order in that same security, and not be required to execute the held limit order is as follows:

(a) For customer limit orders priced greater than or equal to $1.00, the minimum amount of price improvement required is $0.01 for NMS stocks;

(b) For customer limit orders priced greater than or equal to $0.01 and less than $1.00, the minimum amount of price improvement required is the lesser of $0.01 or one-half (1/2) of the current inside spread;

(c) For customer limit orders priced less than $0.01 but greater than or equal to $0.001, the minimum amount of price improvement required is the lesser of $0.001 or one-half (1/2) of the current inside spread;

(d) For customer limit orders priced less than $0.001 but greater than or equal to $0.0001, the minimum amount of price improvement required is the lesser of $0.0001 or one-half (1/2) of the current inside spread;

(e) For customer limit orders priced less than $0.0001 but greater than or equal to $0.00001, the minimum amount of price improvement required is the lesser of $0.00001 or one-half (1/2) of the current inside spread;

(f) For customer limit orders priced less than $0.00001, the minimum amount of price improvement required is the lesser of $0.000001 or one-half (1/2) of the current inside spread; and

(g) For customer limit orders priced outside the best inside market, the minimum amount of price improvement required must either meet the requirements set forth above or the ETP Holder must trade at a price at or inside the best inside market for the security.

In addition, if the minimum price improvement standards above would trigger the protection of a pending customer limit order, any better-priced customer limit order(s) must also be protected under this Rule, even if those better-priced limit orders would not be directly triggered under the minimum price improvement standards above.

.07 Order Handling Procedures. An ETP Holder must make every effort to execute a marketable customer order that it receives fully and promptly. An ETP Holder that is holding a customer order that is marketable and has not been immediately executed must make every effort to cross such order with any other order received by the ETP Holder on the other side of the market up to the size of such order at a price that is no less than the best bid and no greater than the best offer at the time that the subsequent order is received by the ETP Holder and that is consistent with the terms of the orders. In the event that an ETP Holder is holding multiple orders on both sides of the market that have not been executed, the ETP Holder must make every effort to cross or otherwise execute such orders in a manner that is reasonable and consistent with the objectives of this Rule and with the terms of the orders. An ETP Holder can satisfy the crossing requirement by contemporaneously buying from the seller and selling to the buyer at the same price.

.08 Trading Outside Normal Market Hours. An ETP Holder generally may limit the life of a customer order to the period of normal market hours of 9:30 a.m. to 4:00 p.m. Eastern Time. However, if the customer and ETP Holder agree to the processing of the customer's order outside normal market hours, the protections of this Rule shall apply to that customer's order(s) at all times the customer order is executable by the ETP Holder.

Rule 11.12.7. Joint Activity

No ETP Holder, directly or indirectly, shall hold any interest or participation in any joint account for buying or selling in a security traded on the Exchange, unless such joint account is promptly reported to the Exchange. The report should contain the following information for each account: (1) the name of the account, with names of all participants and their respective interests in profits and losses; (2) a statement regarding the purpose of the account; (3) the name of the ETP Holder carrying and clearing the account; and (4) a copy of any written agreement or instrument relating to the account.

Rule 11.12.8. Influencing the Consolidated Tape

No ETP Holder shall attempt to execute a transaction or transactions to buy or sell a security for the purpose of influencing any report appearing on the Consolidated Tape.

Rule 11.12.9. Options

(a) No ETP Holder shall initiate the purchase or sale on the Exchange for its own account, or for any account in which it is directly or indirectly interested, of any stock of any issuer in which it holds or has granted any put, call, straddle or option; provided, however, that this prohibition shall not be applicable in respect of any option issued by The Options Clearing Corporation.

(b) No ETP Holder acting as an odd-lot dealer shall become interested directly or indirectly, in a pool dealing or trading in the stock of any issuer in which it is an odd-lot dealer, nor shall it acquire or grant directly or indirectly, any option to buy or sell, receive or deliver shares of stock of any issuer in which such ETP Holder is an odd-lot dealer, unless such option is issued by The Options Clearing Corporation.

Rule 11.12.10. Best Execution

In executing customer orders, an ETP Holder is not a guarantor of "best execution" but must use the care of a reasonably prudent person in the light of all circumstances deemed relevant by the ETP Holder and having regard for the ETP Holder's brokerage judgment and experience.

Commentary:

.01 As part of an ETP Holder's fiduciary obligation to provide best execution for its customer limit orders, the ETP Holder shall refer to, and comply with, Rule 604 of Regulation NMS.

Rule 11.12.11. Disruptive Quoting and Trading Activity Prohibited

(a) No ETP Holder or Persons Associated with an ETP Holder shall engage in or facilitate disruptive quoting and trading activity on the Exchange, including acting in concert with other persons to effect such activity.

(b) For purposes of this rule, disruptive quoting and trading activity shall include a frequent pattern in which the following facts are present:

(1) Disruptive Quoting and Trading Activity Type 1:

(A) a party enters multiple limit orders on one side of the market at various price levels (the "Displayed Orders"); and

(B) following the entry of the Displayed Orders, the level of supply and demand for the security changes; and

(C) the party enters one or more orders on the opposite side of the market of the Displayed Orders (the "Contra-Side Orders") that are subsequently executed; and

(D) following the execution of the Contra-Side Orders, the party cancels the Displayed Orders.

(2) Disruptive Quoting and Trading Activity Type 2:

(A) a party narrows the spread for a security by placing an order inside the NBBO; and

(B) the party then submits an order on the opposite side of the market that executes against another market participant that joined the new inside market established by the order described in paragraph (A).

(c) Applicability. For purposes of this Rule, disruptive quoting and trading activity shall include a frequent pattern in which the facts listed above are present. Unless otherwise indicated, the order of the events indicating the pattern does not modify the applicability of the Rule. Further, disruptive quoting and trading activity includes a pattern or practice in which all of the quoting and trading activity is conducted on the Exchange as well as a pattern or practice in which some portion of the quoting or trading activity is conducted on the Exchange and the other portions of the quoting or trading activity is conducted on one or more other exchanges.

RULE 12 ARBITRATION

Rule 12. General.

(a) Duty to arbitrate. (i) any dispute, claim or controversy between or among ETP Holders and/or Associated Persons shall be arbitrated pursuant to the FINRA Code of Arbitration Procedure; and, (ii) any dispute, claim or controversy between a customer or non-member and an ETP Holder and/or Associated Person arising in connection with the business of such ETP Holder and/or in connection with the activities of an Associated Person, shall be arbitrated pursuant to FINRA Code of Arbitration Procedure as provided by any duly executed and enforceable written agreement, or upon demand of the customer or non-member. Such obligation to arbitrate shall extend only to those matters that are permitted to be arbitrated under FINRA Code of Arbitration Procedure.

(b) Referrals. The Exchange may receive, investigate and take disciplinary action with respect to any referral it receives from a FINRA arbitrator of any matter which comes to the attention of such arbitrator during and in connection with the arbitrator's participation in a proceeding, either from the record of the proceeding or from material or communications related to the proceeding, that the arbitrator has reason to believe may constitute a violation of the Exchange's Rules or the federal securities laws.

(c) Failure to Arbitrate or to Pay an Arbitration Award. Any ETP Holder and/or Associated Person who fails to submit to arbitration a matter required to be arbitrated pursuant to this Rule, or that fails to honor an arbitration award made pursuant to the FINRA Code of Arbitration Procedure, or made under the auspices of any other self-regulatory organization, shall be subject to disciplinary proceedings in accordance with

the Rule 10.8000 and 10.9000 Series, as applicable.

(d) Other Actions. The submission of any matter to arbitration as provided for under this Rule shall in no way limit or preclude any right, action or determination by the Exchange that it would otherwise be authorized to adopt, administer or enforce.

RULE 13 [CANCELLATION, SUSPENSION, AND REINSTATEMENT

RULE 14]LIABILITY OF DIRECTORS AND EXCHANGE

Rule 13.1. Liability of Directors

Any provision of the Certificate of Incorporation, Bylaws or the Rules of the Exchange that provides or purports to provide that the members of the Board of Directors shall not be liable to the Exchange or its ETP Holders for monetary damages for breach of fiduciary duty as a Manager shall not be applied in any instance in which such liability arises directly or indirectly as a result of a violation of federal securities laws.

Rule 13.2. Liability of Exchange

(a) Except as otherwise expressly provided in these rules, neither the Exchange nor its Directors, officers, committee members, employees or agents shall be liable to the ETP Holders of the Exchange, or successors, representatives or customers thereof, or to persons associated therewith for any loss, expense, damages or claims that arise out of the use or enjoyment of the facilities or services afforded by the Exchange, any interruption in or failure or unavailability of any such facilities or services, or any action taken or omitted to be taken in respect to the business of the Exchange except to the extent such loss, expense, damages or claims are attributable to the willful misconduct, gross negligence, bad faith or fraudulent or criminal acts of the Exchange or its officers, employees or agents acting within the scope of their authority. The limitation of liability set forth in this paragraph shall not apply to violations of federal securities laws.

Without limiting the generality of the foregoing and subject to the same exception, the Exchange shall have no liability to any person for any loss, expense, damages or claims that result from any error, omission or delay in calculating or disseminating any current or closing index value, or any reports of transactions in or quotations for securities traded on the Exchange.

The Exchange makes no warranty, express or implied, as to results to be obtained by any person or entity from the use of any data transmitted or disseminated by or on behalf of the Exchange or any reporting authority designated by the Exchange, including but not limited to reports of transactions in or quotations for securities traded on the Exchange or underlying securities, or reports index values or related data, and the Exchange makes no express or implied warranties of merchantability or fitness for a particular purpose or use with respect to any such data. The foregoing limitations of liability and disclaimers shall be in addition to, and not in limitation of, any other provisions of the Bylaws and Rules.

(b) Whenever custody of an unexecuted order is transmitted by an ETP Holder to or through the Exchange's order routing systems, electronic book or automatic executions systems or to any other automated facility of the Exchange, excluding the Options Linkage system, whereby the Exchange assumes responsibility for the transmission or execution of the order, provided that the Exchange has received such order, the Exchange's liability for the negligent acts or omissions of its employees or for the failure of its systems or facilities shall not exceed the limits provided in this paragraph, (b), and no assets of the Exchange shall be applied or shall be subject to such liability in excess of the following limits:

(1) As to the aggregate of all claims made by all ETP Holders growing out of the use or enjoyment of the facilities afforded by the Exchange during a single calendar month, the Exchange shall not be liable in excess of the larger of $500,000, or the amount of the recovery obtained by the Exchange under any applicable insurance maintained by the Exchange.

(c) If all of the claims arising out of the use or enjoyment of the facilities afforded by the Exchange cannot be fully satisfied because in the aggregate they exceed the applicable maximum amount of liability provided for in paragraph (b) above, then such maximum amount shall be allocated among all such claims arising during a single calendar month based on the proportion that each such claim bears to the sum of all such claims.

(d) All claims for compensation pursuant to paragraph (b) of this rule shall be in writing. Written notice of such claims must be submitted no later than noon Eastern Time on the next business day following the day on which the use or enjoyment of the Exchange's facilities gave rise to such claims.

Rule 13.3. Legal Proceedings Against Exchange Directors, Officers, Employees or Agents

No ETP Holder or any other Associated Person shall institute a lawsuit or other legal proceeding against any Directors, officer, employee, agent or other official of the Exchange or any subsidiary of the Exchange, for actions taken or omitted to be taken in connection with the official business of the Exchange or any subsidiary, except to the extent such actions or omissions constitute violations of federal securities laws for which a private right of action exists and except with respect to the Directors of the Exchange, to the extent inconsistent with the Bylaws of the Exchange. This Rule shall not apply to appeals of disciplinary actions or other actions by the Exchange as provided for in the Rules.

Rule 13.4. Exchange's Costs of Defending Legal Proceedings

Any ETP Holder or any other Associated Person who fails to prevail in a lawsuit or other legal proceeding instituted by such person against the Exchange or any of its Directors, officers, committee members, employees or agents, and related to the business of the Exchange, shall pay to the Exchange all reasonable expenses, including attorneys' fees,

incurred by the Exchange in the defense of such proceeding, but only in the event that such expenses exceed Fifty Thousand Dollars ($50,000.00). This provision shall not apply to disciplinary actions by the Exchange, to administrative appeals of Exchange actions or in any specific instance where the Board of Directors has granted a waiver of this Rule.

EXHIBIT 5B

Additions underlined
Deletions [bracketed]

Rules of NYSE National, Inc.

*****

[CHAPTER I. Adoption, Interpretation and Application of Rules, and Definitions

Rule 1.1. Adoption of Exchange Rules

The following Exchange Rules are adopted pursuant to Section 3.1(b) and Section 8.2 of the By-Laws of the Exchange.

Rule 1.2. Interpretation

Exchange Rules shall be interpreted in such a manner to comply with the rules and requirements of the Act and to effectuate the purposes and business of the Exchange, and to require that all practices in connection with the securities business be just, reasonable and not unfairly discriminatory.

Rule 1.3. Applicability

Exchange Rules shall apply to all ETP Holders and persons associated with an ETP Holder.

Rule 1.4. Effective Time

(a) All Exchange Rules shall be effective when approved by the Commission in accordance with the Act and the rules and regulations thereunder, except for those Rules that are effective upon filing with the Commission in accordance with the Act and the rules thereunder and except as otherwise specifically provided in this Rule 1.4 or elsewhere in these Rules.

(b) Rule 11.11(c)(7)(iv), Rule 11.11(c)(8), Rule 11.15(a)(ii)(B) and Rule 11.15(b)(iv) (relating to intermarket sweep orders) shall not become effective until the compliance date for Rule 611 of Regulation NMS under the Act ("Regulation NMS").

(c) The following Rules shall not become effective until the compliance date for the appropriate sections of Regulation NMS:

(i) The second sentence of the lead-in to Rule 11.15 (Order Execution); and

(ii) Rule 11.22 (Locking or Crossing Quotations in NMS Stocks).

(iii) Rule 11.15(d) (Display of Automated Quotations).

Rule 1.5. Definitions

Unless the context otherwise requires, for all purposes of these Exchange Rules, terms used in Exchange Rules shall have the meaning assigned in Article I of the By-Laws or as set forth below:

A.

Adverse Action

(1) The term "adverse action" shall mean any action taken by the Exchange which affects adversely the rights of any ETP Holder, applicant for an ETP, or any person associated with an ETP Holder (including the denial of an ETP and the barring of any person from becoming associated with an ETP Holder) and any prohibition or limitation by the Exchange imposed on any person with respect to access to services offered by the Exchange, or an ETP Holder thereof. This term does not include disciplinary actions for violations of any provision of the Act or the rules and regulations promulgated thereunder, or any provision of the By-Laws or Exchange Rules or any interpretation thereof or resolution or order of the Board or appropriate Exchange committee which has been filed with the Commission pursuant to Section 19(b) of the Act and has become effective thereunder. Review of disciplinary actions is provided for in Chapter VIII of the Exchange Rules.

Authorized Trader

(2) The term "Authorized Trader" or "AT" shall mean a person who may submit orders (or who supervises a routing engine that may automatically submit orders) to the Exchange's trading facilities on behalf of his or her ETP Holder or Sponsored Participant.

Automatic Execution Mode

(3) The mode of order interaction on the Exchange as described in Rule 11.13(b)(1).

B. Reserved.

C.

Clearing Member

(1) An ETP Holder that is a member of a Qualified Clearing Agency defined in section Q below.

D.

Designated Self-Regulatory Organization

(1) The term "designated self-regulatory organization" shall mean a self-regulatory organization, other than the Exchange, designated by the Commission under Section 17(d) of the Act to enforce compliance by ETP Holders with Exchange Rules.

E.

ETP

(1) The term "ETP" shall refer to an Equity Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange's trading facilities.

ETP Holder

(2) The term "ETP Holder" shall mean the Exchange-approved holder of an ETP.

F. Reserved.

G. Reserved.

H. Reserved.

I. Reserved.

J. Reserved.

K. Reserved.

L.

Listing Exchange

(1) The term "Listing Exchange" shall mean the national securities exchange or association on which a security is listed.

M.

Market Maker

(1) The term "Market Maker" shall mean an ETP Holder that acts as a Market Maker pursuant to Chapter XI.

Market Maker Authorized Trader

(2) The term “Market Maker Authorized Trader” or “MMAT” shall mean an Authorized Trader who performs market making activities pursuant to Chapter XI on behalf of a Market Maker.

N.

NSX Book

(1) The term "NSX Book" shall mean the System’s electronic file of orders.

O. Reserved.

P.

Person

(1) The term "Person" shall refer to a natural person, corporation, partnership, limited liability company, association, joint stock company, trustee of a trust fund, or any organized group of persons whether incorporated or not.

Person Associated with an ETP Holder

(2) The terms "Person Associated with an ETP Holder" or "Associated Person of an ETP Holder" shall mean any partner, officer, director, or branch manager of an ETP Holder (or any Person occupying a similar status or performing similar functions), any Person directly or indirectly controlling, controlled by, or under common control with an ETP Holder, or any employee of such ETP Holder, except that any Person Associated with an ETP Holder whose functions are solely clerical or ministerial shall not be included in the meaning of such terms.

Principal

(3) The term “Principal” shall mean any Person Associated with an ETP Holder actively engaged in the management of the ETP Holder’s securities business, including supervision, solicitation, conduct of the ETP Holder’s business, or the training of Authorized Traders and Persons Associated with an ETP Holder for any of these functions. Such Persons shall include: Sole Proprietors, Officers, Partners, and Directors

of Corporations.

Principal – Financial and Operations

(4) The term “Principal - Financial and Operations” shall mean a Person Associated with an ETP Holder whose duties include: final approval and responsibility for the accuracy of financial reports submitted to any duly established securities industry regulatory body; final preparation of such reports; supervision of individuals who assist in the preparation of such reports; supervision of and responsibility for individuals who are involved in the actual maintenance of the ETP Holder’s books and records from which such reports are derived; supervision and/or performance of the ETP Holder’s responsibilities under all financial responsibility rules promulgated pursuant to the provisions of the Act; overall supervision of and responsibility for the individuals who are involved in the administration and maintenance of the ETP Holder’s back office operations; or any other matter involving the financial and operational management of the ETP Holder.

Protected NBBO

(5) The term "Protected NBBO" shall mean the national best bid or offer that is a protected quotation.

Protected BBO

(6) The term “Protected BBO” shall mean the better of the following:

(a) The Protected NBBO or
(b) The displayed Top of Book.

Protected Quotation

(7) The term “protected quotation” shall mean a bid or offer in a stock that (i) is displayed by an automated trading center; (ii) is disseminated pursuant to a national market system plan approved by the Commission; and (iii) is an automated quotation that is the best bid or best offer of a national securities exchange or association.

Q.

Qualified Clearing Agency

(1) The term “Qualified Clearing Agency” means a clearing agency registered with the Commission pursuant to Section 17A of the Act that is deemed qualified by the Exchange.

R.

Regular Trading Hours

(1) The term “Regular Trading Hours” means the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

Routing Logic

(2) The term “Routing Logic” means the methodology used to determine the Trading Center to which an incoming order will be directed for potential execution.

S.

Securities Trader

(1) The term “Securities Trader” means any Person engaged in the purchase or sale of securities or other similar instruments for the account of an ETP Holder with which such Person is associated, as an employee or otherwise, and who does not transact any business with the public.

Securities Trader Principal

(2) The term “Securities Trader Principal” means a Person who has become qualified and registered as a Securities Trader and passes the General Securities Principal qualification examination. Each Principal with responsibility over securities trading activities on the Exchange shall become qualified and registered as a Securities Trader Principal.

Sponsored Participant

(3) The term "Sponsored Participant" shall mean a Person which has entered into a sponsorship arrangement with a Sponsoring ETP Holder pursuant to Rule 11.9.

Sponsoring ETP Holder

(4) The term "Sponsoring ETP Holder" shall mean a broker-dealer that has been issued an ETP by the Exchange who has been designated by a Sponsored Participant to execute, clear and settle transactions resulting from the System. The Sponsoring ETP Holder shall be either (i) a clearing firm with membership in a clearing agency registered with the Commission that maintains facilities through which transactions may be cleared or (ii) a correspondent firm with a clearing arrangement with any such clearing firm.

Statutory Disqualification

(5) The term "statutory disqualification" shall mean any statutory disqualification as defined in the Act.

System

(6) The term “System” shall mean the electronic securities communications and trading facility designated by the Board through which orders of Users are consolidated for ranking and execution.

T.

Top of Book

(1) The term “Top of Book” shall mean the best-ranked order to buy (or sell) in the NSX Book as ranked pursuant to Rule 11.14.

Trading Center

(2) The term “Trading Center” shall mean other securities exchanges, facilities of securities exchanges, automated trading systems, electronic communications networks or other brokers or dealers.

U.

User

(1) The term "User" shall mean any ETP Holder or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.9.

UTP Security

(2) The term “UTP Security” shall mean any security that is not listed on the Exchange but is traded on the Exchange pursuant to unlisted trading privileges.

V. Reserved.

W. Reserved.

X. Reserved.

Y. Reserved.

Z. Reserved.

CHAPTER II. ETP Holders of the Exchange

Rule 2.1. Rights, Privileges and Duties of ETP Holders

Unless otherwise provided in the Exchange Rules or the By-Laws, each ETP Holder shall have the rights, privileges and duties of any other ETP Holder.

Rule 2.2. Obligations of ETP Holders and the Exchange

(a) In addition to all other obligations imposed by the Exchange in its By-Laws or the Exchange Rules, all ETP Holders, as a condition of effecting approved securities transactions on the Exchange's trading facilities, shall agree to be regulated by the Exchange and shall recognize that the Exchange is obligated to undertake to enforce compliance with the provisions of the Exchange Rules, its By-Laws, its interpretations and policies and with the provisions of the Act and regulations thereunder, and that, subject to orders and rules of the Commission, the Exchange is required to discipline ETP Holders and persons associated with ETP Holders for violations of the provisions of the Exchange Rules, its By-Laws, its interpretations and policies and the Act and regulations thereunder, by expulsion, suspension, limitation of activities, functions, and operations, fines, censure, being suspended or barred from being associated with an ETP Holder, or any other fitting sanction.

(b) Each ETP Holder shall require that each Person Associated with such ETP Holder as defined in Rule 1.5P. (2) agree:

(i) to supply the Exchange with such information with respect to such Person's business relationship and dealings with the ETP Holder as may be specified by the Exchange;

(ii) to permit examination of such Person's books and records by the Exchange to verify the accuracy of any information so supplied; and

(iii) to be regulated by the Exchange and to recognize that the Exchange is obligated to enforce compliance with the provisions of the Exchange Rules, the By-Laws, the interpretations and policies of the Exchange and the provisions of the Act and the regulations thereunder.

(c) (i) An ETP Holder shall register with the Exchange as a Principal any Person who meets the definition of a "Principal" as described in Rule 1.5P(3). A "Principal" includes any individual responsible for supervising the activities of the ETP Holder's Authorized Traders, and any individual designated as a Chief Compliance Officer on Schedule A of the ETP Holder's Form BD. Each of these Principals must be registered_as such through the Financial Industry Regulatory Authority's ("FINRA") Central Registration Depository System ("CRD"), and must pass the General Securities Principal (Series 24) Examination. With the exception of *Interpretation and Policy* provision .04, below, a Principal must pass the Series 7 examination or an equivalent foreign examination module as a prerequisite to taking the Series 24 examination.

(ii) Each ETP Holder, other than a sole proprietorship or a proprietary trading firm, which is an entity that only trades using the firm's capital and does not trade

on behalf of customers and has 25 or fewer Authorized Traders ("Limited Size Proprietary Firm"), is required to register at least two Principals with the Exchange. A Person registered solely as a Principal-Financial and Operations ("FINOP") as defined in Rule 1.5P.(4) does not count toward the two-Principal requirement and shall not be qualified to function in a Principal capacity with responsibility over any area of business activity not described in Rule 1.5P.(4). A Limited Size Proprietary Firm is required to register at least one Principal with the Exchange. The Exchange may waive the provisions of subparagraph (ii) in situations that indicate conclusively that only one Person associated with an applicant for membership should be required to register as a Principal.

(iii) For purposes of this Rule 2.2, a "proprietary trading firm" shall mean an ETP Holder meeting the following characteristics: it trades its own capital, does not have customers, excluding broker-dealers, and is not a FINRA member. To qualify for this definition, the funds used by a proprietary trading firm must be exclusively firm funds, all trading must be in the firm's accounts, and traders must be owners of, employees of, or contractors to the firm.

(d) Each ETP Holder shall designate and register with the Exchange, through the CRD System, a FINOP as defined in Rule 1.5P.(4), who shall successfully complete the Financial and Operations Principal (Series 27) qualification examination. The registered FINOP shall be responsible for performing the duties described in Exchange Rule 1.5P(4). The FINOP of an ETP Holder may be an employee of the ETP Holder or an independent contractor.

(e) Continuing Education Requirements**.** This Rule prescribes requirements regarding the continuing education of certain Registered Persons subsequent to their initial qualification and registration with the Exchange. For purposes of this Rule 2.2(e), the term "Registered Person" shall mean any Person registered with the Exchange as a General Securities Representative, Securities Trader, Principal, FINOP, Person Associated with an ETP Holder, Authorized Trader or Market Maker Authorized Trader pursuant to Exchange Rules. The requirements shall consist of a Regulatory Element and a Firm Element as set forth below.

(i) Regulatory Element.

(A) Requirements. No ETP Holder shall permit any Registered Person to continue to, and no Registered Person shall continue to, perform duties as a Registered Person unless such Person has complied with the requirements of this Rule 2.2(e). Each Registered Person shall complete the Regulatory Element on the occurrence of their second registration anniversary date and every three years thereafter, or as otherwise prescribed by the Exchange. On each occasion, the Regulatory Element must be completed within 120 days after the Person's registration anniversary date. A Person's initial registration date, also known as the "base date", shall establish the cycle of anniversary dates for purposes of this Rule. The content of the Regulatory Element shall be determined by the Exchange and shall be appropriate to the status of the Person subject to this Rule.

(B) Failure to Complete. Unless otherwise determined by the Exchange, any Registered Person who has not completed the Regulatory Element within the prescribed timeframes will have their registrations deemed inactive until such time as the requirements of the program have been satisfied. Any Person whose registration has been deemed inactive under this Rule shall cease all activities as a Registered Person and is prohibited from performing any duties and functioning in any capacity requiring registration. A registration that is inactive for a period of two years will be administratively terminated. A Person whose registration is so terminated may reactivate the registration only by reapplying for registration and meeting the qualification requirements of the applicable provisions of these Rules. The Exchange may, upon application and a showing of good cause, allow for additional time for a Registered Person to satisfy the program requirements.

(C) Disciplinary Actions. Unless otherwise determined by the Exchange, a Registered Person will be required to retake the Regulatory Element and satisfy all of its requirements in the event such Person:

(1) is subject to any statutory disqualification as defined in Section 3(a)(39) of the Act;

(2) is subject to suspension or to the imposition of a fine of $5,000 or more for violation of any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any governmental securities regulatory agency, securities industry self-regulatory organization, or as imposed by any such regulatory or self-regulatory organization in connection with a disciplinary proceeding; or

(3) is ordered as a sanction in a disciplinary action to retake the Regulatory Element by any governmental securities regulatory agency or by any self-regulatory organization.

The retaking of the Regulatory Element shall commence with participation within 120 days of the Registered Person becoming subject to the statutory disqualification, in the case of (1) above, or the disciplinary action becoming final, in the case of (2) and (3) above. The date of the disciplinary action shall be treated as such Person's new base date with the Exchange.

(D) Reassociation in a Registered Capacity. Any Registered Person who has terminated association with an ETP Holder and who has, within two years of the date of termination, become reassociated in a registered capacity with an ETP Holder shall participate in the Regulatory Element at such intervals that may apply (second anniversary and every three years thereafter) based on the initial registration anniversary date rather than based on the date of reassociation in a registered capacity.

(ii) Firm Element

(A) Persons Subject to the Firm Element. The requirements of this Rule 2.2(e)(ii) shall apply to any Person registered with an ETP Holder who has direct contact with customers in the conduct of the ETP Holder's securities sales, trading and investment banking activities and to the immediate supervisors of such Persons (collectively, "Covered Registered Persons"). "Customer" shall mean any natural person and any organization, other than another broker or dealer, executing securities transactions with or through or receiving investment banking services from an ETP Holder.

(B) Standards for the Firm Element

(1) Each ETP Holder must maintain a continuing and current education program for its covered Registered Persons to enhance their securities knowledge, skill, and professionalism. At a minimum, each ETP Holder shall at least annually evaluate and prioritize its training needs and develop a written training plan. The plan must take into consideration the ETP Holder's size, organizational structure, and scope of business activities, as well as regulatory developments and the performance of Covered Registered Persons in the Regulatory Element. If an ETP Holder's analysis establishes the need for supervisory training for Persons with supervisory responsibilities, such training must be included in the ETP Holder's training plan.

(2) Minimum Standards for Training Programs. Programs used to implement an ETP Holder's training plan must be appropriate for the business of the ETP Holder and, at a minimum must cover the following matters concerning securities products, services, and strategies offered by the ETP Holder: general investment features and associated risk factors; suitability and sales practice considerations; and applicable regulatory requirements.

(3) Administration of Continuing Education Program. An ETP Holder must administer its continuing education programs in accordance with its annual evaluation and written plan and must maintain records documenting the content of the programs and completion of the programs by Covered Registered Persons.

(C) Participation in the Firm Element. Covered Registered Persons included in an ETP Holder's plan must take all appropriate and reasonable steps to participate in continuing education programs as required by the ETP Holder.

(D) Specific Training Requirements. The Exchange may require an ETP Holder, individually or as part of a larger group, to provide specific training to its Covered Registered Persons in such areas as the Exchange deems appropriate. Such a requirement may stipulate the class of Covered Registered Persons for which it is applicable, the time period in which the requirement must be satisfied and, where appropriate, the actual training content.

Interpretations and Policies

.01 The Exchange requires the General Securities Representative Examination ("Series 7") or an equivalent foreign examination module approved by the Exchange in qualifying Persons seeking registration as general securities representatives.

.02 The Exchange will accept the New York Stock Exchange ("NYSE") Chief Compliance Officer Examination ("NYSE Series 14") as an alternative qualification to the Series 24 to register as a Principal an individual identified as the Chief Compliance Officer on ETP Holder's Form BD.

.03 Each Person associated with an ETP Holder meeting the definition of a Securities Trader under Rule 1.5S.(1) must pass the Securities Trader Qualification examination ("Series 57") and register as such in CRD. A Person registered as a Securities Trader shall not function in any other registration category unless he/she is also qualified in such other registration category.

.04 A Person associated with an ETP Holder who meets the definition of a Securities Trader Principal as defined in Rule 1.5S.(2) and who has supervisory responsibility for Securities Trading activity as described in NASD Rule 1032(f)(1) must become qualified and registered as a Securities Trader Principal. To qualify as a Securities Trader Principal, such Person must first qualify and register as a Securities Trader as provided in Interpretation and Policy .03, above. A Person who is qualified and registered as a Securities Trader Principal may only have supervisory responsibilities for the trading activity described in NASD Rule 1032(f)(1), unless such Person is separately qualified and registered in another appropriate principal registration category. A Person who is registered as a General Securities Principal shall not be qualified to supervise the trading activities described in NASD Rule 1032(f)(1), unless such Person has also become qualified and registered as a Securities Trader under NASD Rule 1032(f) by passing the Securities Trader qualification examination and registered as a Securities Trader Principal.

.05 The Exchange requires the Uniform Application for Securities Industry Registration or Transfer ("Form U4") and the Uniform Termination Notice for Securities Industry Registration ("Form U5") submitted through CRD as part of its procedure for registration of ETP Holder personnel. The Form U4 shall be amended by the ETP Holder no later than 30 days after an event that would require an amendment to Form U4.

.06 The Exchange may, in exceptional cases and where good cause is shown, waive a proficiency examination and accept other standards as evidence of an applicant's qualifications for registration. Advanced age or physical infirmity will not individually of themselves constitute sufficient grounds to waive a qualification examination. Experience in fields ancillary to the investment banking or securities business may constitute sufficient grounds to waive a qualification examination.

.07 The Exchange may pass through the reasonable costs associated with such

examinations and qualifications to ETP Holders.

Rule 2.3. ETP Holder Eligibility

An ETP may be issued to a sole proprietor, partnership, corporation, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Act, and is a member of another registered national securities exchange or national securities association. Any Person may become a Person Associated with an ETP Holder.

Rule 2.4. Restrictions

(a) No person may become an ETP Holder or continue as an ETP Holder in any capacity on the Exchange unless:

(1) such person is a registered broker or dealer; and

(2) such person is not subject to a statutory disqualification, except that a person may become an ETP Holder or continue as an ETP Holder where, pursuant to Rules 19d-1, 19d-2, 19d-3 and 19h-1 of the Act, the Commission has issued an order providing relief from such a disqualification and permitting such a person to become an ETP Holder.

(b) No natural person or registered broker or dealer shall be admitted as, or be entitled to continue as, an ETP Holder or an associated person of an ETP Holder, unless such natural person or broker or dealer meets the standards of training, experience and competence as the Exchange may prescribe. Each ETP Holder shall have the responsibility and duty to ascertain by investigation the good character, business repute, qualifications and experience of any person applying for registration with the Exchange as an associated person of an ETP Holder.

(c) No registered broker or dealer shall be admitted as, or be entitled to continue as, an ETP Holder if such broker or dealer:

(i) fails to comply with either the financial responsibility requirements established by Rule 15c3-1 under the Act, or such other financial responsibility and operational capability requirements as may be established by the Exchange Rules; or

(ii) fails to adhere to the Exchange Rules relating to the maintenance of books and records or those rules of other self-regulatory organizations of which such broker or dealer is or was a member; or

(iii) is subject to any unsatisfied liens, judgments or unsubordinated creditor claims of a material nature, which, in the absence of a reasonable explanation therefor, remain outstanding for more than six months; or

(iv) has been subject to any bankruptcy proceeding, receivership or arrangement for the benefit of creditors within the past three years; or

(v) has engaged in an established pattern of failure to pay just debts or has defaulted, without a reasonable explanation, on an obligation to a self-regulatory organization, any ETP Holder, or any member of a self-regulatory organization.

(d) No person shall be admitted as an ETP Holder or as an associated person of an ETP Holder where it appears that such person has engaged, and there is a reasonable likelihood that such person again may engage, in acts or practices inconsistent with just and equitable principles of trade.

Rule 2.5. Application Procedures for an ETP Holder

(a) Applications for an ETP shall be made to the Exchange and shall contain the following:

(1) An agreement to abide by, comply with, and adhere to the provisions of the Exchange's Amended Certificate of Incorporation, its By-Laws, the Exchange Rules, the policies, interpretations and guidelines of the Exchange and all orders and decisions of the Exchange's Board and penalties imposed by the Board, and any duly authorized committee; provided, however, that such agreement shall not be construed as a waiver by the applicant of any right to appeal as provided in the Act.

(2) An agreement to pay such dues, assessments, and other charges in the manner and amount as shall from time to time be fixed by the Exchange.

(3) An agreement that the Exchange and its officers, employees and members of its Board and of any committee shall not be liable, except for willful malfeasance, to the applicant or to any other person, for any action taken by such director, officer or member in his official capacity, or by any employee of the Exchange while acting within the scope of his employment, in connection with the administration or enforcement of any of the provisions of its By-Laws, Exchange Rules, policies, interpretations or guidelines of the Exchange or any penalty imposed by the Exchange, its Board or any duly authorized committee.

(4) An agreement to maintain and make available to the Exchange, its authorized employees and its Board or committee members such books and records as may be required to be maintained by the Commission or the Exchange Rules.

(5) Such other reasonable information with respect to the applicant as the Exchange may require.

(b) Reserved.

(c) If the Exchange is satisfied that the applicant is qualified to hold an ETP pursuant to the provisions of this Chapter, the Exchange shall promptly notify, in writing, the applicant of such determination, and the applicant shall be issued an ETP.

(d) If the Exchange is not satisfied that the applicant is qualified to hold an ETP pursuant to the provisions of this Chapter, the Exchange shall promptly notify the applicant of the grounds for denying the ETP. The Board on its own motion may reverse the determination that the applicant is not qualified to hold an ETP. If a majority of the Board specifically determines to reverse the determination to deny the issuance of an ETP, the Board shall promptly notify Exchange staff, who shall promptly notify the applicant of the Board's decision and shall issue an ETP to the applicant. An applicant who has been denied an ETP may appeal such decision under Chapter X of the Exchange Rules governing adverse action.

(e) In considering applications for an ETP, the Exchange shall adhere to the following procedures:

(1) Where an application is granted by the Board, the Exchange shall promptly notify the applicant.

(2) The applicant shall be afforded an opportunity to be heard on the denial of an ETP pursuant to Chapter X of the Exchange Rules governing adverse action.

(f) Reserved.

Interpretations and Policies

.01 **Expedited Process for Reinstatement as an ETP Holder**: Beginning on the date that this Interpretations and Policies .01 becomes effective and ending 90 calendar days after such date, any ETP Holder in good standing as of the close of business on May 30, 2014 may apply to reinstate its status as an ETP Holder, and register with the Exchange each Associated Person of such ETP Holder, by submitting a short form application as prescribed by the Exchange, *provided that*:

(i) the ETP Holder is a current member of another self-regulatory organization; and

(ii) each proposed Associated Person holds an active and recognized securities industry registration and meets the requirements of Rule 2.4(e).

Such short-form application shall include an agreement conforming with Rule 2.5(a)(1) through (a)(5). The Exchange may request further documentation, in addition to the

short-form application, in order to determine that the applicant using the expedited process meets the qualification standards set forth in Rule 2.4.

Rule 2.6. Revocation of an ETP or an Association with an ETP Holder

ETP Holders or Persons Associated with ETP Holders may effect approved securities transactions on the Exchange's trading facilities only so long as they possess all the qualifications set forth in the Exchange Rules. Except where, pursuant to Section 17(d) of the Act, the Exchange has been relieved of its responsibility to monitor the continued qualifications of an ETP Holder or Person Associated with an ETP Holder, when the Exchange has reason to believe that an ETP Holder or Person Associated with an ETP Holder fails to meet such qualifications, the Exchange may act to revoke such Person's ETP or association. Such action shall be instituted under, and governed by, Chapters VII and VIII of the Exchange Rules and may be appealed under Chapter X of the Exchange Rules governing adverse action. In connection with any revocation of an ETP, the ETP shall be cancelled.

Rule 2.7. Voluntary Termination of Rights as an ETP Holder

An ETP Holder may voluntarily terminate its rights as an ETP Holder only by a written resignation addressed to the Exchange or another officer designated by the Exchange. Such resignation shall not take effect until 30 days after all of the following conditions have been satisfied: (i) receipt of such written resignation; (ii) all indebtedness due the Exchange shall have been paid in full; (iii) any Exchange investigations or disciplinary action brought against the ETP Holder has reached a final disposition; and (iv) any examination of such ETP Holder in process is completed and all exceptions noted have been reasonably resolved; provided, however, that the Board may declare a resignation effective at any time. In connection with any voluntary termination of an ETP pursuant to this Rule, the ETP shall be cancelled.

Rule 2.8. Transfer or Sale of an ETP

ETP Holders may not transfer or sell or encumber their ETPs or any interest therein.

Rule 2.9. Dues, Assessments and Other Charges

The Exchange may prescribe such reasonable assessments, dues or other charges as it may, in its discretion, deem appropriate. Such assessments and charges shall be equitably allocated among ETP Holders, issuers and other persons using the Exchange's facilities.

Rule 2.10. No Affiliation between Exchange and any ETP Holder

Without the prior approval of the Commission, the Exchange or any entity with which it is affiliated shall not, directly or indirectly, acquire or maintain an ownership interest in an ETP Holder. In addition, without the prior approval of the Commission, an ETP Holder shall not be or become an affiliate of the Exchange, or an affiliate of any affiliate of the Exchange. The term affiliate shall have the meaning specified in Rule 12b-2 under

the Act. Nothing in this Rule 2.10 shall prohibit an ETP Holder or its affiliate from acquiring or holding an equity interest in Intercontinental Exchange, Inc. that is permitted by the ownership and voting limitations contained in the Amended and Restated Certificate of Incorporation and Bylaws of Intercontinental Exchange, Inc. In addition, nothing in this Rule 2.10 shall prohibit an ETP Holder from being or becoming an affiliate of the Exchange, or an affiliate of any affiliate of the Exchange, solely by reason of such ETP Holder or any officer, director, manager, managing member, partner or affiliate of such ETP Holder being or becoming either (a) a Non-Affiliate Director (as defined in the By-Laws of the Exchange) pursuant to the By-Laws of the Exchange, or (b) a member of the Board of Directors of Intercontinental Exchange, Inc.

Rule 2.11. NSX Securities LLC

(a) For so long as NSX Securities LLC ("NSX Securities" or "NSXS") is affiliated with the Exchange and is providing outbound routing of orders from the Exchange to other Trading Centers for execution (such function of NSX Securities is referred to as the "Outbound Router"), each of the Exchange and NSX Securities shall undertake as follows:

(1) The Exchange will regulate the Outbound Router function of NSX Securities as a facility (as defined in Section 3(a)(2) of the Act), subject to Section 6 of the Act. In particular, and without limitation, under the Act, the Exchange will be responsible for filing with the Commission rule changes and fees relating to the NSX Securities Outbound Router function and NSX Securities will be subject to exchange non-discrimination requirements.

(2) The Financial Industry Regulatory Authority ("FINRA"), a self-regulatory organization unaffiliated with the Exchange or any of its affiliates, will carry out oversight and enforcement responsibilities as the designated examining authority designated by the Commission pursuant to Rule 17d-1 of the Act with the responsibility for examining NSX Securities for compliance with the applicable financial responsibility rules.

(3) An ETP Holder's use of NSX Securities to route orders to another Trading Center will be optional. Any ETP Holder that does not want to use NSX Securities may use other routers to route orders to other Trading Centers.

(4) NSX Securities will not engage in any business other than (a) its Outbound Router function and (b) any other activities it may engage in as approved by the Commission.

(5) NSX Securities and any third-party routing broker-dealer used by the Exchange to route orders to other Trading Centers (collectively, the "Routing Broker") shall maintain an account for the purpose of addressing positions that result from a systems, technical or operational issue at the Exchange, the Routing Broker, or the destination Trading Center that affects one or more orders ("Error Positions").

For the purposes of this paragraph (a)(5):

(i) Error Positions include any action or omission by NSX, the Routing Broker, or another Trading Center to which an order has been routed that results in an unmatched trade position due to the execution of such routed order and for which there is no corresponding order with which to pair the execution.

(ii) The Exchange or the Routing Broker shall assign all Error Positions resulting from a particular systems, technical or operational issue to the ETP Holders affected by that systems, technical or operational issue if the Routing Broker or the Exchange:

(A) determines that it has accurate and sufficient information (including valid clearing information) to assign the positions to all of the ETP Holders affected by that systems, technical or operational issue;

(B) determines that it has sufficient time pursuant to normal clearance and settlement deadlines to evaluate the information necessary to assign the positions to all of the ETP Holders affected by that systems, technical or operational issue; and

(C) has not determined to cancel all orders affected by that systems, technical or operational issue.

(iii) If the Routing Broker reasonably concludes, due to the number of erroneous executions and/or the number of ETP Holders potentially affected, that it would not be able to assign each Error Position back to such ETP Holders by the end of Regular Trading Hours on the first business day following the trade date on which the Error Position was established ("T+1"), then the Routing Broker will assume the entire amount of the Error Position in its error account.

(iv) Except as provided in Rule 2.11(a)(5)(v), the Routing Broker shall not accept any positions in such error account from an account of an ETP Holder or permit any ETP Holder to transfer any positions from the ETP Holder's account to a Routing Broker error account.

(v) If a systems, technical or operational issue results in the Exchange not having valid clearing instructions from an ETP Holder to a trade, the Routing Broker may assume that ETP Holder's side of the trade so that the trade can be automatically processed for clearing and settlement on a locked-in basis pursuant to Rule 11.17(b).

(6) If the Exchange or the Routing Broker is unable to assign all Error Positions resulting from a particular technical, systems or operational issue to all of the affected ETP Holders in accordance with paragraph (a)(5) above, or if the Exchange or the Routing Broker determines to cancel all orders affected by the systems, technical or

operational issue in accordance with Rule 11.11(e), the Routing Broker shall liquidate any Error Positions as soon as practicable, as follows:

(i) NSX and NSXS will provide complete time and price discretion for the trading to liquidate the Error Positions to a third-party broker-dealer and shall not attempt to exercise any influence or control over the timing or methods of such trading;

(ii) NSX and NSXS shall establish, maintain and enforce written policies and procedures reasonably designed to restrict the flow of confidential and proprietary information associated with the liquidation of the Error Positions in accordance with this Rule, and prevent the use of information associated with other orders subject to the routing services when making determinations regarding the liquidation of Error Positions; and

(iii) NSX and NSXS shall make and keep records to document all determinations to treat positions as Error Positions and all determinations for the assignment of Error Positions to ETP Holders or the liquidation of Error Positions, as well as records associated with the liquidation of Error Positions through a third-party broker-dealer in accordance with Exchange Act Rule 17a-4.

(b) The books, records, premises, officers, agents, directors and employees of NSX Securities as a facility of the Exchange shall be deemed to be the books, records, premises, officers, agents, directors and employees of the Exchange for purposes of, and subject to oversight pursuant to, the Act. The books and records of NSX Securities as a facility of the Exchange shall be subject at all times to inspection and copying by the Exchange and the Commission.

Amended: 8-31-06 (SR-NSX-2006-08); 11-21-06 (SR-NSX-2006-15); 4-2-07 (SR-NSX-2007-04); 6-30-07 (SR-NSX-2007-08); 9-28-07 (SR-NSX-2007-10); 3-24-08 (SR-NSX-2008-08); 8-8-08 (SR-NSX-2008-15); 08-24-16 (SR-NSX-2016-07); 08-29-16 (SR-NSX-2016-04)

Rule 2.12. Back-Up Order Routing Services

In the event the Exchange is not able to provide order routing services through Rule 2.11, the Exchange will provide all such services pursuant to this Rule 2.12. The Exchange will route orders to other trading centers under certain circumstances ("Routing Services") as described in Chapter XI of these Rules. The Exchange will provide its Routing Services pursuant to the terms of three separate agreements: (1) an agreement between the Exchange and each ETP Holder on whose behalf orders will be routed; (2) an agreement between the Exchange and each third-party broker-dealer that will serve as a "give-up" on an away trading center when the ETP Holder on whose behalf an order is routed is not also a member or subscriber of the away trading center; and (3) an agreement between the Exchange and a third-party service provider ("Technology Provider") pursuant to which the Exchange licenses the routing technology used by the

Exchange for its Routing Services ("Exchange-Technology Provider Agreement"). This Rule 2.12 shall be effective through September 30, 2008.

Interpretations and Policies

.01 (a) The Exchange will provide its Routing Services in compliance with these Rules, as well as other provisions of the Exchange's By-Laws and Rules where applicable, and with the provisions of the Act and the rules thereunder, including, but not limited to, the requirements in Section 6(b)(4) and (5) of the Act that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

(b) As provider of the Routing Services, the Exchange will license the necessary routing technology for use within its own systems and accordingly will control the logic that determines when, how, and where orders are routed away to other trading centers.

(c) The Exchange will establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between the Exchange (including its facilities) and the Technology Provider, and, to the extent the Technology Provider reasonably receives confidential and proprietary information, that adequately restrict the use of such information by the Technology Provider to legitimate business purposes necessary for the licensing of routing technology.

(d) The Exchange-Technology Provider Agreement will include terms and conditions that enable the Exchange to comply with this Interpretation and Policy .01.

Rule 2.13. Mandatory Participation in Testing of Backup Systems

a. Pursuant to Regulation SCI and with respect to the Exchange's business continuity and disaster recovery plans, including its backup systems, the Exchange is required to establish standards for the designation of ETP Holders that the Exchange reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans. The Exchange has established standards and will designate ETP Holders according to those standards as set forth below. All ETP Holders are permitted to connect to the Exchange's backup systems and to participate in testing of such systems.

b. Certain ETP Holders are required to connect to the Exchange's backup systems and participate in functional and performance testing as announced by the

Exchange, which shall occur at least once every 12 months. Specifically, ETP Holders that have been determined by the Exchange to contribute a meaningful percentage of the Exchange's overall volume must participate in mandatory testing of the Exchange's backup systems.

Interpretations and Policies

.01 For purposes of identifying ETP Holders that account for a meaningful percentage of the Exchange's overall volume, the Exchange will measure volume executed on the Exchange on a quarterly basis. The percentage of volume that the Exchange considers to be meaningful for purposes of this Interpretation and Policy .01 will be determined by the Exchange and will be published in a circular distributed to ETP Holders. The Exchange will also individually notify all ETP Holders quarterly that are subject to paragraph (b) based on the prior calendar quarter's volume. If an ETP Holder has not previously been subject to the requirements of paragraph (b), such ETP Holder will have until the next calendar quarter before such requirements are applicable.

CHAPTER III. Rules of Fair Practice

Rule 3.1. Business Conduct of ETP Holders

An ETP Holder, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade.

Interpretations and Policies

.01 An ETP Holder may not split any order into multiple smaller orders for any purpose other than seeking the best execution for the entire order.

Rule 3.2. Violations Prohibited

No ETP Holder shall engage in conduct in violation of the Act, the rules or regulations thereunder, the By-Laws, Exchange Rules or any policy or written interpretation of the By-Laws or Exchange Rules by the Board or an appropriate Exchange Committee. Every ETP Holder shall so supervise persons associated with the ETP Holder as to assure compliance with those requirements.

Amended: 10-19-04 (SR-NSX-2004-06); 6-8-06 (SR-NSX-2006-03).

Rule 3.3. Use of Fraudulent Devices

No ETP Holder shall effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance.

Amended: 6-8-06 (SR-NSX-2006-03)

Rule 3.4. False Statements

No ETP Holder or applicant for an ETP shall make any false statements or misrepresentations in any application, report or other communication to the Exchange. No ETP Holder shall make any false statement or misrepresentation to any Exchange committee, officer, the Board or any designated self- regulatory organization in connection with any matter within the jurisdiction of the Exchange.

Rule 3.5. Advertising Practices

(a) No ETP Holder, directly or indirectly, in connection with the purchase or sale of any security that has listed or unlisted trading privileges on the Exchange, shall publish, circulate or distribute any advertisement, sales literature or market letter or make oral statements or presentations which the ETP Holder knows, or in the exercise of reasonable care should know, contain any untrue statement of material fact or which is otherwise false or misleading. Exaggerated or misleading statements or claims are prohibited.

(b) Advertisements, sales literature and market letters shall contain the name of the ETP Holder, the person or firm preparing the material, if other than the ETP Holder, and the date on which it was first published, circulated or distributed (except that in advertisements only the name of the ETP Holder need be stated).

(c) No cautionary statements or caveats, often called hedge clauses, may be used if they could mislead the reader or are inconsistent with the content of the material.

(d) Each item of advertising and sales literature and each market letter shall be approved by signature or initial, prior to use, by an officer, partner or other official the ETP Holder has designated to supervise all such matters.

(e) A separate file of all advertisements, sales literature and market letters, including the names of the persons who prepared them and/or approved their use, shall be maintained by the ETP Holder for a period of three years from the date of each use (for the first two years in a place readily accessible to examination or spot checks). Each ETP Holder shall file with the Exchange, or the designated self-regulatory organization for such ETP Holder, within five business days after initial use, each advertisement (i.e., any material for use in any newspaper or magazine or other public media or by radio, telephone, recording, motion picture or television, except tombstone advertisements),

unless such advertisement may be published under the rules of another self-regulatory organization regulating the ETP Holder under the Act.

(f) Testimonial material based on experience with the ETP Holder or concerning any advice, analysis, report or other investment related service rendered by the ETP Holder must make clear that such testimony is not necessarily indicative of future performance or results obtained by others. Testimonials also shall state whether any compensation has been paid to the maker, directly or indirectly, and if the material implies special experience or expert opinion, the qualifications of the maker of the testimonial should be given.

(g) Any statement to the effect that a report or analysis or other service will be furnished free or without any charge shall not be made unless such report or analysis or other service actually is or will be furnished entirely free and without condition or obligation.

(h) No claim or implication may be made for research or other facilities beyond those which the ETP Holder actually possesses or has reasonable capacity to provide.

Rule 3.6. Fair Dealing with Customers

All ETP Holders have a fundamental responsibility for fair dealing with their customers. Practices which do not represent fair dealing include, but are not limited to, the following:

(a) Recommending speculative securities to customers without knowledge of or an attempt to obtain information concerning the customers' other securities holdings, their financial situation and other necessary data. This prohibition has particular application to high pressure telephonic sales campaigns.

(b) Excessive activity in customer accounts (churning or overtrading) in relation to the objectives and financial situation of the customer.

(c) Establishment of fictitious accounts in order to execute transactions which otherwise would be prohibited or which are against firm policy.

(d) Causing the execution of transactions which are unauthorized by customers or the sending of confirmations in order to cause customers to accept transactions not actually agreed upon;

(e) Unauthorized use or borrowing of customer funds or securities; and

(f) Recommending the purchase of securities or the continuing purchase of securities in amounts which are inconsistent with the reasonable expectation that the customer has the financial ability to meet such a commitment.

Interpretations and Policies

.01 ETP Holders who handle customer orders on the Exchange shall establish and enforce fixed standards for queuing and executing customer orders.

Rule 3.7. Recommendations to Customers

(a) In recommending to a customer the purchase, sale or exchange of any security, an ETP Holder shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts disclosed by such customer, after reasonable inquiry by the ETP Holder, as to the customer's other securities holdings and as to the customer's financial situation and needs.

(b) An ETP Holder may use material referring to past recommendations if it sets forth all recommendations as to the same type, kind, grade or classification of securities made by the ETP Holder within the last year. Longer periods of years may be covered if they are consecutive and include the most recent year. Such material must also name each security recommended and give the date and nature of each recommendation (e.g., whether to buy or sell), the price at the time of the recommendation, the price at which, or the price within which, the recommendation was to be acted upon, and the fact that the period was one of generally failing or rising markets, if such was the case.

Interpretations and Policies

.01 Recommendations made in connection with products listed pursuant to Rule 15.3 shall comply with the provisions of (a) above. No ETP Holder shall recommend to a customer a transaction in any such product unless the ETP Holder has a reasonable basis for believing at the time of making the recommendation that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks of the recommended transaction and is financially able to bear the risks of the recommended position.

Rule 3.8. The Prompt Receipt and Delivery of Securities

(a) Purchases. No ETP Holder may accept a customer's purchase order for any security until it has first ascertained that the customer placing the order or its agent agrees to receive securities against payment in an amount equal to any execution, even though such an execution may represent the purchase of only a part of a larger order.

(b) Sales.

(1) No ETP Holder shall execute a sale order for any customer in any security unless:

(i) the other customer has possession of the security; or

(ii) the customer is long the security in his account with the ETP Holder; or

(iii) reasonable assurance is received by the ETP Holder from the customer that the security will be delivered to it in good deliverable form within three (3) business days of the execution of the order; or

(iv) the security is on deposit in good deliverable form with (A) an ETP Holder of the Exchange, (B) a member of another self-regulatory organization or (C) any organization subject to state or federal banking regulations, and instructions have been forwarded to such member or organization to deliver the securities against payment.

(2) In order to satisfy the "requirement of reasonable assurance" contained in sub-paragraph (1)(iii) above, the ETP Holder, at the time it takes the order, shall make a notation on the order ticket which reflects the ETP Holder's conversation with the customer as to the present location of the securities in question, whether they are in good deliverable form and his ability to deliver them to the ETP Holder within three business days.

Rule 3.9. Charges for Services Performed

An ETP Holder's charges, if any, for services performed (including miscellaneous services such as collection of moneys due for principal, dividends or interest; exchange or transfer of securities; appraisals, safekeeping or custody of securities; and other services) shall be reasonable and not unfairly discriminatory among customers.

Rule 3.10. Use of Information

An ETP Holder who, in the capacity of payment agent, transfer agent, or any other similar capacity, or in any fiduciary capacity, has received information as to the ownership of securities shall not make use of such information for soliciting purchases, sales or exchanges except at the request, and on behalf, of the issuer.

Rule 3.11. Publication of Transactions and Quotations

No ETP Holder shall report to the Exchange or publish or cause to be published any transaction as a purchase or sale of any security unless such ETP Holder believes that such transaction was a bona fide purchase or sale of such security, and no ETP Holder shall purport to quote the bid or asked price for any security, unless such ETP Holder believes that such quotation represents a bona fide bid for, or offer of, such security.

Rule 3.12. Offers at Stated Prices

No ETP Holder shall make an offer to buy from or sell to any person any security at a stated price unless such ETP Holder is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell.

Rule 3.13. Payment Designed to Influence Market Prices, Other than Paid Advertising

No ETP Holders shall directly or indirectly, give, permit to be given, or offer to give anything of value to any person for the purpose of influencing or rewarding the action of such person in connection with the publication or circulation in any newspaper, investment service or similar publication of any matter which has, or is intended to have, an effect upon the market price of any security; provided, that this Rule shall not be construed to apply to a matter which is clearly identifiable as paid advertising.

Rule 3.14. Disclosure on Confirmations

An ETP Holder, at or before the completion of each transaction with a customer, shall give or send to such customer such written notification or confirmation of the transaction as is required by Commission Rule 10b-10.

Rule 3.15. Disclosure of Control

An ETP Holder controlled by, controlling, or under common control with, the issuer of any security, shall disclose to a customer the existence of such control before entering into any contract with or for such customer for the purchase or sale or such security, and if such disclosure is not made in writing, it shall be supplemented by the giving or sending of a written disclosure to the customer at or before completion of the transaction.

Rule 3.16. Discretionary Accounts

(a) No ETP Holder shall effect any purchase or sale transactions with, or for, any customer's account in respect of which such ETP Holder is vested with any discretionary power if such transactions are excessive in size or frequency in view of the financial resources and character of such account.

(b) No ETP Holder shall exercise any discretionary power in a customer's account unless such customer has given prior written authorization and the account has been accepted by the ETP Holder, as evidenced in writing by a person duly designated by the ETP Holder.

(c) The ETP Holder shall approve promptly in writing each discretionary order entered and shall review all discretionary accounts at frequent intervals in order to detect and prevent transactions which are excessive in size or frequency in view of the financial resources and character of the account. The ETP Holder shall designate a partner, officer

or manager in each office, including the main office, to carry out the approval and review procedures.

(d) This Rule shall not apply to an order by a customer for the purchase or sale of a definite amount of a specified security which order gives the ETP Holder discretion only over the time and price of execution.

Rule 3.17. Customer's Securities or Funds

No ETP Holder shall make improper use of a customer's securities or funds.

Rule 3.18. Prohibition Against Guarantees

No ETP Holder shall guarantee, directly or indirectly, a customer against loss in any securities account of such customer carried by the ETP Holder or in any securities transaction effected by the ETP Holder with or for such customer.

Rule 3.19. Sharing in Accounts; Extent Permissible

No ETP Holder shall share, directly or indirectly, in the profits or losses in any account of a customer carried by the ETP Holder or any other ETP Holder, unless authorized by the customer or ETP Holder carrying the account; and an ETP Holder shall share in the profits or losses in any account of such customer only in direct proportion to the financial contributions made to such account by the ETP Holder. Accounts of the immediate family of an ETP Holder shall be exempt from this direct proportionate share limitation. For purposes of this Rule, the term "immediate family" shall include parents, mother-in-law, father-in-law, husband or wife, children or any other relative to whose support the ETP Holder contributes directly or indirectly.

Rule 3.20. Installment or Partial Payment Sales

(a) No ETP Holder shall take or carry any account or make a transaction for any customer under any arrangement which contemplates or provides for the purchase of any security for the account of the customer, or for the sale of any security to the customer, where payment for the security is to be made to the ETP Holder by the customer over a period of time in installments or by a series or partial payments, unless:

(1) in the event such ETP Holder acts as an agent or broker in such transaction, the ETP Holder promptly shall make an actual purchase of the security for the account of the customer, take possession or control of such security and maintain possession or control thereof so long as the ETP Holder remains under an obligation to deliver the security to the customer;

(2) in the event such ETP Holder acts as a principal in such transaction, the ETP Holder shall own, at the time of such transaction, such security and shall

maintain possession or control thereof so long as he remains under an obligation to deliver the security to the customer; and

(3) if applicable to such ETP Holder, the provisions of Regulation T of the Federal Reserve Board shall be satisfied.

(b) No ETP Holder, whether acting as principal or agent, shall make, in connection with any transaction referred to in this Rule, any agreement with his customer under which such ETP Holder shall be allowed to pledge or hypothecate any security involved in such transaction in contravention of Commission Rules 8c-1 and 15c3-3.

Rule 3.21 Telephone Solicitation

(a) Telemarketing Restrictions. No ETP Holder or associated person of an ETP Holder shall make an outbound telephone call to:

(1) any person's residence at any time other than between 8:00 a.m. and 9:00 p.m. local time at the called person's location;

(2) any person that previously has stated that he or she does not wish to receive any outbound telephone calls made by or on behalf of the ETP Holder; or

(3) any person who has registered his or her telephone number on the Federal Trade Commission's national do-not-call registry.

(b) Caller Disclosures. No ETP Holder or associated person of an ETP Holder shall make an outbound telephone call to any person without disclosing truthfully, promptly and in a clear and conspicuous manner to the called person the following information:

(1) the identity of the caller and the ETP Holder;

(2) the telephone number or address at which the caller may be contacted; and

(3) that the purpose of the call is to solicit the purchase of securities or related services.

The telephone number provided may not be a 900 number or any other number for which charges exceed local or long-distance transmission charges.

(c) Exceptions. The prohibition of paragraph (a)(1) does not apply to outbound telephone calls by an ETP Holder or an associated person of an ETP Holder if:

(1) the ETP Holder has received that person's express prior consent;

(2) the ETP Holder has an established business relationship with the person; or

(3) the person called is a broker or dealer.

(d) ETP Holder's Firm-Specific Do-Not-Call List.

(1) Each ETP Holder shall make and maintain a centralized list of persons who have informed the ETP Holder or any of its associated persons of an ETP Holder that they do not wish to receive outbound telephone calls.

(2) Prior to engaging in telemarketing, an ETP Holder must institute procedures to comply with paragraphs (a) and (b). Such procedures must meet the following minimum standards:

(A) Written policy. ETP Holders must have a written policy for maintaining the do-not-call list described under paragraph (d)(1).

(B) Training of personnel engaged in telemarketing. Personnel engaged in any aspect of telemarketing must be informed and trained in the existence and use of the do-not-call list.

(C) Recording, disclosure of do-not-call requests. If an ETP Holder receives a request from a person not to receive calls from that ETP Holder, the ETP Holder must record the request and place the person's name, if provided, and telephone number on the ETP Holder's firm-specific do-not-call list at the time the request is made. ETP Holders must honor a person's do-not-call request within a reasonable time from the date such request is made. This period may not exceed 30 days from the date of such request. If such requests are recorded or maintained by a party other than the ETP Holder on whose behalf the outbound telephone call is made, the ETP Holder on whose behalf the outbound telephone call is made will be liable for any failures to honor the do-not-call request.

(D) Identification of telemarketers. An ETP Holder or associated person of an ETP Holder making an outbound telephone call must make the caller disclosures set forth in paragraph (b).

(E) Affiliated persons or entities. In the absence of a specific request by the person to the contrary, a person's do-not-call request shall apply to the ETP Holder making the call, and shall not apply to affiliated entities unless the consumer reasonably would expect them to be included given the identification of the caller and the product being advertised.

(F) Maintenance of do-not-call lists. An ETP Holder making outbound telephone calls must maintain a record of a person's request not to receive further calls.

(e) Do-Not-Call Safe Harbors.

(1) An ETP Holder or associated person of an ETP Holder making outbound telephone calls will not be liable for violating paragraph (a)(3) if:

(A) the ETP Holder has an established business relationship with the called person. A person's request to be placed on the ETP Holder's firm-specific do-not-call list terminates the established business relationship exception to the national do-not-call registry provision for that ETP Holder even if the person continues to do business with the ETP Holder;

(B) the ETP Holder has obtained the person's prior express written consent. Such consent must be clearly evidenced by a signed, written agreement (which may be obtained electronically under the E-Sign Act) between the person and the ETP Holder, which states that the person agrees to be contacted by the ETP Holder and includes the telephone number to which the calls may be placed; or

(C) the ETP Holder or associated person of an ETP Holder making the call has a personal relationship with the called person.

(2) An ETP Holder or associated person of an ETP Holder making outbound telephone calls will not be liable for violating paragraph (a)(3) if the ETP Holder or associated person of an ETP Holder demonstrates that the violation is the result of an error and that as part of the ETP Holder's routine business practice:

(A) the ETP Holder has established and implemented written procedures to comply with paragraphs (a) and (b);

(B) the ETP Holder has trained its personnel, and any entity assisting in its compliance, in the procedures established pursuant to paragraph (e)(2)(A);

(C) the ETP Holder has maintained and recorded a list of telephone numbers that it may not contact in compliance with paragraph (d); and

(D) the ETP Holder uses a process to prevent outbound telephone calls to any telephone number on the ETP Holder's firm-specific do-not-call list or the national do-not-call registry, employing a version of the national do-not-call registry obtained from the Federal Trade Commission no more than 31 days prior to the date any call is made, and maintains records documenting this process.

(f) Wireless Communications. The provisions set forth in this Rule are applicable to ETP Holders and associated persons of an ETP Holder making outbound telephone calls to wireless telephone numbers.

(g) Outsourcing Telemarketing. If an ETP Holder uses another appropriately registered or licensed entity or person to perform telemarketing services on its behalf, the ETP Holder remains responsible for ensuring compliance with all provisions contained in this Rule.

(h) Billing Information. For any telemarketing transaction, no ETP Holder or associated person of an ETP Holder shall cause billing information to be submitted for payment, directly or indirectly, without the express informed consent of the customer. Each ETP Holder or associated person of an ETP Holder must obtain the express informed consent of the person to be charged and to be charged using the identified account.

In any telemarketing transaction involving preacquired account information, the following requirements must be met to evidence express informed consent:

(1) In any telemarketing transaction involving preacquired account information and a free-to-pay conversion feature, the ETP Holder or associated person of an ETP Holder must:

(A) obtain from the customer, at a minimum, the last four digits of the account number to be charged;

(B) obtain from the customer an express agreement to be charged and to be charged using the account number pursuant to paragraph (h)(1)(A); and

(C) make and maintain an audio recording of the entire telemarketing transaction.

(2) In any other telemarketing transaction involving preacquired account information not described in paragraph (h)(1), the ETP Holder or associated person of an ETP Holder must:

(A) identify the account to be charged with sufficient specificity for the customer to understand what account will be charged; and

(B) obtain from the customer an express agreement to be charged and to be charged using the account number identified pursuant to paragraph (h)(2)(A).

(i) Caller Identification Information.

(1) Any ETP Holder that engages in telemarketing must transmit or cause to be transmitted the telephone number and, when made available by the ETP Holder’s telephone carrier, the name of the ETP Holder to any caller identification service in use by a recipient of an outbound telephone call.

(2) The telephone number so provided must permit any person to make a do-not-call request during regular business hours.

(3) Any ETP Holder that engages in telemarketing is prohibited from blocking the transmission of caller identification information.

(j) Unencrypted Consumer Account Numbers. No ETP Holder or associated person of an ETP Holder shall disclose or receive, for consideration, unencrypted consumer account numbers for use in telemarketing. The term "unencrypted" means not only complete, visible account numbers, whether provided in lists or singly, but also encrypted information with a key to its decryption. This paragraph will not apply to the disclosure or receipt of a customer's billing information to process pursuant to a telemarketing transaction.

(k) Abandoned Calls.

(1) No ETP Holder or associated person of an ETP Holder shall "abandon" any outbound telephone call. An outbound telephone call is "abandoned" if a called person answers it and the call is not connected to an ETP Holder or associated person of an ETP Holder within two seconds of the called person's completed greeting.

(2) An ETP Holder or associated person of an ETP Holder shall not be liable for violating paragraph (k)(1) if:

(A) the ETP Holder or associated person of an ETP Holder employs technology that ensures abandonment of no more than three percent of all outbound telephone calls answered by a person, measured over the duration of a single calling campaign, if less than 30 days, or separately over each successive 30-day period or portion thereof that the campaign continues;

(B) the ETP Holder or associated person of an ETP Holder, for each outbound telephone call placed, allows the telephone to ring for at least 15 seconds or 4 rings before disconnecting an unanswered call;

(C) whenever an ETP Holder or associated person of an ETP Holder is not available to speak with the person answering the outbound telephone call within two seconds after the person's completed greeting, the ETP Holder or associated person of an ETP Holder promptly plays a prerecorded message that states the name and telephone number of the ETP Holder or associated person of an ETP Holder on whose behalf the call was placed; and

(D) the ETP Holder or associated person of an ETP Holder retains records establishing compliance with paragraph (k)(2).

(l) Prerecorded Messages.

(1) No ETP Holder or associated person of an ETP Holder shall initiate any outbound telephone call that delivers a prerecorded message, other than a prerecorded message permitted for compliance with the call abandonment safe harbor in paragraph (k)(2)(C), unless:

(A) the ETP Holder has obtained from the called person an express agreement, in writing, that:

(i) the ETP Holder obtained only after a clear and conspicuous disclosure that the purpose of the agreement is to authorize the ETP Holder to place prerecorded calls to such person;

(ii) the ETP Holder obtained without requiring, directly or indirectly, that the agreement be executed as a condition of purchasing any good or service;

(iii) evidences the willingness of the called person to receive calls that deliver prerecorded messages by or on behalf of the ETP Holder; and

(iv) includes such person's telephone number and signature (which may be obtained electronically under the E-Sign Act);

(B) the ETP Holder allows the telephone to ring for a least 15 seconds or four rings before disconnecting an unanswered call and, within two seconds after the completed greeting of the called person, plays a prerecorded message that promptly provides the disclosures in paragraph (b), followed immediately by a disclosure of one or both of the following:

(i) in the case of a call that could be answered in person, that the called person can use an automated interactive voice and/or keypress-activated opt-out mechanism to assert a firm-specific do-not-call request pursuant to the ETP Holder's procedures instituted under paragraph (d)(2)(C) at any time during the message. The mechanism must automatically add the number called to the ETP Holder's firm-specific do-not-call list; once invoked, immediately disconnect the call; and be available for use at any time during the message; and

(ii) in the case of a call that could be answered by an answering machine or voicemail service, that the call recipient can use a toll-free telephone number to assert a firm-specific do-not-call request pursuant to the ETP Holder's procedures instituted under paragraph (d)(2)(C). The number provided must connect directly to an automated interactive voice or keypress-activated opt-out mechanism that automatically adds the number called to the ETP Holder's firm-specific do-not-call list; immediately thereafter

disconnects the call; and is accessible at any time throughout the duration of the telemarketing campaign; and

(C) the ETP Holder complies with all other requirements of this Rule and other applicable federal and state laws.

(2) Any call that complies with all applicable requirements of paragraph (l) shall not be deemed to violate paragraph (k).

(m) Credit Card Laundering. Except as expressly permitted by the applicable credit card system, no ETP Holder or associated person of an ETP Holder shall:

(1) present to or deposit into the credit card system for payment a credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the ETP Holder;

(2) employ, solicit, or otherwise cause a merchant, or an employee, representative or agent of the merchant, to present to or to deposit into the credit card system for payment a credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the merchant; or

(3) obtain access to the credit card system through the use of a business relationship or an affiliation with a merchant, when such access is not authorized by the merchant agreement or the applicable credit card system.

(n) Definitions. For purposes of this Rule:

(1) The term “account activity” includes, but is not limited to, purchases, sales, interest credits or debits, charges or credits, dividend payments, transfer activity, securities receipts or deliveries, and/or journal entries relating to securities or funds in the possession or control of the ETP Holder.

(2) The term “acquirer” means a business organization, financial institution, or an agent of a business organization or financial institution that has authority from an organization that operates or licenses a credit card system to authorize merchants to accept, transmit, or process payment by credit card through the credit card system for money, goods or services, or anything else of value.

(3) The term “billing information” means any data that enables any person to access a customer’s or donor’s account, such as a credit or debit card number, a brokerage, checking, or savings account number, or a mortgage loan account number. A “donor” means any person solicited to make a charitable contribution. A “charitable contribution” means any donation or gift of money or any other thing of value, for example a transfer to a pooled income fund.

(4) The term “broker-dealer of record” refers to the broker or dealer identified on a customer’s account application for accounts held directly at a mutual fund or variable insurance product issuer.

(5) The term “caller identification service” means a service that allows a telephone subscriber to have the telephone number and, where available, name of the calling party transmitted contemporaneously with the telephone call, and displayed on a device in or connected to the subscriber’s telephone.

(6) The term “cardholder” means a person to whom a credit card is issued or who is authorized to use a credit card on behalf of or in addition to the person to whom the credit card is issued.

(7) The term “credit” means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(8) The term “credit card” means any card, plate, coupon book, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.

(9) The term “credit card sales draft” means any record or evidence of a credit card transaction.

(10) The term “credit card system” means any method or procedure used to process credit card transactions involving credit cards issued or licensed by the operator of that system.

(11) The term “customer” means any person who is or may be required to pay for goods or services through telemarketing.

(12) The term “established business relationship” means a relationship between an ETP Holder and a person if:

(A) the person has made a financial transaction or has a security position, a money balance, or account activity with the ETP Holder or at a clearing firm that provides clearing services to such ETP Holder within the 18 months immediately preceding the date of an outbound telephone call;

(B) the ETP Holder is the broker-dealer of record for an account of the person within the 18 months immediately preceding the date of an outbound telephone call; or

(C) the person has contacted the ETP Holder to inquire about a product or service offered by the ETP Holder within the three months immediately preceding the date of an outbound telephone call.

A person's established business relationship with an ETP Holder does not extend to the ETP Holder's affiliated entities unless the person would reasonably expect them to be included. Similarly, a person's established business relationship with an ETP Holder's affiliate does not extend to the ETP Holder unless the person would reasonably expect the ETP Holder to be included.

(13) The term "free-to-pay conversion" means, in an offer or agreement to sell or provide any goods or services, a provision under which a customer receives a product or service for free for an initial period and will incur an obligation to pay for the product or service if he or she does not take affirmative action to cancel before the end of that period.

(14) The term "merchant" means a person who is authorized under a written contract with an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution.

(15) The term "merchant agreement" means a written contract between a merchant and an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution.

(16) The term "outbound telephone call" means a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution from a donor.

(17) The term "person" means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

(18) The term "personal relationship" means any family member, friend, or acquaintance of the person making an outbound telephone call.

(19) The term "preacquired account information" means any information that enables an ETP Holder or associated person of an ETP Holder to cause a charge to be placed against a customer's or donor's account without obtaining the account number directly from the customer or donor during the telemarketing transaction pursuant to which the account will be charged.

(20) The term "telemarketer" means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor.

(21) The term "telemarketing" means consisting of or relating to a plan, program, or campaign involving at least one outbound telephone call, for example cold-calling. The term does not include the solicitation of sales through the mailing of written marketing materials, when the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to

the marketing materials and during those calls takes orders only without further solicitation. For purposes of the previous sentence, the term "further solicitation" does not include providing the customer with information about, or attempting to sell, anything promoted in the same marketing materials that prompted the customer's call.

Interpretations and Policies:

.01 ETP Holders and associated persons of an ETP Holder that engage in telemarketing also are subject to the requirements of relevant state and federal laws and rules, including but not limited to the Telemarketing and Consumer Fraud and Abuse Prevention Act, the Telephone Consumer Protection Act, and the rules of the Federal Communications Commission ("FCC") relating to telemarketing practices and the rights of telephone consumers.

.02 It is considered conduct inconsistent with just and equitable principles of trade and a violation of Exchange Rule 3.1 for any ETP Holder or associated person of an ETP Holder to: (1) call a person repeatedly or continuously in a manner likely to annoy or be offensive; or (2) use threats, intimidation, or profane or obscene language in calling any person.

CHAPTER IV. Books and Records

Rule 4.1. Requirements

Each ETP Holder shall make and keep books, accounts, records, memoranda and correspondence in conformity with Section 17 of the Act and the rules thereunder, with all other applicable laws and the rules, regulations and statements of policy promulgated thereunder, and with Exchange Rules.

Rule 4.2. Furnishing of Records

Every ETP Holder shall furnish to the Exchange, upon request and in a time and manner required by the Exchange, current copies of any financial information filed with the Commission, as well as any records, files, or financial information pertaining to transactions executed on or through the Exchange. Further, the Exchange shall be allowed access, at any time, to the books and records of the ETP Holder in order to obtain or verify information related to transactions executed on or through the Exchange or activities relating to the Exchange.

Interpretations and Policies

.01 Consistent with the responsibility of the Exchange and the Commission to provide for timely regulatory investigations, the Exchange has adopted the following time parameters within which ETP Holders are required to respond to Exchange requests for trading data:

1st Request	10 business days
2nd Request	5 business days
3rd Request	5 business days

The third request letter will be sent to the ETP Holder's compliance officer and/or senior officer.

.02 Regulatory Data Submission Requirement. ETP Holders shall submit to the Exchange such Exchange-related order, market and transaction data as the Exchange may specify, in such form and on such schedule as the Exchange may require.

Rule 4.3. Record of Written Complaints

(a) Each ETP Holder shall keep and preserve for a period of not less than four years a file of all written complaints of customers and action taken by the ETP Holder in respect thereof, if any. Further, for the first two years of the four-year period, the ETP Holder shall keep such file in a place readily accessible to examination or spot checks.

(b) A "complaint" shall mean any written statement of a customer or any person acting on behalf of a customer alleging a grievance involving the activities of an ETP Holder or persons under the control of the ETP Holder in connection with (1) the solicitation or execution of any transaction conducted or contemplated to be conducted through the facilities of the Exchange or (2) the disposition of securities or funds of that customer which activities are related to such a transaction.

Rule 4.4. Disclosure of Financial Condition

(a) An ETP Holder shall make available for inspection by a customer, upon request, the information relative to such ETP Holder's financial condition disclosed in its most recent balance sheet prepared either in accordance with such ETP Holder's usual practice or as required by any State or Federal securities laws, or any rule or regulation thereunder. Further, an ETP Holder shall send to its customers the statements required by Commission Rule 17a-5(c).

(b) As used in paragraph (a) of this Rule, the term "customer" has the same meaning as set forth in Commission Rule 17a-5(c)(4).

CHAPTER V. Supervision

Rule 5.1. Written Procedures

Each ETP Holder shall establish, maintain and enforce written procedures which will enable it to supervise properly the activities of associated persons of the ETP Holder and to assure their compliance with applicable securities laws, rules, regulations and statements of policy promulgated thereunder, with the rules of the designated self-regulatory organization, where appropriate, and with Exchange Rules.

Rule 5.2. Responsibility of ETP Holders

Final responsibility for proper supervision shall rest with the ETP Holder. The ETP Holder shall designate a partner, officer or manager in each office of supervisory jurisdiction, including the main office, to carry out the written supervisory procedures. A copy of such procedures shall be kept in each such office.

Rule 5.3. Records

Each ETP Holder shall be responsible for making and keeping appropriate records for carrying out the ETP Holder’s supervisory procedures.

Rule 5.4. Review of Activities and Annual Inspection

Each ETP Holder shall review the activities of each office, which shall include the periodic examination of customer accounts to detect and prevent irregularities or abuses. Each ETP Holder shall conduct at least annually an inspection of each office of the ETP Holder.

Rule 5.5. Chinese Wall Procedures

(a) An ETP Holder that trades for its own account in a security, acts as a Market Maker on the Exchange, or has a specialist operation on another market (an ETP Holder engaged in any of the foregoing is referred to in this Rule 5.5 as a “specialist”) must establish a functional separation ("Chinese Wall") between the specialist operation and any associated or affiliated persons as appropriate to its operation. Further, all ETP Holders must establish, maintain and enforce written procedures reasonably designed to prevent the misuse of material, non-public information, which includes review of employee and proprietary trading, memorialization and documentation of procedures, substantive supervision of interdepartmental communications by the firm's Compliance Department and procedures concerning proprietary trading when the firm is in possession of material, non- public information. The firm must obtain the prior written approval of the Exchange that it has complied with the requirements above in establishing functional separation as appropriate to the operation and that it has established proper compliance and audit procedures to ensure the maintenance of the functional separation. A copy of these

Chinese Wall procedures, and any amendments thereto, must be filed with the Exchange's Surveillance Department.

(b) The following are the minimum procedural and maintenance requirements:

(1) The associate or affiliated person can have no influence on specific specialist trading decisions.

(2) Material, non-public corporate or market information obtained by the associated or affiliated person from the issuer may not be made available to the specialist.

(3) Clearing and margin financing information regarding the specialist may be routed only to employees engaged in such work and managerial employees engaged in overseeing operation of the affiliated or associated persons and specialists entities.

(c) Information that may be made available to others:

(1) A broker affiliated with an associated or affiliated person may make available to the specialist only the market information that he would make available to an unaffiliated specialist in the normal course of his trading and "market probing" activity.

(2) A specialist may make known to a broker affiliated with an affiliated or associated person only the information about market conditions in specialty stocks that he would make available in the normal course of specializing to any other broker and in the same manner as it would make such information available to any other broker.

(3) An affiliated or associated person can popularize a specialty stock provided it makes adequate disclosure about the existence of possible conflicts of interests.

(d) A specialist who becomes privy to material, non-public information must communicate that fact promptly to his firm's compliance officer or other designated official. The specialist shall seek guidance from the compliance officer or other designated official as to what procedures the specialist should follow after receipt of such information or such other action that should be taken. Appropriate records shall be maintained by the compliance officer or other designated official. The record should include a summary of the information received by the specialist and a description of the action taken by the compliance officer or other designated official.

(e) The Exchange has established the following procedures to monitor compliance with this rule:

(1) Examination of the Chinese Wall procedures established by Exchange specialist firms.

(2) Surveillance of proprietary trades effected by an affiliated or associated person and its affiliated or associated specialist ("designated dealer") firm.

Accordingly, the Exchange will conduct periodic examinations of the specialist firm's Chinese Wall procedures to ensure that a functional separation between the associated or affiliated person and the specialist has been created and thereafter maintained. The Exchange will also monitor the trading activities of affiliated or associated persons and affiliated or associated specialists in the specialist firms' specialty stocks in order to monitor the possible trading while in possession of material, non-public information through the periodic review of trade and comparison reports generated by the Exchange.

Rule 5.6. Anti-Money Laundering Compliance Program

(a) Each ETP Holder shall develop and implement an anti-money laundering program reasonably designed to achieve and monitor compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, *et seq.*), and the implementing regulations promulgated thereunder by the Department of the Treasury. Each ETP Holder's anti-money laundering program must be approved, in writing, by a member of its senior management.

(b) The anti-money laundering programs required by the Rule shall, at a minimum:

(1) establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder;

(2) establish and implement policies and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations thereunder;

(3) provide for independent testing for compliance to be conducted by the ETP Holder's personnel or by a qualified outside party;

(4) designate, and identify to the Exchange (by name, title, mailing address, e-mail address, telephone number, and facsimile number), a person or persons responsible for implementing and monitoring the day-to-day operations and internal controls of the program and provide prompt notification to the Exchange regarding any change in such designation(s); and

(5) provide ongoing training for appropriate persons.

In the event that any of the provisions of this Rule 5.6 conflict with any of the provisions of another applicable self-regulatory organization's rule requiring the development and implementation of an anti-money laundering compliance program, the provisions of the rule of the ETP Holder's Designated Examining Authority shall apply.

Rule 5.7. Annual Certification of Compliance and Supervisory Processes

Each ETP Holder shall have its chief executive officer (or equivalent officer) certify annually, as set forth in Interpretations and Policies .01, that the ETP Holder has in place processes to establish, maintain, review, test and modify written compliance policies and written supervisory procedures reasonably designed to achieve compliance with applicable Rules of the Exchange and federal securities laws and regulations.

Interpretations and Policies

.01 Annual Compliance and Supervision Certification. The Exchange is issuing this interpretation to Rule 5.7, which requires that the ETP Holder's chief executive officer (or equivalent officer) execute annually a certification that the ETP Holder has in place processes to establish, maintain, review, test and modify written compliance policies and written supervisory procedures reasonably designed to achieve compliance with applicable Rules of the Exchange and federal securities laws and regulations. The certification for each ensuing year shall be effected no later than on the anniversary date of the previous year's certification. The certification shall state the following:

Annual Compliance and Supervision Certification

The undersigned is the chief executive officer (or equivalent officer) of [name of ETP Holder corporation/partnership/sole proprietorship] (the "ETP Holder"). As required by Rule 5.7, the undersigned makes the following certification:

1. The ETP Holder has in place processes to:

(a) establish, maintain and review policies and procedures reasonably designed to achieve compliance with applicable Rules of the NYSE National, Inc. and federal securities laws and regulations;

(b) modify such policies and procedures as business, regulatory and legislative changes and events dictate; and

(c) test the effectiveness of such policies and procedures on a periodic basis, the timing and extent of which is reasonably designed to ensure continuing compliance with Rules of the NYSE National, Inc. and federal securities laws and regulations.

2. The undersigned chief executive officer (or equivalent officer) has conducted one or more meetings with the chief compliance officer in the preceding 12 months, the subject of which satisfy the obligations set forth in Interpretations and Policies .01 to Rule 5.7.

3. The ETP Holder's processes, with respect to paragraph 1 above, are evidenced in a report reviewed by the chief executive officer (or equivalent officer), chief compliance officer, and such other officers as the ETP Holder may deem necessary to make this certification. The final report has been submitted to the ETP Holder's board of directors and audit committee or will be submitted to the ETP Holder's board of directors and audit committee (or equivalent bodies) at the earlier of their next scheduled meetings or within 45 days of the date of execution of this certification.

4. The undersigned chief executive officer (or equivalent officer) has consulted with the chief compliance officer and other officers as applicable (referenced in paragraph 3 above) and such other employees, outside consultants, lawyers and accountants, to the extent deemed appropriate, in order to attest to the statements made in this certification.

The Exchange provides the following guidance in completing the Certification above. Included in the processes requirement is an obligation on the part of the ETP Holder to conduct one or more meetings annually between the chief executive officer (or equivalent officer) and the chief compliance officer to: (1) discuss and review the matters that are subject of the certification; (2) discuss and review the ETP Holder 's compliance efforts as of the date of such meetings; and (3) identify and address significant compliance problems and plans for emerging business areas.

The report required in paragraph 3 of the certification must document the ETP Holder's processes for establishing, maintaining, reviewing, testing and modifying compliance policies, that are reasonably designed to achieve compliance with applicable NSX rules and federal securities laws and regulations, and any principal designated by the ETP Holder may prepare the report. The report must be produced prior to execution of the certification and be reviewed by the chief executive officer (or equivalent officer), chief compliance officer and any other officers the ETP Holder deems necessary to make the certification and must be provided to the ETP Holder's board of directors and audit committee in final form either prior to execution of the certification or at the earlier of their next scheduled meetings or within 45 days of execution of the certification. The report should include the manner and frequency in which the processes are administered, as well as the identification of officers and supervisors who have responsibility for such administration. The report need not contain any conclusions produced as a result of following the processes set forth therein. The report may be combined with any other compliance report or other similar report required by any other self-regulatory

organization provided that: (1) such report is clearly titled in a manner indicating that it is responsive to the requirements of the certification and Rule 5.7; (2) an ETP Holder that submits a report for review in response to a NSX request must submit the report in its entirety; and (3) the ETP Holder makes such report in a timely manner, i.e., annually.

CHAPTER VI. Extensions of Credit

Rule 6.1. Prohibitions and Exemptions

(a) An ETP Holder shall not effect a securities transaction through Exchange facilities in a manner contrary to the regulations of the Board of Governors of the Federal Reserve System.

(b) In instances where the Exchange has been designated the appropriate examining authority, the Exchange is authorized to grant extensions of time under sections 220.4(c)(3)(ii) and 220.8(d) of Regulation T adopted by the Board of Governors of the Federal Reserve System as well as under Commission Rule 15c3-3(n).

(c) The margin which must be maintained in margin accounts of customers shall be as follows:

(1) 25% of the current market value of all securities "long" in the account; plus

(2) $2.50 per share or 100% of the current market value, whichever amount is greater, of each stock "short" in the account selling at less than $5.00 per share; plus

(3) $5.00 per share or 30% of the current market value, whichever amount is greater, of each stock "short" in the account selling at $5.00 per share or above; plus

(4) 5% of the principal amount or 30% of the current market value, whichever amount is greater, of each bond "short in the account.

Rule 6.2. Day Trading Margin

(a) The term "day trading" means the purchasing and selling of the same security on the same day. A "day trader" is any customer whose trading shows a pattern of day trading.

(b) Whenever day trading occurs in a customer's margin account the margin to be maintained shall be the margin on the "long" or "short" transaction, whichever occurred first, as required pursuant to Exchange Rule 6.1(c). When day trading occurs in the account of a day trader, the margin to be maintained shall be the margin on the "long" or "short" transaction, whichever occurred first, as required for initial margin by Regulation T of the Board of Governors of the Federal Reserve System, or as required pursuant to Exchange Rule 6.1(c), whichever amount is greater.

(c) No ETP Holder shall permit a public customer to make a practice, directly or indirectly, of effecting transactions in a cash account where the cost of securities purchased is met by the sale of the same securities. No ETP Holder shall permit a public customer to make a practice of selling securities with them in a cash account which are to be received against payment from another broker- dealer where such securities were purchased and are not yet paid for.

CHAPTER VII. Suspension by Chairman or Chief Regulatory Officer

Rule 7.1. Imposition of Suspension

(a) An ETP Holder which fails or is unable to perform any of its contracts, or is insolvent or is unable to meet the financial responsibility requirements of the Exchange, shall immediately inform the Secretary in writing of such fact. Upon receipt of said notice, or whenever it shall appear to the Chairman of the Board or Chief Regulatory Officer, or their respective designees, (after such verification and with such opportunity for comment by the ETP Holder as the circumstances reasonably permit) that an ETP Holder has failed to perform its contracts or is insolvent or is in such financial or operational condition or is otherwise conducting its business in such financial or operational condition or is otherwise conducting its business in such a manner that it cannot be permitted to continue in business with safety to its customers, creditors and other ETP Holders of the Exchange, the Chairman of the Board or Chief Regulatory Officer, or their respective designees, may summarily suspend the ETP Holder or may impose such conditions and restrictions upon the ETP Holder as are reasonably necessary for the protection of investors, the Exchange, the creditors and the customers of such ETP Holder.

(b) An ETP Holder that does not pay any dues, fees, assessments, charges or other amounts due to the Exchange within 90 days after the same has become payable shall be reported to the Chairman, who may, after giving reasonable notice to the ETP Holder of such arrearages, suspend the ETP Holder until payment is made. Should payment not be made within six months after payment is due, the ETP may be disposed of or cancelled by the Exchange.

(c) In the event of suspension of an ETP Holder, the Exchange shall give prompt notice of such suspension to the ETP Holders of the Exchange. Unless the Chairman or the Chief Regulatory Officer, or their respective designees, shall determine that lifting the suspension without further proceedings is appropriate, such suspension shall continue until the ETP Holder is reinstated as provided in Rule 7.3. of this Chapter.

Rule 7.2. Investigation Following Suspension

Every ETP Holder suspended under the provisions of this Chapter shall immediately make available every facility requested by the Exchange for the investigation of its affairs and shall forthwith file with the Secretary a written statement covering all information requested, including a complete list of creditors and the amount owing to each and a

complete list of each open long and short security position maintained by the ETP Holder and each of its customers. The foregoing includes, without limitation, the furnishing of such of the ETP Holder's books and records and the giving of such sworn testimony as may be requested by the Exchange.

Rule 7.3. Reinstatement

An ETP Holder suspended under the provisions of this Chapter may apply for reinstatement by a petition in accordance with and in the time provided for by the provisions of Chapter X of the Exchange Rules relating to adverse action.

Rule 7.4. Failure to be Reinstated

An ETP Holder suspended under the provisions of this Chapter who fails to seek or obtain reinstatement in accordance with Rule 7.3 shall have its ETP cancelled or disposed of by the Exchange in accordance with Exchange Rule 2.6.

Rule 7.5. Termination of Rights by Suspension

An ETP Holder suspended under the provisions of this Chapter shall be deprived during the term of its suspension of all rights and privileges conferred to it by virtue of it holding an ETP.

Rule 7.6. Summary Suspension of Exchange Services

The Chairman of the Board or Chief Regulatory Officer, or their respective designees, (after such verification with such opportunity for comment as the circumstances reasonably permit) may summarily limit or prohibit: (i) any person from access to services offered by the Exchange, if such person has been and is expelled or suspended from any self-regulatory organization or barred or suspended from being associated with a member of any self-regulatory organization or is in such financial or operating difficulty that the Exchange determines that such person cannot be permitted to do business with safety to investors, creditors, Exchange ETP Holders or the Exchange; or (ii) a person who is not an ETP Holder from access to services offered by the Exchange, if such person does not meet the qualification requirements or other pre-requisites for such access and if such person cannot be permitted to continue to have access with safety to investors, creditors, ETP Holders and the Exchange. Any person aggrieved by any such summary action may seek review under the provisions of Chapter X of the Exchange Rules relating to adverse action.

Rule 7.7. Commission Action

The Commission may stay any summary action taken pursuant to this Chapter on its own motion or upon application by any person aggrieved thereby made pursuant to Section 19(d) of the Act and the rules thereunder.

CHAPTER VIII. Discipline

Rule 8.1. Disciplinary Jurisdiction

(a) An ETP Holder or a person associated with an ETP Holder (the "Respondent") who is alleged to have violated or aided and abetted a violation of any provision of the Act or the rules and regulations promulgated thereunder, or any provision of the Certificate of Incorporation, By-Laws or Rules of the Exchange or any interpretation thereof or any resolution or order of the Board or appropriate Exchange committee shall be subject to the disciplinary jurisdiction of the Exchange under this Chapter, and after notice and opportunity for a hearing may be appropriately disciplined by: expulsion; suspension; limitation of activities, functions and operation; fine; censure; suspension or bar from association with an ETP Holder or any other fitting sanction, in accordance with the provisions of this Chapter.

An individual ETP Holder, responsible party, or other person associated with an ETP Holder may be charged with any violation committed by employees under his/her/its supervision or by the ETP Holder with which he/she/it is associated, as though such violation were his/her/its own. An ETP Holder organization may be charged with any violation committed by its employees or by any other person who is associated with such ETP Holder organization, as though such violation were its own.

(b) Any ETP Holder or person associated with an ETP Holder shall continue to be subject to the disciplinary jurisdiction of the Exchange following the termination of such person’s ETP or association with an ETP Holder with respect to matters that occurred prior to such termination; provided that written notice of the commencement of an inquiry into such matters is given by the Exchange to such former ETP Holder or former associated person within one year of receipt by the Exchange of the latest written notice of the termination of such person's status as an ETP Holder or person associated with an ETP Holder. The foregoing notice requirement does not apply to a person who at any time after a termination again subjects himself or herself to the disciplinary jurisdiction of the Exchange by becoming an ETP Holder or a person associated with an ETP Holder.

(c) A summary suspension or other action taken pursuant to Chapter VII of the Rules of the Exchange shall not be deemed to be disciplinary action under this Chapter, and the provisions of this chapter shall not be applicable to such action.

Rule 8.2. Complaint and Investigation

(a) Initiation of Investigation

The Exchange, or the designated self-regulatory organization, when appropriate, shall investigate possible violations within the disciplinary jurisdiction of the Exchange which are brought to its attention in any manner, or upon order of the Board, the Business Conduct Committee, the President or other Exchange officials designated by the President, or upon receipt of a complaint alleging such violation.

(b) Report

In every instance where an investigation has been instituted as a result of a complaint, and in every other instance in which an investigation results in a finding that there are reasonable grounds to believe that a violation has been committed, a written report of the investigation shall be submitted to the Business Conduct Committee by the Exchange's staff or, when appropriate, by the designated self-regulatory organization.

(c) Requirement to Furnish Information and Right to Counsel

Each ETP Holder and person associated with an ETP Holder shall be obligated upon request by the Exchange to appear and testify, and to respond in writing to interrogatories and furnish documentary materials and other information requested by the Exchange in connection with (i) an investigation initiated pursuant to paragraph (a) of this Rule or (ii) a hearing or appeal conducted pursuant to this Chapter or preparation by the Exchange in anticipation of such a hearing or appeal. No ETP Holder or person associated with an ETP Holder shall impede or delay an Exchange investigation or proceeding conducted pursuant to this Chapter nor refuse to comply with a request made by the Exchange pursuant to this paragraph. An ETP Holder or person associated with an ETP Holder is entitled to be represented by counsel during any such Exchange investigation, proceeding or inquiry.

(d) Notice, Statement and Access

Prior to submitting its report, the staff shall notify the person(s) who is the subject of the report (hereinafter "Subject") of the general nature of the allegations and of the specific provisions of the Act, rules and regulations promulgated thereunder, or provisions of the Articles of Incorporation, By-Laws or Rules of the Exchange or any interpretation thereof or any resolution of the Board, that appear to have been violated. Except when the Business Conduct Committee determines that expeditious action is required, a Subject shall have 15 days from the date of the notification described above to submit a written statement to the Business Conduct Committee concerning why no disciplinary action should be taken. To assist a Subject in preparing such a written statement, he or she shall have access to any documents and other materials in the investigative file of the Exchange that were furnished by him or her or his or her agents.

(e) Failure to Furnish Information

Failure to furnish testimony, documentary evidence or other information requested by the Exchange in the course of an Exchange inquiry, investigation, hearing or appeal conducted pursuant to this Chapter or in the course of preparation by the Exchange in anticipation of such a hearing or appeal on the date or within the time period the Exchange specifies shall be deemed to be a violation of this Rule 8.2.

(f) Regulatory Cooperation

No ETP Holder or person associated with an ETP Holder or other person or entity subject to the jurisdiction of the Exchange shall refuse to appear and testify before another exchange or other self-regulatory organization in connection with a regulatory investigation, examination or disciplinary proceeding or refuse to furnish testimony, documentary materials or other information or otherwise impede or delay such investigation, examination or disciplinary proceeding if the Exchange requests such testimony, documentary materials or other information in connection with an inquiry resulting from an agreement entered into by the Exchange pursuant to subsection (g) of this Rule. The requirements of this Rule 8.2(f) shall apply when the Exchange has been notified by another self-regulatory organization of the request for testimony, documentary materials or other information and the Exchange then requests in writing that an ETP Holder, person associated with an ETP Holder or other person or entity provide such testimony, documentary materials or other information. Any person or entity required to furnish testimony, documentary materials or other information pursuant to this Rule 8.2(f) shall be afforded the same rights and procedural protections as that person or entity would have if the Exchange had initiated the request.

(g) Cooperative Agreements

The Exchange may enter into agreements with domestic and foreign self-regulatory organizations providing for the exchange of information and other forms of mutual assistance or for market surveillance, investigative, enforcement or other regulatory purposes.

(h) Videotaped Responses

In lieu of, or in addition to, submitting a written statement concerning why no disciplinary action should be taken as permitted by paragraph (d) of this Rule, the Subject may submit a statement in the form of a videotaped response. Except when the Business Conduct Committee determines that expeditious action is required, the Subject shall have 15 days from the date of the notification described in paragraph (d) to submit the videotaped response. The Exchange will establish standards concerning the length and format of such videotaped responses.

Rule 8.3. Expedited Proceeding

Upon receipt of the notification required by Rule 8.2(d), a Subject may seek to dispose of the matter through a letter of consent signed by the Subject. If a Subject desires to attempt to dispose of the matter through a letter of consent, the Subject must submit to the staff within 15 days from the date of the notification required by Rule 8.2(d) a written notice electing to proceed in an expedited manner pursuant to this Rule 8.3. The Subject must then endeavor to reach agreement with the exchange's staff upon a letter of consent which is acceptable to the staff and which sets forth a stipulation of facts and findings concerning the Subject's conduct, the violation(s) committed by the Subject and the sanction(s) therefor. The matter can only be disposed of through a letter of consent if the staff and the Subject are able to agree upon terms of a letter of consent which are

acceptable to the staff and the letter is signed by the Subject. At any point in the negotiations regarding a letter of consent, either the staff may deliver to the Subject or the Subject may deliver to the staff a written declaration of an end to the negotiations. On delivery of such a declaration the subject will then have 15 days to submit a written statement pursuant to Rule 8.2(d) and thereafter the staff may bring the matter to the Business Conduct Committee. If the letter of consent is accepted by the Business Conduct Committee, it may adopt the letter as its decision and shall take no further action against the Subject respecting the matters that are the subject of the letter. If the letter of consent is rejected by the Business Conduct Committee, the matter shall proceed as though the letter had not been submitted. Upon rejection, the Subject will then have 15 days to submit a written statement pursuant to Rule 8.2(d) and thereafter the staff may bring the matter to the Business Conduct Committee's decision to accept or reject a letter of consent shall be final, and a Subject may not seek review thereof

Rule 8.4. Charges

(a) Determination Not to Initiate Charges

Whenever it shall appear to the Business Conduct Committee from the investigation report that no probable cause exists for finding a violation within the disciplinary jurisdiction of the Exchange, or whenever the Business Conduct Committee otherwise determines that no further proceedings are warranted, it shall issue a written statement to that effect setting forth its reasons for such finding.

(b) Initiation of Charges

Whenever it shall appear to the Business Conduct Committee that there is probable cause for finding a violation within the disciplinary jurisdiction of the Exchange and that further proceedings are warranted, the Business Conduct Committee shall direct the issuance of a statement of charges against the Respondent specifying the acts in which the Respondent is charged to have engaged and setting forth the specific provisions of the Act, rules and regulations promulgated thereunder, By-Laws, Exchange Rules, interpretations or resolutions of which such acts are in violation. A copy of the charges shall be served upon the Respondent in accordance with Rule 8.11.

Rule 8.5. Answer

The Respondent shall have 15 business days after service of the charges to file a written answer thereto. The answer shall specifically admit or deny each allegation contained in the charges, and the Respondent shall be deemed to have admitted any allegation not specifically denied. The answer may also contain any defense which the Respondent wishes to submit and may be accompanied by documents in support of his answer or defense. In the event the Respondent fails to file an answer within the time provided, the charges shall be considered to be admitted.

Rule 8.6. Hearings

(a) Participants

Subject to Rule 8.6. concerning summary proceedings, a hearing on the charges shall be held before at least one member of the Business Conduct Committee and at least one senior officer of the Exchange, or a special subcommittee consisting of one or more members of the Business Conduct Committee and one or more senior Exchange officers and such other persons as the Chairman of the Exchange may appoint ("Hearing Officers"). No member of the Business Conduct Committee, no officer of the Exchange and no hearing officer shall participate by voting or otherwise in the consideration of any matter in which he is personally interested.

(b) Notice and List of Documents

Participants shall be given at least 15 business days' notice of the time and place of the hearing and a statement of the matters to be considered therein. All documentary evidence intended to be presented in the hearing by the Respondent, the Exchange, or the designated self-regulatory authority must be received by the Hearing Officers at least eight (8) days in advance of the hearing or it may not be presented in the hearing. The parties shall furnish each other with a list of all documents submitted for the record not less than four (4) business days in advance of the hearing, and the documents themselves shall be made available to the parties for inspection and copying.

(c) Conduct of Hearing

The Hearing Officers shall determine all questions concerning the admissibility of evidence and shall otherwise regulate the conduct of the hearing. Formal rules of evidence shall not apply. The charges shall be presented by a representative of the Exchange or the designated self- regulatory authority who, along with the Respondent, may present evidence and produce witnesses who shall testify under oath and are subject to being questioned by the Hearing Officers and opposing parties. The Respondent is entitled to be represented by counsel who may participate fully in the hearing. A transcript of the hearing shall be made and shall become part of the record.

Rule 8.7. Summary Proceedings

Notwithstanding the provisions of Rule 8.5 of this Chapter, the Business Conduct Committee may make a determination without a hearing and may impose a penalty as to violations which the Respondent has admitted or charges which the Respondent has failed to answer or which otherwise are not in dispute. Notice of such summary determination, specifying the violations and penalty, shall be served upon the Respondent, who shall have ten (10) business days from the date of service to notify the Business Conduct Committee that he desires a hearing upon all or a portion of any charges not previously admitted or upon the penalty. Failure to so notify the Business Conduct Committee shall constitute an admission of the violations and acceptance of the

penalty as determined by the Business Conduct Committee and a waiver of all rights of review. If the Respondent requests a hearing, the matters which are the subject of the hearing shall be handled in accordance with the hearing and review procedures of this Chapter.

Rule 8.8. Offers of Settlement

(a) Submission of Offer

At any time during the course of any proceeding under this Chapter, the Respondent may submit to the Business Conduct Committee a written offer of settlement which shall contain a proposed stipulation of facts and shall consent to a specified penalty. Where the Business Conduct Committee accepts an offer of settlement, it shall issue a decision, including findings and conclusions and imposing a penalty, consistent with the terms of such offer. Where the Business Conduct Committee rejects an offer of settlement, it shall notify the Respondent and the matter shall proceed as if such offer had not been made, and the offer and all documents relating thereto shall not become part of the record. A decision of the Business Conduct Committee issued upon acceptance of an offer of settlement as well as the determination of the Committee whether to accept or reject such an offer shall become final 20 business days after such decision is issued, and the Respondent may not seek review thereof.

(b) Submission of Statement

A Respondent may submit with an offer of settlement a written statement in support of the offer. In addition, if the staff will not recommend acceptance of an offer of settlement before the Business Conduct Committee, a Respondent shall be notified and may appear before the Business Conduct Committee to make an oral statement in support of his/her offer. Finally, if the Business Conduct Committee rejects an offer that the staff supports, a Respondent may appear before that Committee to make an oral statement concerning why he/she believes the Committee should change its decision and accept his/her offer. A Respondent must make a request for such an appearance within 5 days of being notified that the offer was rejected of that the staff will not recommend acceptance.

(c) Repeated Offers

Unless the Business Conduct Committee shall otherwise order, a Respondent shall be entitled to submit to the Business Conduct Committee a maximum of two written offers of settlement in connection with the statement of charges issued to that Respondent pursuant to Rule 8.4(b).

Amended: 10-19-98 (SR-CSE-98-02)

Rule 8.9. Decision

Following a hearing conducted pursuant to Rule 8.5 of this Chapter, the Hearing Officers shall prepare a decision in writing, based solely on the record, determining whether the Respondent has committed a violation and imposing the penalty, if any, therefor. The decision shall include a statement of findings and conclusions, with the reasons therefor, upon all material issues presented on the record. Where a penalty is imposed, the decision shall include a statement specifying the acts or practices in which the Respondent has been found to have engaged and setting forth the specific provisions of the Act, rules and regulations promulgated thereunder, By-Law, Exchange Rules, interpretations or resolutions of which the acts are deemed to be in violation. The Respondent shall promptly be sent a copy of the decision. Where the Hearing Officers are not composed of at least a majority of the members of the Business Conduct Committee, their determination shall be automatically reviewed by a majority of the Committee, which may accept or modify the determination or remand the matter for additional findings or supplemental proceedings.

Rule 8.10. Review

(a) Petition

The Respondent shall have ten (10) days after service of notice of a decision made pursuant to Rule 8.8 of this Chapter to petition for review thereof. Such petition shall be in writing and shall specify the findings and conclusions to which exceptions are taken together with reasons for such exceptions. Any objections to a decision not specified by written exception shall be considered to have been abandoned.

(b) Conduct of Review

The review shall be conducted by the Board or a committee of the Board composed of at least three (3) Directors. Unless the Board shall decide to open the record for introduction of evidence or to hear argument, such review shall be based solely upon the record and the written exceptions filed by the parties. The decision of the Board shall be in writing and shall be final.

(c) Review on Motion of Board

The Board may on its own initiative order review of a decision made pursuant to Rule 8.6, 8.7, or 8.8 of this Chapter within 20 business days after issuance of the decision. Such review shall be conducted in accordance with the procedure set forth in paragraph (b) of this Rule.

(d) Review of Decision Not to Initiate Charges

Upon application made by the President of Chairman within 30 days of a decision made pursuant to Rule 8.4(a) of this Chapter, the Board may order review of such

decision. Such review shall be conducted in accordance with the procedures set forth in paragraph (b), as applicable.

Amended: 10-19-98 (SR-CSE-98-02); 10-19-04 (SR-NSX-2004-06)

Rule 8.11. Effective Date of Judgment

Penalties imposed under this Chapter shall not become effective until the review process is completed or the decision otherwise becomes final. Pending effectiveness of a decision imposing a penalty on the Respondent, the Business Conduct Committee may impose such conditions and restrictions on the activities of the Respondent as the Committee considers reasonably necessary for the protection of investors, creditors and the Exchange.

Interpretations and Policies

.01 Exchange staff shall make all necessary filings concerning formal and informal disciplinary actions required under the Act and the rules and regulations promulgated thereunder, and shall take all other actions necessary to comply with any other applicable law or regulation.

The staff shall not, as a matter of policy, issue any press release or other statement to the press concerning any formal or informal disciplinary matter; provided, however, that the Business Conduct Committee may recommend to the Executive Committee of the Exchange that the staff issue a press release or other statement to the press. If the Executive Committee determines that such a press release or other statement to the press is warranted, then the staff shall prepare and issue a press release or other statement to the press as the Executive Committee shall direct.

Rule 8.12. Miscellaneous Provisions

(a) Service of Notice

Any charges, notices or other documents may be served upon the Respondent either personally or by leaving the same at his place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail addressed to the Respondent at his last known place of business.

(b) Extension of Time Limits

Any time limits imposed under this Chapter for the submission of answers, petitions or other materials may be extended by permission of the authority at the Exchange to whom such materials are to be submitted.

(c) Reports and Inspection of Books for Purpose of Investigating Complaints

For the purpose of any investigation or determination as to the filing of a complaint, or any hearing of any complaint against any ETP Holder of the Exchange or any person associated with an ETP Holder, the Exchange's staff, Business Conduct Committee, Board or designated self-regulatory organization shall have the right (1) to require any ETP Holder of the Exchange to report orally or in writing with regard to any matter involved in any such investigation or hearing, and (2) to investigate the books, records and accounts of any such ETP Holder with relation to any matter involved in any such investigation or hearing. No ETP Holder shall refuse to make any report as required in this Rule, or refuse to permit any inspection of books, records and accounts as may be validly called for under this Rule.

Rule 8.13. Costs of Proceedings

Any ETP Holder disciplined pursuant to this Chapter shall bear such part of the costs of the proceedings as the Business Conduct Committee or the Board deems fair and appropriate in the circumstances.

Rule 8.14. Agency Review

Actions taken by the Exchange under this Chapter shall be subject to the review and action of any appropriate regulatory agency under the Act.

Rule 8.15. Imposition of Fines for Minor Violation(s) of Rules

(a) In lieu of commencing a disciplinary proceeding as described in Rules 8.1 through 8.13, the Exchange may, subject to the requirements set forth in this Rule, impose a fine, not to exceed $2,500, on any ETP Holder, associated person of an ETP Holder, or registered or non-registered employee of an ETP Holder, for any violation of a Rule of the Exchange, which violation the Exchange shall have determined is minor in nature. Any fine imposed pursuant to this Rule and not contested shall not be publicly reported, except as may be required by Rule 19d-1 under the Act or as may be required by any other regulatory authority.

(b) In any action taken by the Exchange pursuant to this Rule, the person against whom a fine is imposed shall be served (as provided in Rule 8.11) with a written statement, signed by an authorized officer of the Exchange, setting forth (i) the Rule or Rules alleged to have been violated; (ii) the act or omission constituting each such violation; (iii) the fine imposed for each such violation; and (iv) the date by which such determination becomes final and such fine becomes due and payable to the Exchange, or such determination must be contested as provided in paragraph (d) below, such date to be not less than 15 business days after the date of service of the written statement.

(c) If the person against whom a fine is imposed pursuant to this Rule pays the fine, such payment shall be deemed to be a waiver by such person of such person's right to a

disciplinary proceeding under Rules 8.1 through 8.13 and any review of the matter by an Exchange Committee (composed as described in Rule 8.9) or by the Board.

(d) Any person against whom a fine is imposed pursuant to this Rule may contest the Exchange's determination by filing with the Exchange not later than the date by which such determination must be contested, a written response meeting the requirements of an Answer as provided in Rule 8.4 at which point the matter shall become a disciplinary proceeding subject to the provisions of Rules 8.1 through 8.13. In any such disciplinary proceeding, if the Hearing Panel determines that the person charged is guilty of the rule violation(s) charged, the Panel shall (i) be free to impose any one or more disciplinary sanctions and (ii) determine whether the rule violation(s) is minor in nature. The person charged and any member of the Board of the Exchange may require a review by the Board of any determination by the Hearing Panel by proceeding in the manner described in Rules 8.8 and 8.9.

(e) The Exchange shall prepare and announce to its ETP Holders and ETP Holder organizations from time to time a listing of the Exchange Rules as to which the Exchange may impose fines as provided in this Rule. Such listing shall also indicate the specific dollar amount that may be imposed as a fine hereunder with respect to any violation of any such Rule or may indicate the minimum and maximum dollar amounts that may be imposed by the Exchange with respect to any such violation. Nothing in this Rule shall require the Exchange to impose a fine pursuant to this Rule with respect to the violation of any Rule included in any such listing.

Interpretations and Policies

.01 List of Exchange Rule Violations and Fines Applicable thereto Pursuant to Rule 8.15:

(a) Rule 4.1, Rule 4.2 and Interpretations, thereunder, requiring the submission of responses to Exchange requests for trading data within specified time period.

	Fine Schedule	
Fine Amount	Individual	ETP Holder Organization
First time fined	$100	$500
Second time fined	300	1,000
Third time fined	500	2,500

*Within a "rolling" 12-month period.

(b) Rule 4.2 and Interpretations thereunder related to the requirement to furnish Exchange-related order, market and transaction data, as well as financial or regulatory records and information.

(c) Rule 11.8(a)(1) related to the requirement to comply with quotation policies.

(d) Rule 12.10 and Interpretations thereunder related to the requirement to display customer limited orders.

Recommended Fine Amount

$100 per violation

CHAPTER IX. Arbitration

Rule 9.1. General

(a) Any dispute, claim or controversy between a customer or non-ETP Holder and an ETP Holder, ETP Holder organization, and/or associated person arising in connection with the business of such ETP Holder, ETP Holder organization, and/or associated person in connection with his activities as an associated person shall be arbitrated under the By-Laws and the Exchange Rules as provided by any duly executed and enforceable written agreement or upon the demand of the customer or non-ETP Holder.

(b) Under this Code, the Exchange shall have the right to decline the use of its arbitration facilities in any dispute, claim, or controversy where - having due regard for the purposes of the Exchange and the intent of this Code - such dispute, claim or controversy is not a proper subject matter for arbitration.

Rule 9.2. Simplified Arbitration

(a) Any dispute, claim, or controversy, arising between a public customer(s) and an associated person or an ETP Holder subject to arbitration under this Code involving a dollar amount not exceeding $10,000 exclusive of attendant costs and interest, shall upon demand of the customer(s), or by written consent of the parties, be arbitrated as hereinafter provided.

(b) The Claimant shall file with the Director of Arbitration an executed Submission Agreement and a copy of the Statement of Claim of the controversy in dispute and the required deposit, together with documents in support of the Claim. Sufficient copies of the Submission Agreement and the Statement of Claim and supporting documents shall be provided to the Director of Arbitration for each party and the arbitrator. The Statement of Claim shall specify the relevant facts, the remedies sought, and whether a hearing is demanded.

(c) The Claimant shall deposit the sum of $15 if the amount in controversy is $1,000 or less, $25 if the amount in controversy is more than $1,000 but does not exceed $2,500, $100 if the amount in controversy is more than $2,500 but does not exceed $5,000, or $200 if the amount in controversy is more than $5,000 but does not exceed $10,000 upon filing the Submission Agreement. The final disposition of this sum shall be determined by the arbitrator.

(d) The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim. Within twenty (20) calendar days from receipt of the Statement of Claim, Respondent(s) shall serve each party with an executed Submission Agreement and a copy of Respondent's Answer. Respondent's executed Submission Agreement and Answer shall also be filed with the Director of Arbitration with sufficient copies for the arbitrator(s) along with any deposit required under the schedule of fees. The Answer shall designate all available defenses to the Claim and may set forth any related Counterclaim and/or related Third-Party Claim the Respondent(s) may have against the Claimant or any other person. If the Respondent(s) has interposed a Third-Party Claim the Respondent(s) shall serve the Third-Party Respondent with an executed Submission Agreement, a copy of the original Claim filed by the Claimant. The Third-Party Respondent shall respond in the manner herein provided for response to the Claim. If the Respondent(s) files a related Counterclaim exceeding $10,000, the arbitrator may refer the Claim, Counterclaim, and/or Third-Party Claim, if any, to a panel of three (3) or more arbitrators in accordance with Rule 9.8 of this Code, or he may dismiss the Counterclaim and/or Third-Party Claim, without prejudice to the Counterclaimant(s) and/or Third-Party Claimant(s) pursuing the Counterclaim and/or Third-Party in a separate proceeding. The costs to the Claimant under either proceeding shall in no event exceed $200.

(e) All parties shall serve promptly by mail or otherwise on all other parties and the Director of Arbitration, with sufficient copies for the arbitrators, a copy of the Answer, Counter-claim, Third-Party Claim, or other responsive pleading, if any. The Claimant, if a Counterclaim is asserted against him, shall within ten (10) calendar days either (i) serve on each party a reply to any Counter-claim or, (ii) if the amount of the Counterclaim exceeds the Claim, shall have the right to file a statement withdrawing the Claim. If the Claimant withdraws the Claim, the proceedings shall be discontinued without prejudice to the rights of the parties.

(f) The dispute, claim, or controversy shall be submitted to a single public arbitrator selected by the Director of Arbitration. Unless the public customer demands or consents to a hearing, or the arbitrator calls a hearing, the arbitrator shall decide the dispute, claim, or controversy solely upon the pleadings and evidence filed by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Director of Arbitration.

(g) The Director of Arbitration may grant extensions of time to file any pleading upon a showing of good cause.

(h) The arbitrator shall be authorized to require the submission of further documentary evidence as he, in his sole discretion, deems advisable.

(i) Upon the request of the arbitrator, the Director of Arbitration shall appoint two (2) additional arbitrators to the panel that shall decide the matter in controversy.

(j) In any case where there is more than one (1) arbitrator, the majority will be public arbitrators.

(k) In his discretion, the arbitrator may, at the request of any party, permit such party to submit additional documentation relating to the pleadings.

(l) Except as otherwise provided herein, the general arbitration rules of the Exchange shall be applicable to proceedings instituted under this Code.

Amended: 6-8-06 (SR-NSX-2006-03)

Rule 9.3. Hearing Requirements - Waiver of Hearing

(a) Any dispute, claim or controversy, except as provided in Rule 9.2, shall require a hearing unless all parties waive such hearing in writing and request that the matter be resolved solely upon the pleadings and documentary evidence.

(b) Notwithstanding a written waiver of a hearing by the parties, a majority of the arbitrators may call for and conduct a hearing. In addition, any arbitrator may request the submission of further evidence.

Rule 9.4. Time Limitation upon Submission

No dispute, claim or controversy shall be eligible for submission to arbitration under this Code if six (6) years have elapsed from the occurrence of event giving rise to the act or the dispute, claim or controversy. This section shall not extend applicable statutes of limitation, nor shall it apply to any case that is directed to arbitration by a court of competent jurisdiction.

Rule 9.5. Dismissal of Proceedings

At any time during the course of an arbitration, the arbitrators may, either upon their own initiative or at the request of a party, dismiss the proceeding and refer the parties to the remedies provided by law. The arbitrators shall, upon the joint request of the parties, dismiss the proceedings.

Rule 9.6. Settlements

All settlements upon any matter submitted shall be at the election of the parties.

Rule 9.7. Tolling of Time Limitation(s) for the Institution of Legal Proceedings

(a) Where permitted by law, the time limitation(s) that would otherwise run or accrue for the institution of legal proceedings, shall be tolled when a duly executed Submission Agreement is filed by the Claimant(s). The tolling shall continue for such period as the Exchange shall retain jurisdiction upon the matter submitted.

(b) The six (6) year time limitation upon submission to arbitration shall not apply when the parties have submitted the dispute, claim, or controversy to a court of competent jurisdiction. The six (6) year time limitation shall not run for such period as the court shall retain jurisdiction over the matter submitted.

Rule 9.8. Designation of Number of Arbitrators

(a)(1) In all arbitration matters involving public customers and non-ETP Holders where the matter in controversy exceeds $10,000, or where the matter in controversy does not involve or disclose a money claim, the Director of Arbitration shall appoint an arbitration panel that shall consist of no less than three (3) arbitrators, at least a majority of whom shall not be from the securities industry, unless the public customer or non-ETP Holder requests a panel consisting of at least a majority from the securities industry.

(2) An arbitrator will be deemed as being from the securities industry if he or she:

(i.) Is a person associated with an ETP Holder, or broker-dealer, government securities broker, government securities dealer, municipal securities dealer, or registered investment advisor, or

(ii.) Has been associated with any of the above within the past three (3) years, or

(iii.) Is retired from any of the above, or

(iv.) Is an attorney, accountant, or other professional who devoted twenty (20) percent or more of his or her professional work effort to securities industry clients within the last two years.

(3) An arbitrator who is not from the securities industry shall be deemed a public arbitrator. A person will not be classified as a public arbitrator if he or she has a spouse or other member of the household who is a person associated with a registered broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or investment adviser.

(b) Composition of Panels. The individuals who shall serve on a particular arbitration panel shall be determined by the Director of Arbitration. The Director of Arbitration may name the chairman of each panel.

Rule 9.9. Notice of Selection of Arbitrators

The Director of Arbitration shall inform the parties of the arbitrators' names, employment histories for the past ten (10) years, as well as information disclosed pursuant to Rule 9.11, at least eight (8) business days prior to the date fixed for the first hearing session. A party may make further inquiry of the Director of Arbitration concerning an arbitrator's background. In the event that prior to the first hearing session,

any arbitrator should become disqualified, resign, die, refuse, or otherwise be unable to perform as an arbitrator, the Director of Arbitration shall appoint a replacement arbitrator to fill the vacancy on the panel. The Director of Arbitration shall inform the parties as soon as possible of the name and employment history of the replacement arbitrator for the past ten (10) years, as well as information disclosed pursuant to Rule 9.11. A party may make further inquiry of the Director of Arbitration concerning the replacement arbitrator's background and, within the time remaining prior to the first hearing session or the five (5) day period provided under Rule 9.10, whichever is shorter, may exercise its right to challenge the replacement arbitrator as provided in Rule 9.10.

Rule 9.10. Peremptory Challenge

In any arbitration proceeding, each party shall have the right to one peremptory challenge. In arbitrations where there are multiple Claimants, Respondents, and/or Third-Part Respondents, the Claimants shall have one peremptory challenge, the Respondents shall have one peremptory challenge and the Third-Party Respondents shall have one peremptory challenge, unless the Director of Arbitration determines that the interests of justice would best be served by awarding additional peremptory challenges. Unless extended by the Director of Arbitration, a party wishing to exercise a peremptory challenge must do so by notifying the Director of Arbitration in writing within five (5) business days of notification of the persons named to the panel. There shall be unlimited challenges for cause.

Rule 9.11. Disclosures Required by Arbitrators

(a) Each arbitrator shall be required to disclose the Director of Arbitration any circumstances which might preclude such arbitrator from rendering an objective and impartial determination. Each arbitrator shall disclose:

(1) Any direct or indirect financial or personal interest in the outcome of the arbitration.

(2) Any existing or past financial, business, professional, family or social relationships that are likely to affect impartiality or that might reasonable create an appearance of partiality or bias. Persons requested to serve as arbitrators should disclose any such relationships that they personally have with any party or its counsel, or with any individual whom they have been told will be a witness. They should also disclose any such relationship involving members of their families, or their current employers, or their partners or business associates.

(b) Persons who are requested to accept appointment as arbitrators should make a reasonable effort to inform themselves of any interests or relationships described in Paragraph (a) above.

(c) The obligation to disclose interests, relationships, or circumstances that might preclude an arbitrator from rendering an objective and impartial determination described in subsection (a) hereof is a continuing duty that requires a person who accepts appointment as an arbitrator to disclose, at any stage of the arbitration, any such interests, relationships, or circumstances that arise, or that are recalled or discovered.

(d) Prior to the commencement of the first hearing session, the Director of Arbitration may remove an arbitrator based on information disclosed pursuant to this section. The Director of Arbitration shall also inform the parties of any information disclosed pursuant to this section if the arbitrator who disclosed the information is not removed.

Rule 9.12. Disqualification or Other Disability of Arbitrators

In the event that any arbitrator, after the commencement of the first hearing session but prior to the rendition of the award, should become disqualified, resign, die, refuse or otherwise be unable to perform as an arbitrator, the remaining arbitrator(s) may continue with the hearing and determination of the controversy unless such continuation is objected to by any party within five (5) days of notification of the vacancy on the panel. Upon objection, the Director of Arbitration shall appoint a new member to the panel to fill the vacancy. The Director of Arbitration shall inform the parties as soon as possible of the name and employment history for the past ten (10) years of the replacement arbitrator, as well as information disclosed pursuant to Rule 9.11. A party may further ask the Director of Arbitration about the replacement arbitrator's background and, within the time remaining prior to the next scheduled hearing session or the five (5) day period provided under Rule 9.10, whichever is shorter, may exercise its right to challenge the replacement arbitrator as provided in Rule 9.10.

Rule 9.13. Initiation of Proceedings

Except as otherwise provided herein, an arbitration proceeding under this Code shall be instituted as follows:

(a) Statement of Claim.

The Claimant shall file with the Director of Arbitration an executed Submission Agreement, a Statement of Claim together with documents in support of the claim, and the required deposit. Sufficient additional copies of the Submission Agreement and the Statement of Claim and supporting documents shall be provided to the Director of Arbitration for each party and each arbitrator. The Statement of Claim shall specify the relevant facts and the remedies sought. The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim.

(b) Service and Filing with the Director of Arbitration.

For purposes of the Code of Arbitration Procedure, service may be effected by mail or other means of delivery. Service and filing are accomplished on the date of mailing either by first-class postage prepaid or by means of overnight mail service or, in the case of other means of service, on the date of delivery. Filing with the Director of Arbitration shall be made on the same date as service.

(c) Answer-Defenses, Counterclaims, and/or Cross-Claims.

(1) Within twenty (20) business days from receipt of the Statement of Claim the Respondent(s) shall serve each party with an executed Submission Agreement and a copy of Respondent(s) Answer. An executed Submission Agreement and Answer of the Respondent(s) shall also be filed with the Director of Arbitration with sufficient additional copies for the arbitrator(s), along with any deposit required under the schedule of fees. The Answer shall specify all available defenses and relevant facts that will be relied upon at the hearing. It also may set forth any related Counterclaim the Respondent(s) may have against the Claimant, any Cross-Claim the Respondent(s) may have against any other named Respondent(s), and any Third-Party Claim against any other party or person based upon any existing dispute, claim, or controversy subject to arbitration under this Code.

(2)(i) A Respondent, Responding Claimant, Cross-Claimant, Cross-Respondent, or Third-Party Respondent who pleads only a general denial as an answer may, upon objection by a party, in the discretion of the arbitrators, be barred from presenting any fact or defenses at the time of the hearing.

(ii) A Respondent, Responding Claimant, Cross-Claimant, Cross-Respondent, or Third-Party Respondent who fails to specify all available defenses and relevant facts in such party's answer may, upon objection by a party, in the discretion of the arbitrators, be barred from presenting such facts or defenses not included in such party's answer at the hearing.

(iii) A Respondent, Responding Claimant, Cross-Claimant, Cross Respondent, or Third-Party Respondent who fails to file an answer within twenty (20) business days from receipt of service of a claim, unless the time to answer has been extended pursuant to paragraph (5), may, in the discretion of the arbitrators, be barred from presenting any matter, arguments, or defenses at the hearing.

(3) Respondent(s) shall serve each party with a copy of any Third-Party Claim. The Third-Party Claim shall also be filed with The Director of Arbitration with sufficient additional copies for the arbitrator(s), along with any deposit required under the schedule of fees. Third-Party Respondent(s) shall answer in the manner provided for response to the Claim, as provided in (1) and (2) above.

(4) The Claimant shall serve each party with a reply to a Counterclaim within ten (10) business days of receipt of an Answer containing a Counterclaim. The replay shall also be filed with the Director of Arbitration with sufficient additional copies for the arbitrator(s).

(5) The Director of Arbitration may extend any period in this section (whether such be denominated as a Claim, Answer, Counter-claim, Cross- Claim, Reply, or Third-Party pleading).

(d) Joining and Consolidation - Multiple Parties.

(1) With respect to any dispute, claim, or controversy submitted to arbitration, any party or person eligible to submit a claim under this Code shall have the right to proceed in the same arbitration against any other party or person upon any claim directly related to such dispute.

(2) For purposes of this subsection, the Director of Arbitration shall be authorized to determine preliminarily whether a claim is directly related to the matter in dispute and to join any other party to the dispute and to consolidate the matter for hearing and award purposes. In arbitrations where there are multiple Claimants, Respondents, and/or Third Party Respondents, the Director of Arbitration shall be authorized to determine preliminary whether such parties should proceed in the same or separate arbitrations.

(3) All final determinations with respect to joining, consolidation, and multiple parties under this subsection shall be made by the arbitration panel.

Rule 9.14. Designation of Time and Place of Hearings

Unless the law directs otherwise, the time and place for the initial hearing shall be determined by the Director of Arbitration and each hearing thereafter by the arbitrators. Notice of the time and place for the initial hearing shall be given at least eight (8) business days prior to the date fixed for the hearing by personal service, registered, or certified mail to each of the parties unless the parties shall, by their mutual consent, waive the notice provisions under this section. Notice for each hearing, thereafter, shall be given as the arbitrators may determine. Attendance at a hearing waives notice thereof.

Rule 9.15. Representation by Counsel

All parties shall have the right to representation by counsel at any stage of the proceedings.

Rule 9.16. Attendance at Hearings

The attendance or presence of all persons at hearings, including witnesses, shall be determined by the arbitrators. However, all parties to the arbitration and their counsel shall be entitled to attend all hearings.

Rule 9.17. Failure to Appear

If any of the parties, after due notice, fails to appear at a hearing or any adjourned hearing session, the arbitrators may, in their discretion, proceed with the arbitration of the controversy. In such cases, all awards shall be rendered as if each party had entered an appearance in the matter submitted.

Rule 9.18. Adjournments

(a) The arbitrators may, in their discretion, adjourn any hearing(s) either on their own initiative or on the request of any party to the arbitration.

(b) A party requesting an adjournment after arbitrators have been appointed, if said adjournment is granted, shall pay a fee equal to the deposit of costs but not more than $100. The arbitrators may waive this fee or, in their awards, may direct the return of this adjournment fee. This provision shall not apply to matters filed under Rule 9.2 of this Code.

Rule 9.19. Acknowledgement of Pleadings

The arbitrators shall acknowledge to all parties present that they have read the pleadings filed by the parties.

Rule 9.20. General Provision Governing A Pre-Hearing Proceeding

(a) Requests for Documents and Information.

The parties shall cooperate to the fullest extent practicable in the voluntary exchange of documents and information to expedite the arbitration. Any request for documents or other information should be specific, relate to the matter in controversy, and afford the party to whom the request is made a reasonable period of time to respond without interfering with the time set for the hearing.

(b) Document Production and Information Exchange.

(1) Any party may serve a written request for information or documents ("information request") upon another party twenty (20) business days or more after service of the Statement of Claim by the Director of Arbitration or upon filing of the Answer, whichever is earlier. The requesting party shall serve the information request on all parties and file a copy with the Director of

Arbitration. The parties shall endeavor to resolve disputes regarding an information request prior to serving any objection to the request. Such efforts shall be set forth in the objection.

(2) Unless a greater time is allowed by the requesting party, information requests shall be satisfied or objected to within thirty (30) calendar days from the date of service. Any objection to an information request shall be served by the objecting party on all parties and filed with the Director of Arbitration.

(3) Any response to objections to information requests shall be served on all parties and filed with the Director of Arbitration and within ten (10) calendar days of receipt of the objection.

(4) Upon the written request of a party who does not receive the sought information the matter will be referred by the Director of Arbitration to either a pre-hearing conference under paragraph (d) of this section or to a selected arbitrator under paragraph (e) of this section.

(c) Pre-Hearing Exchange.

At least ten (10) calendar days prior to the first scheduled hearing date, all parties shall serve on each other copies of documents in their possession they intend to present at the hearing and shall identify witnesses they intend to present at the hearing. The arbitrator(s) may exclude from the arbitration any documents not exchanged or witnesses not identified at that time. This paragraph does not require service of copies of documents or identification of witnesses that parties may use for cross-examination or rebuttal.

(d) Pre-Hearing Conference.

(1) Upon the written request of a party, an arbitrator, or at the discretion of the Director of Arbitration, a pre-hearing conference shall be scheduled. The Director of Arbitration shall set the time and place of a pre- hearing conference and appoint a person to preside. The pre-hearing conference may be held by telephone conference call. The presiding person shall seek to achieve agreement among the parties on any issues that relate to the pre-hearing process or to the hearing including, but not limited to, the exchange of information, exchange or production or documents, stipulation of facts, identification and briefing of contested issues, and any other matters that will expedite the arbitration proceedings.

(2) Any issues raised at the pre-hearing conference that are not resolved may be referred by the Director of Arbitration to a single member of the Arbitration Panel for decision.

(e) Decisions by Selected Arbitrator.

The Director of Arbitration may appoint a single member of the Arbitration Panel to decide all unresolved issues referred to under this section. Such arbitrator shall be authorized to act on behalf of the panel to issue subpoenas, direct appearances of witnesses and production of documents, set deadlines and issue any other ruling which will expedite the arbitration proceeding or is necessary to permit any party to develop fully its case. Decisions under this paragraph shall be made based on the papers submitted by the parties, unless the arbitrator calls a hearing. The arbitrators may elect to refer any issue under this paragraph to the full panel.

(f) Subpoenas.

The arbitrator(s) and any counsel of record to the proceeding shall have the power of the subpoena process as provided by law. All parties shall be given a copy of the subpoena upon its issuance. The parties shall produce witnesses and present proofs to the fullest extent possible without resort to the subpoena process.

(g) Power to Direct Appearance and Production of Documents.

The arbitrator(s) shall be empowered without resort to the subpoena process to direct the appearance of any person employed by or associated with any ETP Holder or ETP Holder organization of the Exchange and/or the production of any records in the possession or control of such persons or ETP Holders. Unless the arbitrator(s) directs otherwise, the party requesting the appearance of a person or the production of documents under this Section shall bear all reasonable costs of such appearance and/or production.

Rule 9.21. Evidence

The arbitrators shall determine the materiality and relevance of any evidence proffered and shall not be bound by the rules governing the admissibility of evidence.

Rule 9.22. Interpretation of the Code

The arbitrators shall be empowered to interpret and determine the applicability of all provisions under this Code. This interpretation shall be final and binding upon the parties.

Rule 9.23. Determinations of Arbitrators

All rulings and determinations of the panel shall be a majority of the arbitrators.

Rule 9.24. Record of Proceedings

A verbatim record by a stenographic reporter or tape recording of all arbitration hearings shall be kept. If a party or parties elect to have the record transcribed, the party or parties making the request shall bear the cost of such transcription unless the arbitrators direct otherwise. The arbitrators may also direct that the record be transcribed.

If the record is transcribed at the request of any party, a copy shall be provided to the arbitrators.

Rule 9.25. Oaths of the Arbitrators and Witness

Prior to the commencement of the first session, an oath or affirmation shall be administered to the arbitrator(s). All testimony shall be under oath or affirmation.

Rule 9.26. Amendments

(a) After the filing of any pleadings, if a party desires to file a new or different pleading, such change must be made in writing and filed with the Director of Arbitration. The Director of Arbitration shall endeavor to serve promptly by mail or otherwise upon all other parties a copy of said change. The other parties may, within ten (10) business days from the receipt of service, file a response with the Director of Arbitration.

(b) After a panel has been appointed, no new or different pleadings may be filed except for a responsive pleading as provided for in (a) above or with the panel's consent.

Rule 9.27. Reopening of Hearings

Where permitted by law, the hearings may be reopened by the arbitrators on their own motion or in the discretion of the arbitrators upon application of a party at any time before the award is rendered.

Rule 9.28. Awards

(a) All awards shall be in writing and signed by a majority of the arbitrators or in such manner as is required by law. Such awards may be entered as a judgment in any court of competent jurisdiction.

(b) Unless the law directs otherwise, all awards rendered pursuant to this Code shall be deemed final and not subject to review or appeal.

(c) The Director of Arbitration shall endeavor to serve a copy of the award:

(i) by registered or certified mail upon all parties or their counsel, at the address of record; or

(ii) by personally serving the award upon the parties; or

(iii) by filing or delivering the award in such a manner as may be authorized by law.

(d) The arbitrator(s) shall endeavor to render an award within thirty (30) business days from the date the record is closed.

(e) The award shall contain the names of the parties, a summary of the issues in controversy, the damages and/or other relief requested, the damages and/or other relief awarded, a statement of any other issues resolved, the date the claim was filed and the award rendered, the number and dates of hearing sessions, the location of the hearing, the name of the arbitrators, and the signature of the arbitrators concurring in the award.

(f) The awards shall be made publicly available, provided however, that the name of the customer party to the arbitration will not be publicly available if he or she so requests in writing.

Rule 9.29. Miscellaneous

This Code shall be deemed a part of and incorporated by reference in every duly-executed Submission Agreement that shall be binding on all parties.

Rule 9.30. Schedule of Fees for Customer Disputes

(a) At the time of filing a Claim, Counterclaim, Third-Party Claim, or Cross-Claim, a party shall deposit with the self-regulatory organization the amount indicated below unless such deposit is specifically waived by the Director of Arbitration.

Amount in Dispute (Exclusive of interest and expenses)	Deposit
$1,000 or less	$15
Above $1,000 but not exceeding $2,500	$25
Above $2,500 but not exceeding $5,000	$100
Above $5,000 but not exceeding $10,000	$200
Above $10,000 but not exceeding $50,000	$400
Above $50,000 but not exceeding $100,000	$500
Above $100,000 but not exceeding $500,000	$750
Above $500,000	$1000

When the amount in dispute is $10,000 or less, no additional deposits shall be required despite the number of hearing sessions. When the amount in dispute is above $10,000 and multiple hearing sessions are required, the arbitrators may require any of the parties to make additional deposits for each additional hearing session. In no event shall the aggregate amount deposited per hearing session exceed the amount of the initial deposit(s) set forth in the above schedule.

(b) A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference, which lasts four (4) hours or less.

(c) The arbitrators, in their awards, may determine the amount chargeable to the parties as forum fees (fees) and shall determine who shall pay such fees. Forum fees chargeable to the parties shall be assessed on a per hearing basis, and the aggregate for each hearing

session may equal but shall not exceed the amount of the largest initial hearing deposit deposited by any party.

Amounts deposited by a party shall be applied against fees, if any. If the fees are not assessed against a party who had made a deposit, the deposit will be refunded. In addition to forum fees, the arbitrator(s) may determine in his awards the amount of costs incurred pursuant to Rules 9.18, 9.20, and 9.25 and, unless applicable law directs otherwise, other costs and expenses of the parties and arbitrator(s) that are within the scope of the agreement of the parties or otherwise is permitted by law. The arbitrator(s) shall determine who shall pay such costs.

(d) If the dispute, claim, or controversy does not involve or disclose a money claim, the amount to be deposited by the Claimant shall be $200, or such amount as the Director of Arbitration or the panel of arbitrators may require, but shall not exceed $1,000.

(e) If a matter has been submitted and thereafter is settled or withdrawn prior to the commencement of the first hearing session, the parties shall be entitled to a refund of all but $100 of the amount deposited with the Exchange. This section shall not apply to claims filed under Rule 9.2 of this code.

(f) Any matter submitted and thereafter settled or withdrawn subsequent to the commencement of the first hearing session may be subject to such refund of assessed deposits, if any, as the panel of arbitrators presiding may determine.

(g) The arbitrators may assess forum fees and costs incurred pursuant to Rules 9.18, 9.20, and 9.26 in any matter settled or withdrawn subsequent to the commencement of the first sessions.

(h) The fee for pre-hearing conferences shall be 75 percent of the fees contained in subsection (a).

Rule 9.31. Requirements When Using Pre-Dispute Arbitration Agreements with Customers

(1) Any pre-dispute arbitration clause shall be highlighted and shall be immediately preceded by the following disclosure language (printed in outline form as set forth herein) that shall also be highlighted:

(a) Arbitration is final and binding on the parties.

(b) The parties are waiving their right to seek remedies in court, including the right to jury trial.

(c) Pre-arbitration discovery is generally more limited than and different from court proceedings.

(d) The arbitrator's award is not required to include factual findings or legal reasoning and any party's right to appeal or to seek modification of rulings by the arbitrators is strictly limited.

(e) The panel of arbitrators will typically include a minority of arbitrators who were or are affiliated with the securities industry.

(2) Immediately preceding the signature line, there shall be a statement that shall be highlighted and separately initialed by the customer that the agreement contains a pre-dispute arbitration clause. The statement shall also indicate at what page and paragraph the arbitration clause is located.

(3) A copy of the agreement containing any such clause shall be given to the customer who shall acknowledge receipt thereof on the agreement or on a separate document.

(4) No agreement shall include any condition that limits or contradicts the rules of any self-regulatory organization or limits the ability of a party to file any claim in arbitration or limits the ability of the arbitrators to make any award.

(5) The requirements of this section shall apply only to new agreements signed by an existing or new customer of an ETP Holder or ETP Holder organization after 120 days have elapsed from the date of Commission approval of this rule.

CHAPTER X. Adverse Action

Rule 10.1. Scope of Chapter

This Chapter provides the procedure for persons who are or are about to be aggrieved by adverse action, including, but not limited to, those persons who have been denied an ETP, barred from becoming associated with an ETP Holder, or prohibited or limited with respect to Exchange services (e.g., denial of admission of eligible securities to listing) or the services of any Exchange ETP Holder pursuant to any contractual arrangement, the By-Laws or the Rules of the Exchange (other than disciplinary action for which review is provided in Chapter VIII and other than an arbitration award, from which there is no Exchange review), to apply for an opportunity to be heard and to have the complained of action reviewed.

Rule 10.2. Submission and Time Limitation on Application to Exchange

A person who is or will be aggrieved by any action of the Exchange within the scope of this Chapter and who desires to have an opportunity to be heard with respect to such action shall file a written application with the Secretary of the Exchange within 15 business days after being notified of such action. The application shall state the action complained of and the specific reasons why the applicant takes exception to such action and the relief sought. In addition, if the applicant intends to submit any additional

documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

Rule 10.3. Procedure Following Applications for Hearing

(a) Panel.

Applications for hearing and reviewing shall be referred promptly by the Secretary of the Exchange to the Appeals Committee which promptly shall appoint a hearing panel of no fewer than three persons, at least one of whom shall be a member of the Appeals Committee. A record of the proceedings shall be kept.

(b) Documents.

The panel so appointed will set a hearing date and shall be furnished with all material relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party shall have the right to inspect and copy the other party's material prior to the hearing. Hearings shall be held promptly, particularly in the case of a summary suspension pursuant to Chapter VII of these Rules.

(c) Notice.

Parties to the proceeding shall be informed of the composition of the panel by the Secretary at least 72 hours prior to the scheduled hearing.

Rule 10.4. Hearing and Decision

(a) Participants.

The parties to the hearing shall consist of the applicant and a representative of the Exchange who shall present the reasons for the action taken by the Exchange which allegedly aggrieved the applicant.

(b) Counsel.

The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

(c) Conduct of Hearing.

The panel shall determine all questions concerning the admissibility of evidence and shall otherwise regulate the conduct of the hearing. Each of the parties shall be permitted to make an opening statement, present witnesses and documentary evidence, cross-examine opposing witnesses and present closing arguments orally or in writing as determined by the panel. The panel also shall have the right to question all parties and witnesses to the proceeding and a record shall be kept. The formal rules of evidence shall not apply.

(d) Decision.

The decision of the panel shall be made in writing and shall be sent to the parties to the proceeding. Such decisions shall contain the reasons supporting the conclusions of the panel.

Rule 10.5. Review

(a) Petition.

The decision of the panel of the Appeals Committee shall be subject to review by the Board either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant below, by the President of the Exchange or by the Chairman of the committee whose action was subject to the review of the Appeals Committee, within 15 business days after issuance of the decision. Such petition shall be in writing and shall specify the findings and conclusions to which exceptions are taken together with the reasons for such exceptions. Any objection to a decision not specified by written exception shall be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Board and may request an opportunity to make an oral argument before the Board. The Board, or committee of the Board, shall have sole discretion to grant or deny either request.

(b) Conduct of Review.

The review shall be conducted by the Board, or a Committee of the Board, composed of at least three (3) Directors (which review is subject to ratification by the Board). The review shall be made upon the record and shall be made after such further proceedings, if any, as the Board or its designated Committee may order. Based upon such record, the Board may affirm, reverse or modify, in whole or in part, the decision below. The decision of the Board shall be in writing and shall be sent to the parties to the proceeding.

Rule 10.6. Miscellaneous Provisions

(a) Service of Notice.

Any notices or other documents may be served upon the applicant either personally or by leaving the same at his place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at his last known business or residence address.

(b) Extension of Time Limits.

Any time limits imposed under this Chapter for the submission of answers, petitions or other materials may be extended by permission of the Secretary of the Exchange. All papers and documents relating to review by the Appeals Committee, the Board or its designated committee must be submitted to the Secretary of the Exchange.

Rule 10.7. Agency Review

Actions taken by the Exchange under this Chapter shall be subject to the review and action of any appropriate regulatory agency under the Act.

CHAPTER XI. Trading Rules

Rule 11.1. Hours of Trading

(a) The Exchange shall open for the transaction of business during such hours as is determined by the Board, with notice to ETP Holders. The Exchange's pre-Regular Trading Hours trading session shall be from 8:00 a.m. until 9:30 a.m. Eastern Time. The Exchange's post-Regular Trading Hours trading session shall be from 4:00 p.m. until 5:00 p.m. Eastern Time.

(b) The Exchange will be open for the transaction of business on business days. The Exchange will not be open for business on the following holidays: New Years Day, Dr. Martin Luther King Jr. Day, Presidents Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas. When any holiday observed by the Exchange falls on a Saturday, the Exchange will not be open for business on the preceding Friday. When any holiday observed by the Exchange falls on a Sunday, the Exchange will not be open for business on the following Monday, unless otherwise indicated by the Exchange.

(c) Customer Disclosures Outside of Regular Trading Hours. No ETP Holder may accept an order from a non-ETP Holder for execution outside of Regular Trading Hours without disclosing to such non-ETP Holder that extended hours trading involves material trading risks, including the possibility of lower liquidity, high volatility, changing prices, unlinked markets, an exaggerated effect from news announcements, wider spreads and any other relevant risk. The absence of an updated underlying index value or intraday indicative value is an additional trading risk in extended hours for UTP Derivative Security products.

The disclosures required pursuant to this Rule 11.1(c) may take the following form or such other form as provides substantially similar information:

1. Risk of Lower Liquidity. Liquidity refers to the ability of market participants to buy and sell securities. Generally, the more orders that are available in a market, the greater the liquidity. Liquidity is important because with greater liquidity it is easier for investors to buy or sell securities, and as a result, investors are more likely to pay or receive a competitive price for securities purchased or sold. There may be lower liquidity in extended hours trading as compared to Regular Trading Hours. As a result, your order may only be partially executed, or not at all.

2. Risk of Higher Volatility. Volatility refers to the changes in price that securities undergo when trading. Generally, the higher the volatility of a security, the greater its price swings. There may be greater volatility in extended hours trading than in Regular Trading Hours. As a result, your order may only be partially executed, or not at all, or you may receive an inferior price in extended hours trading than you would during Regular Trading Hours.

3. Risk of Changing Prices. The prices of securities traded in extended hours trading may not reflect the prices either at the end of Regular Trading Hours, or upon the opening of the next morning. As a result, you may receive an inferior price in extended hours trading than you would during Regular Trading Hours.

4. Risk of Unlinked Markets. Depending on the extended hours trading system or the time of day, the prices displayed on a particular extended hours system may not reflect the prices in other concurrently operating extended hours trading systems dealing in the same securities. Accordingly, you may receive an inferior price in one extended hours trading system than you would in another extended hours trading system.

5. Risk of News Announcements. Normally, issuers make news announcements that may affect the price of their securities after Regular Trading Hours. Similarly, important financial information is frequently announced outside of Regular Trading Hours. In extended hours trading, these announcements may occur during trading, and if combined with lower liquidity and higher volatility, may cause an exaggerated and unsustainable effect on the price of a security.

6. Risk of Wider Spreads. The spread refers to the difference in price between what you can buy a security for and what you can sell it for. Lower liquidity and higher volatility in extended hours trading may result in wider than normal spreads for a particular security.

7. Risk of Lack of Calculation or Dissemination of Underlying Index Value or Intraday Indicative Value ("IIV"). For certain UTP Derivative Security products, an updated underlying index value or IIV may not be calculated or publicly disseminated in extended trading hours. Since the underlying index value and IIV are not calculated or widely disseminated outside of Regular Trading Hours, an investor who is unable to calculate implied values for certain UTP Derivative Security products in those sessions may be at a disadvantage to market professionals.

(d) Reporting of Transactions Outside of Regular Trading Hours. Trades on the Exchange executed and reported outside of Regular Trading Hours shall be designated as .T trades.

Interpretations and Policies

.01 Cessation of Trading on the Exchange: The Exchange shall cease trading on the System as of February 1, 2017. All Exchange Rules will remain in full force and effect through and after February 1, 2017.

Rule 11.2. Units of Trading

A normal unit of trading shall constitute one hundred (100) shares unless otherwise designated by the Exchange. A “round lot” shall mean a normal unit of trading. An “odd lot” shall mean any amount less than a round lot. A “mixed lot” shall mean any amount greater than a round lot that is not a multiple of such round lot.

Rule 11.3. Price Variations

(a) Bids, offers, orders or indications of interests in securities traded on the Exchange shall not be made in an increment smaller than:

(i) $0.01 if those bids, offers, orders or indications of interests are priced equal to or greater than $1.00 per share; or

(ii) $0.0001 if those bids, offers, orders or indications of interests are priced less than $1.00 per share; or

(iii)Any other increment established by the Commission for any security which has been granted an exemption from the minimum price increments requirements of SEC Rule 612(a) or 612(b).

(b) Except as provided in Rule 11.12(c) or (d), Crosses executed in accordance with Rule 11.12 must improve each side of the Top of Book by at least $0.01 per share. No Crosses may be executed in increments smaller than those permitted by Rule 11.3(a), except for (i) Midpoint Crosses (as defined in Rule 11.12(c)), which may be executed in increments as little as one-half the minimum increment permitted by Rule 11.3(a); (ii) Clean Crosses that comply with the requirements of Rule 11.12(d); and (iii) any other Cross that complies with the requirements of Rule 11.12(b).

(c) Notwithstanding subsection (a) above, a Zero Display Reserve Order that is pegged to the midpoint of the Protected BBO in accordance with Rule 11.11(c)(2) may be executed in sub-pennies if necessary to obtain a midpoint price. For securities priced less than $1.00 per share, if a midpoint execution would result in an execution at an impermissible trading increment, the System will round, to the nearest increment allowed in Rule 11.3(a), the execution price up for any Zero Display Reserve Order to buy and down for any Zero Display Reserve Order to sell posted to the NSX Book.

Rule 11.4. Securities Eligible for Trading

The Exchange shall designate securities for trading. Any class of securities listed or admitted to unlisted trading privileges on the Exchange pursuant to Chapter XV of these Rules shall be eligible to become designated for trading on the Exchange. All securities designated for trading are eligible for odd-lot, round-lot and mixed-lot executions, unless otherwise indicated by the Exchange or limited pursuant to these Rules.

Rule 11.5. Registration of Market Makers

(a) No ETP Holder shall act as a Market Maker in any security unless such ETP Holder is registered as a Market Maker in such security by the Exchange pursuant to this Rule and the Exchange has not suspended or cancelled such registration. Registered Market Makers are designated as dealers on the Exchange for all purposes under the Act and the rules and regulations thereunder.

(b) An applicant for registration as a Market Maker shall file an application in writing on such form as the Exchange may prescribe. Applications shall be reviewed by the Exchange, which shall consider such factors including, but not limited to capital operations, personnel, technical resources, and disciplinary history. Each Market Maker must have and maintain minimum net capital of at least the amount required under Rule 15c3-1 of the Act.

(c) An applicant's registration as a Market Maker shall become effective upon receipt by the ETP Holder of notice of an approval of registration by the Exchange.

(d) The registration of a Market Maker may be suspended or terminated by the Exchange if the Exchange determines that:

(1) The Market Maker has substantially or continually failed to engage in dealings in accordance with Rule 11.8 or elsewhere in these Rules;

(2) The Market Maker has failed to meet the minimum net capital conditions set forth under paragraph (b) above; or

(3) The Market Maker has failed to maintain fair and orderly markets.

(e) Any registered Market Maker may withdraw its registration by giving written notice to the Exchange. The Exchange may require a certain minimum prior notice period for withdrawal, and may place such other conditions on withdrawal and re-registration following withdrawal, as it deems appropriate in the interests of maintaining fair and orderly markets.

(f) Any person aggrieved by any determination under this Rule or Rules 11.6 or 11.7 below may seek review under Chapter X of Exchange Rules governing adverse action.

Rule 11.6. Obligations of Market Maker Authorized Traders

(a) General. MMATs are permitted to enter orders only for the account of the Market Maker for which they are registered.

(b) Registration of Market Maker Authorized Traders. The Exchange may, upon receiving an application in writing from a Market Maker on a form prescribed by the Exchange, register a Person as a MMAT, subject to the eligibility criteria described below.

(1) MMATs may be officers, partners, employees or other Persons Associated with ETP Holders that are registered with the Exchange as Market Makers.

(2) To be eligible for registration as a MMAT, a Person must successfully complete the Securities Trader Examination (Series 57) and such other training and/or certification programs as may be required by the Exchange and must register in CRD.

(3) The Exchange may require a Market Maker to provide any and all additional information the Exchange deems necessary to establish whether registration should be granted.

(4) The Exchange may grant a person conditional registration as a MMAT subject to any conditions it considers appropriate in the interests of maintaining a fair and orderly market.

(5) A Market Maker must ensure that a MMAT is properly qualified to perform market making activities, including but not limited to ensuring the MMAT has met the requirements set forth in paragraph (b)(2) of this Rule.

(c) Suspension or Withdrawal of Registration.

(1) The Exchange may suspend or withdraw the registration previously given to a person to be a MMAT if the Exchange determines that:

(A) the person has caused the Market Maker to fail to comply with the securities laws, rules and regulations or the By-Laws, Rules and procedures of the Exchange;

(B) the person is not properly performing the responsibilities of a MMAT;

(C) the person has failed to meet the conditions set forth under paragraph (b) above; or

(D) the MMAT has failed to maintain fair and orderly markets.

(2) If the Exchange suspends the registration of a person as a MMAT, the Market Maker must not allow the person to submit orders into the System.

(3) The registration of a MMAT will be withdrawn upon the written request of the ETP Holder for which the MMAT is registered. Such written request shall be submitted on the form prescribed by the Exchange.

Rule 11.7. Registration of Market Makers in a Security

(a) A Market Maker may become registered in a newly authorized security or in a security already admitted to dealings on the Exchange by filing a security registration form with the Exchange. Registration in the security shall become effective on the first business day following the Exchange's approval of the registration, unless otherwise provided by the Exchange. In considering the approval of the registration of the Market Maker in a security, the Exchange may consider:

(1) the financial resources available to the Market Maker;

(2) the Market Maker's experience, expertise and past performance in making markets, including the Market Maker's performance in other securities;

(3) the Market Maker's operational capability;

(4) the maintenance and enhancement of competition among Market Makers in each security in which they are registered;

(5) the existence of satisfactory arrangements for clearing the Market Maker's transactions;

(6) the character of the market for the security, e.g., price, volatility, and relative liquidity.

(b) Voluntary Termination of Security Registration. A Market Maker may voluntarily terminate its registration in a security by providing the Exchange with a written notice of such termination. The Exchange may require a certain minimum prior notice period for such termination, and may place such other conditions on withdrawal and re-registration following withdrawal, as it deems appropriate in the interests of maintaining fair and orderly markets. A Market Maker that fails to give advanced written notice of termination to the Exchange may be subject to formal disciplinary action pursuant to Chapter VIII of these Rules.

(c) The Exchange may suspend or terminate any registration of a Market Maker in a security or securities under this Rule whenever the Exchange determines that:

(1) The Market Maker has not met any of its obligations as set forth in these Rules; or

(2) The Market Maker has failed to maintain fair and orderly markets.

A Market Maker whose registration is suspended or terminated pursuant to this Rule 11.7(c) may seek review under Chapter X of Exchange Rules governing adverse action.

(d) Nothing in this Rule will limit any other power of the Exchange under the By-Laws, Rules, or procedures of the Exchange with respect to the registration of a Market Maker or in respect of any violation by a Market Maker of the provisions of this Rule.

Rule 11.8. Obligations of Market Makers

(a) General. ETP Holders who are registered as Market Makers in one or more securities traded on the Exchange must engage in a course of dealings for their own account to assist in the maintenance, insofar as reasonably practicable, of fair and orderly markets on the Exchange in accordance with these Rules. The responsibilities and duties of a Market Maker specifically include, but are not limited to, the following:

(1) Quotation Requirements and Obligations

(A) Two-Sided Quote Obligation. For each security in which an ETP Holder is registered as a Market Maker, the ETP Holder shall be willing to buy and sell such security for its own account on a continuous basis during Regular Trading Hours and shall enter and maintain a two-sided trading interest ("Two-Sided Obligation") that is identified to the Exchange as the interest meeting the obligation and is displayed in the NSX Book at all times. Interest eligible to be considered as part of a Market Maker's

Two-Sided Obligation shall have a displayed quotation size of at least one normal unit of trading (or a larger multiple thereof); provided, however, that a Market Maker may augment its Two-Sided Obligation size to display limit orders priced at the same price as the Two-Sided Obligation. After an execution against its Two-Sided Obligation, a Market Maker must ensure that additional trading interest exists in the Exchange to satisfy its Two-Sided Obligation either by immediately entering new interest to comply with this obligation to maintain continuous two-sided quotations or by identifying existing interest on the Exchange book that will satisfy this obligation.

(B) Pricing Obligations. For NMS stocks (as defined in Rule 600 under Regulation NMS) a Market Maker shall adhere to the pricing obligations established by this Rule during Regular Trading Hours.

(i) Bid Quotations. At the time of entry of bid interest satisfying the Two-Sided Obligation, the price of the bid interest shall be not more than the Designated Percentage (as defined below) away from the then current national best bid, or if no national best bid, not more than the Designated Percentage away from the last reported sale from the responsible single plan processor. In the event that the national best bid (or if no national best bid, the last reported sale) increases to a level that would cause the bid interest of the Two-Sided Obligation to be more than the Defined Limit (as defined below) away from the national best bid (or if no national best bid, the last reported sale), or if the bid is executed or cancelled, the Market Maker shall enter new bid interest at a price not more than the Designated Percentage away from the then current national best bid (or if no national best bid, the last reported sale), or identify to the Exchange current resting interest that satisfies the Two-Sided Obligation.

(ii) Offer Quotations. At the time of entry of offer interest satisfying the Two-Sided Obligation, the price of the offer interest shall be not more than the Designated Percentage away from the then current national best offer, or if no national best offer, not more than the Designated Percentage away from the last reported sale received from the responsible single plan processor. In the event that the national best offer (or if no national best offer, the last reported sale) decreases to a level that would cause the offer interest of the Two-Sided Obligation to be more than the Defined Limit away from the national best offer (or if no national best offer, the last reported sale), or if the offer is executed or cancelled, the Market Maker shall enter new offer interest at a price not more than the Designated Percentage away from the then current national best offer (or if no national best offer, the last reported sale), or identify to the Exchange current resting interest that satisfies the Two-Sided Obligation.

(iii) National Best Bid and Offer. The national best bid and offer shall be determined by the Exchange in accordance with its procedures for determining protected quotations under Rule 600 under Regulation NMS.

(iv) "Designated Percentage". For purposes of this Rule, the "Designated Percentage" shall be 8% for securities subject to Rule 11.20B(a)(1), 28% for securities subject to Rule 11.20B(a)(2), and 30% for securities subject to Rule 11.20B(a)(3) (or

comparable rules of another exchange), except that between 9:30 a.m. and 9:45 a.m. and between 3:35 p.m. and the close of trading, when Rule 11.20B is not in effect, the Designated Percentage shall be 20% for securities subject to Rule 11.20B(a)(1), 28% for securities subject to Rule 11.20B(a)(2), and 30% for securities subject to Rule 11.20B(a)(3).

(v) "Defined Limit". For purposes of this Rule, the "Defined Limit" shall be 9.5% for securities subject to Rule 11.20B(a)(1), 29.5% for securities subject to Rule 11.20B(a)(2), and 31.5% for securities subject to Rule 11.20B(a)(3) (or comparable rules of another exchange), except that between 9:30 a.m. and 9:45 a.m. and between 3:35 p.m. and the close of trading, when Rule 11.20B is not in effect, the Defined Limit shall be 21.5% for securities subject to Rule 11.20B(a)(1), 29.5% for securities subject to Rule 11.20B(a)(2), and 31.5% for securities subject to Rule 11.20B(a)(3).

(vi) Nothing in this Rule shall preclude a Market Marker from quoting at price levels that are closer to the national best bid and offer than the levels required by this Rule.

(2) Remain in good standing with the Exchange and in compliance with all Exchange Rules applicable to it;

(3) Inform the Exchange of any material change in financial or operational condition or in personnel;

(4) Maintain a current list of MMATs who are permitted to enter orders on behalf of the Market Maker and provide an updated version of this list to the Exchange upon any change in MMATs; and

(5) Clear and settle transactions through the facilities of a registered clearing agency. This requirement may be satisfied by direct participation, use of direct clearing services, or by entry into a correspondent clearing arrangement with another ETP Holder that clears trades through such agency.

(b) A Market Maker must satisfy the responsibilities and duties as set forth in paragraph (a) of this Rule during trading hours on all days in which the Exchange is open for business.

(c) A Market Maker shall be responsible for the acts and omissions of its MMATs.

(d) If the Exchange finds any substantial or continued failure by a Market Maker to engage in a course of dealings as specified in paragraph (a) of this Rule, such Market Maker will be subject to disciplinary action or suspension or revocation of the registration by the Exchange in one or more of the securities in which the Market Maker is registered. Nothing in this Rule will limit any other power of the Exchange under the By-Laws, Rules, or procedures of the Exchange with respect to the registration of a Market Maker or in respect of any violation by a Market Maker of the provisions of this

Rule. Any ETP Holder aggrieved by any determination under this Rule may seek review under Chapter X of the Exchange Rules governing adverse action.

(e) Temporary Withdrawal. A Market Maker may apply to the Exchange to withdraw temporarily from its Market Maker status in the securities in which it is registered. The Market Maker must base its request on demonstrated legal or regulatory requirements that necessitate its temporary withdrawal, or provide the Exchange an opinion of counsel certifying that such legal or regulatory basis exists. The Exchange will act promptly on such request and, if the request is granted, the Exchange may temporarily reassign the securities to another Market Maker.

Rule 11.9. Access

(a) *General*. The System shall be available for entry and execution of orders by Users with authorized access. To obtain authorized access to the System, each User must enter into a User Agreement with the Exchange in such form as the Exchange may provide ("User Agreement").

(b) *Sponsored Participants*. A Sponsored Participant may obtain authorized access to the System only if such access is authorized in advance by one or more Sponsoring ETP Holders as follows:

(1) Sponsored Participants must enter into and maintain customer agreements with one or more Sponsoring ETP Holders establishing proper relationship(s) and account(s) through which the Sponsored Participant may trade on the System. Such customer agreement(s) must incorporate the Sponsorship Provisions set forth in paragraph (2) below.

(2) For a Sponsored Participant to obtain and maintain authorized access to the System, a Sponsored Participant and its Sponsoring ETP Holder must agree in writing to the following Sponsorship Provisions:

(A) Sponsored Participant and its Sponsoring ETP Holder must have entered into and maintained a User Agreement with the Exchange. The Sponsoring ETP Holder must designate the Sponsored Participant by name in its User Agreement as such.

(B) Sponsoring ETP Holder acknowledges and agrees that:

(i) All orders entered by the Sponsored Participants and any person acting on behalf of or in the name of such Sponsored Participant and any executions occurring as a result of such orders are binding in all respects on the Sponsoring ETP Holder,

(ii) Sponsoring ETP Holder is responsible for any and all actions taken by such Sponsored Participant and any person acting on behalf of or in the name of such Sponsored Participant, and

(iii) Sponsoring ETP Holder shall pay when due all amounts, if any, payable to the Exchange or any other third parties that arise from the Sponsored Participants access to and use of the System. Such amounts include, but are not limited to applicable exchange and regulatory fees.

(C) Sponsoring ETP Holder shall comply with the Exchange's Articles of Incorporation, By-Laws, Rules and procedures, and Sponsored Participant shall comply with the Exchange's Articles of Incorporation, By-Laws, Rules and procedures, as if Sponsored Participant were an ETP Holder.

(D) Sponsored Participant shall maintain, keep current and provide to the Sponsoring ETP Holder, and to the Exchange upon request, a list of Authorized Traders who may obtain access to the System on behalf of the Sponsored Participant. Sponsored Participant shall be subject to the obligations of Rule 11.10 with respect to such Authorized Traders.

(E) Sponsored Participant shall familiarize its Authorized Traders with all of the Sponsored Participant's obligations under this Rule and will assure that they receive appropriate training prior to any use or access to the System.

(F) Sponsored Participant may not permit anyone other than Authorized Traders to use or obtain access to the System.

(G) Sponsored Participant shall take reasonable security precautions to prevent unauthorized use or access to the System, including unauthorized entry of information into the System, or the information and data made available therein. Sponsored Participant understands and agrees that Sponsored Participant is responsible for any and all orders, trades and other messages and instructions entered, transmitted or received under identifiers, passwords and security codes of Authorized Traders, and for the trading and other consequences thereof.

(H) Sponsored Participant acknowledges its responsibility to establish adequate procedures and controls that permit it to effectively monitor its employees, agents and customers' use and access to the System for compliance with the terms of this agreement.

(3) The Sponsoring ETP Holder must provide the Exchange with a written statement in form and substance acceptable to the Exchange acknowledging its responsibility for the orders, executions and actions of its Sponsored Participant at issue.

Rule 11.10. Authorized Traders

(a) An ETP Holder shall maintain a list of ATs who may obtain access to the System on behalf of the ETP Holder or the ETP Holder's Sponsored Participants. The ETP Holder shall update the list of ATs as necessary. ETP Holders must provide the list of ATs to the Exchange upon request.

(b) An ETP Holder must have reasonable procedures to ensure that all ATs comply with all Exchange Rules and all other procedures related to the System.

(c) An ETP Holder must suspend or withdraw a person's status as an AT if the Exchange has determined that the person has caused the ETP Holder to fail to comply with the Rules of the Exchange and the Exchange has directed the ETP Holder to suspend or withdraw the person's status as an AT.

(d) An ETP Holder must have reasonable procedures to ensure that the ATs maintain the physical security of the equipment for accessing the facilities of the Exchange to prevent the improper use or access to the systems, including unauthorized entry of information into the systems.

(e) Each ETP Holder shall register all Authorized Traders with the Exchange in CRD. To be eligible to register as an Authorized Trader of an ETP Holder, a Person must pass the Securities Trader Examination (Series 57) and any other training and/or certification programs as may be required by the Exchange.

Rule 11.11. Orders and Modifiers

Users may enter into the System the types of orders listed in this Rule 11.11, subject to the limitations set forth in this Rule or elsewhere in these Rules.

(a) *General Order Types*.

(1) Market Order. An order to buy or sell a stated amount of a security that is to be executed at the best price obtainable when the order reaches the Exchange. A market order that is designated as "NSX Only" will be cancelled if when reaching the Exchange, it cannot be executed in accordance with Rule 11.15(a)(i) on the System. Market orders that are not designated as "NSX Only" and that cannot be executed in accordance with Rule 11.15(a)(i) on the System when reaching the Exchange will be eligible for routing away pursuant to Rule 11.15.

(2) Limit Order. An order to buy or sell a stated amount of a security at a specified price or better. A "marketable" limit order is a limit order to buy (sell) at or above (below) the Protected NBBO offer (bid) for the security.

(b) *Time-in-Force*. Limit orders must have one of the following time-in-force terms.

(1) Immediate-or-Cancel ("IOC") Order. A limit order that is to be executed in whole or in part as soon as such order is received, and the portion not so executed is to be treated as cancelled. An order designated as IOC is not eligible for routing away pursuant to Rule 11.15.

(2) Day Order. A limit order to buy or sell which, if not executed, expires at the closing of Regular Trading Hours. Any Day Order entered into the System before the

opening of business on the Exchange as determined pursuant to Rule 11.1, or after the closing of Regular Trading Hours, will be rejected.

(3) Day + Order. A limit order to buy or sell which, if not executed, expires at the closing of business on the Exchange (as determined pursuant to Rule 11.1) on the day on which it was entered. Any Day + Order entered into the System before the opening of business or after the closing of business on the Exchange as determined pursuant to Rule 11.1 will be rejected.

(4) Any limit orders entered with a "Good 'til Cancel" (GTC) or similar time-in-force term will be automatically converted into Day Orders.

(5) Any limit orders entered with a "Good 'til Extended Hours" (GTX) or similar time-in-force term will be automatically converted into Day + Orders.

(c) *Other Types of Orders and Order Modifiers*.

(1) Self Trade Prevention Order Modifier**.** Any incoming order designated with an STP modifier will be prevented from executing against a resting opposite side order also designated with an STP modifier and originating from the same FIX session identifier ("FIX ID"), party identifier ("Party ID") or client identifier ("MPID") (any such identifier, a "Unique Identifier"). The STP modifier on the incoming (new) order controls the interaction between two orders marked with STP modifiers.

(A) STP Reject New Order ("STPN"). An incoming (new) order marked with the "STPN" modifier will not execute against opposite side resting interest marked with any STP modifier originating from the same Unique Identifier. The incoming order marked with the STPN modifier will be rejected back to the originating User(s). The resting order marked with an STP modifier will remain on the NSX Book.

(B) STP Cancel Old (Resting) Order ("STPO"). An incoming (new) order marked with the "STPO" modifier will not execute against opposite side resting interest marked with any STP modifier originating from the same Unique Identifier. The resting order marked with the STP modifier will be cancelled back to the originating User(s). The incoming order marked with the STPO modifier will remain on the NSX Book.

(C) STP Cancel Both ("STPB"). An incoming (new) order marked with the "STPB" modifier will not execute against opposite side resting interest marked with any STP modifier originating from the same Unique Identifier. The entire size of both orders will be rejected/cancelled back to the originating User(s).

(2) Reserve Order. A limit order with a portion of the quantity displayed ("display quantity") and with a reserve portion of the quantity ("reserve quantity") that is not displayed.

(A) A User may enter a Reserve Order with zero display quantity, in which case the Reserve Order will be known as a "Zero Display Reserve Order." The price of a Zero Display Reserve Order may be set ("pegged") to track the buy-side of the Protected BBO, the sell-side of the Protected BBO, or the midpoint of the Protected BBO. A pegged Zero Display Reserve Order which tracks the inside quote of the opposite side of the market is defined as a Market Peg: a pegged Zero Display Reserve Order that tracks the midpoint is defined as a Midpoint Peg; and a pegged Zero Display Reserve Order that tracks the inside quote of the same side of the market is defined as a Primary Peg. A pegged Zero Display Reserve Order may have an optional limit price cap beyond which the order shall not be executed. Notwithstanding the above, in accordance with Rule 11.24, Market Peg, Primary Peg or Midpoint Peg Zero Display Orders that would be "pegged" to a price outside of the Price Bands disseminated by the Processor (as defined in Rule 11.24(b)), will instead be "pegged" to the upper or lower Price Band, respectively (i.e., a buy order to the upper Price Band and a sell order to the lower Price Band). Under Rule 11.24(d)(2), a User may indicate to the Exchange, on an order-by-order basis, to not peg the order to the upper or lower Price Band, respectively. In such case, the System will reject the order if it is priced outside of the Price Band.

(B) For Market Peg and Midpoint Peg Zero Display Reserve Orders, a User may enter an optional minimum transaction quantity instruction of at least a round lot for an execution (hereinafter "Minimum Execution Quantity"). Orders with the Minimum Execution Quantity instruction will not execute unless the minimum quantity can be satisfied. However, if the residual shares of a Zero Display Reserve Order with a Minimum Execution Quantity instruction is less than the Minimum Execution Quantity on the order, the order may be executed even if the resulting execution is an odd lot.

(C) A Zero Display Reserve Order, pegged or otherwise, may be designated as a Post Only Order by a User. A Zero Display Reserve Order with a Minimum Execution Quantity instruction will be deemed a Post Only Order regardless of whether the order is designated as a Post Only Order.

(D) Zero Display Reserve Orders will not be eligible for routing to away Trading Centers pursuant to Rule 11.15(a)(ii). In addition, as further specified in Rule 11.15(a)(iv)(B), Zero Display Reserve Orders will not be eligible for execution when a protected bid is priced higher than a protected offer in a NMS stock (i.e., crossed market) or if indicated by the User on an order-by order basis, when the protected bid is equal to the protected offer (i.e., a locked market). In such cases, the Zero Display Reserve Order would remain posted on the NSX Book until the protected bid is priced lower than the protected offer (i.e., uncrossed or unlocked market), or is cancelled by the User.

(E) Reserved.

(3) Odd Lot Order. An order to buy or sell an odd lot. Odd Lot Orders are only eligible to be protected quotations if aggregated to form a round lot.

(4) Mixed Lot Order. An order to buy or sell a mixed lot. Mixed Lot Orders may be entered, but the odd lot component of a Mixed Lot Order will be treated for purposes of order interaction as an Odd Lot Order. Odd lot components of Mixed Lot Orders are only eligible to be protected quotations if aggregated to form a round lot.

(5) Post Only Order. A limit order that is to be posted on the Exchange and not routed away to another trading center.

(A) A Post Only Order that is not a Zero Display Reserve Order will be rejected without execution if it is immediately marketable against round-lot orders when entered.

(B) A Post Only Order that is a Zero Display Reserve Order and which would interact immediately with a contra-side round lot order will:

(i) execute against a contra-side round lot order if the contra-side order is a Zero Display Reserve Order that is not designated as a Post Only Order. Upon execution, the contra-side Zero Display Reserve Order (which was not designated as a Post Only Order) will be deemed as taking liquidity from the Post Only Order that is a Zero Display Reserve Order and be liable for the applicable fee for taking liquidity that is set forth in the NSX Fee and Rebate Schedule even if the contra-side Zero Display Reserve Order was placed in the NSX Book prior to the Post Only Order that is a Zero Display Reserve Order;

(ii) not execute against a contra-side round lot order if (x) the contra-side order is a displayed order that is already contained in the NSX Book or (y) the contra-side order is another Post Only Order that is a Zero Display Reserve Order that is already contained in the NSX Book. The Post Only Order that is a Zero Display Reserve Order will instead be placed in the NSX Book.

(6) NSX Only Order. An order that is to be executed on the Exchange pursuant to Rule 11.15(a) or cancelled, without routing away to another trading center.

(7) Sweep Order. A limit order that instructs the System to "sweep" the market.

(i) Sweep Orders may be designated as "Protected Sweep," "Full Sweep," or "Destination Sweep." Sweep Orders not carrying any such designation shall be treated as Protected Sweep Orders.

(A) A Protected Sweep Order will be converted into one or more limit orders with sizes equal to the order sizes in the NSX Book and the order sizes of protected quotations at away trading centers to be executed in accordance with Rule 11.15(b).

(B) A Full Sweep Order will be converted into one or more limit orders with sizes equal to the sizes of the best available quotations (including manual quotations) in the NSX Book and at away trading centers in accordance with Rule 11.15(b).

(C) A Destination Sweep Order will be routed to an away trading center specified by the User, after the order is exposed to the NSX Book.

(ii) When entering a Protected Sweep Order or Full Sweep Order, Users shall designate the Sweep Order as "Sweep and Post," "Sweep and Cancel," or a combination thereof.

(A) Any unfilled portion of a Sweep Order designated "Sweep and Post" following the market sweep described in subsection (i) above will be converted into a Post Only Order.

(B) Any unfilled portion of a Sweep Order designated "Sweep and Cancel" after the completion of the market sweep described in subsection (i) above will be cancelled.

(iii) Any order converted from a Protected Sweep Order or Full Sweep Order for routing to other trading centers or for execution against the NSX Book shall be marked as an intermarket sweep order or "ISO".

(iv) Upon the effective date of the Regulation NMS Plan to Implement a Tick Size Pilot, described in Rule 11.26, the Exchange will reject all Sweep Orders entered into the System.

(8) Intermarket Sweep Order ("ISO").

(i) Incoming ISO. The System will accept incoming intermarket sweep orders (as such term is defined in Regulation NMS) from other trading centers. In order to be eligible for treatment as an intermarket sweep order, the order must be marked "ISO," and the User entering the order must simultaneously route one or more additional limit orders marked "ISO," as necessary, to away markets to execute against the full displayed size of any protected quotation for the security with a price that is superior to the limit price of the intermarket sweep order entered in the System. Such orders, if they meet the requirements of the foregoing sentence, will be considered immediate-or-cancel (IOC) and will be executed without regard to protected quotations at away markets consistent with Regulation NMS.

(ii) Post ISO. A User may designate an ISO as a "Post ISO." In order to be eligible for treatment as a Post ISO, the order must be marked "Post ISO," and in submitting such an order the User entering the order represents that such User has simultaneously routed one or more additional limit orders marked "ISO," as necessary, to away markets to execute against the full displayed size of any protected quotation for the security with a price that is superior or equal to the limit price of the Post ISO entered in the System. Such order, if it meets the requirements of the foregoing sentence and is not a Post Only Order pursuant to Rule 11.11(c)(5), will be executed without regard to protected quotations at away markets consistent with Regulation NMS by sweeping the NSX Book up to and including its limit price. A Post ISO which is designated by the

User as a Post Only Order pursuant to Rule 11.11(c)(5) will be rejected without execution if, when entered, it is immediately marketable against displayed orders in the NSX Book. Any unfilled portion of a Post ISO that meets the requirements of Rule 11.22(d)(3) will be posted at the entered limit price.

(9) Destination Specific Order. A market or limit order that instructs the System to route the order to a specified away trading center, after exposing the order to the NSX Book. Users can access markets offering bids and offers other than protected quotations (i.e., manual quotations) by entering a Destination Specific Order. A Destination Specific Order must have an order type and a time-in-force term permitted by this Rule 11.11. Upon the effective date of the Regulation NMS Plan to Implement a Tick Size Pilot, described in Rule 11.26, the Exchange will reject all Destination Specific Orders entered into the System.

(10) Reserved.

(11) Auto-Ex Order. A limit or market order that is automatically executed by the System against any marketable contra side order as in the manner described in 11.13(b)(1).

(12) Midpoint-Seeker Order. A Midpoint-Seeker Order is an IOC that will execute only against undisplayed orders on the NSX Book that are priced at or better than the midpoint between the Protected BBO. A Midpoint Seeker order may include an optional limit price cap beyond which the order shall not execute. The Midpoint-Seeker Order will be cancelled if there are no undisplayed posted orders priced at or better than the midpoint of the Protected BBO or when the Protected BBO is locked or crossed. A Midpoint-Seeker Order will never be routed to an away market. A Midpoint-Seeker Order cannot be combined with any other order type or order type modifier offered by the Exchange.

(13) Reserved.

(d) *Cancel/Replace Messages*. A User may, by appropriate entry in the System, cancel or replace an existing order entered by the User, subject to the following limitations.

(1) Orders may only be cancelled or replaced if the order has a time-in-force term other than IOC and if the order has not yet been executed.

(2) If an order has been routed to another trading center, the order will be placed in a “Cancel Pending” state until the routing process is completed. Executions that are completed when the order is in the “Cancel Pending” state will be processed normally.

(3) Only the price and quantity terms of the order may be changed by a Replace Message. If a User desires to change any other terms of an existing order the existing order must be cancelled and a new order must be entered.

(4) Notwithstanding anything to the contrary in these Exchange Rules, no cancellation or replacement of an order will be effective until the User has received written confirmation of the cancellation or replacement from the Exchange.

(e) Cancellation of Orders By NSX or NSX Securities

The Exchange, NSX Securities or a third-party routing broker may cancel orders as deemed to be necessary to maintain fair and orderly markets if and when systems, technical or operational issues occur at the Exchange, NSX Securities or a third-party routing broker, or a Trading Center. A routing broker may only cancel orders routed to another Trading Center based on NSX's standing or specific instructions or as otherwise provided in the Exchange Rules. The Exchange shall provide notice of the cancellation of orders to each affected ETP Holder via telephonic communication and/or electronic mail as soon as practicable.

Interpretations and Policies

.01 For purposes of clarity under Rule 11.11(d)(iii), the term "quantity term" shall include the total and display portion of a Reserve Order (as defined in Rule 11.11(c)(2)), including in cases where the aggregate size of the Reserve Order is not changed.

Rule 11.12. Reserved

Rule 11.13. Proprietary and Agency Orders

(a) Except as otherwise provided in these Rules, Users may enter proprietary orders and agency orders for the account of a customer. Proprietary orders accepted by the System from Users are subject to the same ranking and execution processes as agency orders. A User that enters a proprietary order into the System shall mark the order with the appropriate designator to identify the order as proprietary. All agency orders shall be designated as such and with each agency order, the User shall include a unique account number or other identifier that enables the User to identify the User's customer on whose behalf the order is being entered.

(b) Reserved.

Interpretations and Policies

.01 Reserved.

Rule 11.14. Priority of Orders

(a) *Ranking.* Orders of Users shall be ranked and maintained in the NSX Book based on the following priority:

(1) The highest-priced order to buy (or lowest-priced order to sell) shall have priority over all other orders to buy (or orders to sell) in all cases.

(2) Where orders to buy (or sell) are made at the same price, the order clearly established as the first entered into the System at such particular price shall have precedence at that price, up to the number of shares of stock specified in the order, provided that the priority between displayed and Reserve orders is set forth in subsection (4) below. A cancel and replace of an order in accordance with Rule 11.11(d) will result in a new timestamp and change in time priority unless such modification involves a decrease in the size of the order.

(3) In the event that less than the full size of an order is executed, the unexecuted size of the order shall retain priority at the same limit price in accordance with paragraphs (1) and (2) above.

(4) The displayed quantity of a Reserve Order shall have time priority as of the time of display. If the displayed quantity of the Reserve Order is decremented such that 99 shares or fewer would be displayed, the displayed portion of the Reserve Order shall be refreshed for (i) the original displayed quantity, or (ii) the entire reserve quantity, if the remaining reserve quantity is smaller than the original displayed quantity. After the refresh, the displayed portion of the Reserve Order shall have time priority as of the time of the refresh. The reserve quantity of a Reserve Order shall have no time priority against other displayed orders at the same price until displayed. If all displayed orders and displayed portions of Reserve Orders at a given price are executed, and following such execution any marketable contra-side orders remain outstanding, then such contra-side orders shall be executed against the reserve portions of Reserve Orders at such price based on the time priority as determined by this paragraph (4). For purposes of the preceding sentence, a Zero Display Reserve Order without a Minimum Execution Quantity instruction will be deemed to have a displayed portion equal to one round lot. A Zero Display Reserve Order with a Minimum Execution Quantity instruction will be deemed to have a displayed portion equal to its Minimum Execution Quantity for the first pass, and for each additional pass, will be deemed to have a displayed portion equal to one round lot. A Zero Display Order that is not executed during a period in which the protected bid is higher than the protected offer (i.e., crossed market) or when the protected bid is equal to the protected offer (i.e., a locked market) as set forth in Rule 11.15(a)(iv)(B) shall retain the same time priority as established above. Following satisfaction of the marketable contra-side orders, the NSX Book will be refreshed.

(b) *Dissemination.* The best-ranked order(s) to buy and the best-ranked order(s) to sell in the NSX Book and the aggregate displayed size of such orders associated with

such prices shall be collected and made available to quotation vendors for dissemination pursuant to the requirements of Rule 602 of Regulation NMS.

Interpretations and Policies

.01 The use of a Replace Message pursuant to Rule 11.11(d) that modifies the quantity of a Reserve Order (as defined in Rule 11.11(c)(2)) will result in a new timestamp and the order losing time priority under Rule 11.14(a)(2) unless:

(i) both (1) the display size of the Reserve Order is decreased and (2) the total order quantity is decreased or remains the same; or

(ii) both the display size of the Reserve Order remains the same and the total order quantity is decreased.

Rule 11.15. Order Execution

Orders shall be matched for execution by following this Rule. For any execution to occur during Regular Trading Hours, however, the price must be equal to or better than the Protected NBBO, unless the order is marked ISO or unless the execution falls within another exception set forth in Rule 611(b) of Regulation NMS, and the order must be executable in accordance with Rule 11.24. The Exchange intends to take advantage of the self-help provisions of Regulation NMS.

(a) *Orders Other than Sweep Orders*.

(i) *Execution against NSX Book.* An incoming order (other than a Sweep Order) shall first attempt to be matched for execution against orders in the NSX Book. An incoming order to buy (other than a Sweep Order) will be automatically executed to the extent that it is priced at an amount that equals or exceeds any order to sell in the NSX Book. Such order to buy shall be executed at the price(s) of the lowest order(s) to sell having priority in the NSX Book. An incoming order to sell (other than a Sweep Order) will be automatically executed to the extent that it is priced at an amount that equals or is less than any other order to buy in the NSX Book. Such order to sell shall be executed at the price(s) of the highest order(s) to buy having priority in the NSX Book.

(ii) *Routing to Away Trading Centers*. Unless the terms of the order direct otherwise, if an order (other than a Sweep Order) has not been executed in its entirety pursuant to paragraph (a)(i) of this Rule, the order shall be eligible for routing away as follows:

(A) The order will be converted into one or more limit IOC Orders, as necessary, to be matched for potential execution at the away Trading Centers designated by Routing Logic. Each such converted limit order shall be priced as follows:

(1) if the original order is a market order, the converted limit order shall be priced at the price of the protected quotation that it is to be matched for execution against; or

(2) if the original order is a limit order, the converted limit order shall be priced at

(x) in the case of a buy order, the lower of the limit price of the original order and one increment lower than the lowest offer on the NSX Book; or

(y) in the case of a sell order, the higher of the limit price of the original order and one increment higher than the highest bid on the NSX Book.

(B) Each converted limit IOC Order will be routed to the designated Trading Center for potential execution according to the Routing Logic. No orders routed away pursuant to this subsection (ii) shall be marked ISO.

(C) The Exchange reserves the right to modify the Routing Logic at any time without notice.

(iii) Following steps (i) and (ii) above, unless the terms of the order direct otherwise, any unfilled portion of the order originally entered into the System shall be ranked in the NSX Book in accordance with the terms of such order under Rule 11.14 and such order shall be eligible for execution under this Rule 11.15.

(iv) Zero Display Reserve Orders. Notwithstanding the foregoing:

(A) A Zero Display Reserve Order designated as a Post Only Order that is immediately marketable upon entry, but not executed pursuant to Rule 11.11(c)(5)(B), will be ranked in the NSX Book in accordance with Rule 11.14. Thereafter, it will be matched for execution in accordance with Rule 11.15, except that when matched for execution, if the price of such order is better (i.e. higher for a buy order and lower for a sell order) than the contra-side of the Protected BBO, such order will be deemed to be priced at the price of the contra-side of the Protected BBO.

(B) The System will not execute a Zero Display Reserve Order in an NMS stock when a protected bid is priced higher than a protected offer (i.e., crossed market), or if indicated by the User on an order-by order basis, when the protected bid is equal to the protected offer (i.e., a locked market). Zero Display Reserve Orders that are not executed during this period will retain time priority in accordance with Rule 11.14(a)(4), and a request to cancel or replace a Zero Display Order during this period will be handled pursuant to Rule 11.11(9)(d). The System will resume executing Zero Display Reserve Orders against marketable contra-side orders when the protected bid is priced lower than the protected offer.

(b) *Sweep Orders*.

(i) *Protected Sweep Orders.* A Protected Sweep Order will be matched for execution in the NSX Book in accordance with paragraph (a)(i), and will simultaneously be converted into one or more additional limit orders, as necessary, with sizes equal to the size of each protected quotation that is superior (or in the case of a Protected Sweep Order designated "Sweep and Post", superior or equal) to the limit price of the Protected Sweep Order. Each converted limit order will be routed to the applicable trading center for execution. If a limit order that has been converted from a Protected Sweep Order cannot be executed against the protected quotation that it was routed to execute against because the protected quotation is no longer available, the limit order will be available for execution against other orders in the applicable market that are priced the same as or better than such limit order.

(ii) *Full Sweep Orders.* A Full Sweep Order will be matched for execution in the NSX Book in accordance with paragraph (a)(i), and will simultaneously be converted into one or more additional limit orders, as necessary, with sizes equal to the size of each quotation available at an away trading center that (A) is the best bid or offer of a national securities exchange or association, and (B) is superior (or, in the case of a Full Sweep Order designated "Sweep and Post", superior or equal) to the limit price of the Full Sweep Order. Each converted limit order will be routed to the applicable trading center for execution. If a limit order that has been converted from a Full Sweep Order cannot be executed against the quotation that it was routed to execute against because the quotation is no longer available, the limit order will be available for execution against other orders in the applicable market that are priced the same as or better than such limit order.

(iii) *Destination Sweep Orders.* A Destination Sweep Order will be matched for execution in the NSX Book in accordance with paragraph (a)(i), and if it cannot be matched for execution in accordance with paragraph (a)(i), will be routed to the specified away trading center for execution.

(iv) Any order converted from a Protected Sweep Order or Full Sweep Order for routing to other trading centers or for execution against the NSX Book shall be marked as an intermarket sweep order or "ISO".

(v) Following the steps described above, any unfilled portion of the Sweep Order will either be cancelled or ranked in the NSX Book in accordance with the terms of the Sweep Order.

(c) *Special Rules for Orders Routed to Other Trading Centers.*

(i) An order that is routed away may be executed in whole or in part subject to the applicable trading rules of the relevant trading center. While an order remains outside the System, it shall have no time standing, relative to other orders received from Users at the same price which may be executed against the NSX Book. Requests from Users to cancel their orders while the order is routed away to another trading center and remains outside the System shall be processed, subject to the applicable trading rules of the relevant trading center.

(ii) Where an order or portion of an order is routed away and is not executed either in whole or in part at the other trading center (*i.e.*, all attempts at the fill are declined or timed-out), the order shall be ranked in the NSX Book in accordance with the terms of such order under Rule 11.14 and such order shall be eligible for execution under this Rule 11.15, unless the terms of the order provide otherwise.

(d) *Display of Automated Quotations*. The System will be operated as an "automated market center" within the meaning of Regulation NMS, and in furtherance thereof, will display "automated quotations" within the meaning of Regulation NMS at all times except in the event that a systems malfunction renders the System incapable of displaying automated quotations. The Exchange shall communicate to ETP Holders its procedures concerning a change from automated to manual quotations.

(e) *Market Access.* In addition to Rule 2.11 regarding routing to away trading centers, NSX Securities has, pursuant to Rule 15c3-5 under the Act, implemented certain tests designed to manage applicable risks associated with providing ETP Holders with access to away trading centers. Where, pursuant to policies and procedures designed by NSX Securities to comply with Rule 15c3-5, in NSX Securities' sole discretion, an order or series of orders is deemed to violate applicable pre-trade requirements under Rule 15c3-5, NSX Securities will reject such orders prior to routing and/or seek to cancel any such orders that have been routed.

Rule 11.16. Trade Execution and Reporting

(a) Executions occurring as a result of orders matched against the NSX Book shall be reported by the Exchange to an appropriate consolidated transaction reporting system to the extent required by the Act and the rules and regulations thereunder. Executions occurring as a result of orders routed away from the System shall be reported to an appropriate consolidated transaction reporting system by the relevant reporting trading center. The Exchange shall promptly notify Users of all executions of their orders as soon as such executions take place.

(b) Following the compliance date for Rule 611 of Regulation NMS, the Exchange shall identify all trades executed pursuant to an exception or exemption from Rule 611 of Regulation NMS in accordance with specifications approved by the operating committee of the relevant national market system plan for an NMS stock. If a trade is executed pursuant to both the intermarket sweep order exception of Rule 611(b)(5) or (b)(6) of Regulation NMS and the self help exception of Rule 611(b)(1) of Regulation NMS, such trade shall be identified as executed pursuant to the intermarket sweep order exception.

Rule 11.17. Clearance and Settlement

(a) Each ETP Holder must either (1) be a member of a Qualified Clearing Agency, or (2) clear transactions executed on the Exchange through another ETP Holder that is a member of a Qualified Clearing Agency. If an ETP Holder clears transactions through another ETP Holder that is a member of a Qualified Clearing Agency ("clearing

member"), such clearing member shall affirm to the Exchange in writing, through letter of authorization, letter of guarantee or other agreement acceptable to the Exchange, its agreement to assume responsibility for clearing and settling any and all trades executed by the ETP Holder designating it as its clearing firm. The rules of any such clearing agency shall govern with respect to the clearance and settlement of any transactions executed by the ETP Holder on the Exchange.

(b) Each transaction executed within the System shall be automatically processed for clearance and settlement on a locked-in basis.

(c) Except as required by any Qualified Clearing Agency, the Exchange will reveal the identity of an ETP Holder or ETP Holder's clearing firm in the following circumstances:

(1) for regulatory purposes or to comply with an order of a court or arbitrator; or

(2) when a Qualified Clearing Agency ceases to act for an ETP Holder or the ETP Holder's clearing firm, and determines not to guarantee the settlement of the ETP Holder's trades.

Rule 11.18. Limitation of Liability

(a) Neither the Exchange nor its agents, employees, contractors, officers, directors, committee members or affiliates ("Exchange Related Persons") shall be liable to any user or ETP Holder, or successors, representatives or customers thereof, or any persons associated therewith, for any loss, damages, claim or expense:

(1) growing out of the use or enjoyment of any facility of the Exchange, including, without limitation, the System; or

(2) arising from or occasioned by any inaccuracy, error or delay in, or omission of or from the collection, calculation, compilation, maintenance, reporting or dissemination of any information derived from the System or any other facility of the Exchange, resulting either from any act or omission by the Exchange or any Exchange Related Person, or from any act condition or cause beyond the reasonable control of the Exchange or any Exchange Related Person, including, but not limited to, flood, extraordinary weather conditions, earthquake or other acts of God, fire, war, terrorism, insurrection, riot, labor dispute, accident, action of government, communications or power failure, or equipment or software malfunction.

(b) Each ETP Holder expressly agrees, in consideration of the issuance of the ETP, to release and discharge the Exchange and all Exchange Related Persons of and from all claims and damages arising from their acceptance and use of the facilities of the Exchange (including, without limitation, the System).

(c) Neither the Exchange nor any Exchange Related Person makes any express or implied warranties or conditions to users as to results that any person or party may obtain from the System for trading or for any other purpose, and all warranties of merchantability or fitness for a particular purpose or use, title, and non-infringement with respect to the System are hereby disclaimed.

(d)(1) Notwithstanding the provisions of paragraph (a) above, and subject to the express limits set forth below, whenever a valid unexecuted order is entered by an ETP Holder into the Exchange's System and the receipt of such order is acknowledged by the Exchange, the Exchange's liability for a loss sustained by an ETP Holder as a result of a failure of the Exchange's systems or facilities, as defined below, or for the negligent acts or omissions of Exchange employees in connection with such order, shall be subject to the provisions of this paragraph (d) and no assets of the Exchange shall be applied or shall be subject to such liability in excess of the limits set forth below.

(2) An Exchange system failure is defined as an actual malfunction in the physical equipment and/or programming in the Exchange's systems or facilities that results in an incorrect execution or no execution of a valid, marketable order that was received and acknowledged by Exchange systems.

(3) As to any one or more claims made by a single ETP Holder under this rule on a single trading day, the Exchange shall not be liable in excess of the greater of $100,000 or the amount of any recovery obtained by the Exchange under any applicable insurance maintained by the Exchange.

(4) As to the aggregate of all claims made by all ETP Holders under this rule on a single trading day, the Exchange shall not be liable in excess of the greater of $250,000 or the amount of any recovery obtained by the Exchange under any applicable insurance maintained by the Exchange.

(5) As to the aggregate of all claims made by all ETP Holders under this rule during a single calendar month, the Exchange shall not be liable in excess of the greater of $500,000 or the amount of any recovery obtained by the Exchange under any applicable insurance maintained by the Exchange.

(6) In the event that all of the claims made under this rule cannot be fully satisfied because in the aggregate they exceed the applicable maximum limitations provided in this rule, then the maximum permitted amount will be proportionally allocated among all such claims arising during a single trading day or single calendar month based on the proportion that each such claim bears to the total amount of all such claims.

(7) All claims for compensation pursuant to this rule shall be in writing and must be submitted no later than the close of Regular Trading Hours on the next business day following the day on which the system failure or the negligent acts or omissions of the Exchange's employees gave rise to such claims.

(8) In reviewing claims made by ETP Holders pursuant to this paragraph (d), the Exchange will verify that: (i) a valid order was entered by the ETP Holder and accepted and acknowledged by the Exchange's System; (ii) an Exchange system failure or a negligent act or omission by an Exchange employee occurred during the handling or execution of that order; and (iii) that the ETP Holder's loss resulted from such system failure or negligent act or omission. The Exchange will assess the extent to which the ETP Holder's conduct may have contributed to the loss and may adjust the amount to be paid on the claim by the Exchange.

Rule 11.19. Clearly Erroneous Executions

The provisions of paragraphs (c), (e)(2), (g), and (h) of this Rule, as amended on September 10, 2010, and the provisions of paragraphs (j) and (l), shall be in effect during a pilot period to coincide with the pilot period for the Limit Up-Limit Down Plan, including any extensions to the pilot period for the Plan. If the Plan is not either extended or approved as permanent, the prior versions of paragraphs (c), (e)(2), (g), and (h) shall be in effect, and the provisions of paragraph (j) through (l) shall be null and void.

(a) *Definition.* For purposes of this Rule, the terms of a transaction executed on the Exchange are "clearly erroneous" when there is an obvious error in any term, such as price, number of shares or other unit of trading, or identification of the security. A transaction made in clearly erroneous error and cancelled by both parties or determined by the Exchange to be clearly erroneous will be removed from the Consolidated Tape.

(b) *Request and Timing of Review*. An ETP Holder that receives an execution on an order that was submitted erroneously to the Exchange for its own or customer account may request that the Exchange review the transaction under this Rule. An officer or such other employee designee of the Exchange ("Officer") shall review the transaction under dispute and determine whether it is clearly erroneous, with a view toward maintaining a fair and orderly market and the protection of investors and the public interest. Such request for review shall be made in writing via e-mail or other electronic means specified from time to time by the Exchange in a circular distributed to ETP Holders.

(1) *Requests for Review*. Requests for review must be received within thirty (30) minutes of execution time and shall include information concerning the time of the transaction(s), security symbol(s), number of shares, price(s), side (bought or sold) and factual basis for believing that the trade is clearly erroneous. Upon receipt of a timely filed request that satisfies the numerical guidelines set forth in Section (c)(1) of this Rule, the counterparty to the trade shall be notified by the Exchange as soon as practicable, but generally within thirty (30) minutes after the Exchange's receipt of the request for review. An Officer may request additional supporting written information to aid in the resolution of the matter. If requested, each party to the transaction shall provide, within thirty (30) minutes of the request, any supporting written information. Either party to the disputed trade may request the supporting written information provided by the other party on the matter.

(2) *Routed Executions.* Other market centers will generally have an additional thirty (30) minutes from receipt of their participant's timely filing, but no longer than sixty (60) minutes from the time of the execution at issue, to file with the Exchange a request for review of transactions routed to the Exchange from that market center and executed on the Exchange.

(c) *Thresholds.* Determinations of whether an execution is a clearly erroneous execution will be made as follows:

(1) Numerical Guidelines. Subject to the provisions of paragraph (c)(3) below, a transaction executed during Regular Trading Hours or outside Regular Trading Hours shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth below. The execution time of the transaction under review determines whether the threshold is Regular Trading Hours or outside Regular Trading Hours. The Reference Price will be equal to the consolidated last sale immediately prior to the execution(s) under review except for: (A) Multi-Stock Events involving twenty or more securities, as described in Rule 11.19(c)(2) below; and (B) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest.

Reference Price, Circumstance or Product:	Regular Trading Hours Numerical Guidelines (Subject transaction's % difference from the Reference Price):	Outside Regular Trading Hours Numerical Guidelines (Subject transaction's % difference from the Reference Price):
Greater than $0.00 up to and including $25.00	10%	20%
Greater than $25.00 up to and including $50.00	5%	10%
Greater than $50.00	3%	6%
Multi-Stock Event – Filings involving five or more but less than twenty, securities whose executions occurred within a period of five minutes or less	10%	10%
Multi-Stock Event – Filings involving twenty or more securities whose executions occurred	30%, subject to the terms of 11.19(c)(2) below	30%, subject to the terms of 11.19(c)(2) below

within a period of five minutes or less		
Leveraged ETF/ETN securities	Regular Trading Hours Numerical Guidelines multiplied by the leverage multiplier (i.e., 2x)	Regular Trading Hours Numerical Guidelines multiplied by the leverage multiplier (i.e., 2x)

(2) Multi-Stock Events Involving Twenty or More Securities. During Multi-Stock Events involving twenty or more securities the number of affected transactions may be such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. In such circumstances, the Exchange may use a Reference Price other than consolidated last sale. To ensure consistent application across market centers when this paragraph is invoked, the Exchange will promptly coordinate with the other market centers to determine the appropriate review period, which may be greater than the period of five minutes or less that triggered application of this paragraph, as well as select one or more specific points in time prior to the transactions in question and use transaction prices at or immediately prior to the one or more specific points in time selected as the Reference Price. The Exchange will nullify as clearly erroneous all transactions that are at prices equal to or greater than 30% away from the Reference Price in each affected security during the review period selected by the Exchange and other markets consistent with this paragraph.

(3) Additional Factors. Except in the context of a Multi-Stock Event involving five or more securities, and individual stock trading pauses pursuant to, or with respect to securities defined in, Rule 11.20B(a)(1) as described in Rule 11.19(c)(4) below, an Officer may also consider additional factors to determine whether an execution is clearly erroneous, including but not limited to, system malfunctions or disruptions, volume and volatility for the security, derivative securities products that correspond to greater than 100% in the direction of a tracking index, news released for the security, whether trading in the security was recently halted/resumed, whether the security is an IPO, whether the security was subject to a stock-split, reorganization, or other corporate action, overall market conditions, Opening and Late Session executions, validity of the Consolidated Tape's trades and quotes, consideration of primary market indications, and executions inconsistent with the trading pattern of the security. Each additional factor shall be considered with a view toward maintaining a fair and orderly market and the protection of investors and the public interest.

(d) *Outlier Transactions.* In the case of an Outlier Transaction, an Officer may in his or her sole discretion, and on a case-by-case basis, consider requests received pursuant to subsection (b) of this Rule after thirty (30) minutes, but not longer than sixty (60) minutes, after the transaction in question, depending on the facts and circumstances surrounding such request.

(1) "Outlier Transaction" means a transaction where:

(A) the execution price of the security is greater than three times the current Numerical Guidelines set forth in subsection (c)(1) of this Rule, or

(B) the execution price of the security in question is not within the Outlier Transaction parameters set forth in subsection (d)(1)(A) of this Rule but breaches the 52-week high or 52-week low, the Exchange may consider Additional Factors as outlined in 11.19(c)(3), in determining if the transaction qualifies for further review or if the Exchange shall decline to act.

(e) *Review Procedures*

(1) *Determination by Officer.* Unless both parties (or party, in the case of a cross) to the disputed transaction agree to withdraw the initial request for review, the transaction under dispute shall be reviewed, and a determination shall be rendered by the Officer. If the Officer determines that the transaction is not clearly erroneous, the Officer shall decline to take any action in connection with the completed trade. In the event that the Officer determines that the transaction in dispute is clearly erroneous, the Officer shall declare the transaction null and void. A determination shall be made generally within thirty (30) minutes of the Exchange's receipt of the complaint, but in no case later than the start of Regular Trading Hours on the following trading day. The parties shall be promptly notified of the determination.

(2) *Appeal to CEE Panel.* If a party affected by a determination made under this Rule so requests within the time permitted below, the Clearly Erroneous Execution Panel ("CEE Panel") will review decisions made by the Officer under this Rule, including whether a clearly erroneous execution occurred and whether the correct determination was made: provided however, that the CEE Panel will not review decisions made by an Officer under subsection (g) of this Rule if such Officer also determines under subsection (g) of this Rule that the number of the affected transactions is such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest and further provided that with respect to rulings made by the Exchange in conjunction with one or more additional market centers, the number of affected transactions is similarly such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest and, hence, are also non-appealable.

(A) The CEE Panel will be comprised of the Exchange's Chief Regulatory Officer ("CRO"), or a designee of the CRO, and representatives from two (2) ETP Holders.

(B) The Exchange shall designate the ETP Holder representatives to be called upon to serve on the CEE Panel as needed. In no case shall a CEE Panel include a person related to a party to the trade in question. To the extent reasonably possible, the Exchange shall call upon the designated representatives to participate on a CEE Panel on an equally frequent basis.

(C) A request for review on appeal must be made via e-mail within thirty (30) minutes after the party making the appeal is given notification of the initial determination being appealed. The CEE Panel shall review the facts and render a decision as soon as practicable, but generally on the same trading day as the execution(s) under review. On requests for appeal received between 3:00 ET and the close of trading in the Late Trading Session, a decision will be rendered as soon as practicable, but in no case later than the trading day following the date of the execution under review.

(D) The CEE Panel may overturn or modify an action taken by the Officer under this Rule. All determinations by the CEE Panel shall constitute final action by the Exchange on the matter at issue.

(E) If the CEE Panel votes to uphold the decision made pursuant to Rule 11.19 (e)(1), the Exchange will assess a $500.00 fee against the ETP Holder(s) who initiated the request for appeal.

(F) Any determination by an Officer or by the CEE Panel shall be rendered without prejudice as to the rights of the parties to the transaction to submit their dispute to arbitration.

(f) *Abuse of Process.* An abuse of the process described in subsections (b) and (e)(2) above may subject the abusing User to disciplinary action under Chapter VIII.

(g) *System Disruption or Malfunctions.* In the event of any disruption or a malfunction in or operation of any electronic communications and trading facilities of the Exchange in which the nullification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest exist, an officer of the Exchange or other senior level employee designee, on his or her own motion, may review such transactions and declare such transactions arising out of or operation of such facilities during such period null and void. In such events, the officer of the Exchange or such other senior level employee designee will rely on the provisions of Section (c)(1)–(3) of this Rule, but in extraordinary circumstances may also use a lower Numerical Guideline if necessary to maintain a fair and orderly market, protect investors and the public interest. Absent extraordinary circumstances, any such action of the officer of the Exchange or such other senior level employee designee pursuant to this subsection (g) shall be taken within thirty (30) minutes of detection of the erroneous transaction. When extraordinary circumstances exist, any such action of the officer of the Exchange or such other senior level employee designee must be taken by no later than the start of Regular Trading Hours on the day following the date of execution(s) under review. Each ETP Holder involved in the transaction shall be notified as soon as practicable, and the ETP Holder aggrieved by the action may appeal such action in accordance with the provisions of subsection (e)(2).

(h) *Officer of the Exchange or Such Other Senior Level Employee Designee Acting On Own Motion.* An officer of the Exchange or such other senior level employee designee, acting on his/her own motion, may review potentially erroneous executions and

declare trades null and void or shall decline to take any action in connection with the completed trade(s). In such events, the officer of the Exchange or such other senior level employee designee will rely on the provisions of Section (c)(1)–(4) of this Rule. Absent extraordinary circumstances, any such action of the officer of the Exchange or such other senior level employee designee shall be taken in a timely fashion, generally within thirty (30) minutes of the detection of the erroneous transaction. When extraordinary circumstances exist, any such action of the officer of the Exchange or such other senior level employee designee must be taken by no later than the start of Regular Trading Hours on the trading day following the date of execution(s) under review. When such action is taken independently, each party involved in the transaction shall be notified as soon as practicable by the Exchange, and the party aggrieved by the action may appeal such action in accordance with the provisions of subsection (e)(2) above.

(i) *Trade Nullification for UTP Securities that are Subject of Initial Public Offerings ("IPOs").* Pursuant to SEC Rule 12f-2, as amended, the Exchange may extend unlisted trading privileges to a security that is the subject of an initial public offering when at least one transaction in the subject security has been effected on the national securities exchange or association upon which the security is listed and the transaction has been reported pursuant to an effective transaction reporting plan. A clearly erroneous error may be deemed to have occurred in the opening transaction of the subject security if the execution price of the opening transaction on the Exchange is the lesser of $1.00 or 10% away from the opening price on the listing exchange or association. In such circumstances, the officer of the Exchange or such other senior level employee designee shall declare the opening transaction null and void or shall decline to take action in connection with the completed trade(s). Clearly erroneous executions of subsequent transactions of the subject security will be reviewed in the same manner as the procedure set forth in (e)(1). Absent extraordinary circumstances, any such action of the officer of the Exchange or such other senior level employee designee pursuant to this subsection (i) shall be taken in a timely fashion, generally within thirty (30) minutes of the detection of the erroneous transaction. When extraordinary circumstances exist, any such action of the officer of the Exchange or such other senior level employee designee must be taken by no later than the start of Regular Trading Hours on the day following the date of execution(s) under review. Each party involved in the transaction shall be notified as soon as practicable by the Exchange, and the party aggrieved by the action may appeal such action in accordance with the provisions of subsection (e)(2) above.

(j) *Securities Subject to Limit Up-Limit Down Plan.* For purposes of this paragraph, the phrase “Limit Up-Limit Down Plan” or “Plan” shall mean the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act. The provisions of paragraphs (a) through (i) above and (k) and (l) below shall govern all Exchange transactions, including transactions in securities subject to the Plan, other than as set forth in this paragraph (j). If as a result of an Exchange technology or systems issue any transaction occurs outside of the applicable price bands disseminated pursuant to the Plan, an Officer of the Exchange or senior level employee designee, acting on his or her own motion or at the request of a third party, shall review and declare any such trades null and void. Absent extraordinary circumstances, any such action of the Officer

of the Exchange or other senior level employee designee shall be taken in a timely fashion, generally within thirty (30) minutes of the detection of the erroneous transaction. When extraordinary circumstances exist, any such action of the Officer of the Exchange or other senior level employee designee must be taken by no later than the start of Regular Trading Hours on the trading day following the date on which the execution(s) under review occurred. Each Member involved in the transaction shall be notified as soon as practicable by the Exchange, and the party aggrieved by the action may appeal such action in accordance with the provisions of paragraph (e)(2) above. In the event that a single plan processor experiences a technology or systems issue that prevents the dissemination of price bands, the Exchange will make the determination of whether to nullify transactions based on paragraphs (a) through (i) above and (k) and (l) below.

(k) *Multi-Day Event.* A series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions (the "Event"). An Officer of the Exchange or senior level employee designee, acting on his or her own motion, shall take action to declare all transactions that occurred during the Event null and void not later than the start of trading on the day following the last transaction in the Event. If trading in the security is halted before the valuation error is corrected, an Officer of the Exchange or senior level employee designee shall take action to declare all transactions that occurred during the Event null and void prior to the resumption of trading. Notwithstanding the foregoing, no action can be taken pursuant to this paragraph with respect to any transactions that have reached settlement date or that result from an initial public offering of a security. To the extent transactions related to an Event occur on one or more other market centers, the Exchange will promptly coordinate with such other market center(s) to ensure consistent treatment of the transactions related to the Event, if practicable. Any action taken in connection with this paragraph will be taken without regard to the Numerical Guidelines set forth in this Rule. Each ETP Holder involved in a transaction subject to this paragraph shall be notified as soon as practicable by the Exchange, and the party aggrieved by the action may appeal such action in accordance with the provisions of paragraph (e)(2) above.

(l) *Trading Halts.* In the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of the Exchange, another market center or responsible single plan processor in connection with the transmittal or receipt of a regulatory trading halt, suspension or pause, an Officer of the Exchange or senior level employee designee, acting on his or her own motion, shall nullify any transaction in a security that occurs after the primary listing market for such security declares a regulatory trading halt, suspension or pause with respect to such security and before such regulatory trading halt, suspension or pause with respect to such security has officially ended according to the primary listing market. In addition, in the event a regulatory trading halt, suspension or pause is declared, then prematurely lifted in error and is then re-instituted, an Officer of the Exchange or senior level employee designee shall nullify transactions that occur before the official, final end of the halt, suspension or pause according to the primary listing market. Any action taken in connection with this

paragraph shall be taken in a timely fashion, generally within thirty (30) minutes of the detection of the erroneous transaction and in no circumstances later than the start of Regular Trading Hours on the trading day following the date of execution(s) under review. Any action taken in connection with this paragraph will be taken without regard to the Numerical Guidelines set forth in this Rule. Each ETP Holder involved in a transaction subject to this paragraph shall be notified as soon as practicable by the Exchange, and the party aggrieved by the action may appeal such action in accordance with the provisions of paragraph (e)(2) above.

Rule 11.20. Trading Halts and Pauses

A. Trading Halts Marketwide Due to Extraordinary Market Volatility

This Rule shall be in effect during a pilot period to coincide with the pilot period for the Regulation NMS Plan to Address Extraordinary Market Volatility. If the pilot is not either extended or approved permanently at the end of the pilot period, the prior version of Rule 11.20A shall be in effect.

(a) The Exchange shall halt trading in all stocks and shall not reopen for the time periods specified in this Rule if there is a Level 1, 2, or 3 Market Decline.

(1) For purposes of this Rule, a Market Decline means a decline in price of the S&P 500® Index between 9:30 a.m. and 4:00 p.m. Eastern Time on a trading day as compared to the closing price of the S&P 500® Index for the immediately preceding trading day. The Level 1, Level 2, and Level 3 Market Declines that will be applicable for the trading day will be publicly disseminated before 9:30 a.m. Eastern Time.

(2) A "Level 1 Market Decline" means a Market Decline of 7%.

(3) A "Level 2 Market Decline" means a Market Decline of 13%.

(4) A "Level 3 Market Decline" means a Market Decline of 20%.

(b) Halts in Trading.

(1) If a Level 1 Market Decline or a Level 2 Market Decline occurs after 9:30 a.m. and up to and including 3:25 p.m., Eastern Time (or, in the case of an early scheduled close, 12:25 p.m. Eastern Time), the Exchange shall halt trading in all stocks for 15 minutes after a Level 1 or Level 2 Market Decline. The Exchange shall halt trading based on a Level 1 or Level 2 Market Decline only once per trading day. The Exchange will not halt trading if a Level 1 Market Decline or a Level 2 Market Decline occurs after 3:25 p.m. Eastern Time (or, in the case of an early scheduled close, 12:25 p.m. Eastern Time).

(2) If a Level 3 Market Decline occurs at any time during the trading day, the Exchange shall halt trading in all stocks until the primary listing market opens the next trading day.

(c) Re-opening of Trading

(1) The re-opening of trading following a Level 1 or 2 trading halt shall follow the procedures set forth in Rule 11.20B(b).

(2) If the primary listing market halts trading in all stocks, the Exchange will halt trading in those stocks until trading has resumed on the primary listing market or notice has been received from the primary listing market that trading may resume. If the primary listing market does not reopen a security within 15 minutes following the end of the 15-minute halt period, the Exchange may resume trading in that security.

(d) Nothing in this Rule 11.20A should be construed to limit the ability of the Exchange to otherwise halt, suspend, or pause the trading in any stock or stocks traded on the Exchange pursuant to any other Exchange rule or policy.

B. Trading Pauses in Individual Securities Due to Extraordinary Market Volatility

(a) Trading Pause. During Phase 1 of the Plan, a Trading Pause in Tier 1 NMS Stocks subject to the requirements of the Plan, shall be subject to Plan requirements and paragraph (b) of this Rule; a Trading Pause in Tier 1 NMS Stocks not yet subject to the requirements of the Plan shall be subject to the requirements in paragraphs (a) – (f) of this Rule; and a Trading Pause in Tier 2 NMS Stocks shall be subject to the requirements set forth in paragraphs (a)(1)(B) – (f) of this Rule. Once the Plan has been fully implemented and all NMS Stocks are subject to the Plan, a Trading Pause under the Plan shall be subject to paragraph (b) of this Rule only.

(1) Between 9:45 a.m. and 3:35 p.m. Eastern Time (or in the case of an early scheduled close, 25 minutes before the close of trading), if the price of a security listed on the Exchange, other than rights or warrants moves by a percentage specified below within a five-minute period ("Threshold Move"), as calculated pursuant to paragraph (c) below, trading in that security shall immediately pause on the Exchange for a period of five minutes (a "Trading Pause").

(A) The Threshold Move shall be 10% or more with respect to securities included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products;

(B) The Threshold Move shall be 30% or more with respect to all Tier 2 NMS Stocks not subject to section (a)(1) of this Rule with a price equal to or greater than $1; and

(C) The Threshold Move shall be 50% or more with respect to all Tier 2 NMS Stocks not subject to section (a)(1) of this Rule with a price less than $1.

The determination that the price of a stock is equal to or greater than $1 under paragraph (a)(1)(B) above or less than $1 under paragraph (a)(1)(C) above shall be based on the closing price on the previous trading day, or, if no closing price exists, the last sale reported to the Consolidated Tape on the previous trading day.

(b) Re-opening of Trading following a Trading Pause. At the end of the Trading Pause, the Exchange shall re-open the security in accordance with its procedures. In the event of a significant imbalance at the end of a Trading Pause, the Exchange may delay the re-opening of such security.

(c) Calculation of Threshold Move. The Exchange shall calculate the Threshold Move by comparing the last consolidated sale price of a security ("Trigger Trade") to a reference price every second. The reference price shall be any transaction in that security printed to the Consolidated Tape during a five-minute period before the Trigger Trade, except for Trigger Trades in the first five minutes following 9:45 a.m. Eastern Time, for which reference prices will begin at 9:45 a.m. Eastern Time. Only regular way, in-sequence transactions qualify as either a Trigger Trade or reference price. The Exchange can exclude a transaction price from use as a reference price or Trigger Trade if it concludes that the transaction price resulted from an erroneous trade.

(d) Notification of Trading Pauses. If a Trading Pause in a security is triggered under this Rule, the Exchange shall immediately notify the single plan processor responsible for consolidation of information for the security pursuant to Rule 603 of Regulation NMS under the Securities Exchange Act of 1934.

(e) Nothing in this Rule should be construed to limit the ability of the Exchange to otherwise halt or suspend the trading in any securities traded on the Exchange pursuant to any other Exchange rule or policy.

(f) If a primary listing market issues an individual stock trading pause, the Exchange will pause trading in that security until trading has resumed on the primary listing market. If, however, trading has not resumed on the primary listing market and ten minutes have passed since the individual stock trading pause message has been received from the responsible single plan processor, the Exchange may resume trading in such stock.

(g) Trading Pause during a Straddle State. The Exchange may declare a Trading Pause for a NMS Stock listed on the Exchange when (i) the National Best Bid (Offer) is below (above) the Lower (Upper) Price Band and the NMS Stock is not in a Limit State; and (ii) trading in that NMS Stock deviates from normal trading characteristics.

C. Effect of Halt or Pause. On the occurrence of any trading halt or pause pursuant to this Rule, all outstanding orders in the System will be cancelled.

Commentary:

.01 Reserved.

.02 Reserved.

.03 Reserved.

.04 Reserved.

.05 The provisions of Rule 11.20B shall be in effect during a pilot to coincide with the pilot period for the Regulation NMS Plan to Address Extraordinary Market Volatility ("Plan"). During the pilot, all capitalized terms not otherwise defined in this Rule shall have the same meanings as set forth in the Plan or Exchange Rules, as applicable.

Rule 11.21. Short Sales

(a) Definitions: For purposes of this rule, the following terms have the following meanings:

(1) The term "covered security" shall have the same meaning as in Rule 201(a)(1) of Regulation SHO;

(2) The term "national best bid" shall have the same meaning as in Rule 201(a)(4) of Regulation SHO;

(3) The term "listing market" shall have the same meaning as in Rule 201(a)(3) of Regulation SHO;

(b) Marking of Orders. An ETP Holder must mark all sell orders of any equity security as "long" "short", or "short exempt" when entered into the System, in accordance with Rule 200(g) of Regulation SHO. The Exchange relies on the marking of an order as "short exempt" when it receives such an order, and thus, it is the entering ETP Holder's responsibility, not the Exchange's responsibility, to comply with the requirements of Regulation SHO relating to the marking of orders as "short exempt."

(c)Short Sale Price Test. Except as provided in subparagraphs (1) and (2) below, the System shall not execute, display, or route a short sale order with respect to a covered security at a price that is less than or equal to the current national best bid if the price of that security decreases by 10% or more from the security's closing price as determined by the listing market for the covered security as of the end of regular trading hours on the prior day.

(1) The System will permit the execution of a displayed short sale order in a covered security during the Short Sale Price Test, without regard to price if, at the time of the initial display of the short sale order, the order was at a price above the current national best bid. For purposes of this exemption, the initial display of the short sale order includes display through the facilities of a securities information processor or through an Exchange proprietary market data feed.

(2) The System will execute, display and route orders marked "short exempt" during the Short Sale Price Test without regard to whether the order is at a price that is less than or equal to the current national best bid.

(d) Duration of Short Sale Price Test. If the Short Sale Price Test is triggered by the listing market with respect to a covered security, the Short Sale Price Test shall remain in effect for the remainder of the trading day on which it is triggered and the following day, when a national best bid for the covered security is calculated and disseminated on a current and continuing basis by a plan processor pursuant to an effective national market system plan, as provided in Rule 201(b)(1)(ii) of Regulation SHO.

(e) When the Short Sale Price Test is in effect with respect to a covered security, the System will evaluate all incoming sell short orders in that security that are not marked "short exempt" to determine whether the order can be executed or displayed at a price above the current national best bid. A sell short order in a covered security "resting" on the NSX Book will be evaluated by the System if matched for execution during the Short Sale Price Test and, unless the order was initially displayed at a price above the current national best bid, will be canceled if at a price equal to or below the current national best bid.

(f) When the Short Sale Price Test is in effect with respect to a covered security, the System will process sell short orders of specific order types that are not marked "short exempt" as follows:

(1) Market and Limit Order. A sell short market or limit order will be matched by the System for execution at a price above the current national best bid and, if a limit order, within the limit price of the sell short order. Any remaining unfilled portion of such order will be canceled unless, in the case of a limit order, the limit price on any remaining unexecuted shares is above the current national best bid. The unfilled portion of such a limit order will remain on the NSX Book but will not execute unless at a price above the current national best bid.

(2) Odd Lot and Mixed Lot Order. A sell short odd lot order and a mixed lot order, which is an order consisting of one or more round lots combined with a number of shares constituting an odd lot, will be rejected if entered at a price equal to or below the current national best bid. Odd lot orders aggregated to form a round lot and displayed at a price above the national best bid, or a mixed lot order initially displayed at

a price above the current national best bid, will be eligible for execution at a price equal to or below the national best bid.

(3) IOC Order. A sell short IOC order will be matched by the System for execution at a price above the current national best bid and any remaining unfilled portion will be canceled.

(4) Midpoint-Seeker Order. A Midpoint-Seeker Order, which is an IOC order that executes only against undisplayed orders priced at the midpoint of the protected bid and protected offer, when marked sell short will, upon entry, be matched by the System for execution at a price above the current national best bid and any remaining unfilled portion will be canceled.

(5) Reserve Order. A sell short Reserve Order will be rejected by the System if it is entered at a price equal to or below the current national best bid. A sell short Reserve Order that was initially displayed at a price above the current national best bid may execute at a price equal to or below the current national best bid during a Short Sale Price Test, up to the full size of the order (including any undisplayed portion), and may also replenish the displayed portion of the order at a price equal to or below the current national best bid.

(6) Post Only Order, NSX Only Order and Destination Specific Order. Sell short orders in these order types will be rejected if entered at a price equal to or below the current national best bid.

(7) Sweep Order, Destination Sweep Order, ISO and Post-ISO Order. A sell short Sweep Order, Destination Sweep Order, ISO and Post-ISO will be rejected by the System if entered at a price equal to or below the current national best bid. If entered at a price above the current national best bid, such sell short orders will be accepted by the System and eligible for execution. If an ISO is marked "IOC," any remaining unfilled portion will be canceled. The unfilled portion of ISO orders not marked IOC, and Post-ISO orders, will be entered on the NSX Book if at a price above the current national best bid. A Post ISO order that was not initially displayed at a price above the current national best bid will be canceled if matched by the System for execution at a price equal to or below the current national best bid.

(8) Zero Display Reserve Order. A sell short Zero Display Reserve order, other than a Market Peg Zero Display Reserve Order will, upon entry, be matched by the System for execution at a price above the current national best bid to the extent possible and any remaining unexecuted portion will be canceled by the System if at a price at or below the current national best bid. A sell short Zero Display Reserve Order resting on the NSX Book, if matched for execution during a Short Sale Price Test will execute in whole or in part to the extent possible at a price or prices above the current national best bid; any remaining unexecuted portion will be canceled by the System if at a price at or below the current national best bid.

(i) A Market Peg Zero Display Reserve Order marked "sell short" entered during a Short Sale Price Test will be rejected by the System.

(ii) A sell short Market Peg Zero Display Reserve Order resting on the NSX Book tracks the Protected Best Bid, which is the higher of the national best bid or the best bid on the NSX Book and, if matched for execution during a Short Sale Price Test in the subject security, will be executed only to the extent that the Protected Best Bid is above the current national best bid and the sell short order can be executed, in whole or in part, at a price above the current national best bid in compliance with Rule 201 of Regulation SHO. Any such order or portion of such order will remain on the NSX Book but will not be executed if at a price equal to or below the current national best bid.

(g) Cancel/Replacement of Orders: When a Short Sale Price Test is in effect in a covered security, a cancel/replace request will be rejected if (i) the limit price on the replacement sell short order is equal to or below the current national best bid, or (ii) if the original limit price of the order is equal to or below the current national best bid and the cancel/replace message seeks to increase the order size.

Interpretations and Policies

.01 Sell Short Orders Routed Through NSXS: NSXS, as the outbound routing facility of the Exchange, relies on an ETP Holder's marking of an order as "long," "short" or "short exempt." NSXS will route an order received by NSX marked "short exempt" during the Short Sale Price Test without independently evaluating the correctness of the "short exempt" marking under Regulation SHO Rules 201(c) and (d).

Rule 11.22. Locking or Crossing Quotations in NMS Stocks

(a) Definitions. For purposes of this Rule, the following definitions shall apply:

(1) The terms automated quotation, effective national market system plan, intermarket sweep order, manual quotation, NMS stock, protected quotation, regular trading hours, and trading center shall have the meanings set forth in Rule 600(b) of Regulation NMS.

(2) The term crossing quotation shall mean the display of a bid for an NMS stock during regular trading hours at a price that is higher than the price of an offer for such NMS stock previously disseminated pursuant to an effective national market system plan, or the display of an offer for an NMS stock during regular trading hours at a price that is lower than the price of a bid for such NMS stock previously disseminated pursuant to an effective national market system plan.

(3) The term locking quotation shall mean the display of a bid for an NMS stock during regular trading hours at a price that equals the price of an offer for such NMS stock previously disseminated pursuant to an effective national market system plan, or the display of an offer for an NMS stock during regular trading hours at a price that

equals the price of a bid for such NMS stock previously disseminated pursuant to an effective national market system plan.

(b) Prohibition. Except for quotations that fall within the provisions of paragraph (d) of this Rule, Users shall reasonably avoid displaying, and shall not engage in a pattern or practice of displaying, any quotations that lock or cross a protected quotation, and any manual quotations that lock or cross a quotation previously disseminated pursuant to an effective national market system plan.

(c) Manual quotations. If a User displays a manual quotation that locks or crosses a quotation previously disseminated pursuant to an effective national market system plan, such User shall promptly either withdraw the manual quotation or route an intermarket sweep order to execute against the full displayed size of the locked or crossed quotation.

(d) Exceptions.

(1) The locking or crossing quotation was displayed at a time when the trading center displaying the locked or crossed quotation was experiencing a failure, material delay, or malfunction of its systems or equipment.

(2) The locking or crossing quotation was displayed at a time when a protected bid was higher than a protected offer in the NMS stock.

(3) The locking or crossing quotation was an automated quotation, and the User displaying such automated quotation simultaneously routed an intermarket sweep order to execute against the full displayed size of any locked or crossed protected quotation.

(4) The locking or crossing quotation was a manual quotation that locked or crossed another manual quotation, and the User displaying the locking or crossing manual quotation simultaneously routed an intermarket sweep order to execute against the full displayed size of the locked or crossed manual quotation.

Rule 11.23. Riskless Principal Transactions

(a) A "riskless principal transaction" is defined as two offsetting principal transaction legs in which an ETP Holder, (i) after having received an order to buy a security, purchases the security as principal at the same price, exclusive of markups, markdowns, commissions and other fees, to satisfy all or a portion of the order to buy or (ii) after having received an order to sell a security, sells the security as principal at the same price, exclusive of markups, markdowns, commissions and other fees, to satisfy all or a portion of the order to sell.

(b) A last sale report for only the initial offsetting transaction leg of a riskless principal transaction shall be submitted to the respective consolidated tape in accordance with the rules and procedures of the market where that transaction leg occurred. A last sale report for the second offsetting transaction leg of a riskless principal transaction shall

not be submitted by the Exchange to the respective consolidated tape provided that the second offsetting transaction leg is submitted to the Exchange for execution and designated with a riskless principal modifier by the ETP Holder.

(c) An ETP Holder must have written policies and procedures to assure that its riskless principal transactions comply with this Rule. At a minimum these policies and procedures must require that the customer order be received prior to the offsetting transactions, and that the second offsetting transaction leg be executed within 60 seconds of the initial offsetting transaction leg. An ETP Holder must also have supervisory systems in place that produce records that enable the ETP Holder and the Exchange to accurately and readily reconstruct, in a time-sequenced manner, all orders related to each riskless principal transaction.

Rule 11.24. Limit Up-Limit Down

Operative as of April 8, 2013

The provisions of this Rule shall be in effect during a pilot to coincide with the pilot period for the Regulation NMS Plan to Address Extraordinary Market Volatility.

(a) Implementation

(1) Phase I

(A) On April 8, 2013, this Rule shall apply to select symbols from the Tier 1 NMS Stocks identified in Appendix A of the Plan; and during Regular Trading Hours, or earlier in the case of an early scheduled close.

(B) Three months after April 8, 2013, or such earlier date as may be announced by the Processor with at least 30 days notice, this Rule shall fully apply to all Tier 1 NMS Stocks identified in Appendix A of the Plan during Regular Trading Hours.

(2) Phase II – Full Implementation

(A) Six months after April 8, 2013, or such earlier date as may be announced by the Processor with at least 30 days notice, the Plan shall fully apply to all NMS Stocks during Regular Trading Hours.

(b) Definitions.

(1) "Plan" means the Plan to Address Extraordinary Market Activity submitted to the Securities and Exchange Commission pursuant to Rule 608 of Regulation NMS under the Securities Exchange Act of 1934, Exhibit A to Securities Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012), as it may be amended from time to time.

(2) All capitalized terms not otherwise defined in this Rule shall have the same meanings as set forth in the Plan or Exchange Rules, as applicable.

(c) Exchange Participation in the Plan. The Exchange is a Participant in, and subject to the applicable requirements of, the Plan, which establishes procedures to address extraordinary market volatility in NMS Stocks.

(d) ETP Holder Compliance. ETP Holders shall comply with the applicable provisions of the Plan.

(e) Limit Up-Limit Down Mechanism. The System will not execute or display orders at prices that are outside of a specified Price Band (i.e., below the lower Price Band or above the upper Price Band) for an NMS Stock during Regular Trading Hours, unless specifically exempted from the Plan.

(f) Price Adjustments.

(1) Unless the User specifies otherwise on an order-by-order basis, any incoming limit-priced order (other than an IOC order) to buy (sell) that is priced above (below) the upper (lower) Price Band shall be repriced to the upper (lower) Price Band. Exchange systems shall also reprice resting limit-priced interest to buy (sell) to the upper (lower) Price Band if Price Bands move and the price of resting limit-priced interest to buy (sell) moves above (below) the upper (lower) Price Band.

(2) Opt Out. On an order-by-order basis, a User may indicate to the Exchange to not re-price the order to the upper or lower Price Band, respectively. In such case, the order will only execute against orders posted on the NSX Book resting within the Price Bands. Any unexecuted portion of the order will be cancelled if it would result in an execution outside of the Price Band.

(3) Where the Price Band moves so that a previously accepted limit-priced order is now priced outside of the Price Band, the order will either be repriced in accordance with Section (c)(1) of this paragraph or cancelled in accordance with paragraph (d)(2) of this paragraph.

(g) An incoming limit-priced order (other than an IOC order) to sell (buy) that is priced below (above) the upper (lower) Price Band will be accepted by the System and eligible for inclusion in the Exchange's Protected BBO. However, such orders will not be executed until the Price Band moves in such a way that the order falls within the Price Band.

(h) IOC Orders. The System will accept IOC orders (as defined under Rule 11.11(b)(1)) that are priced, explicitly or not, outside of the Price Band. However, the IOC order will only execute against orders posted on the NSX Book within the Price

Bands. Any unexecuted portion of an IOC order will be cancelled if it would result in an execution outside of the Price Band.

(i) Market Orders. The System will execute Market Orders (as defined under Rule 11.11(a)(1)) at or better than the opposite side of the Price Band (i.e., sell orders to the lower Price Band and buy orders to the upper Price Band). Any unexecuted portion of a Market Order will be cancelled if it would result in an execution outside of the Price Band.

(j) Market Peg, Primary Peg or Midpoint Peg Zero Display Orders that would be "pegged" to a price outside of the Price Bands disseminated by the Processor, will instead be "pegged" to the upper or lower Price Band, respectively. See paragraph (c) above and Rule 11.11(d)(2)(A) for a description of how Midpoint Peg, Primary Peg and Midpoint Peg Zero Display Orders are to be "pegged".

(k) Routing to Away Markets. The Exchange System shall route orders to an away market in accordance with Rule 11.15(a)(ii). However, the System will not route an order unless an away market is displaying a sell (buy) quote that is at or below (above) the Upper (Lower) Price Band.

Rule 11.25 Use of Market Data Feeds

(a) The Exchange utilizes the following data feeds for the handling, execution and routing of orders, as well as for surveillance necessary to monitor compliance with applicable securities laws and Exchange rules.

Market Center	Primary Data Source	Secondary Data Source
BATS (BZX)	CQS/UQDF	N/A
BATS Y (BYX)	CQS/UQDF	N/A
Chicago Stock Exchange	CQS/UQDF	N/A
EDGA	CQS/UQDF	N/A
EDGX	CQS/UQDF	N/A
FINRA ADF	CQS/UQDF	N/A
IEX	CQS/UQDF	N/A
Nasdaq	CQS/UQDF	N/A
Nasdaq OMX BX	CQS/UQDF	N/A
Nasdaq OMX PHLX	CQS/UQDF	N/A
NYSE	CQS/UQDF	N/A
NYSE ARCA	CQS/UQDF	N/A
NYSE MKT	CQS/UQDF	N/A

(b) The Exchange may adjust its calculation of the NBBO based on information about orders sent to other venues with protected quotations, execution reports received from those venues, and certain orders received by the Exchange.

Rule 11.26. Compliance with Regulation NMS Plan to Implement a Tick Size Pilot

(a) Tick Size Pilot Program

(1) Definitions.

(A) "Plan" means the Tick Size Pilot Plan Submitted to the Securities and Exchange Commission Pursuant to Rule 608(a)(3) of Regulation NMS under the Exchange Act.

(B) "Pilot Test Groups" means the three test groups established under the Plan, consisting of 400 Pilot Securities each, which satisfy the respective criteria established by the Plan for each such test group.

(C) Reserved.

(D) "Trade-at Intermarket Sweep Order" means a limit order for a Pilot Security that meets the following requirements:

(i) When routed to a Trading Center, the limit order is identified as a Trade-at Intermarket Sweep Order; and

(ii) Simultaneously with the routing of the limit order identified as a Trade-at Intermarket Sweep Order, one or more additional limit orders, as necessary, are routed to execute against the full size of any protected bid, in the case of a limit order to sell, or the full displayed size of any protected offer, in the case of a limit order to buy, for the Pilot Security with a price that is better than or equal to the limit price of the limit order identified as a Trade-at Intermarket Sweep Order. These additional routed orders also must be marked as Trade-at Intermarket Sweep Orders or Intermarket Sweep Orders.

(E) All capitalized terms not otherwise defined in this Rule shall have the meanings set forth in the Plan, Regulation NMS under the Exchange Act, or Exchange rules, as applicable.

(2) Exchange Participation in the Plan. The Exchange is a Participant in, and subject to the applicable requirements of, the Plan, which establishes a Tick Size Pilot Program that will allow the Securities and Exchange Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stocks of small capitalization companies.

(3) ETP Holder Compliance. ETP Holders shall establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the applicable requirements of the Plan.

(4) Exchange Compliance with the Plan. The System will not display, quote or trade in violation of the applicable quoting and trading requirements for a Pilot Security specified in the Plan and this Rule, unless such quotation or transaction is specifically exempted under the Plan.

(5) Pilot Securities That Drop Below $1.00 during the Pilot Period. If the price of a Pilot Security drops below $1.00 during Regular Trading Hours on any given business day, such Pilot Security will continue to be subject to the Plan and the requirements enumerated in (c)-(e) below and will continue to trade in accordance with such Rules as if the price of the Pilot Security had not dropped below $1.00. However, if the Closing Price of a Pilot Security on any given business day is below $1.00, such Pilot Security will be moved out of its respective Pilot Test Group into the Control Group, and may then be quoted and traded at any price increment that is currently permitted by Exchange rules for the remainder of the Pilot Period. Notwithstanding anything contained herein to the contrary, at all times during the Pilot Period, Pilot Securities (whether in the Control Group or any Pilot Test Group) will continue to be subject to the requirements contained in Paragraph (b) of this Rule 11.26.

(b) Compliance with Data Collection Requirements

(1) Policies and Procedures Requirement. An ETP Holder that operates a Trading Center shall establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the data collection and transmission requirements of Items I and II of Appendix B of the Plan, and an ETP Holder that is a Market Maker shall establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the data collection and transmission requirements of Item IV of Appendix B of the Plan and Item I of Appendix C of the Plan.

(2) The Exchange shall collect and transmit to the SEC the data described in Items I and II of Appendix B of the Plan relating to trading activity in Pre-Pilot Securities and Pilot Securities on a Trading Center operated by the Exchange. The Exchange shall transmit such data to the SEC in a pipe delimited format, on a disaggregated basis by Trading Center, within 30 calendar days following month end for:

(A) Each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through thirty-one days prior to the first day of the Pilot Period; and

(B) Each Pilot Security for the period beginning thirty days prior to the first day of the Pilot Period through six months after the end of the Pilot Period. The Exchange also shall make such data publicly available on the Exchange web

site within 120 calendar days following month end at no charge and shall not identify the ETP Holder that generated the data.

(3) Daily Market Maker Participation Statistics Requirement

(A) An ETP Holder that is a Market Maker shall collect and transmit to their DEA data relating to Item IV of Appendix B of the Plan, with respect to activity conducted on any Trading Center in Pre-Pilot Securities and Pilot Securities in furtherance of its status as a Market Maker, including a Trading Center that executes trades otherwise than on a national securities exchange, for transactions that have settled or reached settlement date. Market Makers shall transmit such data in a format required by their DEA by 12:00 p.m. EST on T+4:

(i) For transactions in each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through thirty-one days prior to the first day of the Pilot Period; and

(ii) For transactions in each Pilot Security for the period beginning thirty days prior to the first day of the Pilot Period through six months after the end of the Pilot Period.

(B) An ETP Holder that is a Market Maker whose DEA is not a Participant to the Plan shall transmit the data collected pursuant to paragraph (3)(A) above to the Financial Industry Regulatory Authority, Inc. ("FINRA"). Market Makers shall transmit such data in a format required by FINRA by 12:00 p.m. EST on T+4 in accordance with paragraphs (3)(A)(i) and (ii) above.

(C) The Exchange shall transmit the data collected by the DEA or FINRA pursuant to paragraphs (3)(A) and (B) above relating to Market Maker activity on a Trading Center operated by the Exchange to the SEC in a pipe delimited format within 30 calendar days following month end. The Exchange shall also make such data publicly available on the Exchange web site within 120 calendar days following month end at no charge and shall not identify the Trading Center that generated the data.

(4) Market Maker Profitability

(A) An ETP Holder that is a Market Maker shall collect and transmit to their DEA the data described in Item I of Appendix C of the Plan with respect to executions on any Trading Center that have settled or reached settlement date. Market Makers shall transmit such data in a format required their DEA by 12:00 p.m. EST on T+4 for executions during and outside of Regular Trading Hours in each:

(i) Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through thirty-one days prior to the first day of the Pilot Period; and

(ii) Pilot Security for the period beginning thirty days prior to the first day of the Pilot Period through six months after the end of the Pilot Period.

(B) An ETP Holder that is a Market Maker whose DEA is not a Participant to the Plan shall transmit the data collected pursuant to paragraph (4)(A) above to FINRA. Market Makers shall transmit such data in a format required by FINRA by 12:00 p.m. EST on T+4 for executions during and outside of Regular Trading Hours in accordance with paragraphs (4)(A)(i) and (ii) above.

(5) Market Maker Registration Statistics. The Exchange shall collect and transmit to the SEC the data described in Item III of Appendix B of the Plan relating to daily Market Maker registration statistics in a pipe delimited format within 30 calendar days following month end for:

(A) For transactions in each Pre-Pilot Data Collection Security for the period beginning six months prior to the Pilot Period through the trading day immediately preceding the Pilot Period; and

(B) For transactions in each Pilot Security for the period beginning on the first day of the Pilot Period through six months after the end of the Pilot Period.

The Exchange also shall make such data publicly available on the Exchange web site within 120 calendar days following month end at no charge.

(c) Compliance With Quoting and Trading Restrictions

(1) Pilot Securities in Test Group One will be subject to the following requirement: No ETP Holder may display, rank, or accept from any person any displayable or non-displayable bids or offers, orders, or indications of interest in increments other than $0.05. However, orders priced to trade at the midpoint of the national best bid and national best offer ("NBBO") or best protected bid and best protected offer ("PBBO") and orders entered in a Participant-operated retail liquidity program may be ranked and accepted in increments of less than $0.05. Pilot Securities in Test Group One may continue to trade at any price increment that is currently permitted by applicable Participant, SEC and Exchange Rules.

(2) Pilot Securities in Test Group Two shall be subject to the following requirements:

(A) No ETP Holder may display, rank, or accept from any person any displayable or non-displayable bids or offers, orders, or indications of interest in increments other than $0.05. However, orders priced to trade at the midpoint of the NBBO or PBBO and orders entered in a Participant-operated retail liquidity program may be ranked and accepted in increments of less than $0.05.

(B) Absent any of the exceptions listed in subparagraph (C) below, no ETP Holder may execute orders in any Pilot Security in Test Group Two in price increments other than $0.05. The $0.05 trading increment will apply to all trades, including Brokered Cross Trades.

(C) Pilot Securities in Test Group Two may trade in increments less than $0.05 under the following circumstances:

(i) Trading may occur at the midpoint between the NBBO or the PBBO;

(ii) Retail Investor Orders may be provided with price improvement that is at least $0.005 better than the PBBO;

(iii) Negotiated Trades may trade in increments less than $0.05; and

(iv) Execution of a customer order to comply with Rule 12.6 following the execution of a proprietary trade by the member organization at an increment other than $0.05, where such proprietary trade was permissible pursuant to an exception under the Plan.

(3) Pilot Securities in Test Group Three shall be subject to the following requirements:

(A) No ETP Holder may display, rank, or accept from any person any displayable or non-displayable bids or offers, orders, or indications of interest in increments other than $0.05. However, orders priced to trade at the midpoint of the NBBO or PBBO and orders entered in a Participant-operated retail liquidity program may be ranked and accepted in increments of less than $0.05.

(B) Absent any of the exceptions listed in subparagraph (C) below, no ETP Holder may execute orders in any Pilot Security in Test Group Three in price increments other than $0.05. The $0.05 trading increment will apply to all trades, including Brokered Cross Trades.

(C) Pilot Securities in Test Group Three may trade in increments less than $0.05 under the following circumstances:

(i) Trading may occur at the midpoint between the NBBO or PBBO;

(ii) Retail Investor Orders may be provided with price improvement that is at least $0.005 better than the Best Protected Bid or the Best Protected Offer;

(iii) Negotiated Trades may trade in increments less than $0.05; and

(iv) Execution of a customer order to comply with Rule 12.6 following the execution of a proprietary trade by the member organization at an increment other than $0.05, where such proprietary trade was permissible pursuant to an exception under the Plan.

(D) Pilot Securities in Test Group Three will be subject to the following Trade-at Prohibition:

(i) "Trade-at Prohibition" means the prohibition against executions by a Trading Center of a sell order for a Pilot Security at the price of a Protected Bid or the execution of a buy order for a Pilot Security at the price of a Protected Offer during regular trading hours.

(ii) Absent any of the exceptions listed in subparagraph (D)(iii) below, no ETP Holder may execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or execute a buy order for a Pilot Security in Test Group Three at the price of a Protected Offer.

(iii) ETP Holders may execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or execute a buy order for a Pilot Security in Test Group Three at the price of a Protected Offer if any of the following circumstances exist:

a. The order is executed as agent or riskless principal by an independent trading unit, as defined under Rule 200(f) of Regulation SHO, of a Trading Center within an organization that has a displayed quotation as agent or riskless principal, via either a processor or an SRO Quotation Feed, at a price equal to the traded-at Protected Quotation, that was displayed before the order was received, but only up to the full displayed size of that independent trading unit's previously displayed quote;

b. The order is executed by an independent trading unit, as defined under Rule 200(f) of Regulation SHO, of a Trading Center within a member organization that has a displayed quotation for the account of that Trading Center on a principal (excluding riskless principal) basis, via either a processor or an SRO Quotation Feed, at a price equal to the traded-at Protected Quotation, that was displayed before the order was received, but only up to the full displayed size of that independent trading unit's previously displayed quote;

c. The order is of Block Size at the time of origin and may not be:

A. an aggregation of non-block orders; or

B. broken into orders smaller than Block Size prior to submitting the order to a Trading Center for execution.

d. The order is a Retail Investor Order executed with at least $0.005 price improvement;

e. The order is executed when the Trading Center displaying the Protected Quotation that was traded at was experiencing a failure, material delay, or malfunction of its systems or equipment;

f. The order is executed as part of a transaction that was not a "regular way" contract;

g. The order is executed as part of a single-priced opening, reopening, or closing transaction on the Exchange;

h. The order is executed when a Protected Bid was priced higher than a Protected Offer in the Pilot Security;

i. The order is identified as a Trade-at Intermarket Sweep Order;

j. The order is executed by a Trading Center that simultaneously routed Trade-at Intermarket Sweep Orders or Intermarket Sweep Orders as defined in Rule 600(b)(30) of Regulation NMS to execute against the full displayed size of the Protected Quotation that was traded at;

k. The order is executed as part of a Negotiated Trade;

l. The order is executed when the Trading Center displaying the Protected Quotation that was traded at had displayed, within one second prior to execution of the transaction that constituted the Trade-at, a Best Protected Bid or Best Protected Offer, as applicable, for the Pilot Security with a price that was inferior to the price of the Trade-at transaction;

m. The order is executed by a Trading Center which, at the time of order receipt, the Trading Center had guaranteed an execution at no worse than a specified price (a "stopped order"), where:

A. The stopped order was for the account of a customer;

B. The customer agreed to the specified price on an order-by-order basis; and

C. The price of the Trade-at transaction was, for a stopped buy order, equal to or less than the National Best Bid in the Pilot Security at the time of execution or, for a stopped sell order, equal to or greater than the National Best Offer in the Pilot Security at the time of execution, as long as such order is priced at an acceptable increment;

n. The order is for a fractional share of a Pilot Security, provided that such fractional share order was not the result of breaking an order for one or more whole shares of a Pilot Security into orders for fractional shares or was not otherwise effected to evade the requirements of the Trade-at Prohibition or any other provisions of the Plan; or

o. The order is to correct a bona fide error, which is recorded by the Trading Center in its error account. A bona fide error is defined as:

A. The inaccurate conveyance or execution of any term of an order including, but not limited to, price, number of shares or other unit of trading; identification of the security; identification of the account for which securities are purchased or sold; lost or otherwise misplaced order tickets; short sales that were instead sold long or vice versa; or the execution of an order on the wrong side of a market;

B. The unauthorized or unintended purchase, sale, or allocation of securities, or the failure to follow specific client instructions;

C. The incorrect entry of data into relevant systems, including reliance on incorrect cash positions, withdrawals, or securities positions reflected in an account; or

D. A delay, outage, or failure of a communication system used to transmit market data prices or to facilitate the delivery or execution of an order.

(iv) No ETP Holder shall break an order into smaller orders or otherwise effect or execute an order to evade the requirements of the Trade-at Prohibition of this Rule or any other provisions of the Plan.

Interpretations and Policies.

.01 The terms used in this Rule 11.26 shall have the same meaning as provided in the Plan, unless otherwise specified.

.02 For purposes of the reporting requirement in Appendix B.II.(n), a Trading Center shall report "Y" to their DEA where it is relying upon the Retail Investor Order exception to Test Groups Two and Three, and "N" in all other instances.

.03 For purposes of Appendix B.I, the field "Affected by Limit-Up Limit-Down bands" shall be included. A Trading Center shall report a value of "Y" to its DEA when the ability of an order to execute has been affected by the Limit-Up Limit-Down (LULD) bands in effect at the time of order receipt. A Trading Center shall report a value of "N" to its DEA when the ability of an order to execute has not been affected by the LULD bands in effect at the time of order receipt. For purposes of Appendix B.I, the Participants shall classify all orders in Pilot and Pre-Pilot Securities that may trade in a foreign market as: (1) fully executed domestically or (2) fully or partially executed on a foreign market. For purposes of Appendix B.II, the Participants shall classify all orders in Pilot and Pre-Pilot Securities that may trade in a foreign market as: (1) directed to a domestic venue for execution; (2) may only be directed to a foreign venue for execution; or (3) fully or partially directed to a foreign venue at the discretion of the ETP Holder.

.04 (a) For purposes of Appendix B.I.a(14), B.I.a(15), B.I.a(21) and B.I.a(22), the time ranges shall be changed as follows:

(1) Appendix B.I.a(14A): The cumulative number of shares of orders executed from 100 microseconds to less than 1 millisecond after the time of order receipt;

(2) Appendix B.I.a(15): The cumulative number of shares of orders executed from 1 millisecond to less than 100 milliseconds after the time of order receipt;

(3) Appendix B.I.a(21A): The cumulative number of shares of orders canceled from 100 microseconds to less than 1 millisecond after the time of order receipt; and

(4) Appendix B.I.a(22): The cumulative number of shares of orders canceled from 1 millisecond to less than 100 milliseconds after the time of order receipt.

(b) For purposes of Appendix B.I.a(21) through B.I.a(27), unexecuted Immediate or Cancel orders shall be categorized separately irrespective of the duration of time after order receipt.

.05 For purposes of Appendix B.I.a(31)-(33), the relevant measurement is the time of order receipt.

.06 For purposes of Appendix B, the following order types and numbers shall be included and assigned the following numbers: "not held" orders (18); clean cross orders (19); auction orders (20); orders that cannot otherwise be classified, including orders received when the NBBO is crossed (21) and limit orders priced more than $0.10 away from the NBBO (22). For purposes of order types 12-14 in Appendix B, such order types shall include all orders and not solely "resting" orders.

.07 An ETP Holder shall not be deemed a Trading Center for purposes of Appendix B of the Plan where that ETP Holder only executes orders otherwise than on a national securities exchange for the purpose of: (i) correcting a bona fide error related to the execution of a customer order; (ii) purchases a security from a customer at a nominal price solely for purposes of liquidating the customer's position; or (iii) completing the fractional share portion of an order.

.08 A Trading Center shall begin the data collection required pursuant to Appendix B.I.a(1) through B.II.(y) of the Plan and Item I of Appendix C of the Plan on April 4, 2016. The requirement that the Exchange or the DEA provide information to the SEC within 30 days following month end [and make certain data publicly available on the Exchange's or DEA's web site] pursuant to Appendix B and C of the Plan shall commence at the beginning of the Pilot Period. Notwithstanding the provisions of paragraphs (b)(2)(B), (b)(3)(C), and (b)(5) of this Rule, with respect to data for the Pre-Pilot Period and Pilot Period, the requirement that the Exchange or the DEA make Appendix B data publicly available on the Exchange's or the DEA's website [pursuant to Appendix B and C to the Plan] shall commence on August 31, 2017. Notwithstanding the provisions of paragraph (b)(4) of this Rule, the Exchange or the DEA shall make Appendix C data for the Pre-Pilot Period through January 2017 publicly available on the Exchange's or the DEA's website [pursuant to Appendix B and C to the Plan] by February 28, 2017.

.09 For purposes of Appendix B.IV, the count of the number of Market Makers used in the calculation of share (trade) participation shall be added to each category. For purposes of Appendix B.IV(b) and (c), share participation and trade participation shall be calculated by using a total count instead of a share-weighted average or a trade-weighted average. For purposes of Appendix B, B.IV(d) (cross-quote share (trade) participation), (e) (inside-the-quote share (trade) participation), (f) (at-the-quote share (trade) participation), and (g) (outside-the-quote share (trade) participation), shall be calculated by reference to the National Best Bid or National Best Offer in effect immediately prior to the trade.

.10 For purposes of Item I of Appendix C, the Participants shall calculate daily Market Maker realized profitability statistics for each trading day on a daily last in, first out (LIFO) basis using reported trade price and shall include only trades executed on the subject trading day. The daily LIFO calculation shall not include any positions carried over from previous trading days. For purposes of Item I.c of Appendix C, the Participants shall calculate daily Market Maker unrealized profitability statistics for each trading day on an average price basis. Specifically, the Participants must calculate the

volume weighted average price of the excess (deficit) of buy volume over sell volume for the current trading day using reported trade price. The gain (loss) of the excess (deficit) of buy volume over sell volume shall be determined by using the volume weighted average price compared to the closing price of the security as reported by the primary listing exchange. In calculating unrealized trading profits, the Participant also shall report the number of excess (deficit) shares held by the Market Maker, the volume weighted average price of that excess (deficit), and the closing price of the security as reported by the primary listing exchange used in reporting unrealized profit.

.11 "Pre-Pilot Data Collection Securities" are the securities designated by the Participants for purposes of the data collection requirements described in Items I, II and IV of Appendix B and Item I of Appendix C of the Plan for the period beginning six months prior to the Pilot Period through thirty-one days prior to the Pilot Period. The Participants shall compile the list of Pre-Pilot Data Collection Securities by selecting all NMS stocks with a market capitalization of $5 billion or less, a Consolidated Average Daily Volume (CADV) of 2 million shares or less and a closing price of $1 per share or more. The market capitalization and the closing price thresholds shall be applied to the last day of the Pre-Pilot measurement period, and the CADV threshold shall be applied to the duration of the Pre-Pilot measurement period. The Pre-Pilot measurement period shall be the three calendar months ending on the day when the Pre-Pilot Data Collection Securities are selected. The Pre-Pilot Data Collection Securities shall be selected thirty days prior to the commencement of the six-month Pre-Pilot Period.

.12 Upon the effective date of the Tick Size Pilot, the Exchange will not support the Block Size Order Exemption under Rule 11.26(c)(3)(D)(iii)c. Any block size order entered into the System will be subject to the Trade-at prohibition under Rule 11.26(c)(3)(D), unless the order otherwise qualifies for an exemption to the Trade-at prohibition under subparagraph (c)(3)(D)(iii).

.13 This Rule shall be in effect during a pilot period to coincide with the pilot period for the Plan (including any extensions to the pilot period for the Plan).

CHAPTER XII. Trading Practice Rules

Rule 12.1. Market Manipulation

No ETP Holder shall execute or cause to be executed or participate in an account for which there are executed purchases of any security at successively higher prices, or sales of any security at successively lower prices, for the purpose of creating or inducing a false, misleading or artificial appearance of activity in such security on the Exchange or for the purpose of unduly or improperly influencing the market price for such security or for the purpose of establishing a price which does not reflect the true state of the market in such security.

Rule 12.2. Fictitious Transactions

No ETP Holder, for the purpose of creating or inducing a false or misleading appearance of activity in a security traded on the Exchange or creating or inducing a false or misleading appearance with respect to the market in such security shall:

(1) execute any transaction in such security which involves no change in the beneficial ownership thereof, or

(2) enter any order or orders for the purchase of such security with the knowledge that an order or orders of substantially the same size, and at substantially the same price, for the sale of such security, has been or will be entered by or for the same or different parties, or

(3) enter any order or orders for the sale of any such security with the knowledge that an order or orders of substantially the same size, and at substantially the same price, for the purchase of such security, has been or will be entered by or for the same or different parties.

Rule 12.3. Excessive Sales by an ETP Holder

No ETP Holder shall execute purchases or sales or any security traded on the Exchange for any account in which such ETP Holder is directly or indirectly interested, which purchases or sales are excessive in view of the ETP Holder's financial resources or in view of the market for such security.

Rule 12.4. Manipulative Transactions

(a) No ETP Holder shall participate or have any interest, directly or indirectly, in the profits of a manipulative operation or knowingly manage or finance a manipulative operation.

(b) Any pool, syndicate or joint account organized or used intentionally for the purpose of unfairly influencing the market price of a security shall be deemed to be a manipulative operation.

(c) The solicitation of subscriptions to or the acceptance of discretionary orders from any such pool, syndicate or joint account shall be deemed to be managing a manipulative operation.

(d) The carrying on margin of a position in such security or the advancing of credit through loans to any such pool, syndicate or joint account shall be deemed to be financing a manipulative operation.

Rule 12.5. Dissemination of False Information

No ETP Holder shall make any statement or circulate and disseminate any information concerning any security traded on the Exchange which such ETP Holder knows or has reasonable grounds for believing is false or misleading or would improperly influence the market price of such security.

Rule 12.6. Customer Priority

(a) No ETP Holder shall (i) personally buy or initiate the purchase of any security traded on the Exchange for its own account or for any account in which it or any associated person of the ETP Holder is directly or indirectly interested while such an ETP Holder holds or has knowledge that any person associated with it holds an unexecuted market order to buy such security in the unit of trading for a customer, or (ii) sell or initiate the sale of any such security for any such account while it personally holds or has knowledge that any person associated with it holds an unexecuted market order to sell such security in the unit of trading for a customer.

(b) No ETP Holder shall (i) buy or initiate the purchase of any such security for any account in which it or any associated person of the ETP Holder is directly or indirectly interested at or below the price at which it personally holds or has knowledge that any person associated with it holds an unexecuted limited price order to buy such security in the unit of trading for a customer or (ii) sell or initiate the sale of any such security for any such account at or above the price at which it personally holds or has knowledge that any person associated with it holds an unexecuted limited price order to sell such security in the unit of trading for a customer.

(c) The provisions of paragraphs (a) and (b) of this Rule shall not apply: (i) to any purchase or sale of any such security in an amount less than the unit of trading made by an ETP Holder to offset odd-lot orders for customers; (ii) to any purchase or sale of any such security upon terms for delivery other than those specified in such unexecuted market or limited price order; or (iii) to any unexecuted order that is subject to a condition that has not been satisfied.

(d) The provisions of paragraphs (a) and (b) of this Rule also shall not apply if an ETP Holder engages in trading activity to facilitate the execution, on a riskless principal basis, of another order from its customer (whether its own customer or the customer of another member) (the "facilitated order"), provided that the requirements of Rule 11.23 are satisfied. Any transaction handled by an ETP Holder on other than an agency basis that does not satisfy the requirements of Exchange Rule 11.23 remains a transaction that, unless otherwise exempt, is subject to the provisions of paragraphs (a) and (b) of this Rule. This exemption applies to both offsetting transaction legs of a riskless principal transaction but only to the extent of the actual number of shares that are required to satisfy the facilitated order.

(e) ETP Holders executing customer orders on the Exchange are required to implement and maintain automated systems reasonably designed to ensure compliance with this Rule. The Exchange will allow any ETP Holder to comply manually with the provisions of this Rule for a reasonably limited duration in the event that such ETP Holder's automated systems become inoperative as a result of any act, condition or cause beyond the reasonable control of the ETP Holder, including, but not limited to, an act of God, fire, flood, extraordinary weather conditions, war, insurrection, riot, strike, accident, action of government, communications or power failure, or any equipment or software malfunction. ETP Holders shall not otherwise disable or disengage their automated systems. ETP Holders shall promptly notify the Exchange of any changes in the operating status of their automated systems.

Interpretations and Policies

.01 If an ETP Holder holds for execution on the Exchange a customer buy order and a customer sell order that can be crossed, the ETP Holder's automated system shall systemically cross them without interpositioning itself as a dealer.

.02 For a pilot period lasting through June 30, 2006:

(a) An ETP Holder shall be deemed to have violated Rule 12.6 if, while holding a customer limit order (as rounded to a penny increment) representing the NBBO, the ETP Holder, for his own account, trades with an incoming market or marketable limit order at a price which is less than one penny better than the price of such customer limit order (not the quoted price) held by such ETP Holder.

(b) An ETP Holder shall be deemed to have violated Rule 12.6 if, while holding a customer limit order (as rounded to a penny increment) at a price outside the NBBO, the ETP Holder, for his own account, trades with an incoming market or marketable limit order at a price which is less than the nearest penny increment to the actual price of the customer limit order (not the quoted price) held by such ETP Holder

.03 An ETP Holder or any associated person of an ETP Holder responsible for entering orders for its own account or any account in which it is directly or indirectly interested shall be presumed to have knowledge of a particular unexecuted customer order. Such presumption can be rebutted by adequate evidence which shows, to the Exchange's satisfaction, that the ETP Holder has implemented a reasonable system of internal policies and procedures and has an adequate system of internal controls to prevent the misuse of information about customer orders by those responsible for entering such proprietary orders.

.04 A User shall not be deemed to have violated Rule 12.6 if, while holding a customer order, the User places a Zero Display Reserve Order that is pegged to the midpoint of the

Protected BBO pursuant to Rule 11.11(c)(2) for its own account and the order is ultimately executed at a price that is superior to, but less than one penny superior to, the price of such customer order.

Rule 12.7. Joint Activity

No ETP Holder, directly or indirectly, shall hold any interest or participation in any joint account for buying or selling in a security traded on the Exchange, unless such joint account is promptly reported to the Exchange. The report should contain the following information for each account:

(1) the name of the account, with names of all participants and their respective interests in profits and losses;

(2) a statement regarding the purpose of the account;

(3) the name of the ETP Holder carrying and clearing the account; and

(4) a copy of any written agreement or instrument relating to the account.

Rule 12.8. Influencing the Consolidated Tape

No ETP Holder shall attempt to execute a transaction or transactions to buy or sell a security for the purpose of influencing any report appearing on the Consolidated Tape.

Rule 12.9. Options

(a) No ETP Holder shall initiate the purchase or sale on the Exchange for its own account, or for any account in which it is directly or indirectly interested, of any stock of any issuer in which it holds or has granted any put, call, straddle or option; provided, however, that this prohibition shall not be applicable in respect of any option issued by The Options Clearing Corporation.

(b) No ETP Holder acting as an odd-lot dealer shall become interested directly or indirectly, in a pool dealing or trading in the stock of any issuer in which it is an odd-lot dealer, nor shall it acquire or grant directly or indirectly, any option to buy or sell, receive or deliver shares of stock of any issuer in which such ETP Holder is an odd-lot dealer, unless such option is issued by The Options Clearing Corporation.

Rule 12.10. Best Execution

In executing customer orders, an ETP Holder is not a guarantor of "best execution" but must use the care of a reasonably prudent person in the light of all circumstances deemed

relevant by the ETP Holder and having regard for the ETP Holder's brokerage judgment and experience.

Interpretations and Policies

.01 As part of an ETP Holder's fiduciary obligation to provide best execution for its customer limit orders, the ETP Holder shall refer to, and comply with, Rule 11Ac1-4 promulgated under the Securities Exchange Act of 1934, as amended.

Rule 12.11. Trading Suspensions

The Chairman of the Board or the President shall have the power to suspend trading in any and all securities traded on the Exchange whenever in his opinion such suspension would be in the public interest. No such action shall continue longer than a period of two days, or as soon thereafter as a quorum of Directors can be assembled, unless the Board approves the continuation of such suspension.

Rule 12.12. Publication of Transactions and Changes

(a) The Exchange shall cause to be disseminated for publication on the Consolidated Tape all last sale price reports of transactions executed through the facilities of the Exchange pursuant to the requirements of the Consolidated Tape Plan approved by the Commission.

(b) To facilitate the dissemination of such last sale price reports, each ETP Holder shall cause to be reported to the Exchange, as promptly as possible after execution, all information concerning each transaction required by the Consolidated Tape Plan.

(c) An official of the Exchange shall approve any corrections to reports transmitted over the Consolidated Tape. Any such corrections shall be made within one day after detection of the error.

CHAPTER XIII. Miscellaneous Provisions

Rule 13.1. Comparison and Settlement Requirements

(a) Every ETP Holder who is a member of a qualified clearing agency shall implement comparison and settlement procedures under the rules of such entity and every ETP Holder who is not such a member shall implement comparison and settlement procedures which conform to the comparison and settlement requirements of the National Association of Securities Dealers Uniform Practice Code.

(b) For purposes of this Rule, a qualified clearing agency shall mean a clearing agency (as defined in the Act) which has agreed to supply the Exchange with data reasonably

requested in order to permit the Exchange to enforce compliance by its ETP Holders and ETP Holder organizations with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange.

(c) Anything contained in paragraph (a) to the contrary notwithstanding, the Board may extend or postpone the time of the delivery of an Exchange transaction whenever, in its opinion, such action is called for by the public interest, by just and equitable principles of trade or by the need to meet unusual conditions. In such case, delivery shall be effected at such time, place and manner as directed by the Board.

Rule 13.2. Failure to Deliver and Failure to Receive

Borrowing and deliveries shall be effected in accordance with Rule 203 and Rule 204 of Regulation SHO, under the Exchange Act. The Exchange incorporates by reference Rules 200 (17 CFR 242.200), 203 (17 CFR 242.203) and 204 (17 CFR 242.204) of Regulation SHO to this Rule 13.2, as if they were fully set forth herein.

Rule 13.3. Proxies and other Issuer-Related Materials

(a) No ETP Holder shall give a proxy to vote stock which is registered in its name, except as required or permitted under the provisions of paragraph (b) or (c) hereof unless such ETP Holder is the beneficial owner of such stock.

(b) Whenever a person soliciting proxies shall timely furnish to an ETP Holder:

(1) sufficient copies of all soliciting material which such person is sending to registered holders, and

(2) satisfactory assurance that he will reimburse such ETP Holder for all out-of-pocket expenses, including reasonable clerical expenses incurred by such ETP Holder in connection with such solicitation, such ETP Holder shall transmit promptly to each beneficial owner of stock of such issuer which is in its possession or control or registered in a name other than the name of the beneficial owner all such material furnished. Such material shall include a signed proxy indicating the number of shares held for such beneficial owner and bearing a symbol identifying the proxy with proxy records maintained by the ETP Holder, and a letter informing the beneficial owner of the time limit and necessity for completing the proxy form and forwarding it to the person soliciting proxies prior to the expiration of the time limit in order for the shares to be represented at the meeting. An ETP Holder shall furnish a copy of the symbols to the person soliciting the proxies and also shall retain a copy thereof pursuant to the provisions of Rule 17a-4 under the Act. Notwithstanding the provisions of this Rule, an ETP Holder may give a proxy to vote any stock pursuant to the rules of any national securities exchange or association to which the ETP Holder is also responsible provided that the records of the ETP Holder clearly indicate which procedure it is following. This section shall not apply to beneficial owners residing outside of the United States of

America though ETP Holders may voluntarily comply with the provisions hereof in respect of such persons if they so desire.

(c) An ETP Holder may give a proxy to vote any stock registered in its name if such ETP Holder holds such stock as executor, administrator, guardian, trustee, or in a similar representative or fiduciary capacity with authority to vote. An ETP Holder which has in its possession or within its control stock registered in the name of another ETP Holder and which desires to transmit signed proxies pursuant to the provisions of paragraph (b), shall obtain the requisite number of signed proxies from such holder of record.

(d) Notwithstanding the provisions of this Rule 13.3, an ETP Holder may not give a proxy to vote without instructions from beneficial owners when the matter to be voted upon authorizes the implementation of any equity compensation plan, or any material revision to the terms of any existing equity compensation plan (whether or not stockholder approval of such plan is required pursuant to Rule 15.9). However, an ETP Holder may not give or authorize a proxy to vote without instructions on a matter relating to executive compensation, even if such matter would otherwise qualify for an exception from the requirements of this Rule.

(e) Moreover, notwithstanding the provisions of Rule 13.3, an ETP Holder that is not a beneficial owner of a security registered under Section 12 of the Act is prohibited from granting a proxy to vote the security in connection with a shareholder vote on the election of a member of the board of directors of an issuer (except for a vote with respect to the uncontested election of a member of the board of directors of any investment company registered under the Investment Company Act of 1940), executive compensation, or any other significant matter, as determined by the Commission, by rule, unless the beneficial owner of the security has instructed the member to vote the proxy in accordance with the voting instructions of the beneficial owner.

Rule 13.4. Forwarding of Issuer Materials

An ETP Holder when so requested by an issuer and upon being furnished with: (1) sufficient copies of annual reports, information statements or other material required by law to be sent to stockholders periodically, and (2) satisfactory assurance that it will be reimbursed by such issuer for all out-of-pocket expenses, including reasonable clerical expenses, shall transmit promptly to each beneficial owner of securities of such issuer which are in its possession and control and registered in a name other than the name of the beneficial owner all such material furnished. This paragraph shall not apply to beneficial owners residing outside of the United States of America though ETP Holders may voluntarily comply with the provisions hereof in respect of such persons if they so desire.

Rule 13.5. Assigning of Registered Securities in Name of an ETP Holder or ETP Holder Organization

An ETP Holder or ETP Holder organization may authorize one or more persons who are his or its employees to assign registered securities in the name of such ETP Holder or ETP Holder organization and to guarantee assignments of registered securities with the same effect as if the name of such ETP Holder or ETP Holder organization had been signed under like circumstances by such ETP Holder or by one of the partners of the ETP Holder firm or by one of the authorized officers of the ETP Holder corporation by executing and filing with the Exchange, in a form prescribed by it, a separate Power of Attorney for each person so authorized.

Rule 13.6. Commissions

Nothing in the Exchange Rules, the By-Laws or the Exchange practices shall be construed to require, authorize or permit any ETP Holder, or any person associated with an ETP Holder, to agree or arrange, directly or indirectly, for the charging of fixed rates of commission for transactions effected on, or effected by the use of the facilities of, the Exchange.

Rule 13.7. Off-Exchange Transactions

No rule, stated policy or practice of this Exchange shall prohibit or condition, or be construed to prohibit or condition or otherwise limit, directly or indirectly, the ability of any ETP Holder to effect any transaction otherwise than on this Exchange with another person in any security listed on this Exchange or to which unlisted trading privileges on this Exchange have been extended.

Rule 13.8. [Reserved]

Rule 13.9. [Reserved]

CHAPTER XIV. Consolidated Audit Trail Compliance

Rule 14.1 Consolidated Audit Trail – Definitions

For purposes of the Rules set forth in this Chapter XIV:

(a) "Account Effective Date" means:

(1) with regard to those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution:

(A) when the trading relationship was established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, either

(i) the date the relationship identifier was established within the Industry Member;

(ii) the date when trading began (i.e., the date the first order was received) using the relevant relationship identifier; or

(iii) if both dates are available, the earlier date will be used to the extent that the dates differ; or

(B) when the trading relationship was established on or after November 15, 2018 for Industry Members other than Small Industry Members, or on or after November 15, 2019 for Small Industry Members, the date the Industry Member established the relationship identifier, which would be no later than the date the first order was received;

(2) where an Industry Member changes back office providers or clearing firms prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the date an account was established at the relevant Industry Member, either directly or via transfer;

(3) where an Industry Member acquires another Industry Member prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the date an account was established at the relevant Industry Member, either directly or via transfer;

(4) where there are multiple dates associated with an account established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, the earliest available date;

(5) with regard to Industry Member proprietary accounts established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members:

(A) the date established for the account in the Industry Member or in a system of the Industry Member or

(B) the date when proprietary trading began in the account (i.e., the date on which the first orders were submitted from the account).

With regard to paragraphs (2) – (5), the Account Effective Date will be no later than the date trading occurs at the Industry Member or in the Industry Member's system.

(b) "Active Accounts" means an account that has had activity in Eligible Securities within the last six months.

(c) "Allocation Report" means a report made to the Central Repository by an Industry Member that identifies the Firm Designated ID for any account(s), including subaccount(s), to which executed shares are allocated and provides the security that has been allocated, the identifier of the firm reporting the allocation, the price per share of shares allocated, the side of shares allocated, the number of shares allocated to each account, and the time of the allocation; provided, for the avoidance of doubt, any such Allocation Report shall not be required to be linked to particular orders or executions.

(d) "Business Clock" means a clock used to record the date and time of any Reportable Event required to be reported under this Rule Series.

(e) "CAT" means the consolidated audit trail contemplated by SEC Rule 613.

(f) "CAT NMS Plan" means the National Market System Plan Governing the Consolidated Audit Trail, as amended from time to time.

(g) "CAT-Order-ID" means a unique order identifier or series of unique order identifiers that allows the Central Repository to efficiently and accurately link all Reportable Events for an order, and all orders that result from the aggregation or disaggregation of such order.

(h) "CAT Reporting Agent" means a Data Submitter that is a third party that enters into an agreement with an Industry Member pursuant to which the CAT Reporting Agent agrees to fulfill such Industry Member's obligations under this Rule Series.

(i) "Central Repository" means the repository responsible for the receipt, consolidation, and retention of all information reported to the CAT pursuant to SEC Rule 613 and the CAT NMS Plan.

(j) "Compliance Threshold" has the meaning set forth in Rule 14.11(d).

(k) "Customer" means:

(1) the account holder(s) of the account at an Industry Member originating the order; and

(2) any person from whom the Industry Member is authorized to accept trading instructions for such account, if different from the account holder(s).

(l) "Customer Account Information" shall include, but not be limited to, account number, account type, customer type, date account opened, and large trader identifier (if applicable); except, however, that:

(1) in those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution, the Industry Member will:

(A) provide the Account Effective Date in lieu of the "date account opened";

(B) provide the relationship identifier in lieu of the "account number"; and

(C) identify the "account type" as a "relationship";

(2) in those circumstances in which the relevant account was established prior to November 15, 2018 for Industry Members other than Small Industry Members, or prior to November 15, 2019 for Small Industry Members, and no "date account opened" is available for the account, the Industry Member will provide the Account Effective Date in the following circumstances:

(A) where an Industry Member changes back office providers or clearing firms and the date account opened is changed to the date the account was opened on the new back office/clearing firm system;

(B) where an Industry Member acquires another Industry Member and the date account opened is changed to the date the account was opened on the post-merger back office/clearing firm system;

(C) where there are multiple dates associated with an account in an Industry Member's system, and the parameters of each date are determined by the individual Industry Member; and

(D) where the relevant account is an Industry Member proprietary account.

(m) "Customer Identifying Information" means information of sufficient detail to identify a Customer, including, but not limited to:

(1) with respect to individuals: name, address, date of birth, individual tax payer identification number ("ITIN")/social security number ("SSN"), individual's role in the account (*e.g.*, primary holder, joint holder, guardian, trustee, person with the power of attorney); and

(2) with respect to legal entities: name, address, Employer Identification Number ("EIN")/Legal Entity Identifier ("LEI") or other comparable common entity identifier, if applicable; provided, however, that an Industry Member that has an LEI for a Customer must submit the Customer's LEI in addition to other information of sufficient detail to identify a Customer.

(n) "Data Submitter" means any person that reports data to the Central Repository, including national securities exchanges, national securities associations, broker-dealers, the SIPs for the CQS, CTA, UTP and Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information("OPRA") Plans, and certain other vendors or third parties that may submit data to the Central Repository on behalf of Industry Members.

(o) "Eligible Security" includes (1) all NMS Securities and (2) all OTC Equity Securities.

(p) "Error Rate" means the percentage of Reportable Events collected by the Central Repository in which the data reported does not fully and accurately reflect the order event that occurred in the market.

(q) "Firm Designated ID" means a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date.

(r) "Industry Member" means a member of a national securities exchange or a member of a national securities association.

(s) "Industry Member Data" has the meaning set forth in Rule 14.3(a)(2).

(t) "Initial Plan Processor" means the first Plan Processor selected by the Operating Committee in accordance with SEC Rule 613, Section 6.1 of the CAT NMS Plan and the National Market System Plan Governing the Process for Selecting a Plan Processor and Developing a Plan for the Consolidated Audit Trail.

(u) "Listed Option" or "Option" have the meaning set forth in Rule 600(b)(35) of Regulation NMS.

(v) "Manual Order Event" means a non-electronic communication of order-related information for which Industry Members must record and report the time of the event.

(w) "Material Terms of the Order" includes: the NMS Security or OTC Equity Security symbol; security type; price (if applicable); size (displayed and non-displayed); side (buy/sell); order type; if a sell order, whether the order is long, short, short exempt; open/close indicator (except on transactions in equities); time in force (if applicable); if the order is for a Listed Option, option type (put/call), option symbol or root symbol, underlying symbol, strike price, expiration date, and open/close (except on market maker quotations); and any special handling instructions.

(x) "NMS Security" means any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in Listed Options.

(y) "NMS Stock" means any NMS Security other than an option.

(z) "Operating Committee" means the governing body of the CAT NMS, LLC designated as such and described in Article IV of the CAT NMS Plan.

(aa) "Options Market Maker" means a broker-dealer registered with an exchange for the purpose of making markets in options contracts traded on the exchange.

(bb) "Order" or "order", with respect to Eligible Securities, shall include:

(1) Any order received by an Industry Member from any person;

(2) Any order originated by an Industry Member; or

(3) Any bid or offer.

(cc) "OTC Equity Security" means any equity security, other than an NMS Security, subject to prompt last sale reporting rules of a registered national securities association and reported to one of such association's equity trade reporting facilities.

(dd) "Participant" means each Person identified as such in Exhibit A of the CAT NMS Plan, as amended, in such Person's capacity as a Participant in CAT NMS, LLC.

(ee) "Person" means any individual, partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association and any heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so permits.

(ff) "Plan Processor" means the Initial Plan Processor or any other Person selected by the Operating Committee pursuant to SEC Rule 613 and Sections 4.3(b)(i) and 6.1 of the CAT NMS Plan, and with regard to the Initial Plan Processor, the National Market System Plan Governing the Process for Selecting a Plan Processor and Developing a Plan for the Consolidated Audit Trail, to perform the CAT processing functions required by SEC Rule 613 and set forth in the CAT NMS Plan.

(gg) "Received Industry Member Data" has the meaning set forth in Rule 14.3(a)(2).

(hh) "Recorded Industry Member Data" has the meaning set forth in Rule 14.3(a)(1).

(ii) "Reportable Event" includes, but is not limited to, the original receipt or origination, modification, cancellation, routing, execution (in whole or in part) and allocation of an order, and receipt of a routed order.

(jj) "SRO" means any self-regulatory organization within the meaning of Section 3(a)(26) of the Exchange Act.

(kk) "SRO-Assigned Market Participant Identifier" means an identifier assigned to an Industry Member by an SRO or an identifier used by a Participant.

(ll) "Small Industry Member" means an Industry Member that qualifies as a small broker-dealer as defined in Rule 0-10(c) under the Securities Exchange Act of 1934, as amended.

(mm) "Trading Day" shall have the meaning as is determined by the Operating Committee. For the avoidance of doubt, the Operating Committee may establish different Trading Days for NMS Stocks (as defined in SEC Rule 600(b)(47)), Listed Options, OTC Equity Securities, and any other securities that are included as Eligible Securities from time to time.

Rule 14.2. Consolidated Audit Trail - Clock Synchronization

(a) Clock Synchronization

(1) Each Industry Member shall synchronize its Business Clocks, other than such Business Clocks used solely for Manual Order Events or used solely for the time of allocation on Allocation Reports, at a minimum to within a fifty (50) millisecond tolerance of the time maintained by the atomic clock of the National Institute of Standards and Technology ("NIST"), and maintain such synchronization.

(2) Each Industry Member shall synchronize (A) its Business Clocks used solely for Manual Order Events and (B) its Business Clocks used solely for the time of allocation on Allocation Reports at a minimum to within a one second tolerance of the time maintained by the NIST atomic clock, and maintain such synchronization.

(3) The tolerance for paragraphs (a)(1) and (2) of this Rule includes all of the following:

(A) The difference between the NIST atomic clock and the Industry Member's Business Clock;

(B) The transmission delay from the source; and

(C) The amount of drift of the Industry Member's Business Clock.

(4) Business Clocks must be synchronized every business day before market open to ensure that timestamps for Reportable Events are accurate. To maintain clock synchronization, Business Clocks must be checked against the NIST atomic clock and re-synchronized, as necessary, throughout the day.

(b) Documentation

Industry Members must document and maintain their synchronization procedures for Business Clocks. Industry Members must keep a log of the times when they synchronize their Business Clocks and the results of the synchronization process. This log should include notice of any time a Business Clock drifts more than the applicable tolerance specified in paragraph (a) of this Rule. Such log must include results for a period of not less than five years ending on the then current date, or for the entire period for which the Industry Member has been required to comply with this Rule if less than five years.

(c) Certification

Each Industry Member shall certify to the Exchange that its Business Clocks satisfy the synchronization requirements set forth in paragraph (a) of this Rule periodically in accordance with the certification schedule established by the Operating Committee pursuant to the CAT NMS Plan.

(d) Violation Reporting

Each Industry Member with Business Clocks must report to the Plan Processor and the Exchange violations of paragraph (a) of this Rule pursuant to the thresholds set by the Operating Committee pursuant to the CAT NMS Plan.

Rule 14.3. Consolidated Audit Trail – Industry Member Data Reporting

(a) Recording and Reporting Industry Member Data

(1) Subject to paragraph (3) below, each Industry Member shall record and electronically report to the Central Repository the following details for each order and each Reportable Event, as applicable ("Recorded Industry Member Data") in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan:

(A) for original receipt or origination of an order:

(i) Firm Designated ID(s) for each Customer;

(ii) CAT-Order-ID;

(iii) SRO-Assigned Market Participant Identifier of the Industry Member receiving or originating the order;

(iv) date of order receipt or origination;

(v) time of order receipt or origination (using timestamps pursuant to Rule 14.6); and

(vi) Material Terms of the Order;

(B) for the routing of an order:

(i) CAT-Order-ID;

(ii) date on which the order is routed;

(iii) time at which the order is routed (using timestamps pursuant to Rule 14.6);

(iv) SRO-Assigned Market Participant Identifier of the Industry Member routing the order;

(v) SRO-Assigned Market Participant Identifier of the Industry Member or Participant to which the order is being routed;

(vi) if routed internally at the Industry Member, the identity and nature of the department or desk to which the order is routed; and

(vii) Material Terms of the Order;

(C) for the receipt of an order that has been routed, the following information:

(i) CAT-Order-ID;

(ii) date on which the order is received;

(iii) time at which the order is received (using timestamps pursuant to Rule 14.6);

(iv) SRO-Assigned Market Participant Identifier of the Industry Member receiving the order;

(v) SRO-Assigned Market Participant Identifier of the Industry Member or Participant routing the order; and

(vi) Material Terms of the Order;

(D) if the order is modified or cancelled:

(i) CAT-Order-ID;

(ii) date the modification or cancellation is received or originated;

(iii) time at which the modification or cancellation is received or originated (using timestamps pursuant to Rule 14.6);

(iv) price and remaining size of the order, if modified;

(v) other changes in the Material Terms of the Order, if modified; and

(vi) whether the modification or cancellation instruction was given by the Customer or was initiated by the Industry Member;

(E) if the order is executed, in whole or in part:

(i) CAT-Order-ID;

(ii) date of execution;

(iii) time of execution (using timestamps pursuant to Rule 14.6);

(iv) execution capacity (principal, agency or riskless principal);

(v) execution price and size;

(vi) SRO-Assigned Market Participant Identifier of the Industry Member executing the order;

(vii) whether the execution was reported pursuant to an effective transaction reporting plan or the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information; and

(F) other information or additional events as may be prescribed pursuant to the CAT NMS Plan.

(2) Subject to paragraph (3) below, each Industry Member shall record and report to the Central Repository the following, as applicable ("Received Industry Member Data" and collectively with the information referred to in Rule 14.3(a)(1) "Industry Member Data")) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan:

(A) if the order is executed, in whole or in part:

(i) An Allocation Report;

(ii) SRO-Assigned Market Participant Identifier of the clearing broker or prime broker, if applicable; and

(iii) CAT-Order-ID of any contra-side order(s);

(B) if the trade is cancelled, a cancelled trade indicator; and

(C) for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, and in accordance with Rule 14.4, Customer

Account Information and Customer Identifying Information for the relevant Customer.

(3) Each Industry Member that is an Options Market Maker is not required to report to the Central Repository the Industry Member Data regarding the routing, modification or cancellation of its quotes in Listed Options. Each Industry Member that is an Options Market Maker shall report to the Exchange the time at which its quote in a Listed Option is sent to the Exchange (and, if applicable, any subsequent quote modification time and/or cancellation time when such modification or cancellation is originated by the Options Market Maker).

(b) Timing of Recording and Reporting

(1) Each Industry Member shall record Recorded Industry Member Data contemporaneously with the applicable Reportable Event.

(2) Each Industry Member shall report:

(A) Recorded Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on the Trading Day following the day the Industry Member records such Recorded Industry Member Data; and

(B) Received Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on the Trading Day following the day the Industry Member receives such Received Industry Member Data.

(3) Industry Members may, but are not required to, voluntarily report Industry Member Data prior to the applicable 8:00 a.m. Eastern Time deadline.

(c) Applicable Securities

(1) Each Industry Member shall record and report to the Central Repository the Industry Member Data as set forth in paragraph (a) of this Rule for each NMS Security registered or listed for trading on such exchange or admitted to unlisted trading privileges on such exchange.

(2) Each Industry Member shall record and report to the Central Repository the Industry Member Data as set forth in this paragraph (a) of this Rule for each Eligible Security for which transaction reports are required to be submitted to FINRA.

(d) Security Symbology

(1) For each exchange-listed Eligible Security, each Industry Member shall report Industry Member Data to the Central Repository using the symbology format of the exchange listing the security.

(2) For each Eligible Security that is not exchange-listed, each Industry Member shall report Industry Member Data to the Central Repository using such

symbology format as approved by the Operating Committee pursuant to the CAT NMS Plan.

(e) Error Correction

For each Industry Member for which errors in Industry Member Data submitted to the Central Repository have been identified by the Plan Processor or otherwise, such Industry Member shall submit corrected Industry Member Data to the Central Repository by 8:00 a.m. Eastern Time on T+3.

Rule 14.4. Consolidated Audit Trail – Customer Information Reporting

(a) Initial Set of Customer Information

Each Industry Member shall submit to the Central Repository the Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account prior to such Industry Member's commencement of reporting to the Central Repository and in accordance with the deadlines set forth in Rule 14.9.

(b) Daily Updates to Customer Information

Each Industry Member shall submit to the Central Repository any updates, additions or other changes to the Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account on a daily basis.

(c) Periodic Updates to Complete Set of Customer Information

On a periodic basis as designated by the Plan Processor and approved by the Operating Committee, each Industry Member shall submit to the Central Repository a complete set of Firm Designated IDs, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account.

(d) Error Correction

For each Industry Member for which errors in Firm Designated ID, Customer Account Information and Customer Identifying Information for each of its Customers with an Active Account submitted to the Central Repository have been identified by the Plan Processor or otherwise, such Industry Member shall submit corrected data to the Central Repository by 5:00 p.m. on T+3.

Rule 14.5. Consolidated Audit Trail – Industry Member Information Reporting

Each Industry Member shall submit to the Central Repository information sufficient to identify such Industry Member, including CRD number and LEI, if such LEI has been obtained, prior to such Industry Member's commencement of reporting to the

Central Repository and in accordance with the deadlines set forth in Rule 14.9, and keep such information up to date as necessary.

Rule 14.6. Consolidated Audit Trail - Time Stamps

(a) Millisecond Time Stamps

(1) Subject to paragraphs (a)(2) and (b), each Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in milliseconds.

(2) Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment.

(b) One Second Time Stamps/Electronic Order Capture

(i) Each Industry Member may record and report Manual Order Events to the Central Repository in increments up to and including one second, provided that each Industry Member shall record and report the time when a Manual Order Event has been captured electronically in an order handling and execution system of such Industry Member ("Electronic Capture Time") in milliseconds; and

(ii) Each Industry Member may record and report the time of Allocation Reports in increments up to and including one second.

Rule 14.7. Consolidated Audit Trail – Clock Synchronization Rule Violation

An Industry Member that engages in a pattern or practice of reporting Reportable Events outside of the required clock synchronization time period as set forth in this Rule Series without reasonable justification or exceptional circumstances may be considered in violation of this Rule.

Rule 14.8. Consolidated Audit Trail – Connectivity and Data Transmission

(a) Data Transmission

Each Industry Member shall transmit data as required under the CAT NMS Plan to the Central Repository utilizing such format(s) as may be provided by the Plan Processor and approved by the Operating Committee.

(b) Connectivity

Each Industry Member shall connect to the Central Repository using a secure method(s), including but not limited to private line(s) and virtual private network connection(s).

(c) CAT Reporting Agents

(1) Any Industry Member may enter into an agreement with a CAT Reporting Agent pursuant to which the CAT Reporting Agent agrees to fulfill the reporting obligations of such Industry Member under this Chapter XIV. Any such agreement shall be evidenced in writing, which shall specify the respective functions and responsibilities of each party to the agreement that are required to effect full compliance with the requirements of this Rule Series.

(2) All written documents evidencing an agreement described in subparagraph (1) shall be maintained by each party to the agreement.

(3) Each Industry Member remains primarily responsible for compliance with the requirements of this Chapter XIV, notwithstanding the existence of an agreement described in this paragraph.

Rule 14.9. Consolidated Audit Trail – Development and Testing

(a) Development

(1) Connectivity and Acceptance Testing

(i) Industry Members (other than Small Industry Members) shall begin connectivity and acceptance testing with the Central Repository no later than August 15, 2018.

(ii) Small Industry Members shall begin connectivity and acceptance testing with the Central Repository no later than August 15, 2019.

(2) Reporting Customer and Industry Member Information

(i) Industry Members (other than Small Industry Members) shall begin reporting Customer and Industry Member information, as required by Rules 14.4(a) and 14.5, respectively, to the Central Repository for processing no later than October 15, 2018.

(ii) Small Industry Members shall begin reporting Customer and Industry Member information, as required by Rules 14.4(a) and 14.5, respectively, to the Central Repository for processing no later than October 15, 2019.

(3) Submission of Order Data

(i) Industry Members (other than Small Industry Members)

(A) Industry Members (other than Small Industry Members) are permitted, but not required, to submit order data for testing purposes beginning no later than May 15, 2018.

(B) Industry Members (other than Small Industry Members) shall participate in the coordinated and structured testing of order submission, which will begin no later than August 15, 2018.

(ii) Small Industry Members

(A) Small Industry Members are permitted, but not required, to submit order data for testing purposes beginning no later than May 15, 2019.

(B) Small Industry Members shall participate in the coordinated and structured testing of order submission, which will begin no later than August 15, 2019.

(4) Submission of Options Market Maker Quote. Industry Members are permitted, but not required to, submit Quote Sent Time on Options Market Maker quotes, beginning no later than October 15, 2018.

(b) Testing

Each Industry Member shall participate in testing related to the Central Repository, including any industry-wide disaster recovery testing, pursuant to the schedule established pursuant to the CAT NMS Plan.

Rule 14.10. Consolidated Audit Trail - Recordkeeping

Each Industry Member shall maintain and preserve records of the information required to be recorded under this Rule Series for the period of time and accessibility specified in SEC Rule 17a-4(b). The records required to be maintained and preserved under this Rule may be immediately produced or reproduced on "micrographic media" as defined in SEC Rule 17a-4(f)(1)(i) or by means of "electronic storage media" as defined in SEA Rule 17a-4(f)(1)(ii) that meet the conditions set forth in SEC Rule 17a-4(f) and be maintained and preserved for the required time in that form.

Rule 14.11. Consolidated Audit Trail – Timely, Accurate and Complete Data

(a) General

Industry Members are required to record and report data to the Central Repository as required by this Rule Series in a manner that ensures the timeliness, accuracy, integrity and completeness of such data.

(b) LEIs

Without limiting the requirement set forth in paragraph (a), Industry Members are required to accurately provide the LEIs in their records as required by this Rule Series

and may not knowingly submit inaccurate LEIs to the Central Repository; provided, however, that this requirement does not impose any additional due diligence obligations on Industry Members with regard to LEIs for CAT purposes.

(c) Compliance with Error Rate

If an Industry Member reports data to the Central Repository with errors such that the error percentage exceeds the maximum Error Rate established by the Operating Committee pursuant to the CAT NMS Plan, then such Industry Member would not be in compliance with the rules set forth in this Chapter XIV.

(d) Compliance Thresholds

Each Industry Member shall be required to meet a separate compliance threshold which will be an Industry Member-specific rate that may be used as the basis for further review or investigation into the Industry Member's performance with regard to the CAT (the "Compliance Thresholds"). Compliance Thresholds will compare an Industry Member's error rate to the aggregate Error Rate over a period of time to be defined by the Operating Committee. An Industry's Member's performance with respect to its Compliance Threshold will not signify, as a matter of law, that such Industry Member has violated this Rule Series.

Rule 14.12 Consolidated Audit Trail – Compliance Dates

(a) General

Paragraphs (b) and (c) of this Rule set forth additional details with respect to the compliance dates of the rules set forth in this Chapter XIV. Unless otherwise noted, the Rules set forth in Chapter XIV are fully effective and ETP Holders must comply with their terms.

(b) Clock Synchronization

(1) each Industry Member shall comply with Rule 14.2 with regard to Business Clocks that capture time in milliseconds commencing on or before March 15, 2017.

(2) Each Industry Member shall comply with Rule 14.2 with regard to Business Clocks that do not capture time in milliseconds commencing on or before February 19, 2018.

(c) CAT Data Reporting

(1) Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository by November 15, 2018.

(2) Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository by November 15, 2019.

CHAPTER XV. Listed Securities and Other Exchange Products

Listed Securities

Rule 15.1. Applications

All applications for listing on the Exchange will be submitted to the Exchange's Secretary on a form prescribed by the Exchange.

Rule 15.2. Procedure

The Exchange shall determine whether the applicant meets the requirements for listing. In making such determination, the Exchange shall adhere to the following procedures:

(a) If the Exchange is satisfied that the applicant is qualified for listing pursuant to the provisions of this Chapter, the Exchange shall promptly notify, in writing, the applicant of the Exchange's determination, and the applicant will be approved for listing on the Exchange.

(b) If the Exchange is not satisfied that the applicant is qualified for listing pursuant to the provisions of this Chapter, the Exchange shall promptly notify, in writing, the applicant of the grounds for denying listing. The Board may reverse the determination that the applicant is not qualified for listing. If a majority of the Board specifically determines to reverse the determination to deny listing, the Board shall promptly notify the Exchange staff, who shall promptly notify the applicant that the Board has granted the applicant's application for listing.

(c) In considering applications for listing, the Exchange shall adhere to the following procedures:

(1) Where a listing application is granted by the Board, the Exchange shall promptly notify the applicant.

(2) The applicant shall be afforded an opportunity to be heard on the denial of listing pursuant to Chapter X of the Exchange Rules governing adverse action.

(3) The applicant must satisfy the requirements of this Chapter, including any portion of paragraphs (b) or (c) of Rule 10A-3 of the Act pertaining to audit committees, which cannot be exempted or otherwise waived other than as provided within the rules.

Rule 15.3. Requirements

No security shall be listed on the Exchange unless the issuer thereof shall meet the following requirements:

(a) In the case of common stock have:

(1) net tangible assets of at least $2,000,000;

(2) at least 1000 recordholders of the issue for which trading privileges have been granted or are requested;

(3) outstanding at least 250,000 shares for which trading privileges have been granted or are requested exclusive of the holdings of officers and directors;

(4) demonstrated net earnings of $200,000 annually before taxes for two prior years excluding non-recurring income; and

(5) been actively engaged in business and have been so operating for at least three (3) consecutive years.

(b) In the case of preferred stock:

(1) The listing of issues is considered on a case by case basis, in light of the suitability of the issue for trading on the Exchange. The Exchange, as a general rule, will not consider listing the convertible preferred stock of a company unless its common stock is also listed on the Exchange, another exchange that is registered pursuant to Section 6 of the Act or a facility of a national securities association registered pursuant to Section 15A of the Act.

(2) An issuer applying for listing of a preferred stock is expected to meet the following criteria:

(i) The issuer appears to be in a financial position sufficient to satisfactorily service the dividend requirements for the preferred stock and meets the requirements set forth in paragraph (a) above.

(ii) In the case of an issuer whose common stock is listed on the Exchange, another exchange that is registered pursuant to Section 6 of the Act or a facility of a national securities association registered pursuant to Section 15A of the Act, the following guidelines apply:

Shares Publicly Held	100,000
Aggregate Market Value/Price	$2,000,000/$10

For issuers of preferred stock not listed as noted above, the Exchange has established different guidelines to ensure adequate public interest as follows:

Preferred Shares Publicly Held	400,000
Public Round-Lot Holders	800
Aggregate Market Value/Price	$4,000,000/$10

(iii) The Exchange will not list convertible preferred issues containing a provision which gives the company the right, at its discretion, to reduce the conversion price for periods of time or from time to time unless the company establishes a minimum period of ten business days within which such price reduction will be in effect.

(c) In the case of warrants:

(1) at least 250,000 outstanding, exclusive of the holdings of officers and directors; and

(2) have a class of common stock that would otherwise be eligible for listing on the Exchange or is already listed on the Exchange.

(d) In the case of bonds:

(1) a principal amount outstanding of at least $2,000,000;

(2) have at least an aggregate market value of at least $2,000,000;

(3) have at least 250 recordholders and, in the case of convertible debt, a larger distribution may be required; and

(4) have a class of common stock that would otherwise be eligible for listing on the Exchange or is already listed on the Exchange.

(e) In the case of the listing of any security not otherwise covered by the criteria of the foregoing subsections or in the Exchange Rules, provided the issue is otherwise suited for trading, such issues will be evaluated for listing against the following criteria;

(1) the issuer has assets in excess of $100 million and stockholders' equity of at least $10 million. In the case of an issuer that is unable to satisfy the earnings criteria set forth in paragraph (a), the Exchange generally will require the issuer to have the following:

(i) assets in excess of $200 million and stockholders' equity of at least $10 million; or

(ii) assets in excess of $100 million and stockholders' equity of at least $20 million;

(2) the issue have a minimum public distribution of one million trading units including a minimum of 400 holders, or if traded in thousand dollar denominations, a minimum of 100 holders;

(3) the issue have a principal amount/aggregate market value of not less than $20 million;

(4) where the instrument contains cash settlement provisions, settlement must be made in U.S. dollars; and

(5) where the instrument contains redemption provisions, the redemption price may not be below $3 per unit.

Prior to commencement of trading of securities admitted to listing under this subsection (e), the Exchange will evaluate the nature and complexity of the issue and, if appropriate, distribute a circular to the ETP Holders providing guidance regarding ETP Holder compliance responsibilities when handling transactions in such securities.

(f) Limited Partnerships - No security issued in a limited partnership rollup transaction (as defined by Section 14(h) of the Act), shall be eligible for listing unless:

(1) the rollup transaction was conducted in accordance with procedures designed to protect the rights of limited partners as provided in Section 6(b)(9) of the Act, as it may from time to time be amended; and

(2) a broker-dealer which is a member of a national securities association subject to Section 15A(b)(12) of the Act participates in the rollup transaction.

The applicant shall further provide the Exchange with an opinion of counsel that the rollup transaction was conducted in accordance with the procedures established by such association.

Rule 15.4. Listing Standards Relating to Audit Committees

(a) In addition to the requirements contained in Rule 15.3, each issuer must have an audit committee. The Exchange shall not initially list or continue listing any securities of an issuer that is not in compliance with the requirements of this Rule 15.4 or any portion of paragraphs (b) or (c) of Rule 10A-3 of the Act pertaining to audit committees. In addition to the requirements of Rule 10A-3 of the Act:

(1) Each audit committee shall consist of at least three directors, each of whom shall be financially literate, as such qualification is interpreted by the

issuer's board of directors in its business judgment, or must become financially literate within a reasonable period of time after his or her appointment to the audit committee. At least one member of the audit committee must have accounting or related financial management expertise, as the issuer's board of directors interprets such qualification in its business judgment.

(2) The board of directors of each issuer must adopt and approve a formal written charter for its audit committee. The audit committee must review and reassess the adequacy of the audit committee charter on an annual basis. The charter must specify:

(i) the scope of the audit committee's responsibilities and how it carries out those responsibilities, including structure, processes, and membership requirements; and

(ii) that the audit committee is responsible for ensuring that the outside auditor submits on a periodic basis to the audit committee a formal written statement delineating all relationships between the outside auditor and the issuer and that the audit committee is responsible for actively engaging in a dialogue with the outside auditor with respect to any disclosed relationships or services that may impact the objectivity and independence of the outside auditor and for recommending that the issuer's board of directors take appropriate action in response to the outside auditor's report to satisfy itself of the outside auditor's independence.

(b) As part of the initial listing process, and with respect to any subsequent changes to the composition of the audit committee, and otherwise approximately once each year, each issuer should provide the Exchange written confirmation regarding:

(1) any determination that the issuer has made regarding the independence of its audit committee members;

(2) the financial literacy of the audit committee members;

(3) the determination that at least one of the audit committee members has accounting or related financial management expertise; and

(4) the annual review and reassessment of the adequacy of the audit committee charter.

(c) If a member of an issuer's audit committee ceases to be independent in accordance with the requirements of Rule 10A-3 for reasons outside the committee member's reasonable control, that person, with notice by the issuer to the Exchange, may remain an audit committee member of the issuer until the earlier of the next annual

shareholders meeting of the issuer or one year from the occurrence of the event that caused the committee member to be no longer independent.

(d) An issuer must notify the Exchange promptly after an executive officer or the issuer becomes aware of any material noncompliance by the issuer with the requirements of this Rule 15.4 or Rule 10A-3 of the Act.

Rule 15.5. Other Listing Standards

(a) General Application. Companies listed on the Exchange must comply with certain standards regarding corporate governance as codified in this Rule. Consistent with requirements of the Sarbanes-Oxley Act of 2002, certain provisions of this Rule are applicable to some listed companies but not to others.

(1) Equity Listings. This Rule applies in full to all companies listing common equity securities, with the following exceptions:

(a) Controlled Companies. A company of which more than 50% of the voting power is held by an individual, a group or another company need not comply with the requirements of Rule 15.5(d)(1), (4) or (5). A controlled company that chooses to take advantage of any or all of these exemptions must disclose that choice, that it is a controlled company and the basis for the determination in its annual proxy statement or, if the company does not file an annual proxy statement, in the company's annual report on Form 10-K filed with the Commission. Controlled companies must comply with the remaining provisions of this Rule.

(b) Limited Partnerships and Companies in Bankruptcy. Due to their unique attributes, limited partnerships and companies in bankruptcy proceedings need not comply with the requirements of Rule 15.5(d)(1), (4) or (5). However, all limited partnerships (at the general partner level) and companies in bankruptcy proceedings must comply with the remaining provisions of this Rule.

(c) Closed-End and Open-End Funds. The Exchange considers that many of the significantly expanded standards and requirements provided for in Rule 15.5 to be unnecessary for closed-end and open-end management investment companies that are registered under the Investment Company Act of 1940, given the pervasive federal regulation applicable to them. However, registered closed-end funds must comply with the requirements of Rule 15.5(d)(6), (7)(a) and (c), and (12). Note, however, that in view of the common practice to utilize the same directors for boards in the same fund complex, closed-end funds will not be required to comply with the disclosure requirement in the second paragraph of the Interpretations and Policies

to Rule 15.5(d)(7)(a) which calls for disclosure of the board's determination with respect to simultaneous service on more than three public company audit committees. However, the other provisions of that paragraph will apply.

Business development companies, which are a type of closed-end management investment company defined in Section 2(a)(48) of the Investment Company Act of 1940 that are not registered under that Act, are required to comply with all of the provisions of Rule 15.5 applicable to domestic issuers other than Rule 15.5(d)(2) and (7)(b). For purposes of Rule 15.5(d)(1), (3), (4), (5), and (9), a director of a business development company shall be considered to be independent if he or she is not an "interested person" of the company, as defined in Section 2(a)(19) of the Investment Company Act of 1940.

As required by Rule 10A-3 under the Act, open-end funds (which can be listed as Investment Company Units, more commonly known as Exchange Traded Funds or ETFs) are required to comply with the requirements of Rule 15.5(d)(6) and (12)(b).

Rule 10A-3(b)(3)(ii) under the Act requires that each audit committee must establish procedures for the confidential, anonymous submission by employees of the listed issuer of concerns regarding questionable accounting or auditing matters. In view of the external management structure often employed by closed-end and open-end funds, the Exchange also requires the audit committees of such companies to establish such procedures for the confidential, anonymous submission by employees of the investment adviser, administrator, principal underwriter, or any other provider of accounting related services for the management investment company, as well as employees of the management investment company. This responsibility must be addressed in the audit committee charter.

(d) Other Entities. Except as otherwise required by Rule 10A-3 under the Act (for example, with respect to open-end funds), Rule 15.5 does not apply to passive business organizations in the form of trusts (such as royalty trusts) or to derivatives and special purpose securities. To the extent that Rule 10A-3 applies to a passive business organization, listed derivative or special purpose security, such entities are required to comply with Rule 15.5(d)(6) and (12)(b).

(e) Foreign Private Issuers. Listed companies that are foreign private issuers (as such term is defined in Rule 3b-4 under the Act) are permitted to follow home country practice in lieu of the provisions of this Rule 15.5, except that such companies are required to comply with the requirements of Rule 15.5(d)(6), (11) and (12)(b).

(2) Preferred and Debt Listings. Rule 15.5 does not generally apply to companies listing only preferred or debt securities on the Exchange. To the extent required by Rule 10A-3 under the Act, all companies listing only preferred or debt securities on the Exchange are required to comply with the requirements of Rule 15.5(d)(6) and (12)(b).

(3) Dual and Multiple Listings. At any time when an issuer has a class of securities that is listed on a national securities exchange or national securities association subject to requirements substantially similar to those set forth in this Rule 15.5, and that class of security has not been suspended from trading on that market, the issuer shall not be required to separately meet the requirements set forth in this Rule 15.5, except for the requirements of Rule 13(d)(6) and (7), below (audit committees) and with the notification requirements of Rule 15.5(d)(12)(B), as it relates to their audit committees, with respect to that class of securities or any other class of securities. Governance requirements of other markets will be considered to be substantially similar to the requirements of this Rule 15.5 if they are adopted by the New York Stock Exchange ("NYSE") or the National Association of Securities Dealers (for the Nasdaq National Market or SmallCap Market) or if they otherwise require, subject to exceptions approved by the Commission, that the issuer maintain (a) a board of directors, a majority of whom are independent directors (50% of whom are independent directors, for a small business issuer); (2) a nominating committee or other body, a majority of whom are independent directors; (3) a compensation committee or other body, a majority of whom are independent directors; and (4) a code of business conduct and ethics that complies with the definition of a "code of ethics" set out in Section 406(c) of the Sarbanes-Oxley Act and the rules thereunder (17 C.F.R. 228.406 and 17 C.F.R. 229.406).

Similarly, when an issuer has a class of securities that is listed on a national securities exchange or national securities association subject to requirements substantially similar to those set forth in this Rule 15.5, and that class of security has not been suspended from trading on that market, a direct or indirect consolidated subsidiary of the issuer, or an at least 50% beneficially-owned subsidiary of the issuer, shall not be required to separately meet the requirements set forth in this Rule 15.5 with respect to any class of securities it issues, except classes of equity securities (other than non-convertible, non-participating preferred securities) of such subsidiary.

(b) Transition Periods. Companies listing in conjunction with their initial public offering will be permitted to phase in their independent nomination and compensation committees on the same schedule as is permitted pursuant to Rule 10A-3 under the Act for audit committees, that is one independent member at the time of listing, a majority of

independent members within 90 days of listing and fully independent committees within one year. It should be noted, however, that investment companies are not afforded these exemptions under Rule 10A-3 under the Act. Companies listing in conjunction with their initial public offering will be required to meet the majority independent board requirement within 12 months of listing. For purposes of Rule 15.5 other than Rule 15.5(d)(6) and (12)(b), a company will be considered to be listing in conjunction with an initial public offering if, immediately prior to listing, it does not have a class of common stock registered under the Act. The Exchange will also permit companies that are emerging from bankruptcy or have ceased to be controlled companies within the meaning of Rule 15.5 to phase in independent nomination and compensation committees and majority independent boards on the same schedule as companies listing in conjunction with an initial public offering. However, for purposes of Rule 15.5(d)(6) and (12)(b), a company will be considered to be listing in conjunction with an initial public offering only if it meets the conditions of Rule 10A-3(b)(1) (iv) (a) under the Act, namely, that the company was not, immediately prior to the effective date of a registration statement, required to file reports with the Commission pursuant to Section 13(a) or 15(d) of the Act.

Companies listing upon transfer from another market, or that are listing a security that is listed on another market or markets, have 12 months from the date of transfer in which to comply with any requirement to the extent the market on which they were listed did not have the same requirement. To the extent the other market has a substantially similar requirement but also had a transition period from the effective date of that market's rule, which period had not yet expired, the company will have the same transition period as would have been available to it on the other market. This transition period for companies transferring from another market or that are dually or multiply listing securities will not apply to the requirements of Rule 15.5(d)(6) unless a transition period is available pursuant to Rule 10A-3 under the Act.

Transition Periods for Compensation Committee Requirements

Listed companies will have until the earlier of their first annual meeting after January 15, 2014, or October 31, 2014, to comply with the new director independence standards with respect to compensation committees contained in Rule 15.5(d)(5).

(c) References to Form 10-K. There are provisions in this Rule 15.5 that call for disclosure in a company's Form 10-K under certain circumstances. If a company subject to such a provision is not a company required to file a Form 10-K, then the provision shall be interpreted to mean the annual periodic disclosure form that the company does file with the Commission. For example, for a closed-end fund, the appropriate form would be the annual Form N-CSR.

(d) Listed Company Corporate Governance Requirements.

(1) Listed companies must have a majority of independent directors.

Interpretations and Policies: Effective boards of directors exercise independent judgment in carrying out their responsibilities. Requiring a majority of independent directors will increase the quality of board oversight and lessen the possibility of damaging conflicts of interest.

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(2) In order to tighten the definition of "independent director" for purposes of these standards:

(a) No director qualifies as "independent" unless the board of directors affirmatively determines that the director has no material relationship with the listed company (either directly or as a partner, shareholder or officer of an organization that has a relationship with the company). Companies must disclose these determinations.

Interpretations and Policies: It is not possible to anticipate, or explicitly to provide for, all circumstances that might signal potential conflicts of interest, or that might bear on the materiality of a director's relationship to a listed company (references to "company" would include any parent or subsidiary in a consolidated group with the company). Accordingly, it is best that boards making "independence" determinations broadly consider all relevant facts and circumstances. In particular, when assessing the materiality of a director's relationship with the company, the board should consider the issue not merely from the standpoint of the director, but also from that of persons or organizations with which the director has an affiliation. Material relationships can include commercial, industrial, banking, consulting, legal, accounting, charitable and familial relationships, among others. However, as the concern is independence from management, the Exchange does not view ownership of even a significant amount of stock, by itself, as a bar to an independence finding.

The directors who have been determined to be independent must be disclosed in the company's annual proxy statement or, if the company does not file an annual proxy statement, in the company's annual report on Form 10-K filed with the Commission. The basis for a board determination that a relationship is not material must also be disclosed in the company's annual proxy statement or, if the company does not file an annual proxy statement, in the company's annual report on Form 10-K filed with the Commission. In this regard, a board may adopt and disclose categorical standards to assist it in making determinations of independence and may make a general disclosure if a director meets these standards. Any determination of independence for a director who does not meet these standards must be specifically explained. A company must disclose any standard it adopts. It may then make the general statement that the independent directors meet the standards set by the board without detailing particular aspects of the immaterial

relationships between individual directors and the company. In the event that a director with a business or other relationship that does not fit within the disclosed standards is determined to be independent, a board must disclose the basis for its determination in the manner described above. This approach provides investors with an adequate means of assessing the quality of a board's independence and its independence determinations while avoiding excessive disclosure of immaterial relationships.

(b) In addition:

(i) A director who is an employee, or whose immediate family member is an executive officer, of the company is not independent until three years after the end of such employment relationship.

Interpretations and Policies: Employment as an interim Chairman or CEO shall not disqualify a director from being considered independent following that employment.

(ii) A director who receives, or whose immediate family member receives, more than $100,000 per year in direct compensation from the listed company, other than director and committee fees and pension or other forms of deferred compensation for prior service (provided such compensation is not contingent in any way on continued service), is not independent until three years after he or she ceases to receive more than $100,000 per year in such compensation.

Interpretations and Policies: Compensation received by a director for former service as an interim Chairman or CEO need not be considered in determining independence under this test. Compensation received by an immediate family member for service as a non-executive employee of the listed company need not be considered in determining independence under this test.

(iii) A director who is affiliated with or employed by, or whose immediate family member is affiliated with or employed in a professional capacity by, a present or former internal or external auditor of the company is not "independent" until three years after the end of the affiliation or the employment or auditing relationship.

(iv) A director who is employed, or whose immediate family member is employed, as an executive officer of another company where any of the listed company's present executives serve on that company's compensation committee is not "independent" until three years after the end of such service or the employment relationship.

(v) A director who is an executive officer or an employee, or whose immediate family member is an executive officer, of a company that makes payments to, or receives payments from, the listed company for property or services in an amount which, in any single fiscal year, exceeds the greater of (A) $200,000, (B) 5% of such other company's consolidated gross revenues, or (C), for companies whose securities are also listed on the NYSE, the amount permitted under NYSE rules, is not "independent" until three years after falling below such threshold.

Interpretations and Policies: In applying the test in Rule 15.5(d)(2)(b)(v), both the payments and the consolidated gross revenues to be measured shall be those reported in the last completed fiscal year. The look-back provision for this test applies solely to the financial relationship between the listed company and the director or immediate family member's current employer; a listed company need not consider former employment of the director or immediate family member.

Charitable organizations shall not be considered "companies" for purposes of Rule 15.5(d)(2)(b)(v), provided however that a listed company shall disclose in its annual proxy statement, or if the listed company does not file an annual proxy statement, in the company's annual report on Form 10-K filed with the Commission, any charitable contributions made by the listed company to any charitable organization in which a director serves as an executive officer if, within the preceding three years, contributions in any single fiscal year exceeded the greater of (A) $200,000, (B) 5% of such charitable organization's consolidated gross revenues, or (C), for companies whose securities are also listed on the NYSE, the amount permitted under NYSE rules. Listed company boards are reminded of their obligations to consider the materiality of any such relationship in accordance with Rule 15.5(d)(2)(a) above.

General Interpretations and Policies to Rule 15.5(d)(2)(b): An "immediate family member" includes a person's spouse, parents, children, siblings, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law, and anyone (other than domestic employees) who shares such person's home. When applying the look back provisions in Rule 15.5(d)(2)(b), listed companies need not consider individuals who are no longer immediate family members as a result of legal separation or divorce, or those who have died or become incapacitated. In addition, references to the "company" would include any parent or subsidiary in a consolidated group with the company.

(3) To empower non-management directors to serve as a more effective check on management, the non-management directors of each company must meet at regularly scheduled executive sessions without management.

Interpretations and Policies: To promote open discussion among the non-management directors, companies must schedule regular executive sessions in which those directors meet without management participation. "Non-management" directors are all those who are not company officers (as that term is defined in Rule 16a-a(f) under the Securities Act of 1933), and includes such directors who are not independent by virtue of a material relationship, former status or family membership, or for any other reason.

Regular scheduling of such meetings is important not only to foster better communication among non-management directors, but also to prevent any negative inference from attaching to the calling of executive sessions. There need not be a single presiding director at all executive sessions of the non-management directors. If one director is chosen to preside at these meetings, his or her name must be disclosed in the company's annual proxy statement or, if the company does not file an annual proxy statement, in the company's annual report on Form 10-K filed with the Commission. Alternatively, a company may disclose the procedure by which a presiding director is selected for each executive session. For example, a company may wish to rotate the presiding position among the chairs of board committees.

In order that interested parties may be able to make their concerns known to the non-management directors, a company must disclose a method for such parties to communicate directly with the presiding director or with the non-management directors as a group. Companies may, if they wish, utilize for this purpose the same procedures they have established to comply with the requirement of Rule 10A-3 (b)(3) under the Act, as applied to listed companies through Rule 15.5(d)(6).

While this Rule 15.5(d)(3) refers to meetings of non-management directors, if that group includes directors who are not independent under this Rule 15.5, listed companies should at least once a year schedule an executive session including only independent directors.

(4) (a) Listed companies must have a nominating/corporate governance committee composed entirely of independent directors.

(b) The nominating/corporate governance committee must have a written charter that addresses:

(i) the committee's purpose and responsibilities - which at minimum, must be to: identify individuals qualified to become board members, consistent with criteria approved by the board, and to select, or to recommend that the board select, the director nominees for the next annual meeting of shareholders; develop and recommend to the board a set of corporate governance principles applicable to the corporation; and oversee the evaluation of the board and management; and

(ii) an annual performance evaluation of the committee.

Interpretations and Policies: A nominating/corporate governance committee is central to the effective functioning of the board. New director and board committee nominations are among a board's most important functions. Placing this responsibility in the hands of an independent nominating/corporate governance committee can enhance the independence and quality of nominees. The committee is also responsible for taking a leadership role in shaping the corporate governance of a corporation.

If a company is legally required by contract or otherwise to provide third parties with the ability to nominate directors (for example, preferred stock rights to elect directors upon a dividend default, shareholder agreements, and management agreements), the selection and nomination of such directors need not be subject to the nominating committee process.

The nominating/corporate governance committee charter should also address the following items: committee member qualifications; committee member appointment and removal; committee structure and operations (including authority to delegate to subcommittees); and committee reporting to the board. In addition, the charter should give the nominating/corporate governance committee sole authority to retain and terminate any search firm to be used to identify director candidates, including sole authority to approve the search firm's fees and other retention terms.

Boards may allocate the responsibilities of the nominating/corporate governance committee to committees of their own denomination, provided that the committees are composed entirely of independent directors. Any such committee must have a published committee charter.

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(5) Except as provided in paragraph (a) above, the Exchange shall prohibit the initial or continued listing of any equity security of a listed company that is not in compliance with the following requirements:

(a) Listed Companies must have a Compensation Committee as defined in paragraph (e) below. The Compensation Committee must be composed entirely of independent directors, who are also members of the listed company's board of directors. For purposes of determining the independence of a member of the Compensation Committee, in addition to determining whether the director is an independent director as defined in paragraphs 15.5(d)(2)(a)-(b), the listed companies must consider the following factors:

(i) the source of compensation of a member of the Compensation Committee, including any consulting, advisory or other compensatory fee paid by the listed company to such member; and

(ii) whether a member of the Compensation Committee is affiliated with the listed company, a subsidiary of the listed company or an affiliate of a subsidiary of the listed company.

(b) The Compensation Committee must have a written charter that addresses:

(i) the Compensation Committee's purpose, responsibilities and authority which at minimum must be to have direct responsibility and authority to:

(A) review and approve corporate goals and objectives relevant to CEO compensation, evaluate the CEO's performance in light of those goals and objectives, and, either as a Compensation Committee or together with the other independent directors (as directed by the board), determine and approve the CEO's compensation level based on this evaluation;

(B) make recommendations to the board with respect to non-CEO compensation, incentive compensation plans and equity-based plans;

(C) produce a compensation committee report on executive compensation as required by the Commission to be included in the company's annual proxy statement or annual report on Form 10-K filed with the Commission;

(D) retain or obtain the advice of compensation consultants, legal counsel and other compensation advisers as determined in its sole discretion;

(E) appoint, compensate and oversee the work of any compensation consultant, legal counsel and other adviser retained by the compensation committee; and

(F) select a compensation consultant, legal counsel or other adviser to the Compensation Committee only after considering the following relevant factors that may affect the independence of the compensation adviser:

(1) the provision of other services to the issuer by the person that employs the compensation consultant, legal counsel or adviser;

(2) the amount of fees received from the issuer by the person that employs the compensation consultant, legal counsel or other adviser, as a percentage of the employer's total revenue;

(3) the policies and procedures of the person that employs the compensation consultant, legal counsel or other adviser that are designed to prevent conflicts of interest;

(4) any business or personal relationship of the compensation consultant, legal counsel or other adviser with a member of the Compensation Committee;

(5) any stock of the issuer owned by the compensation consultant, legal counsel or other adviser; and

(6) any business or personal relationship of the compensation consultant, legal counsel, other adviser

or person employing the advisor with an executive officer of the issuer.

(ii) an annual performance evaluation of the Compensation Committee.

(c) Listed companies must provide for appropriate funding, as determined by the Compensation Committee, for payment of reasonable compensation to a compensation consultant, legal counsel or any other adviser retained by the Compensation Committee.

(d) Listed companies that fail to comply with the requirements under this Section will be subject to the delisting procedures set forth in Rule 15.7 unless the deficiencies are cured within forty-five days from the date of notification by the Exchange. However, if a member of the Compensation Committee ceases to be independent for reasons outside of the member's control, that person, with notice by the listed company to the Exchange may remain a Compensation Committee member of the listed company until the earlier of the next annual shareholders' meeting of the listed company or one year from the occurrence of the event that caused the member to be no longer independent.

(e) A Smaller Reporting Company, as defined in Rule 12b-2 under the Act, is not subject to considering the requirements regarding the source of compensation and affiliations of Rule 15.5(d)(5)(a)(i) and (ii).

Small Company that Ceases to Qualify as a Smaller Reporting Company

Under SEC Rule 12b-2, a company tests its status as a smaller reporting company on an annual basis at the end of its most recently completed second fiscal quarter (hereinafter, for purposes of this subsection, the "Smaller Reporting Company Determination Date"). A Smaller Reporting Company with a public float of $75 million or more as of the last business day of its second fiscal quarter will cease to be a Smaller Reporting Company as of the beginning of the fiscal year following the Smaller Reporting Company Determination Date. The Compensation Committee of a company that has ceased to be a Smaller Reporting Company shall be required to comply with Rule 15.5(d)(5)(b)(i)(F) as of six months from the date it ceases to be a smaller reporting company and must have:

• one member of its compensation committee that meets the independence standard of Section 15.5(d)(5)(a)(i) and (ii) within six months of that date;

• a majority of directors on its compensation committee meeting those requirements within nine months of that date; and

• a compensation committee comprised solely of members that meet those requirements within twelve months of that date.

(f) Definitions: For purposes of this Section the below term shall have the following meaning:

Compensation Committee. A committee that oversees executive compensation, whether or not such committee also performs other functions or is formally designated as a compensation committee.

Interpretations and Policies: In determining the long-term incentive component of CEO compensation, the Committee should consider the company's performance and relative shareholder return, the value of similar incentive awards to CEOs at comparable companies, and the awards given to the listed company's CEO in past years. To avoid confusion, note that the Compensation Committee is not precluded from approving awards (with or without ratification of the board) as may be required to comply with applicable tax laws.

The Compensation Committee charter should also address the following items: Committee member qualifications; committee member appointment and removal; committee structure and operations (including authority to delegate to subcommittees); and committee reporting to the board.

Additionally, if a compensation consultant is to assist in the evaluation of director, CEO or senior executive compensation, the Compensation Committee shall be directly responsible for appointment, compensation and oversight of the work of any compensation consultant, independent legal counsel and other adviser retained by the compensation committee.

Nothing in this provision should be construed as precluding discussion of CEO compensation with the board generally, as it is not the intent of this standard to impair communication among members of the board.

Nothing in this Rule 15.5(5)(b) shall be construed to require the compensation committee to implement or act consistently with the advice or recommendations of the compensation consultant, legal counsel or other adviser to the compensation committee; or to affect the

ability or obligation of the compensation committee to exercise its own judgment in fulfillment of the duties of the compensation committee.

The compensation committee is required to conduct the independence assessment outlined in Rule 15.5(5)(b)(i)(F) with respect to any compensation consultant, legal counsel or other adviser, other than in-house legal counsel and any other in-house adviser whose role is limited to the following activities for which no disclosure would be required under Item 407(e)(3)(iii) of Regulation S-K: consulting on any broad-based plan that does not discriminate in scope, terms, or operation, in favor of executive officers or directors of the listed company, and that is available generally to all salaried employees; or providing information that either is not customized for a particular company or that is customized based on parameters that are not developed by the compensation consultant, and about which the compensation consultant does not provide advice.

Nothing in this Rule requires a compensation consultant, legal counsel or other compensation adviser to be independent, only that the compensation committee consider the enumerated independence factors before selecting or receiving advice from a compensation adviser. The compensation committee may select or receive advice from any compensation adviser they prefer including ones that are not independent, after considering the six independence factors outlined in Rule 15.5(5)(b)(i)(F)(1)-(6).

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(6) Listed companies must have an audit committee that satisfies the requirements of Rule 10A-3 under the Act and this Chapter.

Interpretations and Policies: The Exchange will apply the requirements of Rule 10A-3 in a manner consistent with the guidance provided by the Commission in Securities Exchange Act Release No. 34-47654 (April 1, 2003). Without limiting the generality of the foregoing, as provided in Rule 15.4(d), the Exchange will provide companies the opportunity to cure defects provided in Rule 10A-3(a)(3) under the Act.

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(7) (a) In accordance with Rule 15.4(a)(1), the audit committee must have a minimum of three members.

Interpretations and Policies: Each member of the audit committee must be financially literate, as such qualification is interpreted by the company's board in its business judgment, or must become financially literate within a reasonable period of time after his

or her appointment to the audit committee. In addition, at least one member of the audit committee must have accounting or related financial management expertise, as the company's board interprets such qualification in its business judgment. While the Exchange does not require that a listed company's audit committee include a person who satisfies the definition of audit committee financial expert set out in Item 401 (h) of Regulation S-K, a board may presume that such a person has accounting or related financial management expertise.

Because of the audit committee's demanding role and responsibilities, and the time commitment attendant to committee membership, each prospective audit committee member should evaluate carefully the existing demands on his or her time before accepting this important assignment. Additionally, if an audit committee member simultaneously serves on the audit committees of more than three public companies, and the listed company does not limit the number of audit committees on which its audit committee members serve, then in each case, the board must determine that such simultaneous service would not impair the ability of such member to effectively serve on the listed company's audit committee and disclose such determination in the company's annual proxy statement or, if the company does not file an annual proxy statement, in the company's annual report on Form 10-K filed with the Commission.

(b) In addition to any requirement of Rule 10A-3(b)(1) of the Act, all audit committee members must satisfy the requirements for independence set out in Rule 15.5(d)(2).

(c) In accordance with Rule 15.4(a)(2), the audit committee must have a written charter. In addition to the requirements of Rule 15.4(a)(2), the charter must address the following:

(i) the committee's purpose - which, at minimum, must be to:
(A) assist board oversight of (1) the integrity of the company's financial statements, (2) the company's compliance with legal and regulatory requirements, (3) the independent auditor's qualifications and independence and (4) the performance of the company's internal audit function and independent auditors; and

(B) prepare an audit committee report as required by the Commission to be included in the company's annual proxy statement;

(ii) an annual performance evaluation of the audit committee; and

(iii) the duties and responsibilities of the audit committee - which, at a minimum must include those set out in Rule 10A-3(b)(2), (3),

(4) and (5) of the Act and in Rule 15.4, as well as include that the committee:

(A) at least annually, obtain and review a report by the independent auditor describing: the firm's internal quality-control procedures; any material issues raised by the most recent internal quality-control review, or peer review, of the firm or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, respecting one or more independent audits carried out by the firm, and any steps taken to deal with any such issues; and (to assess the auditor's independence) all relationships between the independent auditor and the company;

Interpretations and Policies: After reviewing the foregoing report and the independent auditor's work throughout the year, the audit committee will be in a position to evaluate the auditor's qualifications, performance and independence. This evaluation should include the review and evaluation of the lead partner of the independent auditor. In making its evaluation, the audit committee should take into account the opinions of management and the company's internal auditors (or other personnel responsible for the internal audit function). In addition to assuring the regular rotation of the lead audit partner as required by law, the audit committee should further consider whether, in order to assure continuing auditor independence, there should be regular rotation of the audit firm itself. The audit committee should present its conclusions with respect to the independent auditor to the full board.

(B) discuss the company's annual audited financial statements and quarterly financial statements with management and the independent auditor, including the company's disclosures under "Management's Discussion and Analysis of Financial Condition and Results of Operations"

(C) discuss the company's earnings press releases, as well as financial information and earnings guidance provided to analysts and rating agencies;

Interpretations and Policies: The audit committee's responsibility to discuss earnings releases, as well as financial information and earnings guidance, may be done generally (i.e., discussion of the types of information to be disclosed and the type of presentation to

be made). The audit committee need not discuss in advance each earnings release or each instance in which a company may provide earnings guidance.

(D) discuss policies with respect to risk assessment and risk management;

Interpretations and Policies: While it is the job of the CEO and senior management to assess and manage the company's exposure to risk, the audit committee must discuss guidelines and policies to govern the process by which this is handled. The audit committee should discuss the company's major financial risk exposures and the steps management has taken to monitor and control such exposures. The audit committee is not required to be the sole body responsible for risk assessment and management, but, as stated above, the committee must discuss guidelines and policies to govern the process by which risk assessment and management is undertaken. Many companies, particularly financial companies, manage and assess their risk through mechanisms other than the audit committee. The processes these companies have in place should be reviewed in a general manner by the audit committee, but they need not be replaced by the audit committee.

(E) meet separately, periodically, with management, with internal auditors (or other personnel responsible for the internal audit function) and with independent auditors;

Interpretations and Policies: To perform its oversight functions most effectively, the audit committee must have the benefit of separate sessions with management, the independent auditors and those responsible for the internal audit function. As noted herein, all listed companies must have an internal audit function. These separate sessions may be more productive than joint sessions in surfacing issues warranting committee attention.

(F) review with the independent auditor any audit problems or difficulties and management's response;

Interpretations and Policies: The audit committee must regularly review with the independent auditor any difficulties the auditor encountered in the course of the audit work, including any restrictions on the scope of the independent auditor's activities or on access to requested information, and any significant disagreements with management. Among the items the audit committee may want to review with the auditor are: any accounting adjustments that were noted or proposed by the auditor but were "passed" (as immaterial or otherwise); any communications between the audit team and the audit firm's national office respecting auditing or accounting issues presented by the engagement; and any "management" or "internal control" letter issued, or proposed to be issued, by the audit firm to the company. The review should also include discussion of the responsibilities, budget and staffing of the company's internal audit function.

(G) set clear hiring policies for employees or former employees of the independent auditors; and

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Interpretations and Policies: Employees or former employees of the independent auditor are often valuable additions to corporate management. Such individuals' familiarity with the business, and personal rapport with the employees, may be attractive qualities when filling a key opening. However, the audit committee should set hiring policies taking into account the pressures that may exist for auditors consciously or subconsciously seeking a job with the company they audit.

(H) report regularly to the board of directors.

Interpretations and Policies: The audit committee should review with the full board any issues that arise with respect to the quality or integrity of the company's financial statements, the company's compliance with legal or regulatory requirements, the performance and independence of the company's independent auditors, or the performance of the internal audit function.

General Interpretations and Policies to Rule 15.5(d)(7)(c): While the fundamental responsibility for the company's financial statements and disclosures rests with management and the independent auditor, the audit committee must review: (A) major issues regarding accounting principles and financial statement presentations, including any significant changes in the company's selection or application of accounting principles, and major issues as to the adequacy of the company's internal controls and any special audit steps adopted in the light of material control deficiencies; (B) analyses prepared by management and/or the independent auditor setting forth significant financial

reporting issues and judgments made in connection with the preparation of the financial statements, including analyses of the effects of alternative GAAP methods on the financial statements; (C) the effect of regulatory and accounting initiatives, as well as off-balance sheet structures, on the financial statements of the company; and (D) the type and presentation of information to be included in earnings press releases (paying particular attention to any use of "pro forma," or "adjusted" non-GAAP, information), as well as review any financial information and earnings guidance provided to analysts and rating agencies.

(d) Each listed company must have an internal audit function.

Interpretations and Policies: Listed companies must maintain an internal audit function to provide management and the audit committee with ongoing assessments of the company's risk management process and system of internal control. A company may choose to outsource this function to a third party service provider other than its independent auditor.

General Interpretations and Policies to Rule 15.5(d)(7): To avoid any confusion, note that the audit committee functions specified in Rule 15.5(d)(7) are the sole responsibility of the audit committee and may not be allocated to a different committee.

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(8) Listed companies must satisfy the requirements for shareholder approval of equity compensation plans in accordance with Exchange Rule 13.7.

(9) Listed companies must adopt and disclose corporate governance guidelines.

Interpretations and Policies: No single set of guidelines would be appropriate for every company, but certain key areas of universal importance include director qualifications and responsibilities, responsibilities of key board committees, and director compensation. Given the importance of corporate governance, each listed company's website must include its corporate governance guidelines and the charters of its most important committees (including at least the audit, and if applicable, compensation and nominating committees). Each company's annual report on Form 10-K filed with the Commission must state that the foregoing information is available on its website, and that the information is available in print to any shareholder who requests it. Making this information publicly available should promote better investor understanding of the company's policies and procedures, as well as more conscientious adherence to them by directors and management.

The following subjects must be addressed in the corporate governance guidelines:

(A) Director qualification standards. These standards should, at minimum, reflect the independence requirements set forth in Rule 15.5(d)(1) and (2). Companies may also address other substantive qualification requirements, including policies limiting the number of boards on which a director may sit, and director tenure, retirement and succession.

(B) Director responsibilities. These responsibilities should clearly articulate what is expected from a director, including basic duties and responsibilities with respect to attendance at board meetings and advance review of meeting materials.

(C) Director access to management and, as necessary and appropriate, independent advisors.

(D) Director compensation. Director compensation guidelines should include general principles for determining the form and amount of director compensation (and for reviewing those principles as appropriate). The board should be aware that questions as to directors' independence may be raised when directors' fees and emoluments exceed what is customary. Similar concerns may be raised when the company makes substantial charitable contributions to organizations in which a director is affiliated, or enters into consulting contracts with (or provides other indirect forms of compensation to) a director. The board should critically evaluate each of these matters when determining the form and amount of director compensation, and the independence of a director.

(E) Director orientation and continuing education.

(F) Management succession. Succession planning should include policies and principles for CEO selection and performance review, as well as policies regarding succession in the event of an emergency or the retirement of the CEO.

(G) Annual performance evaluation of the board. The board should conduct a self-evaluation at least annually to determine whether it and its committees are functioning effectively.

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(10) Listed companies must adopt and disclose a code of business conduct and ethics for directors, officers and employees, and promptly disclose any waivers of the code for directors or executive officers.

Interpretations and Policies: No code of business conduct and ethics can replace the thoughtful behavior of an ethical director, officer or employee. However, such a code

can focus the board and management on areas of ethical risk, provide guidance to personnel to help them recognize and deal with ethical issues, provide mechanisms to report unethical conduct, and help to foster a culture of honesty and accountability.

Each code of business conduct and ethics must require that any waiver of the code for executive officers or directors may be made only by the board or a board committee and must be promptly disclosed to shareholders. This disclosure requirement should inhibit casual and perhaps questionable waivers, and should help assure that, when warranted, a waiver is accompanied by appropriate controls designed to protect the company. It will also give shareholders the opportunity to evaluate the board's performance in granting waivers.

Each code of business conduct and ethics must also contain compliance standards and procedures that will facilitate the effective operation of the code. These standards should ensure the prompt and consistent action against violations of the code. Each listed company's website must include its code of business conduct and ethics. Each company's annual report on Form 10-K filed with the Commission must state that the foregoing information is available on its website and that the information is available in print to any shareholder who requests it.

Each company may determine its own policies, but all listed companies should address the most important topics, including the following:

(A) Conflicts of interest. A "conflict of interest" occurs when an individual's private interest interferes in any way-or even appears to interfere-with the interests of the corporation as a whole. A conflict situation can arise when an employee, officer or director takes actions or has interests that may make it difficult to perform his or her company work objectively and effectively. Conflicts of interest also arise when an employee, officer or director, or a member of his or her family, receives improper personal benefits as a result of his or her position in the company. Loans to, or guarantees of obligations of, such persons are of special concern. The company should have a policy prohibiting such conflicts of interest, and providing a means for employees, officers and directors to communicate potential conflicts to the company.

(B) Corporate opportunities. Employees, officers and directors should be prohibited from (a) taking for themselves personally opportunities that are discovered through the use of corporate property, information or position; (b) using corporate property, information or position for personal gain; and (c) competing with the company. Employees, officers and directors owe a duty to the company to advance its legitimate interests when the opportunity to do so arises.

(C) Confidentially. Employees, officers and directors should maintain the confidentiality of information entrusted to them by the company or its customers, except when disclosure is authorized or legally mandated. Confidential information includes all non-public information that might be of use to competitors, or harmful to the company or its customers, if disclosed.

(D) Fair dealing. Each employee, officer and director should endeavor to deal fairly with the company's customers, suppliers, competitors and employees. None should take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts, or any other unfair-dealing practice. Companies may write their codes in a manner that does not alter existing legal rights and obligations of companies and their employees, such as "at will" employment arrangements.

(E) Protection and proper use of company assets. All employees, officers and directors should protect the company's assets and ensure their efficient use. Theft, carelessness and waste have a direct impact on the company's profitability. All company assets should be used for legitimate business purposes.

(F) Compliance with laws, rules and regulations (including insider trading laws). The company should proactively promote compliance with laws, rules and regulations, including insider-trading laws. Insider trading is both unethical and illegal, and should be dealt with decisively.

(G) Encouraging the reporting of any illegal or unethical behavior. The company should proactively promote ethical behavior. The company should encourage employees to talk to supervisors, managers, or other appropriate personnel when in doubt about the best course of action in a particular situation. Additionally, employees should report violations of laws, rules, regulations or the code of business conduct to appropriate personnel. To encourage employees to report such violations, the company must ensure that employees know that the company will not allow retaliation for reports made in good faith.

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(11) Listed foreign private issuers must disclose any significant ways in which their corporate governance practices differ from those followed by domestic companies under the Exchange's listing standards.

Interpretations and Policies: Foreign private issuers must make their U.S. investors aware of the significant ways in which their home-country practices differ from those followed by domestic companies under the Exchange's listing standards. However, foreign private issuers are not required to present a detailed, item-by-item analysis of these differences. Such a disclosure would be long and unnecessarily complicated. Moreover, this requirement is not intended to suggest that one country's corporate governance practices are better or more effective than another. The Exchange believes the U.S. shareholders should be aware of the significant ways that the governance of a listed foreign private issuer differs from that of a U.S. listed company. The Exchange

underscores that what is required is a brief, general summary of the significant differences, not a cumbersome analysis.

Listed foreign private issuers may provide this disclosure either on their website (provided it is in the English language and accessible from the United States) and/or in their annual report as distributed to shareholders in the United States (again, in the English language). If the disclosure is only made available on the website, the annual report shall so state and provide the web address at which the information may be obtained.

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(12) (a) Each listed company CEO must certify to the Exchange each year that he or she is not aware of any violation by the company of Exchange corporate governance listing standards.

Interpretations and Policies: The CEO's annual certification to the Exchange that, as of the date of certification, he or she is unaware of any violation by the company of the Exchange's corporate governance listing standards will focus the CEO and senior management on the company's compliance with the listing standards. Both this certification to the Exchange, and any CEO/CFO certifications required to be filed with the Commission regarding the quality of the company's public disclosure must be disclosed in the company's annual report to shareholders or, if the company does not prepare an annual report to shareholders, in the companies annual report on Form 10-K filed with the Commission.

(b) Each listed company CEO must promptly notify the Exchange in writing after any executive officer of the listed company becomes aware of any material non-compliance with any applicable provisions of this Rule 15.5.

(13) The Exchange may issue a public reprimand letter to any listed company that violates an Exchange listing standard.

Interpretations and Policies: Suspending trading in or delisting a company can be harmful to the very shareholders that the Exchange listing standards seek to protect; the Exchange must therefore use these measures sparingly and judiciously. For this reason it is appropriate for the Exchange to have the ability to apply a lesser sanction to deter companies from violating its corporate governance (or other) listing standards. Accordingly, the Exchange may issue a public reprimand letter to any listed company,

regardless of type of security listed or country of incorporation, that it determines has violated an Exchange listing standard. For companies that repeatedly or flagrantly violate Exchange listing standards, suspension and delisting remain the ultimate penalties. For clarification, this lesser sanction is not intended for use in the case of companies that fall below the financial and other continued listing standards provided in this Chapter or that fail to comply with the audit committee standards set out in Rule 15.4 or Rule 15.5(d)(6). The process and procedures provided for in those provisions govern the treatment of companies falling below those standards.

Rule 15.6. Shareholder Approval of Equity Compensation Plans

Equity compensation plans can help align shareholder and management interests, and equity-based awards are often very important components of employee compensation. To provide checks and balances on the potential dilution resulting from the process of earmarking shares to be used for equity-based awards, the Exchange requires that all equity compensation plans, and any material revisions to the terms of such plans, be subject to shareholder approval, with limited exemptions identified in this rule.

(a) Definition of Equity Compensation Plan. An "equity compensation plan" is a plan or other arrangement that provides for the delivery of equity securities (either newly issued or treasury shares) of the listed company to any employee, director or other service provider as compensation for services. A compensatory grant of options or other equity securities that is not made under a plan is considered an "equity compensation plan" for purposes of these rules.

(b) Exceptions to Equity Compensation Plan Definition. The following are not equity compensation plans, even if the brokerage and other costs of the plan are paid for by the listed company:

(1) plans that are made available to shareholders generally, such as a typical dividend reinvestment plan;

(2) plans that merely allow employees, directors or other service providers to elect to buy shares on the open market or from the listed company for their current fair market value, regardless of whether: (i) the shares are delivered immediately or on a deferred basis; or (ii) the payments for the shares are made directly or by giving up compensation that is otherwise due (for example, through payroll deductions).

(c) Material Revisions. A "material revision" of an equity compensation plan includes, but is not limited to, the following:

(1) A material increase in the number of shares available under the plan, other

than an increase solely to reflect a reorganization, stock split, merger, spinoff or similar transaction.

(i) If a plan contains a formula for automatic increases in the number of shares available (sometimes referred to as an "evergreen formula") or for automatic grants pursuant to a formula, each such increase or grant will be considered a revision requiring shareholder approval unless the plan has a term of not more than ten years. Regardless of the term, this type of plan is referred to below as a "formula plan." Examples of automatic grants pursuant to a formula are: (A) annual grants to directors of restricted stock having a certain dollar value, and (B) "matching contributions," whereby stock is credited to a participant's account based upon the amount of compensation the participant elects to defer.

(ii) If a plan contains no limit on the number of shares available and it is not a formula plan, then each grant under the plan will require separate shareholder approval regardless of whether the plan has a term of not more than ten years. This type of plan is referred to below as a "discretionary plan." A requirement that grants be made out of treasury shares or repurchased shares will not, in itself, be considered a limit or pre-established formula so as to prevent a plan from being considered a discretionary plan.

(2) An expansion of the types of awards available under the plan.

(3) A material expansion of the class of employees, directors or other service providers eligible to participate in the plan.

(4) A material extension of the term of the plan.

(5) A material change to the method of determining the strike price of options under the plan.

(i) A change in the method of determining "fair market value" from the closing price on the date of the grant to the average of the high and low price on the date of grant is an example of a change that the Exchange would not review as material.

(6) The deletion or limitation of any provision prohibiting repricing of options.

An amendment will not be considered a "material revision" if it curtails rather than expands the scope of the plan in question.

(d) Repricings. A plan that does not contain a provision that specifically permits repricing of options will be considered for purposes of this listing standard as prohibiting

repricing. Accordingly, any actual repricing of options will be considered a material revision of a plan even if the plan itself is not revised. This consideration will not apply to a repricing through an exchange offer that commenced before the date this listing standard became effective. "Repricing" means any of the following or any other action that has the same effect:

(1) Lowering the strike price of an option after it is granted.

(2) Any other action that is treated as a repricing under generally accepted accounting principles.

(3) Canceling an option at a time when its strike price exceeds the fair market value of the underlying stock, in exchange for another option, restricted stock, or other equity, unless the cancellation and exchange occurs in connection with a merger, acquisition, spin-off or other similar corporate transaction.

(e) Exemptions. The listing standard does not require shareholder approval of employment inducement awards; certain grants, plans and amendments in the context of mergers and acquisitions; and certain specific types of plans, all described below. However, these exempt grants, plans and amendments may be made only with the approval of the company's independent compensation committee or the approval of a majority of the company's independent directors. Companies must also notify the Exchange in writing when they use one of these exemptions.

(1) Employment Inducement Awards. An employment inducement award is a grant of options or other equity-based compensation as a material inducement to a person or persons being hired by the listed company or any of its subsidiaries, or being rehired following a bona fide period of interruption of employment. Inducement awards include grants to new employees in connection with a merger or acquisition. Promptly following a grant of any inducement award in reliance on this exemption, the listed company must disclose in a press release the material terms of the award, including the recipient(s) of the award and the number of shares involved.

(2) Mergers and Acquisitions. Two exemptions apply in the context of corporate acquisitions and mergers. First, shareholder approval will not be required to convert, replace or adjust outstanding options or other equity compensation awards to reflect the transaction. Second, shares available under certain plans acquired in corporate acquisitions and mergers may be used for certain post-transaction grants without further shareholder approval. This exemption applies to situations where a party that is not a listed company following the transaction has shares available for grant under pre-existing plans that were previously approved by shareholders. A plan adopted in contemplation of the merger or acquisition transaction would not be considered "pre-existing" for purposes of this exemption. Shares available under such a pre-existing plan may be used for post-transaction

grants of options and other awards with respect to equity of the entity that is the listed company after the transaction, either under the pre-existing plan or another plan, without further shareholder approval, so long as:

(i) the number of shares available for grants is appropriately adjusted to reflect the transaction;

(ii) the time during which those shares are available is not extended beyond the period when they would have been available under the pre-existing plan, absent the transaction; and

(iii) the options and other awards are not granted to individuals who were employed, immediately before the transaction, by the post-transaction listed company or entities that were its subsidiaries immediately before the transaction.

Any shares reserved for listing in connection with a transaction pursuant to either of these exemptions would be counted by the Exchange in determining whether the transaction involved the issuance of 20% or more of the company's outstanding common stock, and thus require shareholder approval. These merger-related exemptions will not result in any increase in the aggregate potential dilution of the combined enterprise. Further, mergers or acquisitions are not routine occurrences and are not likely to be abused. Therefore, the Exchange considers both of these exemptions to be consistent with the fundamental policy involved in this standard.

(3) Qualified Plans, Section 423 Plans and Parallel Excess Plans.

(i) The following types of plans, and material revisions thereto, are exempt from the shareholder approval requirement: (A) plans intended to meet the requirements of Section 401(a) of the Internal Revenue Code (e.g., ESOPs); (B) plans intended to meet the requirements of Section 423 of the Internal Revenue Code; and (C) "parallel excess plans" as defined below.

(ii) Section 401(a) plans and Section 423 plans are already regulated under the Internal Revenue Code and Treasury regulations. Section 423 plans, which are stock purchase plans under which an employee can purchase no more than $25,000 worth of stock per year at a plan-specified discount capped at 15% are also required by the Internal Revenue Code to receive shareholder approval. While Section 401(a) plans and parallel plans are not required to be approved by shareholders, U.S. GAAP requires that the shares issued under these plans be "expensed" (i.e., treated as a compensation expense on the income statement) by the company issuing the shares. An equity compensation plan that provides non-U.S. employees with

substantially the same benefits as a comparable Section 401(a) plan, Section 423 plan or parallel excess plan that the listed company provides to its U.S. employees, but for features necessary to comply with applicable foreign tax law, are also exempt from shareholder approval under this section.

(iii) The term "parallel excess plan" means a plan that is a "pension plan" within the meaning of the Employee Retirement Income Security Act ("ERISA") that is designed to work in parallel with a plan intended to be qualified under Internal Revenue Code Section 401(a) to provide benefits that exceed the limits set forth in Internal Revenue Code Section 402(g)(the section that limits an employee's annual pre-tax contributions to a 401(k) plan), Internal Revenue Code Section 401(a)(17)(the section that limits the amount of an employee's compensation that can be taken into account for plan purposes) and/or Internal Revenue Code Section 415 (the section that limits the contributions and benefits under qualified plans) and/or any successor or similar limitations that may hereafter be enacted. A plan will not be considered a parallel excess plan unless: (A) it covers all or substantially all employees of an employer who are participants in the related qualified plan whose annual compensation is in excess of the limit of Internal Revenue Code Section 401(a)(17)(or any successor or similar limits that may hereafter be enacted); (B) its terms are substantially the same as the qualified plan that it parallels except for the elimination of the limits described in the proceeding sentence and the limitation described in clause (C); and (C) no participant receives employer equity contributions under the plan in excess of 25% of the participant's cash compensation.

(f) Transition Rules. Except as provided below, a plan that was adopted before the date the Commission order approving this listing standard will not be subject to shareholder approval under this Rule 15.6 unless and until it is materially revised.

(1) In the case of a discretionary plan, as defined in "Material Revisions" above, whether or not previously approved by shareholders, additional grants may be made after the effective date of this Rule 15.6 without further shareholder approval only for a limited transaction period, defined below, and then only in a manner consistent with past practice. In applying this rule, if a plan can be separated into a discretionary plan portion and a portion that is not discretionary, the non-discretionary portion of the plan can continue to be used separately, under the appropriate transition rule. For example, if a shareholder-approved plan permits both grants pursuant to a provision that makes available a specific number of shares, and grants pursuant to provision authorizing the use of treasury shares without regard to the specific share limit, the former provision (but not the latter) may continue to be used after the transition period, under the general rule above.

(2) In the case of a formula plan, as defined in "Material Revisions" above, that either (i) has not previously been approved by shareholders or (ii) does not have a term of ten years or less, additional grants may be made after the effective date of this Rule 15.6 without further shareholder approval only for a limited transition period, defined below.

(3) The limited transition period described in subparagraphs (f)(1) and (f)(2) above will end upon the first to occur of: (i) the listed company's next annual meeting at which directors are elected that occurs more than 180 days after the effective date of this listing standard; (ii) the first anniversary of the effective date this Rule 15.6; and (iii) the expiration of the plan.

(4) A shareholder-approved formula plan may continue to be used after the end of this transition period if it is amended to provide for a term of ten years or less from the date of its original adoption or, if later, the date of its most recent shareholder approval. Such an amendment may be made before or after the effective date of this Rule 15.6, and would not itself be considered a "material revision" requiring shareholder approval. In addition, a formula plan may continue to be used, without shareholder approval, if the grants after the effective date of this Rule 15.6 are made only from the shares available immediately before the effective date (i.e., based on formulaic increases that occurred prior to such effective date).

(g) Broker Voting. For ETP Holder proxy requirements with respect to the implementation of any equity compensation plan, or any material revisions to the terms of any existing equity compensation plan, refer to Rule 13.3.

Rule 15.7. Suspension and/or Delisting by Exchange

(a) The Board may suspend dealings in any issue admitted to trading on the Exchange.

(b) Whenever the Board determines that it no longer is appropriate for a security to continue to be traded on the Exchange, it may institute proceedings to delist such security by filing the appropriate application with the Commission (the "Form 25") to strike a class of securities from listing on the Exchange or from registration under Section 12(b) of the Act within a reasonable time after the Exchange makes the decision to suspend or delist a security. The Exchange shall provide: (1) notice to the issuer of the Exchange's decision to delist the issuer's securities; (2) an opportunity for the issuer to file an appeal pursuant to the Chapter X of the Exchange Rules governing adverse actions; (3) public notice, no fewer than ten days before the delisting becomes effective, of the Exchange's final determination to delist the security via a press release and posting on the Exchange's website (such posting to remain on the Exchange's website until the effective date of the delisting); and (4) the prompt delivery of a copy of the Form 25 to the issuer.

(c) The securities of an issuer will be subject to suspension and/or withdrawal from listing and registration as a listed issue if any of the following conditions are found to exist:

(1) failure to comply with the listing standards and agreements; or

(2) sustained loss so that financial condition becomes so impaired that it is questionable to the Exchange whether the company can continue operations and/or meet its obligations as they mature or

(3) the entire class of securities has been called for redemption, maturity or retirement; appropriate notice thereof has been given; funds sufficient for the payment of all such securities have been deposited with an agency authorized to make such payments, and such funds have been made available to security holders; or

(4) the entire class of security has been redeemed or paid at maturity or retirement; or

(5) the instruments representing the securities comprising the entire class have come to evidence, by operation of law or otherwise, other securities in substitution therefore and represent no other right, except, if such be the fact, the right to receive an immediate cash payment (the right of dissenters to receive the appraised or fair value of their holdings shall not prevent the application of this provision); or

(6) all rights pertaining to the entire class of the security have been extinguished; provided, however, that where such an event occurs as a result of an order of a court or other governmental authority, the orders hall be final, all applicable appeals periods shall have expired and no appeals shall be pending.

Notwithstanding the foregoing, the Board may determine that the suspension or delisting of an issue is necessary for the protection of investors and the public interest.

Rule 15.8. Delisting by Issuer

A security, which in the opinion of the Board is eligible for continued listing, may be removed from listing upon the request or application of the issuer provided that the issuer submits the following to the Exchange:

(a) a certified copy of a resolution adopted by the board of directors of the issuer authorizing withdrawal from listing and registration;

(b) a statement setting forth in detail the reasons for the proposed withdrawal and the facts in support thereof;

(c) a certification of its compliance with the Exchange’s Rules for delisting and applicable state and federal laws;

(d) written notifications to the Exchange:

(i) no fewer than ten days before the issuer files Form 25 with the Commission of its intent to withdraw its securities from listing and/or registration on the Exchange (such form shall set forth a description of the security involved, together with a statement of all the material facts relating to the reasons for the withdrawal);

(ii) of its filing of Form 25 with the Commission simultaneous with said filing (such notification shall include the date the issuer expects such withdrawal to become effective pursuant to the rules of the Commission); and

(iii) of the effective date of such withdrawal immediately after its withdrawal from listing becomes effective pursuant to the rules of the Commission; and

(e) a certification that the issuer has, contemporaneous with providing written notice to the Exchange, issued a public notice of the issuer's intent to delist, and/or withdraw its securities from Section 12(b) registration, via a press release and, if it has a publicly accessible web site, post such notice on such web site and has undertaken to continue such posting on its website until the effective date of the delisting.

Interpretations and Policies:

.01. Any issuer seeking to voluntarily apply to withdraw a class of securities from listing on the Exchange pursuant to Exchange Rule 15.8 above that has received notice from the Exchange, pursuant to Exchange Rule 15.7(c) above or otherwise, that it is below the Exchange's continued listing policies and standards, or that is aware that it is below such continued listing policies and standards notwithstanding that it has not received such notice from the Exchange, must disclose that it is no longer eligible for continued listing (including the specific continued listing policies and standards that the issue is below) in: (i) its statement of all material facts (pursuant to Exchange Rule 15.8(d) above) relating to the reasons for withdrawal from listing provided to the Exchange along with written notice of its determination to withdraw from listing required by Rule12d2-2(c)(2)(ii) under the Act and; (ii) its public press release and web site notice required by Rule 12d2-2(c)(2)(iii) under the Act.

Other Exchange Products

Rule 15.9. Unlisted Trading Privileges

A. UTP Securities. Notwithstanding the requirements for listing set forth in these Rules, the Exchange extend unlisted trading privileges ("UTP") to any security that is listed on another national securities exchange or with respect to which unlisted trading

privileges may otherwise be extended in accordance with Section 12(f) of the Act. Any such security will be subject to all Exchange trading rules applicable to equity securities, unless otherwise noted.

B. UTP Derivative Securities. Any UTP Security that is a "new derivative securities product" as defined in Rule 19b-4(e) under the Act (a "UTP Derivative Security") and traded pursuant to Rule 19b-4(e) under the Act shall be subject to the additional following rules:

(1) Form 19b-4(e). The Exchange shall file with the Securities and Exchange Commission a Form 19b-4(e) with respect to each UTP Derivative Security.

(2) Information Circular. The Exchange shall distribute an information circular prior to the commencement of trading in such UTP Derivative Security that generally includes the same information as contained in the information circular provided by the listing exchange, including: (a) the special risks of trading new derivative securities product; (b) the Exchange Rules that will apply to the new derivative securities product, including Rule 3.7; (c) information about the dissemination of value of the underlying assets or indexes; and (d) the risk of trading outside of Regular Trading Hours (as determined pursuant to Rule 11.1), due to the lack of calculation or dissemination of the intra-day indicative value or a similar value.

(3) Product Description.

(a) This subparagraph (3) is applicable to Exchange Traded Funds. The term Exchange Traded Funds ("ETFs") includes unit investment trusts, portfolio depositary receipts and trust issued receipts designed to track the performance of a broad stock or bond market, stock industry sector, and U.S. Treasury and corporate bonds, among other things.

(b) Prospectus Delivery Requirements. ETP Holders are subject to the prospectus delivery requirements under the Securities Act of 1933, unless the derivative securities product is an ETF that is the subject of an order by the Securities and Exchange Commission exempting the product from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 and the product is not otherwise subject to prospectus delivery requirements under the Securities Act of 1933.

(c) Written Description of Terms and Conditions. The Exchange shall inform ETP Holders regarding the application of the provisions of this subparagraph to a particular series of ETFs by means of an information circular. The Exchange requires that ETP Holders provide all purchasers of a series of ETFs a written description of the terms and characteristics of those securities, in a form approved by the Exchange or prepared by the open-ended management company issuing such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, the ETP Holders shall include a written description with any sales material relating to a series of ETFs that is provided to customers or the public. Any

other written materials provided by an ETP Holder to customers or the public making specific reference to the series of ETFs as an investment vehicle must include a statement substantially in the following form:

> "A circular describing the terms and characteristics of [*the series of ETFs*] has been prepared by the [*open-ended management investment company name*] and is available from your broker. It is recommended that you obtain and review such circular before purchasing [*the series of ETFs*]."

An ETP Holder carrying an omnibus account for a non-ETP Holder is required to inform such non-ETP Holder that execution of an order to purchase a series of ETFs for such omnibus account will be deemed to constitute an agreement by the non-ETP Holder to make such written description available to its customers on the same terms as are directly applicable to the ETP Holder under this Rule.

(d) Customer Requests for a Prospectus. Upon request of a customer, an ETP Holder shall also provide a prospectus for the particular series of ETF.

(4) Trading Halts.

(a) If a temporary interruption occurs in the calculation or wide dissemination of the intraday indicative value (or similar value) or the value of the underlying index or instrument and the listing market halts trading in the product, the Exchange, upon notification by the listing market of such halt due to such temporary interruption, also shall immediately halt trading in that product on the Exchange. If the intraday indicative value (or similar value) or the value of the underlying index or instrument continues not to be calculated or widely available as of the commencement of trading on the Exchange on the next business day, the Exchange shall not commence trading of the product that day. If an interruption in the calculation or wide dissemination of the intraday indicative value (or similar value) or the value of the underlying index or instrument continues, the Exchange may resume trading in the product only if calculation and wide dissemination of the intraday indicative value (or similar value) or the value of the underlying index or instrument resumes or trading in such series resumes in the listing market. Nothing in this rule shall limit the power of the Exchange under the By-Laws, Rules (including without limitation Rules 11.20, 12.11 and 15.7) or procedures of the Exchange with respect to the Exchange's ability to suspend trading in any securities if such suspension is necessary for the protection of investors or in the public interest.

(b) For a UTP Derivative Security where a net asset value is disseminated, upon notification from the listing market that the net asset value is not being disseminated to all market participants at the same time, the Exchange will immediately halt trading in such security. The Exchange may resume trading in the UTP Derivative Security only when the net asset value is disseminated to all market participants at the same time or trading in the UTP Derivative Security resumes on the listing market.

(5) Surveillance. The exchange shall enter into a comprehensive surveillance sharing agreement with markets trading components of the index or portfolio on which the UTP Derivative Security is based to the same extent as the listing exchange's rules require the listing exchange to enter into a comprehensive surveillance sharing agreement with such markets.

Rule 15.10. Portfolio Depositary Receipts(1) Applicability. This rule is applicable only to Portfolio Depositary Receipts. Except to the extent inconsistent with this rule, or unless the context otherwise requires, the provisions of the By-Laws and all other rules and policies of the Board shall be applicable to the trading on the Exchange of such securities. Portfolio Depositary Receipts are included within the definition of "security" or "securities" as such terms are used in the By-Laws and Rules of the Exchange.

(2) Definitions. The following terms as used in the Rules shall, unless the context otherwise requires, have the meanings herein specified:

(a) Portfolio Depositary Receipt. The term "Portfolio Depositary Receipt" means a security (i) that is based on a unit investment trust ("Trust") which holds the securities which comprise an index or portfolio underlying a series of Portfolio Depositary Receipts; (ii) that is issued by the Trust in a specified aggregate minimum number in return for a "Portfolio Deposit" consisting of specified numbers of shares of stock plus a cash amount; (iii) that, when aggregated in the same specified minimum number, may be redeemed from the Trust which will pay to the redeeming holder the stock and cash then comprising the "Portfolio Deposit"; and (iv) that pays holders a periodic cash payment corresponding to the regular cash dividends or distributions declared with respect to the component securities of the stock index or portfolio of securities underlying the Portfolio Depository Receipts, less certain expenses and other charges as set forth in the Trust prospectus.

(b) Reporting Authority. The term "Reporting Authority" in respect of a particular series of Portfolio Depositary Receipts means the Exchange, an institution (including the Trustee for a series of Portfolio Depositary Receipts), or a reporting service designated by the Exchange, or by the exchange that lists a particular series of Portfolio Depository Receipts (if the Exchange is trading such series pursuant to unlisted trading privileges) as the official source for calculating and reporting information relating to such series, including, but not limited to, any current index or portfolio value; the current value of the portfolio of securities required to be deposited to the Trust in connection with issuance of Portfolio Depositary Receipts; the amount of any dividend equivalent payment or cash distribution to holders of Portfolio Depositary Receipts, net asset value, or other information relating to the creation, redemption or trading of Portfolio Depositary receipts.

(3) ETP Holders shall provide to all purchasers of a series of Portfolio Depositary Receipts a written description of the terms and characteristics of such securities, in a form approved by the Exchange, not later than the time a confirmation of the first transaction in such a series is delivered to such purchaser. In addition, ETP Holders shall include

such a written description with any sales material relating to a series of Portfolio Depositary Receipts that is provided to customers or the public. Any other written materials provided by an ETP Holder to customers or to the public making specific reference to a series of Portfolio Depositary Receipts as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of [the series of Portfolio Depositary Receipts] is available from your broker. It is recommended that you obtain and review such circular before purchasing [the series of Portfolio Depositary Receipts]. In addition, upon request you may obtain from your broker a prospectus for [the series of Portfolio Depositary Receipts]."

An ETP Holder carrying omnibus account for a non- ETP Holder broker-dealer is required to inform such non- ETP Holder that execution of an order to purchase a series of Portfolio Depositary Receipts for such omnibus account will be deemed to constitute agreement by the non- ETP Holder to make such written description available to its customers on the same terms as are directly applicable to ETP Holders under this Rule.

Upon request of a customer, an ETP Holder shall also provide a prospectus for the particular series of Portfolio Depositary Receipts.

(4) Designation of an Index or Portfolio. The trading of Portfolio Depositary Receipts based on one or more stock indices or securities portfolios, whether by listing or pursuant to unlisted trading privileges, shall be considered on a case-by-case basis. The Portfolio Depositary Receipts based on each particular stock index or portfolio shall be designated as a separate series and shall be identified by a unique symbol. The stocks that are included in an index or portfolio on which Portfolio Depositary Receipts are based shall be selected by the Exchange or by such other person as shall have a proprietary interest in and authorized use of such index or portfolio, and may be revised from time to time as may be deemed necessary or appropriate to maintain the quality and character of the index or portfolio.

(5) Initial and Continued Listing and/or Trading. A Trust upon which a series of Portfolio Depositary Receipts is based will be traded on the Exchange, whether by listing or pursuant to unlisted trading privileges, subject to application of the following criteria:

(a) Commencement of Trading - For each Trust, the Exchange will establish a minimum number of Portfolio Depositary Receipts required to be outstanding at the time of commencement of trading on the Exchange.

(b) Continued Trading - Following the initial twelve-month period following formation of a Trust and commencement of trading on the Exchange, the Exchange will consider the suspension of trading in, removal from listing of, or termination of unlisted trading privileges for a Trust upon which a series of Portfolio Depositary Receipts is based under any of the following circumstances: (i) if the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Portfolio Depositary Receipts for 30 or more consecutive trading days; or (ii) if the value of the index or portfolio of securities on which the Trust is based is no longer

calculated or available; or (iii) if such other event shall occur or condition exists which in the opinion of the Exchange, makes future dealings on the Exchange inadvisable.

Upon termination of a Trust, the Exchange requires that Portfolio Depositary Receipts issued in connection with such Trust be removed from Exchange listing or have their unlisted trading privileges terminated. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of securities in the Trust falls below a specified amount.

(c) Term - The stated term of the Trust shall be stated in the Trust Prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(d) Trustee - The trustee must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed as co-trustee.

(e) Voting - Voting rights shall be as set forth in the Trust prospectus. The Trustee of a Trust may have the right to vote all of the voting securities of such Trust.

(6) Limitation of Exchange Liability. Neither the Exchange, the Reporting Authority nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current index or portfolio value, the current value of the portfolio of securities required to be deposited to the Trust; the amount of any dividend equivalent payment or cash distribution to holders of Portfolio Depositary Receipts; net asset value; or other information relating to the creation, redemption or trading of Portfolio Depositary Receipts, resulting from any negligent act or omission by the Exchange, or the Reporting Authority, or any agent of the Exchange or any act, condition or cause beyond the reasonable control of the Exchange or its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in one or more of the underlying securities. The Exchange makes no warranty, express or implied, as to the results to be obtained by any person or entity from the use of Portfolio Depositary Receipts or any underlying index or data included therein and the Exchange makes no express or implied warranties, and disclaims all warranties or merchantability or fitness for a particular purpose with respect to Portfolio Depositary Receipts or any underlying index or data included therein. This limitation of liability shall be in addition to any other limitation contained in the Exchange's Articles of Incorporation, By-Laws or Rules.

.01 The Exchange will trade pursuant to unlisted trading privileges, Portfolio Depositary Receipts based on the Standard and Poor's Exchange's S&P 500 Index, known as SPDRs.

.02 The Exchange will trade, pursuant to unlisted trading privileges, Portfolio Depositary Receipts based on the Standard and Poor's Exchange's S&P MidCap 400 Index, known as MidCap SPDRs.

"Standard & Poor's", "S&P", "S&P 500", "Standard & Poor's 500", and "500" are trademarks of the McGraw-Hill Companies, Inc. and have been licensed for use by the Exchange.

Rule 15.11. Trust Issued Receipts

(1) Applicability. This rule is applicable only to Trust Issued Receipts. Except to the extent inconsistent with this rule, or unless the context otherwise requires, the provisions of the By-Laws and all the rules and policies of the Board shall be applicable to the trading on the Exchange of such securities. Trust Issued Receipts are included within the definition of "security" or "securities" as such terms are used in the By-Laws and Rules of the Exchange. The Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Trust Issued Receipts that meet the criteria of this Rule.

(2) Definitions. The following terms as used in the Rules shall, unless the context otherwise requires, have the following meanings herein specified:

(a) Trust Issued Receipt. A Trust Issued Receipt is a security (a) that is issued by a trust ("Trust") which holds specific securities deposited with the Trust; (b) that when aggregated in some specified minimum number, may be surrendered to the Trust by the beneficial owner to receive the securities; and (c) that pays beneficial owners dividends and other distributions on the deposited securities, if any are declared and paid to the trustee by an issuer of the deposited securities.

(3) Designation. The Exchange may trade, whether by listing or pursuant to unlisted trading privileges, Trust Issued Receipts based on one or more securities. The Trust Issued Receipts based on particular securities shall be designated as a separate series and shall be identified by a unique symbol. The securities that are included in a series of Trust Issued Receipts shall be selected by the Exchange or by such other person as shall have a proprietary interest in such Trust Issued Receipts.

(4) Initial and Continued Listing. Trust Issued Receipts will be traded on the Exchange subject to application of the following criteria:

(a) Initial Listing - For each Trust, the Exchange will establish a minimum number of Trust Issued Receipts required to be outstanding at the time of commencement of trading on the Exchange.

(b) Continued Listing - Following the initial twelve-month period following formation of a Trust and commencement of trading on the Exchange, the Exchange will consider the suspension of trading in or removal from listing of a Trust upon which a series of Trust Issued Receipts is based under any of the following circumstances: (i) if the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Trust Issued Receipts for 30 or more consecutive trading days; (ii) if the Trust has more than 50,000 receipts issued and outstanding; (iii) if the market value of all receipts issued and outstanding is less than $1,000,000; or (iv) if any other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

Upon termination of a Trust, the Exchange requires that the Trust Issued Receipts issued in connection with such Trust be removed from Exchange listing. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of securities in the Trust falls below a specified amount.

(c) Term - The stated term of the Trust shall be as stated in the Trust prospectus; however, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(d) Trustee - The Trustee must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.

(e) Voting – Voting rights shall be set forth in the Trust prospectus.

(5) ETP Holder Obligations. ETP Holders shall provide to all purchasers of newly issued Trust Issued Receipts a prospectus for the series of Trust Issued Receipts.

(6) Trading Issues. Trust Issued Receipts may be acquired, held, or transferred only in round-lot amounts (or round-lot multiples) of 100 receipts. Orders for less than a round-lot multiple, will be executed to the extent of the largest round-lot multiple.

Interpretations And Policies

.01 The Exchange may approve a series of Trust Issued Receipts for trading, whether by listing or pursuant to unlisted trading privileges, pursuant to Rule 19b-4(e) under the Act, provided that the following criteria are satisfied:

(a) Each security underlying the Trust Issued Receipt must be registered under Section 12 of the Act;

(b) Each company whose securities are underlying securities for the Trust Issued Receipt must have a minimum public float of at least $150 million;

(c) Each security underlying the Trust Issued Receipt must be listed on a national securities exchange or traded through the facilities of NASDAQ as a reported national market system security;

(d) Each company whose securities are underlying securities for the Trust Issued Receipt must have an average daily trading volume of at least 100,000 shares during the preceding sixty-day trading period;

(e) Each company whose securities are underlying securities for the Trust Issued Receipt must have an average daily dollar value of shares traded during the preceding sixty-day trading period of at least $1 million; and

(f) The most heavily weighted security in the Trust Issued Receipt cannot initially represent more than 20% of the overall value of the Trust Issued Receipt.

Rule 15.12. Index Fund Shares

(1) Applicability. This Chapter is applicable only to Index Fund Shares. Except to the extent inconsistent with this Chapter, or unless the context otherwise requires, the provisions of the By-Laws and all other rules and policies of the Exchange shall be applicable to the trading on the Exchange of Index Fund Shares. Index Fund Shares are included within the definition of "security" or "securities" as such terms are used in the By-Laws and Rules of the Exchange.

(2) Definitions. The following terms as used in the Rules shall, unless the context otherwise requires, have the meanings herein specified:

(a) Index Fund Shares means a security (a) that is issued by an open-end management investment company based on a portfolio of stocks that seeks to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic stock index; (b) that is issued by such an open-end management investment company in a specified aggregate minimum number in return for a deposit of specified numbers of shares of stock and/or a cash amount with a value equal to the next determined net asset value; and (c) that, when aggregated in the same specified minimum number, may be redeemed at a holders request by such open-end investment company which will pay to the redeeming holder the stock and/or cash with a value equal to the next determined net asset value.

(b) Reporting Authority. The term "Reporting Authority" in respect of a particular series of Index Fund Shares means the Exchange, a subsidiary of the Exchange, or an institution or reporting service designated by the Exchange or its subsidiary as the official source for calculating and reporting information to such series, including, but not limited to, any current index or portfolio value; the current value of the portfolio of any securities required to be deposited in connection with issuance of Index Fund Shares; the amount of any dividend equivalent payment or cash distribution to holders of Index Fund Shares, net asset value, or other information relating to the issuance, redemption or trading of Index Fund Shares.

Nothing in this section shall imply that an institution or reporting service that is the source for calculating and reporting information relating to Index Fund Shares must be designated by the Exchange, the term "Reporting Authority" shall not refer to an institution or reporting service not so designated.

(3) Disclosure. Upon request of a customer, ETP Holders shall provide to all purchasers of Index Fund Shares a prospectus for the series of Index Fund Shares.

(4) Designation. The trading of Index Fund Shares based on one or more securities, whether by listing or pursuant to unlisted trading privileges, shall be considered on a case-by-case basis. Each issue of Index Fund Shares shall be based on each particular stock index or portfolio and shall be a designated as a separate series and shall be identified by a unique symbol. The securities that are included in a series of Index Fund Shares shall be selected by the Exchange or its agent, a wholly-owned subsidiary of the Exchange, or by such other person thereof, as shall have authorized use of such index. Such index or portfolio may be revised from time to time as may be deemed necessary or appropriate to maintain the quality and character of the index or portfolio.

(5) Initial and Continued Listing and/or Trading. Each series of Index Fund Shares will be traded on the Exchange, whether by listing or pursuant to unlisted trading privileges, subject to application of the following criteria:

(a) Commencement of Trading - For each Series, the Exchange will establish a minimum number of Index Fund Shares required to be outstanding at the time of commencement of trading on the Exchange.

(b) Continued Trading - Following the initial twelve-month period following commencement of trading on the Exchange of a series of Index Fund Shares, the Exchange will consider the suspension of trading, the removal from listing, or termination of unlisted trading privileges for such series under any of the following circumstances: (i) if there are fewer than 50 beneficial holders of the series of Index Fund Shares for 30 or more consecutive trading days; (ii) if the value of the index or portfolio of securities on which the series of Index Fund Shares is based is no longer calculated or available; or (iii) if such other event shall occur or condition exist which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. Upon termination of an open-ended management investment company, the Exchange requires that Index Fund Shares issued in connection with such entity be removed from Exchange listing.

(c) Voting. Voting rights shall be as set forth in the applicable open-end management investment company prospectus.

Interpretations And Policies

.01 The Exchange may approve a series of Index Fund Shares for listing pursuant to Rule 19b-4(e) under the Act provided each of the following criteria is satisfied:

(a) Eligibility Criteria for Index Components. Upon the initial listing of a series of Index Fund Shares each component of an index or portfolio underlying a series of Index Fund Shares shall meet the following criteria as of the date of the initial deposit of securities to the fund in connection with the initial issuance of shares of such fund: (i) Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio shall have a minimum market value of at least $75 million; (ii) The component stocks shall have a minimum monthly trading volume during each of the last six months of at least 250,000 shares for stocks representing at least 90% of the weight of the index or portfolio; (iii) The most heavily weighted component stock cannot exceed 25% of the weight of the index or portfolio, and the five most heavily weighted component stocks cannot exceed 65% of the weight of the index or portfolio; (iv) The underlying index or portfolio must include a minimum of 13 stocks; and (v) All securities in an underlying index or portfolio must be listed on a national securities exchange or The Nasdaq Stock Market (including the Nasdaq SmallCap Market).

(b) Index Methodology and Calculation. (i) The index underlying a series of Index Fund Shares will be calculated based on either the market capitalization, modified market capitalization, price, equal-dollar or modified equal-dollar weighting methodology; (ii) If the index is maintained by a broker-dealer, the broker-dealer shall erect a "fire-wall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer; and (iii) The current index value will be disseminated every 15 seconds over the Consolidated Tape Association's Network B.

(c) Disseminated Information. The Reporting Authority will disseminate for each series of Index Fund Shares an estimate, updated every 15 seconds, of the value of a share of each series. This may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value.

(d) Initial Shares Outstanding. A minimum of 100,000 shares of a series of Index Fund Shares is required to be outstanding at commencement of trading.

(e) Minimal Fractional Trading Variation. The minimum fractional trading variation may vary among different series of Index Fund Shares but will be set at 1/16th, 1/32nd, or 1/64th of $1.00.

(f) Reserved.

(g) Surveillance Procedures. The Exchange will utilize existing surveillance procedures for Index Fund Shares.

(h) Applicability of Other Rules. The provisions of the Exchange Rules and By-Laws will apply to all series of Index Fund Shares.

.02 The following paragraphs only apply to series of Index Fund Shares that are the subject of an order by the Securities and Exchange Commission exempting such series from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940. The Exchange will inform ETP Holders regarding application of

these provisions to a particular series of Index Fund Shares by means of an Information Circular prior to commencement of trading in such series. The Exchange requires that ETP Holders provide to all purchasers of a series of Index Fund Shares a written description of the terms and characteristics of such securities, in a form prepared by the open-end management investment company issuing such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, ETP Holders shall include such a written description with any sales material relating to a series of Index Fund Shares that is provided to customers or the public. Any other written materials provided by an ETP Holder to customers or the public making specific reference to a series of Index Fund Shares as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of [the series of Index Fund Shares] has been prepared by the [open-end management investment company name] and is available from your broker or the Exchange. It is recommended that you obtain and review such circular before purchasing [the series of Index Fund Shares]."

An ETP Holder carrying an omnibus account for a non-ETP Holder broker-dealer is required to inform such non-ETP Holder that execution of an order to purchase a series of Index Fund Shares for such omnibus account will be deemed to constitute agreement by the non-ETP Holder to make such written description available to its customers on the same terms as are directly applicable to ETP Holders under this rule.

Upon request of a customer, an ETP Holder shall also provide a prospectus for the particular series of Index Fund Shares.

CHAPTER XVI. Dues, Fees, Assessments and Other Charges

Rule 16.1. Authority to Prescribe Dues, Fees, Assessments and Other Charges

(a) *Generally*. The Exchange may prescribe such reasonable dues, fees, assessments or other charges as it may, in its discretion, deem appropriate. Such dues, fees, assessments and charges may include ETP Holder dues, transaction fees, communication and technology fees, regulatory charges, listing fees, and other fees and charges as the Exchange may determine. All such dues, fees and charges shall be equitably allocated among ETP Holders, issuers and other persons using the Exchange's facilities.

(b) *Regulatory Transaction Fee*. Under Section 31 of the Act, the Exchange must pay certain fees to the Commission. To help fund the Exchange's obligations to the Commission under Section 31, this Regulatory Transaction Fee is assessed to ETP Holders. To the extent there may be any excess monies collected under this Rule, the Exchange may retain those monies to help fund its general operating expense. Each ETP Holder engaged in executing transactions on the Exchange shall pay, in such manner and at such times as the Exchange shall direct, a Regulatory Transaction Fee equal to (i) the rate determined by the Commission to be applicable to covered sales occurring on the Exchange in accordance with Section 31 of the Act multiplied by (ii) the ETP Holder's

aggregate dollar amount of covered sales occurring on the Exchange during any computational period.

(c) *Schedule of Fees*. The Exchange will provide ETP Holders with notice of all relevant dues, fees, assessments and charges of the Exchange. Such notice may be made available to ETP Holders on the Exchange's website or by any other method deemed reasonable by the Exchange.

Rule 16.2. Reserved

Rule 16.3. Aggregation of Activity of Affiliated ETP Holders

(a) ETP Holder Application; Exchange Verification. For purposes of applying any provision of this Chapter 16 (including without limitation the fees and rebates referenced in the schedule of fees under Rule 16.1(c)) that reflects a charge assessed, or credit or rebate provided, by the Exchange, an ETP Holder may request that the Exchange aggregate its activity with the activity of its affiliates. An ETP Holder requesting aggregation of affiliate activity shall be required to certify to the Exchange the affiliate status of entities whose activity it seeks to aggregate prior to receiving approval for aggregation, and shall be required to inform the Exchange immediately of any event that causes an entity to cease to be an affiliate. The Exchange reserves the right to request information to verify the affiliate status of an entity.

(b) Aggregation of Approved ETP Holders' Activity. For purposes of applying any provision of this Chapter 16 (including without limitation the fees and rebates referenced in the schedule of fees under Rule 16.1(c)) that reflect a charge assessed, or credit or rebate provided, by the Exchange, references to an ETP Holder shall be deemed to include the ETP Holder and its affiliates that have been approved for aggregation.

(c) Definitions. For purposes of this Chapter 16 (including without limitation the fees and rebates referenced in the schedule of fees under Rule 16.1(c)), the terms set forth below shall have the following meanings:

(1) An "affiliate" of an ETP Holder shall mean any wholly owned subsidiary, parent, or sister of the ETP Holder that is also an ETP Holder.

(2) A "wholly owned subsidiary" shall mean a subsidiary of an ETP Holder, 100% of whose voting stock or comparable ownership interest is owned by the ETP Holder, either directly or indirectly through other wholly owned subsidiaries.

(3) A "parent" shall mean an entity that directly or indirectly owns 100% of the voting stock or comparable ownership interest of an ETP Holder.

(4) A “sister” shall mean an entity, 100% of whose voting stock or comparable ownership interest is owned by a parent that also owns 100% of the voting stock or comparable ownership interest of an ETP Holder.

Rule 16.4. Integrated Billing System

Unless a payment method other than as described below is agreed upon by the Exchange and ETP Holder, each ETP Holder must designate a Clearing Member for the payment of the ETP Holder's Exchange invoices and vendor invoices for Exchange-related services by means of the Exchange's integrated billing system ("IBS"). The Clearing Member shall pay to the Exchange on a timely basis any amount that is not disputed by the ETP Holder. Such payments shall be drafted by the Exchange against the Clearing Member's account at the Qualified Clearing Agency. The Qualified Clearing Agency shall have no liability in connection with its forwarding to the Exchange each month a payment representing the total amount that the Exchange advises the Qualified Clearing Agency is owed to the Exchange.]

EXHIBIT 5C

Additions double underlined
Deletions [bracketed]

[FOURTH]FIFTH AMENDED AND RESTATED BY-LAWS
OF
NYSE NATIONAL, INC.

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[FOURTH]FIFTH AMENDED AND RESTATED BY-LAWS
OF
NYSE NATIONAL, INC.

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[FOURTH]FIFTH AMENDED AND RESTATED BY-LAWS
OF
NYSE NATIONAL, INC.

(a Delaware corporation)

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ARTICLE V
COMMITTEES

Section 5.1 Number of Committees. The committees of the Board shall consist of a Business Conduct Committee, a[n Appeals] Committee for Review, a Nominating Committee, a Regulatory Oversight Committee, and such other committees as may be from time to time established by the Board. Committees shall have such authority as is vested in them by these By-Laws or the Rules, or as is delegated to them by the Board. All committees are subject to the control and supervision of the Board.

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Section 5.8 [Appeals]Committee for Review. The [Appeals]Committee for Review shall preside over all appeals related to disciplinary and adverse action determinations in accordance with the Exchange Rules. The [Appeals]Committee for Review shall consist of at least one Public Director and at least one Non-Affiliated Director. If the Public Director recuses himself or herself from an appeal, due to a conflict of interest or otherwise, such Public Director may be replaced by a Non-Affiliated Director for purposes of the applicable appeal if there is no other Public Director able to serve as the replacement.

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