Proposed Rule Change by Philadelphia Stock Exchange
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) Rule

Pilot ✔ Extension of Time Period for Commission Action ✔ Date Expires:

Rule

☑ 19b-4(f)(1) ☐ 19b-4(f)(4)

☑ 19b-4(f)(2) ☐ 19b-4(f)(5)

☑ 19b-4(f)(3) ☐ 19b-4(f)(6)

Description
Provide a brief description of the proposed rule change (limit 250 characters).

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 proposed rule change.

First Name: Scott Last Name: Donnini
Title: Vice President
E-mail: scott.donnini@phlx.com
Telephone: (215) 496-5358 Fax: (215) 496-6729

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: 02/16/2006
By Scott Donnini Vice President (Name) (Title)

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.
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**

The Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")\(^1\) and Rule 19b-4 thereunder,\(^2\) proposes to amend the Phlx By-Laws ("By-Laws") and Charter ("Charter") to revise the current structure of the Phlx Board of Governors. Specifically, the Exchange proposes to: (i) voluntarily conform to certain aspects of the proposed rulemaking including the incorporation of the concept of independent directors\(^3\); (ii) create a single Vice-Chairman of the Board of Governors; (iii) eliminate the distinction between On-Floor and Off-Floor Governors; (iv) make changes to the election of Governors in the By-Laws and Charter; and (v) make other minor technical modifications.

A notice of the proposed rule change for publication in the *Federal Register* is attached hereto as Exhibit 1 and the text of the amended By-Laws and Charter are attached hereto as Exhibit 5.

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

The Board of Governors approved the By-Law and Charter proposal for filing with the Securities and Exchange Commission ("SEC" or "Commission") on December 14,

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\(^3\) See 17 CFR Parts 240, 242, and 249 (Securities Exchange Act Release No. 50669 (November 18, 2004); File No. S7-39-04 “Proposed SRO Governance Rule”) (The Exchange has voluntarily adopted concepts addressed in this proposal.)
2005. A special meeting of the stockholders\textsuperscript{4} of the Phlx to approve the amendments to the Charter occurred on January 24, 2006.\textsuperscript{5} At that meeting, stockholders of the Exchange approved the amendments to the Charter.

Questions and comments on the proposed rule change may be directed to Scott Donnini, Vice President and Counsel at (215) 496-5358 or Edith Hallahan, Senior Vice President and Deputy General Counsel, at (215) 496-5179.

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

a. Purpose

The purpose of the proposed rule change is to address various governance issues in both the Exchange By-Laws and Charter.

\textit{Conformance to Certain Aspects of the Proposed Rulemaking}

One purpose of the proposed rule change is to amend the By-Laws and Charter to voluntarily conform to certain aspects of the proposed rulemaking including the concept of independent directors as set forth in the proposed rule making.\textsuperscript{6} The Exchange proposes converting all non-industry\textsuperscript{7} positions to independent positions and adding an

\textsuperscript{4} Pursuant to By-Law Article I, Section 1-1(cc), the term “stockholder” shall mean a stockholder of the Exchange.

\textsuperscript{5} The record date for the stockholder vote, which was set by the Board of Governors, was December 15, 2005. A proxy and ballot was mailed to all stockholders on December 28, 2005. The mailing contained notice of the special meeting of stockholders.

\textsuperscript{6} See n.3 supra.

\textsuperscript{7} Non-industry is defined in the Exchange’s By-Laws Article I, Section 1-1(t) as follows: “The term non-industry when used in the context of Governors or committee members shall mean (a) public Governors; (b) officers and employees of issuers of securities listed on the Exchange; (c) persons affiliated with brokers and dealers that operate solely to assist the securities-related activities of the business of non-member affiliates (such as brokers or dealers established to (i) distribute an affiliate’s securities which are issues on
additional Independent Governor to ensure a majority of Independent Governors pursuant to the Commission’s proposed rulemaking on SRO governance. An Independent Governor is defined as a Governor who has no material relationship with the Exchange or any affiliate of the Exchange, any member of the Exchange or any affiliate of such member, or any issuer of securities that are listed or traded on the Exchange or a facility of the Exchange. A material relationship is defined as a relationship, compensatory or otherwise, that reasonably could affect the independent judgment or decision-making of a Governor. The Board of Governors shall make this independence determination upon the Governor’s nomination and no less frequently than annually and as often as necessary in light of a Governor’s circumstances and pursuant to By-Law Article IV, Section 4-4 to ensure that the status of all incumbent Independent Governors do not fall outside the definition of Independent. The designation of “Independent” will replace the defined terms “public” and “non-industry,” as presently set forth in the Exchange By-Laws and

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8 See n.3 supra.

9 Independent is defined in the Exchange’s By-Laws Article 1, Section 1-1(p). “The term “Independent Governor” shall mean a Governor who must satisfy the definition of Independent as set forth herein and is duly elected to fill one of the twelve (12) vacancies on the Board of Governors allocated to the Independent Governors.”

10 Public is defined in the Exchange’s By-Laws Article I, Section 1-1(y). “The term “public” when used in the context of Governors or committee members shall mean non-industry persons who have no material business relationship with a broker, dealer or the Exchange.”
Charter. Currently the Board of Governors consists of 22 Governors. Under this proposal, the Board of Governors will now consist of 23 Governors. Accordingly, the Board of Governors will now consist of a majority of Independent Governors.

Single Vice-Chairman

Secondly, the By-Laws and Charter are being amended to create a single Vice-Chairman of the Board of Governors, in proposed By-Law Article V, Section 5-2, who shall be recommended by the Chairman for nomination by the Nominating, Elections and Governance Committee and elected by the stockholders. The Vice-Chairman shall not be subject to a term limit. Currently, the By-Laws require two Vice-Chairmen of the Board of Governors, with one Vice-Chairman elected as an On-Floor Governor by the Members, and the other Vice-Chairman elected as an Off-Floor Governor by the stockholders. The Exchange proposed this amendment to conform to a structure that is more typical of a for-profit stock corporation and also because the two Vice-Chairmen model is not sustainable if the “On-Floor” and “Off-Floor” distinctions are eliminated, as discussed below.

Eliminate “On-Floor” and “Off-Floor” Governor distinction

Third, the Exchange proposes to eliminate the distinction between “On-Floor” and “Off-Floor” Governors, in both the Exchange By-Laws and Charter, to allow for

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11 See Exchange Charter Article Seventh and By-Law Article IV, Section 4-1.

12 Article IV, Section 4-1 provides that an On-Floor Governor is an industry Governor and is a member primarily engaged in business on the Exchange's Equity Floor or a general partner, executive officer (vice president and above) or member associated with a member organization primarily engaged in business on the Exchange's Equity Floor (On-Floor Governor)...[and] is an industry Governor and is a member of the Philadelphia Board of Trade (On-Floor PBOT Governor)...[and] is an industry Governor and is a member primarily engaged in business as a specialist on the Exchange's Equity Options Floor or a general partner, executive officer (vice president and above) or a
greater stockholder representation and specifically, representation on the Board of Governors of the six recently acquired strategic investors.\textsuperscript{14} Presently, there are five Off-Floor Industry Governors elected by the stockholders and five On-Floor Industry Governors elected by the Members. The Exchange proposes to replace this current model with nine positions that would consist of six positions elected by stockholders, two Member positions and one Philadelphia Board of Trade (“PBOT”) position. The Member positions and the PBOT position would be elected by Members of the Exchange.

\textit{Election of Governors}

The By-Laws and Charter are also being amended to reflect that two of the Independent Governors will be nominated and elected by the Members of the Exchange, as will both Member Governors and the PBOT Governor, in order to maintain the 20% member associated with a member organization primarily engaged in specialist business on the Exchange's Equity Options Floor (On-Floor Equity Options Specialist Governor)...[and] is an industry Governor and is a member primarily engaged in business as a registered options trader on the Exchange's Equity Options Floor or a general partner, executive officer (vice president and above) or a member associated with a member organization primarily engaged in registered options trader business on the Exchange's Equity Options Floor (On-Floor Equity Options Registered Options Trader Governor); and ... who is an industry Governor and is a member primarily engaged in business on the Exchange's Equity Options Floor as a floor broker (On-Floor Equity Options Broker Governor).”

\textsuperscript{13} Off-Floor Governors are defined as “industry Governors and general partners, executive officers (vice president or above), or members or participants associated with member or participant organizations which conduct a non-member or non participant public customer business and shall individually not be primarily engaged in business activities on the Exchange Floor.” \textit{See} Article IV, Section 4-1.

\textsuperscript{14} During 2005, six firms made an investment into the Exchange, Citigroup Financial Products, Inc.; Credit Suisse First Boston NEXT Fund, Inc.; Morgan Stanley & Co., Inc., UBS Securities LLC; Citadel Derivatives Group, LLC; and Merrill Lynch, Pierce Fenner & Smith, Inc.
fair representation of membership on the Board of Governors.\textsuperscript{15} The proposed amendments to the Charter and By-Laws, in and of themselves, would require minimal changes to the present composition of the Board, subject to a formal analysis and determination by the Board of the qualifications of the Independent Governors, and would be largely a reclassification of Board positions.

The conversion of the Board to conform to the new qualifications would occur as follows: following the approval by the Commission, the Exchange would hold an Annual Meeting of Member and Member Organizations followed by the Annual Meeting of Stockholders to elect the class of Governors for 2006. The class of 2006 will be nominated and elected pursuant to the amended Charter and By-Laws, with two of the nine Board positions being nominated and selected by the Members and elected by the Trustee of the Series A Preferred Stock. The classes of 2007 and 2008 will be permitted to complete their terms but will be appointed by the Nominating and Elections Committee, with the approval of the Board, to fill the new positions established by the amendments until which time those positions come up for election in either 2007 and 2008 respectively.\textsuperscript{16} Following the election of the Class of 2006, over 20% of the Governors serving on the Board will have been nominated and elected by the Members.

\textit{Stockholder meetings}

With regard to the Charter, the Exchange seeks to remove Article NINTH to conform to the Exchange's governance process to allow greater flexibility in its governance processes. In the absence of this section, the consent of the stockholders of

\textsuperscript{15} See Section 6(b)(3) of the Act and 18 U.S.C. 78, Proposed SRO Governance Rule. The Exchange is voluntarily adopting certain concepts addressed in this proposal.

\textsuperscript{16} See Exchange By-Law Article IV, Section 4-7.
the Exchange in lieu of a meeting will be governed by Delaware General Corporation Law, which will allow stockholders to take action outside of a stockholder meeting by less-than-unanimous written consent.

*Other Minor Modifications*

Modifications will be made to each of the By-Law and Charter sections which effect those Standing Committees\(^{17}\) in order to conform those By-Laws and Charter sections to the proposed changes described as follows:

- The following committees are not affected by the changes described herein with the exception of minor technical modifications:
  - Admissions
  - Options Allocation, Evaluation and Securities Committee
  - Equity Allocation, Evaluation and Securities Committee
  - Floor Procedure
  - Foreign Currency Options
  - Marketing
  - Options

- The Automation Committee currently allows for the Chairman of the Committee to be designated as a Non-Industry or Off-Floor Governor. The amendments will change this designation to a Stockholder or Independent Governor.

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\(^{17}\) No changes are being made to By-Law Article X, Section 10-9, Audit Committee, however the Exchange has recently filed a proposed rule change to amend this By-Law, which is pending approval. See Securities Exchange Act Release No. 52777 (November 16, 2005) (SR-Phlx-2004-37), pending approval.
• The Business Conduct Committee is currently composed of three (3) Non-Industry Governors (one of whom must be Public); one (1) Equity Floor Member; one (1) Equity Options Floor Member; one (1) At-Large Floor Member and three (3) Off-Floor Members. The amendments will modify the composition to the following: three (3) Independent Governors; four (4) Members or persons associated with a Member Organization; one (1) Member who primarily conducts business on the Equity Floor; and one (1) Member who primarily conducts business on the Equity Options Floor.

• The Compensation Committee is currently composed of one (1) Chairman (who must be a Non-Industry Governor); two (2) Non-Industry Governors (one of whom must be a Public Governor); and the two (2) Vice-Chairman of the Board of Governors. The amendments will modify the composition to the following: four (4) Independent Governors (one of whom must serve as chairman of the committee) and the Vice-Chairman of the Board of Governors.

• The Executive Committee is currently composed of the Chairman of the Board of Governors; the two (2) Vice-Chairmen of the Board of Governors; the Chairman of the Finance Committee; one (1) Chairman of a floor committee not represented by the On-Floor Vice-Chairman; one (1) Chairman of a floor committee not represented by the Off-Floor Vice-Chairman; one (1) Off-Floor Governor; and two (2) Non-Industry Governors (one of whom must be a Public Governor). The amendments
will modify the composition to the following: the Chairman of the Board of Governors; the Vice-Chairman of the Board of Governors; two (2) Stockholder Governors; two (2) Independent Governors; the Chairman of the Finance Committee; and two (2) Chairmen of Floor Committees.

- The Finance Committee is currently composed as follows: the Chairman of the Board of Governors; the two (2) Vice-Chairmen of the Board of Governors; one (1) On-Floor Member (who may be a Governor); one (1) Off-Floor Member (who may be a Governor); and four (4) Non-Industry Governors (one whom must be a Public Governor.) The amendments will modify the composition to the following: the Chairman and Vice-Chairman of the Board of Governors; two (2) Members or persons associated with a Member Organization, who may be governors (one of whom conducts business primarily on the Equity or Equity Options Floor); one (1) Stockholder Governor; and four (4) Independent Governors. The chairman of this committee must be the Vice-Chairman of the Board of Governors, a Stockholder Governor or a Member Governor.

- The Nominating and Elections Committee will be renamed the Nominating, Elections and Governance Committee. The purpose of this change is to have the Committee’s name more properly reflect the existing role and function of this Committee. There are no substantive changes in the Committee’s function. The Nominating and Elections Committee is currently composed of the following: the Chairman (who
must be a Non-Industry Public Governor; three (3) Non-Industry Governors; one (1) Off-Floor Member (who may be a Governor); one (1) On-Floor Equity Governor; and one (1) On-Floor Equity Options Governor. The amendments will modify the composition to the following: four (4) Independent Governors (one of whom must serve as the chairman of the committee); two (2) Stockholder Governors; and one (1) Member Governor.

- The Quality of Markets Committee will not change in any way except the following designations: Non-Industry Governors will be called Independent Governors and Industry Governors will be called Stockholder Governors.

Also, the name of the Nominating and Elections Committee is being changed to the Nominating, Elections and Governance Committee to conform more closely to the governance structure in the Proposed SRO Governance Rule. Other minor technical modifications have been made to the By-Laws and Charter for purposes of consistency.

b. **Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(3) of the Act in particular, in that it is designed to assure a fair representation of its members in the selection of its directors and administration of its affairs because the Board of Governors will consist of

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18 See n.3 supra.


a majority of Independent Governors with two elected by the Members and ten by the stockholders, ensuring greater shareholder representation.

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

   The Phlx does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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

   No written comments were either solicited or received.

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

   The Exchange does not consent to an extension of the 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 proposed rule change is based in part on a proposed rule change by the New York Stock Exchange, Inc.\(^{21}\)

9. **Exhibits**

   1. Notice of proposed rule for publication in the Federal Register.
   5. Text of the amended Charter and By-Laws.

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Self-Regulatory Organizations; Notice of Filing Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to an Amendment of the By-Laws and Charter in Connection with a Revision of the Corporate Structure of the Board of Governors

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")\(^1\), and Rule 19b-4\(^2\) thereunder, notice is hereby given that on ______________________ 2006, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Phlx. 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 Phlx, pursuant to Section 19(b)(1) of the Act\(^3\) and Rule 19b-4 thereunder,\(^4\) proposes to amend the Phlx By-Laws ("By-Laws") and Charter ("Charter") to revise the current structure of the Phlx Board of Governors. Specifically, the Exchange proposes to: (i) voluntarily conform to certain aspects of the proposed rulemaking including the

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incorporation of the concept of independent directors⁵; (ii) create a single Vice-Chairman of the Board of Governors; (iii) eliminate the distinction between On-Floor and Off-Floor Governors; (iv) make changes to the election of Governors in the By-Laws and Charter; and (v) make other minor technical modifications.

The text of the amended By-Laws and Charter are attached hereto as Exhibit 5.

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 Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The purpose of the proposed rule change is to address various governance issues in both the Exchange By-Laws and Charter.

Conformance to Certain Aspects of the Proposed Rulemaking

One purpose of the proposed rule change is to amend the By-Laws and Charter to voluntarily conform to certain aspects of the proposed rulemaking including the concept of independent directors as set forth in the proposed rule making.⁶ The Exchange

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⁶ See n.3 supra.
proposes converting all non-industry positions to independent positions and adding an additional Independent Governor to ensure a majority of Independent Governors pursuant to the Commission’s proposed rulemaking on SRO governance. An Independent Governor is defined as a Governor who has no material relationship with the Exchange or any affiliate of the Exchange, any member of the Exchange or any affiliate of such member, or any issuer of securities that are listed or traded on the Exchange or a facility of the Exchange. A material relationship is defined as a relationship, compensatory or otherwise, that reasonably could affect the independent judgment or decision-making of a Governor. The Board of Governors shall make this independence determination upon the Governor’s nomination and no less frequently than annually and as often as necessary in light of a Governor’s circumstances and pursuant to By-Law Article IV, Section 4-4 to ensure that the status of all incumbent Independent Governors do not fall outside the definition of Independent. The designation of “Independent” will replace the defined

7 Non-industry is defined in the Exchange’s By-Laws Article I, Section 1-1(t) as follows: “The term non-industry when used in the context of Governors or committee members shall mean (a) public Governors; (b) officers and employees of issuers of securities listed on the Exchange; (c) persons affiliated with brokers and dealers that operate solely to assist the securities-related activities of the business of non-member affiliates (such as brokers or dealers established to (i) distribute an affiliate’s securities which are issues on a continuous or regular basis, or (ii) process the limited buy and sell orders of the shares of employee owners of the affiliate); (d) employees of an entity that is affiliated with a broker or dealer that does not account for a material portion of the revenues of the consolidated entity, and who are primarily engaged in the business of the non-member entity; and (e) other individuals who would not be industry Governors or committee members.”

8 See n.3 supra.

9 Independent is defined in the Exchange’s By-Laws Article 1, Section 1-1(p). “The term “Independent Governor” shall mean a Governor who must satisfy the definition of Independent as set forth herein and is duly elected to fill one of the twelve (12) vacancies on the Board of Governors allocated to the Independent Governors.”
terms “public”\textsuperscript{10} and “non-industry,” as presently set forth in the Exchange By-Laws and Charter. Currently the Board of Governors consists of 22 Governors.\textsuperscript{11} Under this proposal, the Board of Governors will now consist of 23 Governors. Accordingly, the Board of Governors will now consist of a majority of Independent Governors.

\textit{Single Vice-Chairman}

Secondly, the By-Laws and Charter are being amended to create a single Vice-Chairman of the Board of Governors, in proposed By-Law Article V, Section 5-2, who shall be recommended by the Chairman for nomination by the Nominating, Elections and Governance Committee and elected by the stockholders. The Vice-Chairman shall not be subject to a term limit. Currently, the By-Laws require two Vice-Chairmen of the Board of Governors, with one Vice-Chairman elected as an On-Floor Governor by the Members, and the other Vice-Chairman elected as an Off-Floor Governor by the stockholders. The Exchange proposed this amendment to conform to a structure that is more typical of a for-profit stock corporation and also because the two Vice-Chairmen model is not sustainable if the “On-Floor” and “Off-Floor” distinctions are eliminated, as discussed below.

\textsuperscript{10} Public is defined in the Exchange’s By-Laws Article I, Section 1-1(y). “The term “public” when used in the context of Governors or committee members shall mean non-industry persons who have no material business relationship with a broker, dealer or the Exchange.”

\textsuperscript{11} See Exchange Charter Article Seventh and By-Law Article IV, Section 4-1.
Eliminate “On-Floor” and “Off-Floor” Governor distinction

Third, the Exchange proposes to eliminate the distinction between “On-Floor”12 and “Off-Floor”13 Governors, in both the Exchange By-Laws and Charter, to allow for greater stockholder representation and specifically, representation on the Board of Governors of the six recently acquired strategic investors.14 Presently, there are five Off-Floor Industry Governors elected by the stockholders and five On-Floor Industry Governors elected by the Members. The Exchange proposes to replace this current

12 Article IV, Section 4-1 provides that an On-Floor Governor is an industry Governor and is a member primarily engaged in business on the Exchange's Equity Floor or a general partner, executive officer (vice president and above) or member associated with a member organization primarily engaged in business on the Exchange's Equity Floor (On-Floor Equity Governor)...[and] is an industry Governor and is a member of the Philadelphia Board of Trade (On-Floor PBOT Governor)...[and] is an industry Governor and is a member primarily engaged in business as a specialist on the Exchange's Equity Options Floor or a general partner, executive officer (vice president and above) or a member associated with a member organization primarily engaged in specialist business on the Exchange's Equity Options Floor (On-Floor Equity Options Specialist Governor)...[and] is an industry Governor and is a member primarily engaged in business as a registered options trader on the Exchange's Equity Options Floor or a general partner, executive officer (vice president and above) or a member associated with a member organization primarily engaged in registered options trader business on the Exchange's Equity Options Floor (On-Floor Equity Options Registered Options Trader Governor); and ... who is an industry Governor and is a member primarily engaged in business on the Exchange's Equity Options Floor as a floor broker (On-Floor Equity Options Broker Governor).”

13 Off-Floor Governors are defined as “industry Governors and general partners, executive officers (vice president or above), or members or participants associated with member or participant organizations which conduct a non-member or non-participant public customer business and shall individually not be primarily engaged in business activities on the Exchange Floor.” See Article IV, Section 4-1.

model with nine positions that would consist of six positions elected by stockholders, two 
Member positions and one Philadelphia Board of Trade ("PBOT") position. The Member 
positions and the PBOT position would be elected by Members of the Exchange.

_Election of Governors_

The By-Laws and Charter are also being amended to reflect that two of the 
Independent Governors will be nominated and elected by the Members of the Exchange, as will both Member Governors and the PBOT Governor, in order to maintain the 20% 
fair representation of membership on the Board of Governors.\textsuperscript{15} The proposed 
amendments to the Charter and By-Laws, in and of themselves, would require minimal 
changes to the present composition of the Board, subject to a formal analysis and 
determination by the Board of the qualifications of the Independent Governors, and would be largely a reclassification of Board positions.

The conversion of the Board to conform to the new qualifications would occur as 
follows: following the approval by the Commission, the Exchange would hold an Annual 
Meeting of Member and Member Organizations followed by the Annual Meeting of 
Stockholders to elect the class of Governors for 2006. The class of 2006 will be 
nominated and elected pursuant to the amended Charter and By-Laws, with two of the 
nine Board positions being nominated and selected by the Members and elected by the 
Trustee of the Series A Preferred Stock. The classes of 2007 and 2008 will be permitted 
to complete their terms but will be appointed by the Nominating and Elections 
Committee, with the approval of the Board, to fill the new positions established by the 
amendments until which time those positions come up for election in either 2007 and

\textsuperscript{15} See Section 6(b)(3) of the Act and 18 U.S.C. 78, Proposed SRO Governance Rule. The Exchange is voluntarily adopting certain concepts addressed in this proposal.
2008 respectively.16 Following the election of the Class of 2006, over 20% of the Governors serving on the Board will have been nominated and elected by the Members.

Stockholder meetings

With regard to the Charter, the Exchange seeks to remove Article NINTH to conform to the Exchange's governance process to allow greater flexibility in its governance processes. In the absence of this section, the consent of the stockholders of the Exchange in lieu of a meeting will be governed by Delaware General Corporation Law, which will allow stockholders to take action outside of a stockholder meeting by less-than-unanimous written consent.

Other Minor Modifications

Modifications will be made to each of the By-Law and Charter sections which effect those Standing Committees17 in order to conform those By-Laws and Charter sections to the proposed changes described as follows:

- The following committees are not affected by the changes described herein with the exception of minor technical modifications:
  - Admissions
  - Options Allocation, Evaluation and Securities Committee
  - Equity Allocation, Evaluation and Securities Committee
  - Floor Procedure
  - Foreign Currency Options

16 See Exchange By-Law Article IV, Section 4-7.

17 No changes are being made to By-Law Article X, Section 10-9, Audit Committee, however the Exchange has recently filed a proposed rule change to amend this By-Law, which is pending approval. See Securities Exchange Act Release No. 52777 (November 16, 2005) (SR-Phlx-2004-37), pending approval.
• Marketing
  
• Options

The Automation Committee currently allows for the Chairman of the Committee to be designated as a Non-Industry or Off-Floor Governor. The amendments will change this designation to a Stockholder or Independent Governor.

The Business Conduct Committee is currently composed of three (3) Non-Industry Governors (one of whom must be Public); one (1) Equity Floor Member; one (1) Equity Options Floor Member; one (1) At-Large Floor Member and three (3) Off-Floor Members. The amendments will modify the composition to the following: three (3) Independent Governors; four (4) Members or persons associated with a Member Organization; one (1) Member who primarily conducts business on the Equity Floor; and one (1) Member who primarily conducts business on the Equity Options Floor.

The Compensation Committee is currently composed of one (1) Chairman (who must be a Non-Industry Governor); two (2) Non-Industry Governors (one of whom must be a Public Governor); and the two (2) Vice-Chairman of the Board of Governors. The amendments will modify the composition to the following: four (4) Independent Governors (one of whom must serve as chairman of the committee) and the Vice-Chairman of the Board of Governors.
• The Executive Committee is currently composed of the Chairman of the Board of Governors; the two (2) Vice-Chairmen of the Board of Governors; the Chairman of the Finance Committee; one (1) Chairman of a floor committee not represented by the On-Floor Vice-Chairman; one (1) Chairman of a floor committee not represented by the Off-Floor Vice-Chairman; one (1) Off-Floor Governor; and two (2) Non-Industry Governors (one of whom must be a Public Governor). The amendments will modify the composition to the following: the Chairman of the Board of Governors; the Vice-Chairman of the Board of Governors; two (2) Stockholder Governors; two (2) Independent Governors; the Chairman of the Finance Committee; and two (2) Chairmen of Floor Committees.

• The Finance Committee is currently composed as follows: the Chairman of the Board of Governors; the two (2) Vice-Chairmen of the Board of Governors; one (1) On-Floor Member (who may be a Governor); one (1) Off-Floor Member (who may be a Governor); and four (4) Non-Industry Governors (one whom must be a Public Governor.) The amendments will modify the composition to the following: the Chairman and Vice-Chairman of the Board of Governors; two (2) Members or persons associated with a Member Organization, who may be governors (one of whom conducts business primarily on the Equity or Equity Options Floor); one (1) Stockholder Governor; and four (4) Independent Governors. The chairman of this committee must be the Vice-Chairman.
of the Board of Governors, a Stockholder Governor or a Member Governor.

- The Nominating and Elections Committee will be renamed the Nominating, Elections and Governance Committee. The purpose of this change is to have the Committee’s name more properly reflect the existing role and function of this Committee. There are no substantive changes in the Committee’s function. The Nominating and Elections Committee is currently composed of the following: the Chairman (who must be a Non-Industry Public Governor); three (3) Non-Industry Governors; one (1) Off-Floor Member (who may be a Governor); one (1) On-Floor Equity Governor; and one (1) On-Floor Equity Options Governor. The amendments will modify the composition to the following: four (4) Independent Governors (one of whom must serve as the chairman of the committee); two (2) Stockholder Governors; and one (1) Member Governor.

- The Quality of Markets Committee will not change in any way except the following designations: Non-Industry Governors will be called Independent Governors and Industry Governors will be called Stockholder Governors.

Also, the name of the Nominating and Elections Committee is being changed to the Nominating, Elections and Governance Committee to conform more closely to the
governance structure in the Proposed SRO Governance Rule.\textsuperscript{18} Other minor technical
modifications have been made to the By-Laws and Charter for purposes of consistency.

2. **Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act\textsuperscript{19} in general, and furthers the objectives of Section 6(b)(3) of the Act\textsuperscript{20} in particular, in that it is designed to assure a fair representation of its members in the selection of its directors and administration of its affairs because the Board of Governors will consist of a majority of Independent Governors with two elected by the Members and ten by the stockholders, ensuring greater shareholder representation.

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 not necessary or appropriate in furtherance of the purposes of the Act.

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

No written comments were either solicited or received.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or

\textsuperscript{18} See n.3 supra.

\textsuperscript{19} 15 U.S.C. 78f(b).

\textsuperscript{20} 15 U.S.C. 78f(b)(5).
(ii) as to which Phlx consents, the Commission shall: (a) by order approve such 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-Phlx-2005-93 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-Phlx-2005-93. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s Internet Web site (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld
from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission’s Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2005-93 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.21

Margaret H. McFarland
Deputy Secretary

Brackets indicate deletions, underlining indicates new text added since the immediately preceding filing.

**RESTATED CERTIFICATE OF INCORPORATION OF PHILADELPHIA STOCK EXCHANGE, INC.**

FIRST – FOURTH(a)(iii) No Change.

(A) Subject to paragraph (b)(v)(B) of this Article FOURTH, and except as otherwise provided in paragraph (b)(iii)(B) of this Article FOURTH: (1) each holder of Common Stock shall have one vote in respect of each share of Common Stock held by such holder on the books of the Corporation on each matter on which the holders of Common Stock shall be entitled to vote; (2) the holders of shares of Common Stock shall have the sole right to elect the Non-Industry ten Independent Governors, and the Off-Floor six Stockholder Industry Governors and the Vice-Chairman (each, as hereinafter defined in this Article FOURTH and in the By-Laws); (3) the holders of shares of Common Stock shall have the sole right to elect the individual then holding the office of Chief Executive Officer of the Corporation (the "Chief Executive Officer") to the Board of Governors as described in paragraph (a)(iii) of Article SIXTH of this Certificate; and (4) the holders of Common Stock shall have no voting rights with respect to the election of the On-Floor Industry Governors two Member Governors, the PBOT Governor and the two Designated Independent Governors.

“Independent Governors” shall mean a Governor who must satisfy the definition of Independent. [“Independent,” when used in the context of Governors or committee members, shall mean persons affirmatively determined by the Board of Governors as having no Material Relationship with the Exchange.] “Stockholder Governor” shall mean a Governor who is a Stockholder or an officer, director (or a person in a similar position in business entities that are not corporations), designee or an employee of a Stockholder or any affiliate or subsidiary of such Stockholder.

(B) – SIXTH – No Change.
(a) Prior to the first annual meeting of the stockholders of the Corporation following the date hereof (the "Initial Annual Meeting"), the Board of Governors shall consist of those persons serving as Governors as of the date hereof. Thereafter, subject to Article SEVENTH, the Board of Governors shall consist of [22] twenty-three Governors, as follows:

(i) [Eleven] Twelve Governors [(the "Non-Industry Governors") who shall be Independent Governors who meet the qualifications set forth in the By-Laws with respect to "non-industry"] Independent Governors, [who] ten of whom shall be elected by a plurality vote of the holders of the Common Stock and two of whom shall be Designated Independent Governors elected by the vote of the holder of the Series A Preferred Stock;

(ii) [Ten] Six Governors who shall be Stockholder Governors [(the "Industry Governors")]

who meet the qualifications set forth in the By-Laws with respect to "industry"] Stockholder Governors, [provided that (x) five of such Industry Governors shall meet the qualifications set forth in Section 4-1 of the By-Laws with respect to "On-Floor Governors" (the "On-Floor Industry Governors") and shall be elected by the vote of the holder of the Series A Preferred Stock, and (y) five of such Industry Governors shall meet the qualifications set forth in Section 4-1 of the By-Laws with respect to "Off-Floor Governors" (the "Off-Floor Industry Governors") and who shall be elected by a plurality vote of the holders of the Common Stock; [and]

(iii) One Governor who shall be a PBOT Governor who meets the qualifications set forth in the By-Laws with respect to the PBOT Governor, who shall be elected by the vote of the holder of the Series A Preferred Stock;

(iv) Two Governors who shall be Member Governors who meet the qualifications set forth in the By-Laws with respect to the Member Governors, who shall be elected by the holder of the Series A Preferred Stock;

((iii) One Governor, to serve as the Chairman of the Board of Governors, who shall be the Chief Executive Officer who shall be elected by a plurality vote of the holders of the Common Stock; and

(vi) One Governor, to serve as the Vice-Chairman of the Board of Governors, who meets the qualifications set forth in the By-Laws with respect to the Vice-Chairman of
the Board of Governors who shall be elected by a plurality vote of the holders of the Common Stock.

(b) - SIXTEENTH - No Change.

BY-LAWS OF
PHILADELPHIA STOCK EXCHANGE, INC.

ARTICLE I
Definitions
SEC. 1-1. Unless the context requires otherwise, the terms defined in this Section shall, for all purposes of these By-Laws, have the meaning herein specified:

(a) – (d) – No change.

Designated Governors

(e) The term “Designated Governors” shall mean the two (2) Member Governors, the PBOT Governor and the two (2) Designated Independent Governors. The holder of the Series A Preferred Stock shall be required to elect the Designated Governors in accordance with Article SIXTH of the Certificate of Incorporation and the Trust Agreement.

Designated Independent Governors

(f) The term “Designated Independent Governors” shall mean those Independent Governors, as defined herein, who are elected by the holder of the Series A Preferred Stock in accordance with Article SIXTH of the Certificate of Incorporation.

DGCL

([e]g) The term “DGCL” shall mean the Delaware General Corporation Law, as amended and in effect from time to time.

Exchange
The term “Exchange” shall mean the Philadelphia Stock Exchange, Inc.

**Exchange Act**


**Foreign Currency Options Participation**

The term “foreign currency options participation” means the foreign currency options participations issued from time to time by the Exchange.

**Foreign Currency Options Participant or Participant**

The term “foreign currency options participant” or “participant” includes a Member of the Exchange who has purchased a foreign currency options participation and a non-member who has been admitted to the Exchange as a foreign currency options participant by the Admissions Committee.

**Foreign Currency Options Participant Organization**

The term “foreign currency options participant organization” means a corporation, partnership (general or limited), limited liability partnership, limited liability company, business trust or similar organization, transacting business as a broker or a dealer in securities and which has the status of a foreign currency options participant organization by virtue of (i) permission given to it by the Admissions Committee pursuant to the provisions of Section 10-6 of these By-Laws or (ii) the transitional rules adopted by the Exchange pursuant to Section 12-12 of these By-Laws. References herein to officer or partner, when used in the context of a foreign currency options participant organization, shall include any person holding a similar position in any organization other than a corporation or partnership that has the status of a foreign currency options participant organization.

**Governor**

The term “Governor” shall mean a Governor of the Exchange.

**Inactive Nominee**

The term “inactive nominee” shall mean a natural person associated with and designated as such by a Member Organization and who has been approved by the Admissions Committee for such status and is registered as such with the Membership.
Services Department. An inactive nominee shall have no rights or privileges under a permit unless and until said inactive nominee becomes admitted as a Member of the Exchange pursuant to these By-Laws and the rules of the Exchange. An inactive nominee merely stands ready to exercise rights under a permit upon notice by the [o]rganization to the Membership Services Department on an expedited basis.

**Independent**

(o) The term “Independent,” when used in the context of Governors or committee members, shall mean persons affirmatively determined by the Board as having no Material Relationship with the Exchange or any affiliate of the Exchange, any member of the Exchange or any affiliate of such member, or any issuer of securities that are listed or traded on the Exchange or a facility of the Exchange [as defined herein].

**Independent Governor**

(p) The term “Independent Governor” shall mean a Governor who must satisfy the definition of Independent as set forth herein and is duly elected to fill one of the twelve (12) vacancies on the Board of Governors allocated to the Independent Governors.

**Industry**

(m) The term "industry", when used in the context of Governors or committee members shall mean (a) officers, directors (or persons in similar positions in business entities that are not corporations) and employees of brokers and dealers and persons who have been employed in any such capacity at any time within the prior three years; and (b) persons who have consulting or employment relationships with or provided professional services to the Exchange and persons who had any such relationship or have provided any such services at any time within the prior three years.]

**Lessee**

([n]q) The term “lessee” means a foreign currency options participant who has leased legal title to his foreign currency options participation from a lessor.
Lessor

The term “lessor” means a holder of equitable title to a foreign currency options participation, including a former foreign currency options participant, who has leased legal title to his foreign currency options participation to a lessee and has retained equitable title to such foreign currency options participation.

Material Relationship

“Material Relationship” shall mean an affiliation, compensatory or otherwise, that could reasonably affect the independent judgment[s] or decision-making [efforts made by a] of the Governor. It is incumbent upon the Board of Governors to determine independence upon a Governor’s nomination and thereafter no less frequently than annually and as often as necessary in light of a Governor’s circumstances and as further outlined in By-Law Article IV Section 4-4 to ensure standards of independence as defined in these By-Laws are maintained.

Member

The term “[m]Member” means a holder of a permit which has not been terminated in accordance with these By-Laws and the rules of the Exchange.

Member Governor

The term “Member Governor” shall mean a Governor who is a Member or a general partner or an executive officer (vice-president and above) of a Member Organization and is duly elected to fill one of the two (2) vacancies on the Board of Governors allocated to the Member Governors.

Member Organization

The term “[m]Member [o]Organization” means a corporation, partnership (general or limited), limited liability partnership, limited liability company, business trust or similar organization, transacting business as a broker or a dealer in securities and which has the status of a [m]Member [o]Organization by virtue of (i) permission given to it by the Admissions Committee pursuant to the provisions of Section 10-6 of these By-Laws or (ii) the transitional rules adopted by the Exchange pursuant to Section 12-12 of these By-Laws. References herein to officer or partner, when used in the context of a [m]Member [o]Organization, shall include any person holding a similar position in any
organization other than a corporation or partnership that has the status of a [m]Member [o]Organization.

**Member Organization Representative**

([r]w) The term “Member Organization Representative” shall mean the officer (or person in a similar position) of a [m]Member [o]Organization designated by such [m]Member [o]Organization as such [m]Member [o]Organization's Member Organization Representative, who shall have the sole authority, with respect to the selection or removal of Designated Nominees [and the On-Floor Vice-Chairman of the Board of Governors,] to exercise any and all rights and to take any and all actions on behalf of such [m]Member [o]Organization and each [m]Member who has designated such [m]Member [o]Organization as his primary affiliation.

**Merger**

([s]x) The term “Merger” shall mean the merger of Phlx Merger Sub, Inc., a Delaware corporation, with and into the Exchange, with the Exchange as the surviving corporation, in connection with the demutualization of the Exchange from a non-stock membership corporation.

**[Non-industry]**

(t) The term “non-industry” when used in the context of Governors or committee members shall mean (a) public Governors; (b) officers and employees of issuers of securities listed on the Exchange; (c) persons affiliated with brokers and dealers that operate solely to assist the securities-related activities of the business of non-member affiliates (such as brokers or dealers established to (i) distribute an affiliate's securities which are issued on a continuous or regular basis, or (ii) process the limited buy and sell orders of the shares of employee owners of the affiliate); (d) employees of an entity that is affiliated with a broker or dealer that does not account for a material portion of the revenues of the consolidated entity, and who are primarily engaged in the business of the non-member entity; and (e) other individuals who would not be industry Governors or committee members.]
Non-member

([u]y) The term “non-member” includes, with respect to individuals, any person who is not a member and, with respect to entities, any organization that is not a Member Organization.

Owner

([v]z) The term “owner” shall mean any person or entity who or which is a holder of equitable title to a foreign currency options participant.

PBOT Governor

(aa) The term “PBOT Governor” shall mean a Governor who is a member of the Philadelphia Board of Trade (“PBOT”) and is duly elected to fill the one (1) vacancy on the Board of Governors allocated to the PBOT Governor.

Permit

([w]bb) The term “permit” shall mean a permit of any class, series or kind established from time to time by the Board of Governors and denominated as such.

Person

([x]cc) The term “person”, shall mean an individual, partnership (general or limited), joint-stock company, corporation, limited liability company, trust or unincorporated organization, and a government or agency or political subdivision thereof.

Public

(y) The term “public” when used in the context of Governors or committee members shall mean non-industry persons who have no material business relationship with a broker, dealer or the Exchange.

Securities Act

([z]dd) The term “Securities Act” shall mean the Securities Act of 1933, as amended.

Trust Agreement

([aa]ee) The term "Trust Agreement" shall mean the Amended and Restated Trust Agreement, dated as of January 20, 2004, between the Exchange and the trustee under such Trust Agreement.
**Series A Preferred Stock**

The term “Series A Preferred Stock” shall mean the Series A Preferred Stock, par value $0.01 per share, of the Exchange.

**Stockholder**

The term “[s]Stockholder” shall mean a stockholder of the Exchange.

**Stockholder Governor**

The term “Stockholder Governor” shall mean a Governor who is a Stockholder or an officer, director (or a person in a similar position in business entities that are not corporations), designee or an employee of a Stockholder or any affiliate or subsidiary of such Stockholder and is duly elected to fill one of the six (6) vacancies on the Board of Governors allocated to the Stockholder Governors.

**Independent Nominations by Members and Member Organizations; Election of Nominees for [On-Floor] Designated Governors**

SEC. 3-7.(a) Independent nominations for the positions of [On-Floor] Designated Governors may be made by a written petition by Member Organization Representatives filed with the Secretary of the Exchange in a sealed envelope within two (2) weeks after the posting of the report of the Nominating, [and] Elections and Governance Committee to the Member Organization Representatives as provided by Section 3-6(b) of these By-Laws. No such nomination shall be valid unless it is signed by Member Organization Representatives representing not less than fifty (50) votes. A Member Organization Representative shall not endorse more than one (1) nominee; provided, however, that Member Organization Representatives representing not less than seventy-five (75) votes may, by petition, propose an entire ticket, or any portion thereof, for the vacancies of [On-Floor] Designated Governors on the Board of Governors to be filled at the ensuing election.

(b) The Nominating, [and] Elections and Governance Committee and the Secretary of the Exchange shall open the envelopes submitted by the Member
Organization Representatives pursuant to Section 3-7(a) of these By-Laws, and if determined by the Nominating, [and] Elections and Governance Committee to be eligible for election, the persons nominated by petition in conformity with the provisions of these By-Laws, together with the names of all nominees for [On-Floor] Designated Governors selected by the Nominating, [and] Elections and Governance Committee pursuant to these By-Laws, shall be sent to all Member Organization Representatives as promptly after the third Monday of February (or at such other time established by the Board of Governors) as is reasonably possible as proposed [On-Floor] Designated Governors (the "Proposed [On-Floor] Designated Governors") to be submitted to a vote at the annual meeting of [m]Members and [m]Member [o]Organizations referred to in Section 3-2 of these By-Laws.

(c) The ballots containing the names of the Proposed [On-Floor] Designated Governors shall indicate by appropriate designation whether each such person is a [m]Member or a foreign currency options participant of the Exchange or is a non-member or non-foreign currency options participant of the Exchange who is a general partner or executive officer (vice-president or above) of a [m]Member Organization or participant organization of the Exchange or is nominated to be a Designated [Nominee] Independent Governor.

(d) The number of Designated Nominees to be elected from among the Proposed [On-Floor] Designated Governors at the annual meeting of [m]Members and [m]Member [o]Organizations referred to in Section 3-2 of these By-Laws shall be limited to the number of [On-Floor] Designated Governors to be elected at the ensuing annual meeting of [s]Stockholders, and the order of the Proposed [On-Floor] Designated Governors' names on notices and on ballots shall be determined through a drawing by lot conducted by the Nominating, [and] Elections and Governance Committee. The Proposed [On-Floor] Designated Governors receiving at such election the highest number of votes for the category of Governor for which they were nominated shall be declared the Designated Nominees for their respective positions as [On-Floor] Designated Governors. In the case of a tie, the names of the Proposed [On-Floor] Designated Governors involved in such tie shall be referred to the Nominating, [and] Elections and Governance
Committee, which shall make the selection as to who among such tying Proposed [On-Floor] Designated Governors shall be nominated as the Designated Nominees for election by the [s]Stockholders.

**Classification**

SEC. 4-3.(a) Subject to Section 4-3(b) of these By-Laws, the [industry] Stockholder Governors, [and non-industry] Independent Governors (including Designated Independent Governors), Member Governors and the PBOT Governors shall be divided into three (3) classes. Each such class shall be constituted by election or appointment each year to serve for three (3) years and until their successors are elected and qualify. Except for the Chairman of the Board of Governors and the Vice-Chairman of the Board of Governors, Governors shall not serve more than two (2) consecutive full three (3) year terms from and after the effective date of the Merger.

(b) The Governors of the Exchange holding such positions immediately prior to the effective time of the Merger shall continue to serve as Governors from and after the Merger for the then remaining balance of their respective terms, such that those Governors whose terms would have expired at: (i) the 2004 annual meeting of [m]Members will expire at the 2004 annual meeting of [s]Stockholders; (ii) the 2005 annual meeting of [m]Members will expire at the 2005 annual meeting of [s]Stockholders; and (iii) the 2006 annual meeting of [m]Members will expire at the 2006 annual meeting of [s]Stockholders.

**Duties and Powers**

SEC. 4-4.(a) The Board of Governors shall be vested with all the powers necessary for the management of the business and affairs of the Exchange, the regulation of the business conduct of [m]Members, participants, [and m]Member Organizations, and participant organizations, and persons associated with such organizations and for the promotion of the welfare, objects and purposes of the Exchange, and in addition to the power and authority conferred by these By-Laws, may exercise all powers of the Exchange and do all such lawful acts and things as are not by statute, these By-Laws or the Certificate of Incorporation directed or required to be exercised or done by the
Stockholders.

In the exercise of its powers it may adopt such rules, issue such orders and directions and make such decisions as it may deem appropriate.

(b)(i) – (iii) - No Change.

**Trials**

It may try charges against Members, participants, and Member Organizations and participant organizations and persons associated with or employed by Member or participant organizations, and may punish such persons and organizations as may be found guilty.

**Control of property and finances – Bonds for faithful performance** No Change.

**Annual Independence Review**

The Board of Governors shall, no less frequently than annually and as often as necessary in light of a Governor’s circumstances, review the incumbent Independent Governors to ensure no Material Relationship has developed that would cause an Independent Governor to fall outside of the definition of “Independent” set forth in By-Law Article 1, Section 1-1. It will be incumbent upon each Governor to promptly inform the Chairman or a member of the Executive Committee of any development that may affect such Governor’s status as an Independent Governor.

(b)(iv) – (v) No Change.

**Members’ contracts**

It may adopt such rules as it may deem necessary or proper with respect to Members’ Contracts.

(vi) Organizations, Offices, and Employees of Members. The Board of Governors may adopt such rules as it may deem necessary or proper with respect to the formation of Member Organizations, the continuance thereof and the interest of Members
and other persons therein, the offices of Members and such organizations and the employees thereof, the business connections of Members and such organizations and their association with or domination by or over corporations or other persons engaged in the securities business.

**Member [o]Organizations**

The Board of Governors may adopt rules prescribing the terms and conditions under which a Member may qualify a Member [o]Organization and a Member [o]Organization may register as Member [o]Organization of the Exchange; and may impose further terms and conditions in connection with such qualification or registration whenever it may deem it advisable.

(vii) – (viii) - No Change.

**Qualification and registration of Member [o]Organizations**

The Board of Governors (or its designee) shall receive and act upon the application of a Member to qualify a Member [o]Organization and the application of a Member [o]Organization to register with the Exchange; also upon the application to terminate such qualification or registration.

(ix) Applications for Permits and Reinstatement. The Board of Governors may receive reports of the Admissions Committee in connection with applications for permits, applications by non-members for admission as foreign currency options participants, and applications for reinstatement of suspended permits or privileges.

**Removal of governors or trustees of gratuity fund and stock exchange for cause**

In the event of the refusal or failure of any Governor to discharge his duties or for any reason deemed sufficient by the Board of Governors, the Board of Governors may, by the affirmative vote of a majority of Governors then in office, recommend to the Stockholders (and, in the case of an On-Floor Designated Governor, the Members) that such Governor be removed and call a special meeting of
[s]Stockholders (and, in the case of a[n On-Floor] Designated Governor, a special meeting of the [m]Members and Member Organizations and subsequently a special meeting of the holder of the Series A Preferred Stock, who shall be required to vote in accordance with Article SIXTH of the Certificate of Incorporation and the Trust Agreement) for the purpose of voting on such removal. The Board may, by the affirmative vote of a majority of Governors then in office, remove any Trustee of the Stock Exchange Fund and declare the position held by him to be vacant upon the like refusal or failure or for like cause.

(x) Removal of Governors for Absence. If a Governor shall have been absent from three (3) regular meetings of the Board of Governors within a twelve-month period, the Executive Committee shall conduct a review of such Governor's attendance and may make a recommendation to the full Board of Governors which may, by a majority vote of the Governors then in office, recommend to the [s]Stockholders (and, in the case of a[n On-Floor] Designated Governor, the [m]Members) that such Governor be removed and call a special meeting of [s]Stockholders (and, in the case of a[n On-Floor] Designated Governor, a special meeting of the [m]Members and Member Organizations and subsequently a special meeting of the holder of the Series A Preferred Stock, who shall be required to vote in accordance with Article SIXTH of the Certificate of Incorporation and the Trust Agreement) for the purpose of voting on such removal.

(xi) – (xviii) No Change.

(xix) The Board of Governors shall have the power, by resolution, to adopt, amend or repeal such rules as it may deem necessary with respect to the initiation of disciplinary action, the procedure and conduct for disciplinary hearings and reviews therefrom, and the imposition of disciplinary sanctions, as such matters may apply to any [m]Member, participant, [or m]Member Organization or participant organization or any partner, officer, director (or persons in similar positions) or person employed by or associated with any [m]Member, participant, [or m]Member Organization or participant organization.
Finance Committee

SEC. 10-15. The Finance Committee shall consist of the following nine (9) members: the Chairman of the Board of Governors, who shall not be permitted to create a tie vote; the [two (2)] Vice-Chairman of the Board of Governors; [one (1)] 
Stockholder Governor; four (4) [non-industry] Independent Governors, [of whom at least one (1) is a public Governor]; and two (2) [On-Floor Members or persons associated with a Member Organization, who may be Governors, one of whom conducts business primarily on the equity or equity options floor. The Chairman of the Committee shall be] 
[an industry] either the Vice-Chairman, a Stockholder Governor or a Member Governor. 

The Budget Subcommittee of the Finance Committee shall be chaired by a Governor. The Finance Committee shall have charge of the funds of the Exchange. It shall serve in an advisory capacity to the Board of Governors in the investment from time to time of the funds of the Exchange, and in the sale from time to time of any of the securities held by the Exchange.

The Finance Committee shall examine the accounts and vouchers of the Exchange and report the result of its examination to the Board of Governors. It shall prepare and present to the Board of Governors at its first regular meeting in December of each year an estimate of the income of the Exchange for the succeeding calendar year and its recommendations as to the appropriations for expenses for said period. It may at any time recommend additional appropriations or the increase or decrease of any appropriations made by the Board of Governors and shall make reports and recommendations to the Board of Governors as to the financial policy of the Exchange. Not less than three (3) days prior to the date upon which dues of Members become payable it shall make a report and recommendation to the Board of Governors as to the amount thereof.

The Finance Committee shall have such other powers and duties as may be delegated to it by the Board of Governors.

The Finance Committee shall assist the Board of Governors in the preparation of the annual budget and make recommendations thereon, oversee the review of contracts,
approve unbudgeted expenditures, assist the Audit Committee with respect to special reviews relating to financial matters and review any other financial matter that it deems appropriate.
EXHIBIT 5

New text underlined; deleted text bracketed

RESTATED CERTIFICATE OF INCORPORATION OF PHILADELPHIA STOCK EXCHANGE, INC.

FIRST – FOURTH(a)(ii) No Change.

(iii) Voting Rights. The holder of the Series A Preferred Stock shall have one vote in respect of the share thereof held by such holder of record as of a date specified by the Board of Governors on the books of the Corporation on each matter for which the vote of the holder thereof is required. The holder of the share of Series A Preferred Stock shall have the sole right to elect the [On- Floor Industry Governors] two Member Governors, the PBOT Governor and two Designated Independent Governors (collectively, the “Designated Governors”) (each as hereinafter defined) in this Article FOURTH and in the PHLX By-Laws (as in hereafter defined) and shall have no other voting rights other than in connection with the removal of Designated Governors in accordance with paragraph (b) of Article SIXTH of this Certificate.

“Designated Independent Governors” shall mean those Independent Governors, as defined herein, who are elected by the holders of Series A Preferred Stock as per Article SIXTH of the Certificate of Incorporation. The term “PBOT Governor” shall mean a Governor who is a member of the Philadelphia Board of Trade (“PBOT”). The term “Member Governors” shall mean a Governor who is a Member or a general partner or an executive officer (vice-president and above) of a Member Organization.

(iv) – No Change.

(b)(i) – (b)(ii) - No Change.

(iii) Voting Rights. The holders of Class A Common Stock and Class B Common Stock shall vote together as a single class on all matters; provided, however, that: (A) the holders of Class A Common Stock, voting separately as a class, shall be entitled to approve by the vote of a majority of the shares of Class A Common Stock then outstanding any amendment, alteration or repeal of any of the provisions of this Certificate which adversely affects the rights, powers or privileges of the Class A Common Stock (but not of the Class B Common Stock); and (B) the holders of Class B Common Stock, voting separately as a class, shall be entitled to approve by
the vote of a majority of the shares of Class B Common Stock then outstanding any amendment, alteration or repeal of any of the provisions of this Certificate which adversely affects the rights, powers or privileges of the Class B Common Stock (but not of the Class A Common Stock).

(A) Subject to paragraph (b)(v)(B) of this Article FOURTH, and except as otherwise provided in paragraph (b)(iii)(B) of this Article FOURTH: (1) each holder of Common Stock shall have one vote in respect of each share of Common Stock held by such holder on the books of the Corporation on each matter on which the holders of Common Stock shall be entitled to vote; (2) the holders of shares of Common Stock shall have the sole right to elect [the Non-Industry] ten Independent Governors, [and the Off-Floor] six Stockholder [Industry] Governors and the Vice-Chairman (each, as hereinafter defined in this Article FOURTH and in the By-Laws); (3) the holders of shares of Common Stock shall have the sole right to elect the individual then holding the office of Chief Executive Officer of the Corporation (the "Chief Executive Officer") to the Board of Governors as described in paragraph (a)(iii) of Article SIXTH of this Certificate; and (4) the holders of Common Stock shall have no voting rights with respect to the election of the [On-Floor Industry Governors] two Member Governors, the PBOT Governor and the two Designated Independent Governors.

“Independent Governors” shall mean a Governor who must satisfy the definition of Independent. “Stockholder Governor” shall mean a Governor who is a Stockholder or an officer, director (or a person in a similar position in business entities that are not corporations), designee or an employee of a Stockholder or any affiliate or subsidiary of such Stockholder.

(B) In the event that any Person, either alone or together with its Related Persons (as hereinafter defined), at any time owns of record or beneficially, whether directly or indirectly, more than 20% of the then outstanding shares of Common Stock (such shares of Common Stock in excess of such 20% limit being hereinafter referred to as "Excess Shares"), such Person and its Related Persons shall have no right to vote, or to give any consent or proxy with respect to, such Excess Shares, and such Excess Shares shall be deemed not to be present for the purposes of determining whether a quorum is present at any meeting or vote of the stockholders of the Corporation or entitled to vote in determining the number of shares required to be voted for approval of or to give consent with respect to any matter presented to the stockholders of the Corporation. For the purposes of this Certificate, "Related Persons" shall mean (1) with respect to any Person, all "affiliates" and "associates" of such Person (as such terms are defined in Rule 12b-2 under the Securities Exchange Act of 1934, as amended (the "Exchange Act")), (2) with respect to any natural person constituting a "[m]Member" [(as such term is defined in the}
Exchange (C) Act) of the Corporation, any broker or dealer with which such Member is associated and (3) any two or more Persons that have any agreement, arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, holding, voting or disposing of shares of Common Stock.

(b)(iii)(B)(1) - No Change.

(b)(iii)(B)(2) The Board of Governors shall not adopt any amendment to the By-Laws pursuant to the foregoing paragraph (B)(1) unless the Board of Governors shall have determined that: (x) the exercise of such voting rights by such Person and its Related Persons will not impair the Corporation's ability to discharge its responsibilities under the Exchange Act and the rules and regulations thereunder and is otherwise in the best interests of the Corporation and its Stockholders; (y) the exercise of such voting rights by such Person and its Related Persons will not impair the SEC's ability to enforce the Exchange Act; and (z) such Person and its relevant Related Persons are not subject to any applicable statutory disqualification. In making such determinations, the Board of Governors may impose such conditions and restrictions on such Person and its Related Persons as it may in its sole discretion deem necessary, appropriate or desirable in furtherance of the objectives of the Exchange Act and the governance of the Corporation.

(b)(iv) – (v) (A)(1) - No Change.

(2) The Board of Governors shall not adopt any amendment to the By-Laws pursuant to the forgoing paragraph (A)(1) unless the Board of Governors shall have determined that: (x) such acquisition of such ownership by such Person and its Related Persons will not impair the Corporation's ability to discharge its responsibilities under the Exchange Act and the rules and regulations thereunder and is otherwise in the best interests of the Corporation and its Stockholders; (y) such acquisition of such ownership by such Person and its Related Persons will not impair the SEC's ability to enforce the provisions of the Exchange Act; and (z) such Person and its relevant Related Persons are not subject to any applicable statutory disqualification. In making such determinations, the Board of Governors may impose such conditions and restrictions on such Person and its Related Persons as it may in its sole discretion deem necessary, appropriate or desirable in furtherance of the objectives of the Exchange Act and the governance of the Corporation.

(3) No Change.

(B) Notwithstanding anything to the contrary contained in this Certificate, no Member of the Corporation, either alone or together with its Related Persons, shall be permitted at any
time to own of record or beneficially, whether directly or indirectly, more than 20% of the then outstanding shares of Common Stock, and to the extent that any such [m]Member (or its Related Persons) purports to so own more than 20% of the then outstanding shares of Common Stock, such [m]Member (and its Related Persons) shall not be entitled to exercise any of the rights and privileges incident to the ownership of shares of Common Stock with respect such shares of Common Stock held by such [m]Member (or its Related Persons) in excess of such 20% limit.

(1) If any [m]Member of the Corporation, either alone or together with its Related Persons, at any time of record or beneficially, whether directly or indirectly, owns more than 20% of the then outstanding shares of Common Stock, the Corporation shall have the right, but not the obligation, to purchase from such [m]Member and its Related Persons that number of shares of Common Stock that exceeds 20% of the then outstanding shares of Common Stock for a price equal to the par value of such shares of Common Stock.

(C) – No Change.
FIFTH – No Change.

SIXTH: The business and affairs of the Corporation shall be managed by and under the direction of the Board of Governors, which shall consist of the directors of the Corporation (each, a "Governor"), who shall meet the qualifications set forth in paragraph (a) of this Article SIXTH and in the By-Laws. The Governors shall, in managing the business and affairs of the Corporation, consider applicable requirements for registration as a national securities exchange under Section 6(b) of the Exchange Act, including, without limitation, the requirements that (a) the rules of the Corporation shall be designed to protect investors and the public interest, and (b) the Corporation shall be so organized and have the capacity to carry out the purposes of the Exchange Act and (subject to such exceptions as are set forth in the Exchange Act or the rules and regulations thereunder) to enforce compliance by its [m]Members and persons associated with its [m]Members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Corporation. The foregoing provision shall not be construed to create the basis for any cause of action against any Governor, and no Governor shall be liable, by virtue of such provision, for such Governor's consideration or failure to consider the matters referred to therein.

(a) Prior to the first annual meeting of the stockholders of the Corporation following the date hereof (the "Initial Annual Meeting"), the Board of Governors shall consist of those persons serving as Governors as of the date hereof. Thereafter, subject to Article SEVENTH, the Board of Governors shall consist of [22] twenty-three Governors, as follows:
(i) Eleven Governors [(the "Non-Industry Governors")] who shall be Independent Governors who meet the qualifications set forth in the By-Laws with respect to "non-industry" Independent Governors, [who] ten of whom shall be elected by a plurality vote of the holders of the Common Stock and two of whom shall be Designated Independent Governors elected by the vote of the holder of the Series A Preferred Stock;

(ii) Six Governors who shall be Stockholder Governors [(the "Industry Governors")] who meet the qualifications set forth in the By-Laws with respect to "industry" Stockholder Governors, [provided that (x) five of such Industry Governors shall meet the qualifications set forth in Section 4-1 of the By-Laws with respect to "On-Floor Governors" (the "On-Floor Industry Governors") and shall be elected by the vote of the holder of the Series A Preferred Stock, and (y) five of such Industry Governors shall meet the qualifications set forth in Section 4-1 of the By-Laws with respect to "Off-Floor Governors" (the "Off-Floor Industry Governors") and] who shall be elected by a plurality vote of the holders of the Common Stock; [and]

(iii) One Governor who shall be a PBOT Governor who meets the qualifications set forth in the By-Laws with respect to the PBOT Governor, who shall be elected by the vote of the holder of the Series A Preferred Stock;

(iv) Two Governors who shall be Member Governors who meet the qualifications set forth in the By-Laws with respect to the Member Governors, who shall be elected by the holder of the Series A Preferred Stock;

(v) One Governor, to serve as the Chairman of the Board of Governors, who shall be the Chief Executive Officer who shall be elected by a plurality vote of the holders of the Common Stock; and

(vi) One Governor, to serve as the Vice-Chairman of the Board of Governors, who meets the qualifications set forth in the By-Laws with respect to the Vice-Chairman of the Board of Governors who shall be elected by a plurality vote of the holders of the Common Stock.

(b) Removal of Governors.

(i) In the event of the refusal or failure of any Governor to discharge his duties or for any reason deemed sufficient by the Board of Governors, the Board of Governors may, by the affirmative vote of a majority of Governors then in office, recommend to the stockholders of the Corporation entitled to vote thereon that such Governor be removed and call a special meeting of Stockholders entitled to vote thereon for the purpose of voting on such removal.

(ii) If a Governor shall have been absent from three (3) regular meetings of the Board of
Governors within a twelve-month period, the Executive Committee of the Board of Governors shall conduct a review of such Governor's attendance and make a recommendation to the full Board of Governors which may, by a majority vote of the Governors then in office, recommend to the stockholders of the Corporation entitled to vote thereon that such Governor be removed and call a special meeting of such Stockholders entitled to vote thereon for the purpose of voting on such removal.

(iii) Governors may be removed only for cause except in the case of the proposed removal of one or more Governors upon a recommendation of the Board of Governors pursuant to paragraph (b)(i) or (b)(ii) of this Article SIXTH, in which case Governors may be removed with or without cause, and in all cases Governors may be removed only by the affirmative vote of at least two-thirds of the total number of Stockholders entitled to vote thereon or give consent thereto or, in the case of a Designated Governor or Governors, a vote of the holder of the Series A Preferred Stock following a vote of the Member Organization Representatives pursuant to By-Law Article III, Section 3-3.

(iv) In the case of the removal of any Governor without cause, only the Stockholders entitled to elect such Governor shall be entitled to vote on or give consent to such Governor's removal without cause.

SEVENTH – No Change.

EIGHTH - No Change.

NINTH: RESERVED [Any action required or permitted to be taken at any meeting the stockholders of the Corporation may be taken without a meeting, without prior notice and without a vote only upon the written consent of not less than all of the stockholders of the Corporation entitled to vote thereon.]

TENTH: Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its Stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Corporation or of any creditor or Stockholder thereof or on the application of any receiver or receivers appointed for this Corporation under Section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under the provisions of Section 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or of the Stockholders or class of stockholders of this Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in
value of the creditor or class of creditors, and/or of the [s]Stockholders or class of stockholders of this Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this Corporation as consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the [s]Stockholders or class of stockholders of this Corporation, as the case may be, and also on this Corporation.

ELEVENTH – ELEVENTH (a) No Change.

(b) The material facts as to such Governor's or officer's relationship or interest and as to the contract or transaction are disclosed or are known to the [s]Stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the [s]Stockholders; or

ELEVENTH (c) – No Change.

TWELFTH – No Change.

THIRTEENTH: The Board of Governors shall have the authority to amend the By-Laws, subject to the provisions of paragraphs (b)(ii)(B)(2) and (b)((iv)(A)(2) of Article FOURTH of this Certificate.

FOURTEENTH No Change.

FIFTEENTH: No Governor of the Corporation shall be personally liable to the Corporation or its [s]Stockholders for monetary damages for breach of fiduciary duty as a Governor, except for liability (a) for any breach of the Governor's duty of loyalty to the Corporation or its [s]Stockholders, (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (c) under Section 174 of the DGCL, or (d) for any transaction from which the Governor derived any improper personal benefit. If the DGCL is amended after approval by the [s]Stockholders of the provisions of this Article FIFTEENTH to authorize corporate action further eliminating or limiting the personal liability of Governors (or directors) of the Corporation, then the liability of a Governor of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

No repeal or modification of this Article FIFTEENTH shall adversely affect any right or protection of a Governor of the Corporation existing at the time of such repeal or modification.

SIXTEENTH - No Change.
BY-LAWS OF
PHILADELPHIA STOCK EXCHANGE, INC.

ARTICLE I

Definitions

SEC. 1-1. Unless the context requires otherwise, the terms defined in this Section shall, for all purposes of these By-Laws, have the meaning herein specified:

(a) – (d) – No change.

Designated Governors

(e) The term “Designated Governors” shall mean the two (2) Member Governors, the PBOT Governor and the two (2) Designated Independent Governors. The holder of the Series A Preferred Stock shall be required to elect the Designated Governors in accordance with Article SIXTH of the Certificate of Incorporation and the Trust Agreement.

Designated Independent Governors

(f) The term “Designated Independent Governors” shall mean those Independent Governors, as defined herein, who are elected by the holder of the Series A Preferred Stock in accordance with Article SIXTH of the Certificate of Incorporation.

DGCL

(e) The term “DGCL” shall mean the Delaware General Corporation Law, as amended and in effect from time to time.

Exchange

(f) The term “Exchange” shall mean the Philadelphia Stock Exchange, Inc.

Exchange Act

(g) The term “Exchange Act” shall mean the Securities Exchange Act of 1934, as amended.

Foreign Currency Options Participation

(h) The term “foreign currency options participation” means the foreign currency options participations issued from time to time by the Exchange.

Foreign Currency Options Participant or Participant
The term “foreign currency options participant” or “participant” includes a Member of the Exchange who has purchased a foreign currency options participation and a non-member who has been admitted to the Exchange as a foreign currency options participant by the Admissions Committee.

**Foreign Currency Options Participant Organization**

The term “foreign currency options participant organization” means a corporation, partnership (general or limited), limited liability partnership, limited liability company, business trust or similar organization, transacting business as a broker or a dealer in securities and which has the status of a foreign currency options participant organization by virtue of (i) permission given to it by the Admissions Committee pursuant to the provisions of Section 10-6 of these By-Laws or (ii) the transitional rules adopted by the Exchange pursuant to Section 12-12 of these By-Laws. References herein to officer or partner, when used in the context of a foreign currency options participant organization, shall include any person holding a similar position in any organization other than a corporation or partnership that has the status of a foreign currency options participant organization.

**Governor**

The term “Governor” shall mean a Governor of the Exchange.

**Inactive Nominee**

The term “inactive nominee” shall mean a natural person associated with and designated as such by a Member Organization and who has been approved by the Admissions Committee for such status and is registered as such with the Membership Services Department. An inactive nominee shall have no rights or privileges under a permit unless and until said inactive nominee becomes admitted as a Member of the Exchange pursuant to these By-Laws and the rules of the Exchange. An inactive nominee merely stands ready to exercise rights under a permit upon notice by the Member Organization to the Membership Services Department on an expedited basis.

**Independent**

The term “Independent,” when used in the context of Governors or committee members, shall mean persons affirmatively determined by the Board as having no Material Relationship with the Exchange or any affiliate of the Exchange, any member of the Exchange or any affiliate of such member, or any issuer of securities that are listed or traded on the Exchange or a facility of the Exchange.
**Independent Governor**

(p) The term “Independent Governor” shall mean a Governor who must satisfy the definition of Independent as set forth herein and is duly elected to fill one of the twelve (12) vacancies on the Board of Governors allocated to the Independent Governors.

**Industry**

(m) The term "industry", when used in the context of Governors or committee members shall mean (a) officers, directors (or persons in similar positions in business entities that are not corporations) and employees of brokers and dealers and persons who have been employed in any such capacity at any time within the prior three years; and (b) persons who have consulting or employment relationships with or provided professional services to the Exchange and persons who had any such relationship or have provided any such services at any time within the prior three years.

**Lessee**

[n]q The term “lessee” means a foreign currency options participant who has leased legal title to his foreign currency options participation from a lessor.

**Lessor**

[o]r The term “lessee” means a holder of equitable title to a foreign currency options participation, including a former foreign currency options participant, who has leased legal title to his foreign currency options participation to a lessee and has retained equitable title to such foreign currency options participation.

**Material Relationship**

(s)“Material Relationship” shall mean an affiliation, compensatory or otherwise, that could reasonably affect the independent judgment or decision-making of the Governor. It is incumbent upon the Board of Governors to determine independence upon a Governor’s nomination and thereafter no less frequently than annually and as often as necessary in light of a Governor’s circumstances and as further outlined in By-Law Article IV Section 4-4 to ensure standards of independence as defined in these By-Laws are maintained.

**Member**

[p]t The term “[m]Member” means a holder of a permit which has not been terminated in accordance with these By-Laws and the rules of the Exchange.
**Member Governor**

(u) The term “Member Governor” shall mean a Governor who is a Member or a general partner or an executive officer (vice-president and above) of a Member Organization and is duly elected to fill one of the two (2) vacancies on the Board of Governors allocated to the Member Governors.

**Member Organization**

(v) The term “[m]Member [o]rganization” means a corporation, partnership (general or limited), limited liability partnership, limited liability company, business trust or similar organization, transacting business as a broker or a dealer in securities and which has the status of a [m]Member [o]rganization by virtue of (i) permission given to it by the Admissions Committee pursuant to the provisions of Section 10-6 of these By-Laws or (ii) the transitional rules adopted by the Exchange pursuant to Section 12-12 of these By-Laws. References herein to officer or partner, when used in the context of a [m]Member [o]rganization, shall include any person holding a similar position in any organization other than a corporation or partnership that has the status of a [m]Member [o]rganization.

**Member Organization Representative**

(w) The term “Member Organization Representative” shall mean the officer (or person in a similar position) of a [m]Member [o]rganization designated by such [m]Member [o]rganization as such [m]Member [o]rganization's Member Organization Representative, who shall have the sole authority, with respect to the selection or removal of Designated Nominees [and the On-Floor Vice-Chairman of the Board of Governors,] to exercise any and all rights and to take any and all actions on behalf of such [m]Member [o]rganization and each [m]Member who has designated such [m]Member [o]rganization as his primary affiliation.

**Merger**

(x) The term “Merger” shall mean the merger of Phlx Merger Sub, Inc., a Delaware corporation, with and into the Exchange, with the Exchange as the surviving corporation, in connection with the demutualization of the Exchange from a non-stock membership corporation.

**Non-industry**

(t) The term “non-industry” when used in the context of Governors or committee members shall mean (a) public Governors; (b) officers and employees of issuers of securities listed on the Exchange; (c) persons affiliated with brokers and dealers that operate solely to assist the securities-related activities of the business of non-member affiliates (such as brokers or dealers established to (i) distribute an affiliate's securities which are issued on a continuous or
regular basis, or (ii) process the limited buy and sell orders of the shares of employee owners of
the affiliate); (d) employees of an entity that is affiliated with a broker or dealer that does not
account for a material portion of the revenues of the consolidated entity, and who are primarily
engaged in the business of the non-member entity; and (e) other individuals who would not be
industry Governors or committee members.]

**Non-member**

((u)y) The term “non-member” includes, with respect to individuals, any person who is
not a member and, with respect to entities, any organization that is not a [m]ember
[o]rganization.

**Owner**

((v)z) The term “owner” shall mean any person or entity who or which is a holder of
equitable title to a foreign currency options participant

**PBOT Governor**

(aa) The term “PBOT Governor” shall mean a Governor who is a member of the
Philadelphia Board of Trade (“PBOT”) and is duly elected to fill the one (1) vacancy on the
Board of Governors allocated to the PBOT Governor.

**Permit**

((w)bb) The term “permit” shall mean a permit of any class, series or kind established
from time to time by the Board of Governors and denominated as such.

**Person**

((x)cc) The term “person”, shall mean an individual, partnership (general or limited),
joint-stock company, corporation, limited liability company, trust or unincorporated
organization, and a government or agency or political subdivision thereof.

**Public**

(y) The term “public” when used in the context of Governors or committee members
shall mean non-industry persons who have no material business relationship with a broker, dealer
or the Exchange.]

**Securities Act**

((z)dd) The term “Securities Act” shall mean the Securities Act of 1933, as amended.

**Trust Agreement**

((aa)ee) The term "Trust Agreement" shall mean the Amended and Restated Trust
Agreement, dated as of January 20, 2004, between the Exchange and the trustee under such Trust
Agreement.
Series A Preferred Stock

([bb]ff) The term “Series A Preferred Stock” shall mean the Series A Preferred Stock, par value $0.01 per share, of the Exchange.

Stockholder

([cc]gg) The term “[s]Stockholder” shall mean a stockholder of the Exchange.

Stockholder Governor

(hh) The term “Stockholder Governor” shall mean a Governor who is a Stockholder or an officer, director (or a person in a similar position in business entities that are not corporations), designee or an employee of a Stockholder or any affiliate or subsidiary of such Stockholder and is duly elected to fill one of the six (6) vacancies on the Board of Governors allocated to the Stockholder Governors.

ARTICLE II

Offices

Registered Office and Registered Agent

No Change.

ARTICLE III

Member and Member Organization Nominations-Member and Member Organization Annual Elections-Member and Member Organization Meetings

Place of Member and Membership Meetings

SEC. 3-1. All meetings of [m]Members and [m]Member [o]Organizations shall be held at such place within or without the State of Delaware as may be designated by the Board of Governors from time to time. If no such place is designated by the Board of Governors, meetings of [m]Members and [m]Member [o]Organizations shall be held at the principal office of the Exchange.

Member and Member Organization Meetings

SEC. 3-2.(a) An annual meeting of [m]Members and [m]Member [o]Organizations shall be held in each calendar year on the second Monday in March, or at such other time as the Board of Governors shall establish, for the purpose of designating those nominees for [On-Floor] Governor [(the "Designated Nominees") that the holder of the Series A Preferred Stock shall be
required to elect as such in accordance with Article SIXTH of the Certificate of Incorporation and the Trust Agreement (the “Designated Nominees”). At such annual meeting of [m]Members and [m]Member [o]Organizations, the Member Organization Representatives shall elect the Designated Nominees in accordance with Sections 3-4 and 3-6 of these By-Laws.

(b) [Promptly after each annual meeting of stockholders, if there is a contest for the position of On-Floor Vice-Chairman of the Board of Governors, a meeting of Member Organization Representatives shall be held for the selection of the On-Floor Vice-Chairman of the Board of Governors.

(b)] Except as otherwise specifically provided by law, special meetings of the [m]Members, [m]Member [o]Organizations or Member Organization Representatives may be called at any time by the Chairman of the Board of Governors or by a majority of the Board of Governors or, only in the case of a special meeting of Member Organization Representatives for the purpose of voting on the removal of one or more [On-Floor] Designated Governors in accordance with Section 3-3 of these By-Laws, by the Member Organization Representatives representing a majority of the then issued and outstanding permits, provided that, in the event that any such meeting is proposed to be called by Member Organization Representatives, such Member Organization Representatives shall provide the Chairman of the Board of Governors written notice prior to calling any such meeting stating in reasonable detail the basis for, and the facts and circumstances purported to warrant, such removal.

Removal of [On-Floor] Designated Governors

SEC. 3-3.(a) [On-Floor] Designated Governors may be removed only for cause, unless a majority of the Board of Governors recommends that one or more [On-Floor] Designated Governors be removed in accordance with Section 4-4 of these By-Laws, in which case such [On-Floor] Designated Governor or [On-Floor] Designated Governors may be removed without cause

(b) At any annual meeting of [m]Members and [m]Member [o]Organizations, or at any special meeting of Member Organization Representatives called in accordance with Section 3-2(c) of these By-Laws, one or more [On-Floor] Designated Governors may be removed by the affirmative vote of the Member Organization Representatives representing not less than two-thirds of the then issued and outstanding permits; provided, however, that such removal, if so approved by the vote of the Member Organization Representatives, shall be effected only by the
Nomination of [On-Floor] Designated Governors

SEC. 3-4.(a) The Nominating, [and] Elections and Governance Committee shall submit nominations for the positions of [On-Floor] Designated Governors from candidates selected in accordance with Sections 3-4 and 3-6 of these By-Laws, so that the Designated Nominees may be selected at the annual meeting of [m]Members and [m]Member [o]rganizations as contemplated by Section 3-2 of these By-Laws. The Nominating, [and] Elections and Governance Committee shall give due consideration to the various functions and activities of the Exchange and its [m]Member and participant organizations in making its nominations. In addition, the Nominating, Elections and Governance Committee shall be held to the definition of “Independent” as such term is defined herein in evaluating the qualifications of the Designated Independent Governors.

(b) If [On-Floor] Designated Governors are to be elected to fill vacancies differing in length, the nominees with the largest number of votes shall be elected for the longest terms.

SEC. 3-5. No Change.

Open Meetings of Nominating, [and] Elections and Governance Committee-Recommendations-Notice

SEC. 3-6.(a) The Nominating, [and] Elections and Governance Committee shall hold at least two (2) open meetings during the month of January or at such other time as the Board of Governors shall determine, in each year for the purpose of receiving recommendations as to candidates for positions as [On-Floor] Designated Independent Governors or Member Governors. Recommendations for [On-Floor] Designated Independent Governors or Member Governors may be made by any [m]Member, participant or Member Organization Representative or by any member of the Nominating, [and] Elections and Governance Committee then in office. With respect to the [On-Floor] PBOT Governor, recommendations shall be submitted by the PBOT Board of [Governors] Directors. Recommendations may be submitted in writing or they may be presented in person. Notice of such meetings and of the period within which recommendations may be submitted in writing or presented in person shall be given by the
Secretary of the Exchange to all Members, participants and Member Organization Representatives.

(b) The Nominating, [and] Elections and Governance Committee shall report in writing to all Members and participants and to all Member Organization Representatives entitled to vote with respect to the election of [On-Floor] Designated Governors in accordance with Section 3-15 of these By-Laws and to the Secretary of the Exchange on the first Monday in February (or at such other time established by the Board of Governors) the names of its nominees to serve as [On-Floor] Designated Governors; provided that, in each case, each such nominee shall be a person, who in the opinion of the Nominating, [and] Elections and Governance Committee, is eligible for election to the position for which such person is nominated.

Independent Nominations by Members and Member Organizations;

Election of Nominees for [On-Floor] Designated Governors

SEC. 3-7.(a) Independent nominations for the positions of [On-Floor] Designated Governors may be made by a written petition by Member Organization Representatives filed with the Secretary of the Exchange in a sealed envelope within two (2) weeks after the posting of the report of the Nominating, [and] Elections and Governance Committee to the Member Organization Representatives as provided by Section 3-6(b) of these By-Laws. No such nomination shall be valid unless it is signed by Member Organization Representatives representing not less than fifty (50) votes. A Member Organization Representative shall not endorse more than one (1) nominee; provided, however, that Member Organization Representatives representing not less than seventy-five (75) votes may, by petition, propose an entire ticket, or any portion thereof, for the vacancies of [On-Floor] Designated Governors on the Board of Governors to be filled at the ensuing election.

(b) The Nominating, [and] Elections and Governance Committee and the Secretary of the Exchange shall open the envelopes submitted by the Member Organization Representatives pursuant to Section 3-7(a) of these By-Laws, and if determined by the Nominating, [and] Elections and Governance Committee to be eligible for election, the persons nominated by petition in conformity with the provisions of these By-Laws, together with the names of all nominees for [On-Floor] Designated Governors selected by the Nominating, [and] Elections and Governance Committee pursuant to these By-Laws, shall be sent to all Member Organization Representatives as promptly after the third Monday of February (or at such other time
established by the Board of Governors) as is reasonably possible as proposed [On-Floor] Designated Governors (the "Proposed [On-Floor] Designated Governors") to be submitted to a vote at the annual meeting of [m]Members and [m]Member [o]Organizations referred to in Section 3-2 of these By-Laws.

(c) The ballots containing the names of the Proposed [On-Floor] Designated Governors shall indicate by appropriate designation whether each such person is a [m]Member or a foreign currency options participant of the Exchange or is a non-member or non-foreign currency options participant of the Exchange who is a general partner or executive officer (vice-president or above) of a [m]Member Organization or participant organization of the Exchange or is nominated to be a Designated Independent Governor.

(d) The number of Designated Nominees to be elected from among the Proposed [On-Floor] Designated Governors at the annual meeting of [m]Members and [m]Member [o]Organizations referred to in Section 3-2 of these By-Laws shall be limited to the number of [On-Floor] Designated Governors to be elected at the ensuing annual meeting of [s]Stockholders, and the order of the Proposed [On-Floor] Designated Governors' names on notices and on ballots shall be determined through a drawing by lot conducted by the Nominating, Elections and Governance Committee. The Proposed [On-Floor] Designated Governors receiving at such election the highest number of votes for the category of Governor for which they were nominated shall be declared the Designated Nominees for their respective positions as [On-Floor] Designated Governors. In the case of a tie, the names of the Proposed [On-Floor] Designated Governors involved in such tie shall be referred to the Nominating, Elections and Governance Committee, which shall make the selection as to who among such tying Proposed [On-Floor] Designated Governors shall be nominated as the Designated Nominees for election by the [s]Stockholders.

Death, Withdrawal or Disqualification of Designated Nominees

SEC. 3-8. In the case of the death, withdrawal or disqualification at any time in advance of any election of a nominee for [On-Floor] Designated Governor proposed or certified by the Nominating, Elections and Governance Committee to be filled at such election, the election for such position shall proceed at the appointed date therefore, notwithstanding such death, withdrawal or disqualification. In the event that by reason of such death, withdrawal or disqualification there are fewer candidates for such office of Governor than there are vacancies
to be filled, the Nominating, [and] Elections and Governance Committee, subject to approval by the Board of Governors, at a meeting held subsequent to such annual election, shall appoint a person to each office left vacant under such circumstances, the person to be appointed to serve until the fourth Wednesday of March following the next annual meeting of stockholders of the Exchange or until his successor is elected and qualified or until his earlier resignation or removal.

SEC. 3-9. No Change.

SEC. 3-10. No Change.

**Notice of Member and Member Organization Meetings**

SEC. 3-11. Any notice of any meeting of [m]Members and [m]Member [o]Organizations that is required or permitted to be given under these By-Laws shall be in writing and state the place, date, hour and purpose of such meeting and shall be given not less than ten (10) nor more than fifty (50) days before the date of such meeting to each Member Organization Representative entitled to vote at such meeting. If mailed, notice is given when deposited in the United States Mail, postage prepaid, directed to the Member Organization Representative at his address as it appears on the books and records of the Exchange. Such notice may be given in the name of the Board of Governors, the Chairman of the Board of Governors, any Vice President, the Secretary or any Assistant Secretary. Whenever notice is required to be given under any provision of law or of the Certificate of Incorporation or these By-Laws, a written waiver thereof, signed by the person entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to such notice. Attendance of a person at any meeting with respect to which such person is entitled to notice shall constitute a waiver of such notice of such meeting, except when such person attends such meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any meeting of [m]Members and [m]Member [o]Organizations need be specified in any written waiver of notice.
SEC. 3-12.(a) Subject to Section 3-12(c) of these By-Laws, each permit carries one vote in the election of Designated Nominees in accordance with the provisions of Section 3-6 of these By-Laws. Such right to vote shall be vested exclusively in each Member’s Member Organization with which it is primarily affiliated (as defined in the rules of the Exchange) with respect to the selection of Designated Nominees, which Member Organization shall act through its Member Organization Representative. Each such Member Organization Representative may vote in person or by proxy under such procedures as the Nominating, Elections and Governance Committee may establish from time to time. Except as otherwise provided in Section 3-12(c) of these By-Laws, a Member Organization Representative may cast the number of votes equal to the number of permits held by Members having designated the Member Organization Representative's Member Organization as such members' primary affiliation with respect to the selection of Designated Nominees.

(b) All elections by Members and Member Organizations shall be by secret written ballot unless otherwise provided in the Certificate of Incorporation. Except as otherwise specifically provided by law, all other votes may be taken by voice unless the Nominating, Elections and Governance Committee determines that it be taken by ballot, in which latter event the vote shall be taken by secret written ballot.

(c) Notwithstanding anything to the contrary contained in these By-Laws or the rules of the Exchange, in the event that any Member Organization at any time, directly or indirectly, possesses the right to vote more than 20% of the then outstanding permits (such permits in excess of such 20% limit being hereinafter referred to as "Excess Permits"), except as otherwise permitted by the Board of Governors, such Member Organization shall have no right to vote, or to give any consent or proxy with respect to, such Excess Permits, and such Excess Permits shall be deemed not to be (i) present for the purposes of determining whether a quorum is present at any meeting or vote of the Members or Member Organizations, or (ii) entitled to vote in determining the number of permits required for determining a quorum or to be voted for approval of or to give consent with respect to any matter presented to the Members or the Member Organizations.
Quorum of Members and Member Organizations – Proxies

SEC. 3-13. Subject to Section 3-12(c) of these By-Laws, at all meetings of Members and Member Organizations, each Member Organization Representative may cast his votes in person or by proxy; provided that no action shall become effective unless there shall have been voted a majority of the number of permits outstanding at such time. The Member Organization Representatives present at a duly organized meeting thereof can continue to do business until adjournment, notwithstanding the withdrawal of enough votes of such Member Organization Representatives to leave less than such a majority. If an action cannot become effective because of the absence of such a majority, those present may, except as otherwise provided by law, adjourn the meeting to such time and place as they may determine, without notice other than announcement at such meeting. Those Member Organization Representatives who attend a second adjourned meeting, although less than such a majority, shall nevertheless be sufficient for the purpose of selecting Designated Nominees. All proxies shall be executed in writing and shall be filed with the Secretary of the Exchange not later than the day on which exercised. No proxy shall be voted or acted upon after three (3) years from its date, unless the proxy provides for a longer period.

Lists of Members and Member Organizations Entitled to Vote

SEC. 3-14. The officer who has charge of the lists of Members, Member Organizations and Member Organization Representatives (as applicable) shall prepare and make, at least ten (10) days before every meeting of Members and Member Organizations, a complete list of the Member Organization Representatives entitled to vote at the meeting, arranged in alphabetical order, showing their names and addresses, the number of votes they are entitled to cast and the Member or Member Organization on whose behalf the votes are cast and the name and address of the individual permit holder associated with each right to vote. Such list shall be open to the examination of any Member or Member Organization Representative for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where said meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any Member or Member Organization Representative who is present.
Determination of Record Dates

SEC. 3-15. The Board of Governors may fix in advance a record date to determine the Member Organization Representatives entitled to notice of or to vote at any meeting of Members and Member Organizations or any adjournment thereof, or to express consent to any action in writing without a meeting, or for the purpose of any other lawful action. Such date shall be not more than sixty (60) nor less than ten (10) days before the date of any such meeting, nor more than sixty (60) days prior to any other action. If no record date is fixed, the record date for determining the Member Organization Representatives entitled to notice of or to vote at a meeting thereof shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of the Member Organization Representatives of record entitled to notice of or to vote at a meeting of Members and Member Organizations shall apply to any adjournment of the meeting; provided, however, that the Board of Governors may fix a new record date for the adjourned meeting.

Governance of Member and Member Organization Meetings

SEC. 3-16. The Chairman of the Board of Governors, or if there be none, or in his/her absence, [any] the Vice-Chairman of the Board of Governors, or if there be none, or in [their] absence, any person designated by resolution of the Board of Governors shall preside over all meetings of Members and Member Organizations. To the maximum extent permitted by law, such presiding person shall have the power to administer any such meeting in accordance the procedures pertaining thereto as may be set from time to time by such presiding person and/or the Nominating, [and] Elections and Governance Committee (in each case subject to any procedures to the contrary established by the Board of Governors), including, but not limited to, any such procedures respecting the time allotted to Members, Member Organization Representatives or any other persons in attendance at such meeting to speak.

ARTICLE IV

Board of Governors

Number and Composition
SEC. 4-1. [The management of the business and affairs of the Exchange shall be vested in the Board of Governors. The Board of Governors shall be composed of the Chairman of the Board of Governors, who shall be the individual then holding the office of Chief Executive Officer of the Exchange, and 21 Governors as hereafter provided. There shall be five (5) Governors (On-Floor Governors) consisting of: One (1) Governor who is an industry Governor and is who a member primarily engaged in business on the Exchange's Equity Floor or a general partner, executive officer (vice-president and above) or member associated with a member organization primarily engaged in business on the Exchange's Equity Floor (On-Floor Equity Governor); one (1) Governor who is an industry Governor and is a member of the Philadelphia Board of Trade (On-Floor PBOT Governor); one (1) Governor who is an industry Governor and is a member primarily engaged in business as a specialist on the Exchange's Equity Options Floor or a general partner, executive officer (vice-president and above) or a member associated with a member organization primarily engaged in specialist business on the Exchange's Equity Options Floor (On-Floor Equity Options Specialist Governor); one (1) Governor who is an industry Governor and is a member primarily engaged in business as a registered options trader on the Exchange's Equity Options Floor or a general partner, executive officer (vice-president and above) or a member associated with a member organization primarily engaged in registered options trader business on the Exchange's Equity Options Floor (On-Floor Equity Options Registered Options Trader Governor); and one (1) Governor who is an industry Governor and is a member primarily engaged in business on the Exchange's Equity Options Floor as a floor broker (On-Floor Equity Options Broker Governor). There shall be five (5) Governors (Off-Floor Governors) who are industry Governors and are general partners, executive officers (vice-president or above), or members or participants associated with member or participant organizations which conduct a non-member or nonparticipant public customer business and shall individually not be primarily engaged in business activities on the Exchange Floor (Off-Floor Governors). There shall be eleven (11) Governors of whom at least five (5) shall be public Governors. There also shall be one (1) On-Floor and one (1) Off-Floor Vice-Chairman of the Board of Governors.]

The management of the business and affairs of the Exchange shall be vested in the Board of Governors. The Board of Governors shall be composed of the Chairman of the Board of Governors, who shall be the individual then holding the office of the Chief Executive Officer of the Exchange and twenty-two (22) other Governors consisting of: two (2) Governors who are Member Governors who meet the qualifications set forth in By-Law Article 1, Section 1-1 with
respect to Member Governors; one (1) Governor who is a PBOT Governor who meets the qualifications set forth in By-Law Article 1, Section 1-1 with respect to the PBOT Governor; six (6) Governors who are Stockholder Governors who meet the qualifications set forth in By-Law Article 1, Section 1-1 with respect to Stockholder Governors; twelve (12) Governors who are Independent Governors who meet the qualifications set forth in By-Law Article 1, Section 1-1 with respect to Independent Governors and one (1) Governor who is the Vice-Chairman of the Board of Governors who meets the qualifications set forth in By-Law Article V, Section 5-2 with respect to the Vice-Chairman.

[Selection of Vice-Chairmen of the Board] Reserved

SEC. 4-2. Reserved.

[The On-Floor Vice-Chairman of the Board of Governors shall be selected from the On-Floor Governors by the Member Organization Representatives, as promptly as possible after the annual meeting of Stockholders; provided, however, that if there is no contest between or among On-Floor Governors and only one (1) candidate exists to become On-Floor Vice-Chairman, the Board of Governors and not the Member Organization Representatives shall select such candidate to be the On-Floor Vice-Chairman. In the event of such a contest, promptly after such annual meeting of stockholders, the Nominating and Elections Committee shall call a meeting of Member Organization Representatives for the purpose of electing the On-Floor Vice-Chairman. The Off-Floor Vice-Chairman shall be selected from the Off-Floor Governors by the Board of Governors, as promptly as possible after the annual meeting of stockholders. Each Vice-Chairman of the Board of Governors shall be appointed or elected for a term of one (1) year and until his successor is appointed or elected and qualifies.]

Classification

SEC. 4-3.(a) Subject to Section 4-3(b) of these By-Laws, the [industry] Stockholder Governors, [and non-industry] Independent Governors (including Designated Independent Governors), Member Governors and the PBOT Governor[s] shall be divided into three (3) classes. Each such class shall be constituted by election or appointment each year to serve for three (3) years and until their successors are elected and qualify. Except for the Chairman of the Board of Governors and the Vice-Chairman of the Board of Governors, Governors shall not serve more than two (2) consecutive full three (3) year terms from and after the effective date of the Merger.

(b) The Governors of the Exchange holding such positions immediately prior to the
effective time of the Merger shall continue to serve as Governors from and after the Merger for the then remaining balance of their respective terms, such that those Governors whose terms would have expired at: (i) the 2004 annual meeting of [m]Members will expire at the 2004 annual meeting of [s]Stockholders; (ii) the 2005 annual meeting of [m]Members will expire at the 2005 annual meeting of [s]Stockholders; and (iii) the 2006 annual meeting of [m]Members will expire at the 2006 annual meeting of [s]Stockholders.

Duties and Powers

SEC. 4-4.(a) The Board of Governors shall be vested with all the powers necessary for the management of the business and affairs of the Exchange, the regulation of the business conduct of [m]Members, participants, [and m]Member Organizations, and participant organizations, and persons associated with such organizations and for the promotion of the welfare, objects and purposes of the Exchange, and in addition to the power and authority conferred by these By-Laws, may exercise all powers of the Exchange and do all such lawful acts and things as are not by statute, these By-Laws or the Certificate of Incorporation directed or required to be exercised or done by the [s]Stockholders.

In the exercise of its powers it may adopt such rules, issue such orders and directions and make such decisions as it may deem appropriate.

(b)(i) – (iii) - No Change.

Trials

It may try charges against [m]Members, participants, [and m]Member Organizations and participant organizations and persons associated with or employed by [m]Member or participant organizations, and may punish such persons and organizations as may be found guilty.

Control of property and finances – Bonds for faithful performance No Change.

Annual Independence Review

The Board of Governors shall, no less frequently than annually and as often as necessary in light of a Governor’s circumstances, review the incumbent Independent Governors to ensure no Material Relationship has developed that would cause an Independent Governor to fall outside of the definition of “Independent” set forth in By-Law Article I, Section 1-1. It will be
incumbent upon each Governor to promptly inform the Chairman or a member of the Executive Committee of any development that may affect such Governor’s status as an Independent Governor.

(b)(iv) – (v) No Change.

Members' contracts

It may adopt such rules as it may deem necessary or proper with respect to Members' Contracts.

(vi) Organizations, Offices, and Employees of Members. The Board of Governors may adopt such rules as it may deem necessary or proper with respect to the formation of [m]Member Organizations, the continuance thereof and the interest of [m]Members and other persons therein, the offices of [m]Members and such organizations and the employees thereof, the business connections of [m]Members and such organizations and their association with or domination by or over corporations or other persons engaged in the securities business.

Member [o]Organizations

The Board of Governors may adopt rules prescribing the terms and conditions under which a [m]Member may qualify a [m]Member [o]Organization and a [m]Member [o]Organization may register as [m]Member [o]Organization of the Exchange; and may impose further terms and conditions in connection with such qualification or registration whenever it may deem it advisable.

(vii) – (viii) - No Change.

Qualification and registration of [m]Member [o]Organizations

The Board of Governors (or its designee) shall receive and act upon the application of a [m]Member to qualify a [m]Member [o]Organization and the application of a [m]Member [o]Organization to register with the Exchange; also upon the application to terminate such qualification or registration.

(ix) Applications for Permits and Reinstatement. The Board of Governors may receive reports of the Admissions Committee in connection with applications for permits, applications
by non-members for admission as foreign currency options participants, and applications for reinstatement of suspended permits or privileges.

**Removal of governors or trustees of gratuity fund and stock exchange for cause**

In the event of the refusal or failure of any Governor to discharge his duties or for any reason deemed sufficient by the Board of Governors, the Board of Governors may, by the affirmative vote of a majority of Governors then in office, recommend to the Stockholders (and, in the case of an On-Floor Designated Governor, the Members) that such Governor be removed and call a special meeting of Stockholders (and, in the case of an On-Floor Designated Governor, a special meeting of the Members and Member Organizations and subsequently a special meeting of the holder of the Series A Preferred Stock, who shall be required to vote in accordance with Article SIXTH of the Certificate of Incorporation and the Trust Agreement) for the purpose of voting on such removal. The Board may, by the affirmative vote of a majority of Governors then in office, remove any Trustee of the Stock Exchange Fund and declare the position held by him to be vacant upon the like refusal or failure or for like cause.

(x) Removal of Governors for Absence. If a Governor shall have been absent from three (3) regular meetings of the Board of Governors within a twelve-month period, the Executive Committee shall conduct a review of such Governor's attendance and may make a recommendation to the full Board of Governors which may, by a majority vote of the Governors then in office, recommend to the Stockholders (and, in the case of an On-Floor Designated Governor, the Members) that such Governor be removed and call a special meeting of Stockholders (and, in the case of an On-Floor Designated Governor, a special meeting of the Members and Member Organizations and subsequently a special meeting of the holder of the Series A Preferred Stock, who shall be required to vote in accordance with Article SIXTH of the Certificate of Incorporation and the Trust Agreement) for the purpose of voting on such removal.

(xi) – (xviii) No Change.

(xix) The Board of Governors shall have the power, by resolution, to adopt, amend or repeal such rules as it may deem necessary with respect to the initiation of disciplinary action, the procedure and conduct for disciplinary hearings and reviews therefrom, and the imposition of disciplinary sanctions, as such matters may apply to any Member, participant, or participant organization or any partner, officer, director (or persons in similar
positions) or person employed by or associated with any [m]Member, participant, or [m]Member Organization or participant organization.

SEC. 4-5. No Change.

Resignations

SEC. 4-6. (a) Any Governor may resign at any time by submitting his written resignation to the Exchange. Such resignation shall take effect at the time of its receipt by the Exchange unless another time be fixed in the resignation, in which case it shall become effective at the time so fixed. The acceptance of a resignation shall not be required to make it effective.

(b) In the event of a merger, consolidation or other acquisition, which results in persons serving on the Board of Governors who are associated with the same member or participant organization, all but one (1) such person shall notify the Chairman of the Board of Governors of their resignation by the first day of January preceding the next annual meeting of [s]Stockholders in order that the vacancy created thereby may be filled by the Nominating, [and] Elections and Governance Committee in accordance with Section 4-7 of these By-Laws or at the next annual meeting of [s]Stockholders in accordance with the nominating and election procedures set forth in Articles III and XXVIII of these By-Laws, as applicable. Such resignation shall become effective no later than the expiration of the term of the outgoing class of Governors.

(c) If the required number of Governors in any of the categories of Governor is not maintained because of any Governor's change in occupational category or [m]Member Organization or participant organization, such Governor shall notify the Chairman of the Board of Governors of his resignation by the first day of January preceding the next annual election in order that the vacancy created thereby may be filled by the Nominating, [and] Elections and Governance Committee in accordance with Section 4-7 of these By-Laws or at the next annual meeting of [s]Stockholders in accordance with the nominating and election procedures set forth in Articles III and XXVIII of these By-Laws, as applicable. Such resignation shall become effective no later than the expiration of the term of the outgoing class of Governors.

SEC. 4-7. No Change.
SEC. 4-8. No Change.
SEC. 4-9. No Change.
SEC. 4-10. No Change.
Regular and Annual Meetings

SEC. 4-11. Regular meetings of the Board of Governors may be held from time to time without notice at the place, date and hour as a majority of the Board of Governors may designate. An annual meeting of the Board of Governors shall be held following each annual meeting of Stockholders at the place, date and hour as the Chairman or a majority of the Board of Governors (consisting of those Governors elected at such annual meeting of the Stockholders and the Governors whose terms in office do not expire upon the effectiveness of such elections) may designate.

SEC. 4-12. No Change.

SEC. 4-13. No Change.

Special Meetings

SEC. 4-14. Special meetings of the Board of Governors may be called by the Chairman of the Board of Governors, or if there be none, or in his/her absence, the Vice-Chairman of the Board of Governors designated by the Board of Governors to act as an interim Chairman and shall be called by the Chairman of the Board of Governors or the Secretary of the Exchange upon the written request of at least a majority of the Governors then in office.

SEC. 4-15. No Change.

SEC. 4-16. No Change.

SEC. 4-17. No Change.

Indemnification

SEC. 4-18. (a) – (b) No Change.

(c) Right of Indemnitee to Bring Suit. The rights to indemnification and to the advancement of expenses conferred in paragraphs (a) and (b) of this Section 4-18 shall be contract rights. If a claim under either paragraph (a) or (b) of this Section is not paid in full by the Exchange within sixty (60) days after a written claim therefor has been received by the Exchange from an indemnitee, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be twenty (20) days, such indemnitee may at any time thereafter bring suit against the Exchange to recover the unpaid amount of such claim. If
successful in whole or in part in any such suit, or in a suit brought by the Exchange to recover an advancement of expenses pursuant to the terms of an undertaking, the indemnitee shall be entitled to be paid also the expense of prosecuting or defending such suit. In (i) any suit brought by the indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the indemnitee to enforce a right to an advancement of expenses) it shall be a defense that, and (ii) in any suit by the Exchange to recover an advancement of expenses pursuant to the terms of the undertaking the Exchange shall be entitled to recover such expenses upon a final adjudication that, the indemnitee has not met any applicable standard for indemnification set forth in the DGCL. Neither the failure of the Exchange (including its Board of Governors or independent legal counsel or any of its stockholders) to have made a determination prior to the commencement of such suit that indemnification of the indemnitee is proper in the circumstances because the indemnitee has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Exchange (including its Board of Governors or independent legal counsel or any of its stockholders) that the indemnitee has not met such applicable standard of conduct, shall create a presumption that the indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the indemnitee, be a defense to such suit. In any suit brought by the indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or by the Exchange to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Section or otherwise shall be on the Exchange.

(d) Non-Exclusivity of Rights. The rights to indemnification and to the advancement of expenses conferred in this Section shall not be exclusive of any other right which any person may have or hereafter acquire under the Certificate of Incorporation or these By-Laws or any statute, agreement, vote of the stockholders or of disinterested Governors or otherwise.

(e) – (f) No Change.

SEC. 4-19. No Change.
SEC. 4-20. No Change.

Annual Financial Report

SEC. 4-21. The Board of Governors shall send to the stockholders, members, participants, and Member Organizations and participant organizations each year an annual financial report of the Exchange's business based upon an independent audit of its financial
condition by a Certified Public Accountant. Such financial reports shall be kept on file in the
office of the Secretary of the Exchange and shall be subject to the inspection of any
[s]Stockholder, [m]Member, participant, [and m]Member Organization and participant
organization upon reasonable request being made to the Secretary of the Exchange.

SEC. 4-22. No Change.

ARTICLE V

Chairman, Vice-Chairman and Officers of the Exchange

Chairman of the Board of Governors

SEC. 5-1. The Chairman of the Board of Governors shall be the individual then holding
the office of Chief Executive Officer of the Exchange. The office shall be his principal
occupation to which he shall devote his full time. He shall have general care of the business of
the Exchange and shall be responsible for the management and administration of its affairs. He
shall be the presiding officer of the Board of Governors and may preside at meetings of the
Exchange whenever he shall so elect. He shall not be permitted to create a tie vote when voting
in the capacity of a Governor. It shall be his duty to uphold the By-Laws and Rules of the
Exchange. The Chief Executive Officer of the Exchange shall be appointed by the Board of
Governors pursuant to a written employment contract and for such compensation as the Board of
Governors may fix subject to annual performance review by the Board of Governors or its
Compensation Committee. During his incumbency, the Chairman shall not be a general or
limited partner of a [m]Member Organization or participant organization nor an employee, agent,
consultant, officer, director (or person in a similar position) or [s]Stockholder of a [m]Member
Organization or participant organization.

[Reserved]

SEC. 5-2. [Reserved] The Vice-Chairman shall be an individual who, anytime within the
prior three (3) years, has been a Member primarily engaged in business on the Exchange’s equity
market or equity options market or is a general partner, executive officer (vice-president or
above) or a Member associated with a Member Organization primarily engaged in business on
the Exchange’s equity market or equity options market.
Acting Chairman and Vacancies in Office of Chairman or Vice-Chairman

SEC. 5-5. During the extended absence or inability to act of the Chairman of the Board of Governors, the Board of Governors shall designate the Vice-Chairman, Chief Operating Officer or another senior officer to assume the duties of the Chairman on an ad interim basis. An extended absence or inability to act of the Chairman of the Board of Governors will occur if the Chairman is unable to fulfill his or her duties for a period longer than four weeks. The Board of Governors shall select a successor to the Chairman of the Board of Governors if that office becomes permanently vacant. In case a vacancy shall occur in the office of the Vice-Chairman of the Board of Governors, the Nominating, Elections and Governance Committee shall select a successor to serve the remainder of the unexpired term, subject to approval by the Board.

Powers and Duties of the Secretary

SEC. 5-7. Unless otherwise determined by the Board of Governors, the Secretary of the Exchange shall record all proceedings of the meetings of the Exchange, the Board of Governors and all committees thereof and the Stockholders, in books to be kept for that purpose, and shall attend to the giving and serving of all notices for the Exchange and the Board of Governors. He shall have charge of the corporate seal, the certificate books, transfer books and list of permit holders, as compiled by the Membership Services Department of the Exchange, and Stockholders and such other books and papers as the Board of Governors may direct. He may appoint a transfer agent of the Exchange, subject to the approval of the Board of Governors. He shall perform all other duties ordinarily incident to the office of Secretary and shall have such other powers and perform such other duties as may be assigned to him by the Chairman of the Board of Governors.
ARTICLE VI
No Change

ARTICLE VII
No Change

ARTICLE VIII
Presiding Floor Officials of the Exchange

SEC. 8-1. The Chairmen of the Floor Procedure Committee, Options Committee and Foreign Currency Options Committee, or their designees, shall preside over the equity trading floor, options trading floor and foreign currency options trading floor, respectively, of the Exchange. They shall maintain order on the respective trading floors and the premises immediately adjacent thereto. For breaches of order, they may exclude Members, participants and Member Organizations and participant organizations (as applicable) and employees from the respective trading floors and the immediately adjacent premises, or may impose fines consistent with Exchange rules, or both. They shall administer the provisions of these By-Laws and the Rules of the Exchange pertaining to the respective trading floors and the immediately adjacent premises of the Exchange. They shall impose penalties as prescribed by the Floor Procedure Committee, Options Committee or Foreign Currency Options Committee, as applicable, for breaches of their rules or regulations relating to order, decorum, health, safety and welfare on the respective trading floors.

Delegation of powers

The Chairmen of the Committee on Floor Procedure, the Committee on Options and the Committee on Foreign Currency Options may delegate to another member or subcommittee of such Committee, any of the powers and authority conferred upon them in this Section. Nothing in this Section shall preclude Exchange staff from imposing fines for breaches of Exchange rules or regulations relating to order, decorum, health, safety and welfare on the respective trading floors. Further, nothing in this Section shall preclude Exchange officers from
participating in the removal of [m]Members, participants, [m]Member Organizations and participant organizations and associated persons, along with the Floor Officials.

ARTICLE IX
No Change

ARTICLE X
Standing Committees

SEC. 10-1.(a) No Change.

(b) All members, except the Chairmen, of the Standing Committees (but excluding the Nominating, [and] Elections and Governance Committee and the Executive Committee) shall be appointed by the Executive Committee, subject to the approval of the Board of Governors. The appointments of all Committees, shall be made as promptly as possible after each annual meeting of [s]Stockholders, and each appointee shall serve for one year or until his successor is duly appointed.

(c) No more than one person affiliated with the same [m]Member Organization or participant organization shall be eligible for service on the same Standing Committee. If by change of affiliation, merger or otherwise two or more persons from the same [m]Member Organization or participant organization are serving on the same Standing Committee, the number of such persons shall be reduced to one through a resignation or resignations, or if necessary, by action of the Standing Committee. The vacancy or vacancies thus created shall be filled by the person or persons selected by the Executive Committee, subject to the approval of the Board of Governors.

SEC. 10-2. No Change.
SEC. 10-3. No Change.
SEC. 10-4. No Change.
SEC. 10-5. No Change.
Admissions Committee

SEC. 10-6.(a) At least 50% of the members of the Admissions Committee shall be permit holders or participants or be associated with a [m]Member Organization or participant organization.

(b) – (c) No Change.

(d) No [m]Member shall form a [m]Member [o]Organization that is a partnership and no [m]Member or [m]Member [o]Organization that is a partnership shall admit any person to partnership in such organization without the prior approval of the proposed partner or partners by the Admissions Committee. The Admissions Committee shall have supervision over partnership arrangements, and copies of all articles of partnership, or any changes therein, shall be presented to the Admissions Committee for approval before the effective date thereof, except that if such articles or changes therein have been approved by a registered national securities exchange, the Admissions Committee may waive this requirement.

(e) All applications to qualify and register a corporation or other entity as a [m]Member Organization or participant organization, and all applications for reinstatement of any qualification or registration of a [m]Member Organization or participant organization, shall be referred to the Admissions Committee which shall investigate and act thereon. The Admissions Committee shall have supervision over [m]Member corporation (and similar) arrangements, and copies of the articles of incorporation, by-laws and all amendments thereto shall be filed with the Admissions Committee for approval.

(f) If in a [m]Member [o]Organization that is a partnership the only general partner thereof, who was a [m]Member of this Exchange, dies or resigns, the remaining partners of such [m]Member [o]Organization may request the Admissions Committee to permit a continuing partnership consisting of all said remaining partners and no others (except that the estate of a deceased [m]Member may be a partner thereof) to have the status of a [m]Member [o]Organization for such period, not exceeding sixty (60) days from the date of such death or resignation, as the Admissions Committee may determine and under such conditions as it may fix. The Admissions Committee in its discretion may, at any time during such period, withdraw such permission and upon such withdrawal such status shall terminate.

(g) If in a [m]Member [o]Organization that is a corporation the only officer, who was a [m]Member of this Exchange, dies or resigns, the remaining officers may request the Admissions
Committee to permit the corporation to have the status of a Member or Organization for such period, not exceeding sixty (60) days from the date of such death or resignation, as the Admissions Committee may determine and under such conditions as it may fix. The Admissions Committee in its discretion may, at any time during such period, withdraw such permission and upon such withdrawal such status shall terminate.

SEC. 10-7. No Change.

SEC. 10-8. No Change.


Automation Committee

SEC. 10-10. The Automation Committee shall consist of five (5) Governors, including its Chairman who shall be an Off-Floor or a non-industry Stockholder Governor or an Independent Governor. The Automation Committee shall periodically review and approve automation plans affecting the trading floors, subsidiaries and the Exchange's administrative areas, including regulatory departments and offices. The Automation Committee shall ensure that such plans are consistent with the strategic objectives of the Exchange. The Automation Committee shall report to the Board of Governors on at least a quarterly basis.

Business Conduct Committee

SEC. 10-11.(a) The Business Conduct Committee shall, in accordance with the Rules of the Board of Governors of the Exchange, have exclusive jurisdiction to:

(i) monitor compliance with the Exchange Act, the rules and regulations thereunder, these By-Laws and rules of the Exchange or any interpretation thereof, and the rules, regulations, resolutions and stated policies of the Board of Governors or any committee of the Exchange, by Members, participants, Member Organizations and participant organizations and persons associated with or employed by any such persons or organizations;

(ii) examine into the business conduct and financial condition of Member, participants, Member Organizations and participant organizations and persons associated with or employed by any such persons or organizations

(iii) – (vi) No Change
(b) The Business Conduct Committee shall have authority, whenever it shall appear that a [m]Member [o]Organization is in violation of Rule 703 of the Rules of the Board of Governors to direct a general partner(s) or an executive officer(s) of such [m]Member [o]Organization to appear before the Business Conduct Committee for examination upon forty-eight (48) hours notice, either oral or in writing and, after such examination, such Committee shall have authority to suspend such [m]Member [o]Organization until the requirements of Rule 703 are fully met. Any such suspension directed by the Business Conduct Committee shall be subject to review by the Board of Governors. In the event of a reversal by the Board of Governors of the suspension imposed by such Committee, a [m]Member [o]Organization or officer, partner, director (or person in a similar position) or [s]Stockholder thereof shall be prohibited from instituting a lawsuit in any forum against the Exchange or the members of the Business Conduct Committee, or hold the Exchange or any member of such Committee liable in damages based in whole or in part upon the suspension imposed by such Committee.

(c) The Business Conduct Committee may prescribe regulations for the carrying of securities on margin by [m]Members, participants and [m]Member Organizations and participant organizations for customers; and it may also make such regulations in regard to the segregation or hypothecation of securities carried in customers' accounts as it deems advisable.

(d) The Business Conduct Committee may prohibit trading by a [m]Member, participant or [m]Member Organization or participant organization which is excessive in view of such person's or organization's capital.

(e) The Business Conduct Committee may require detailed financial reports of a [m]Member, participant or [m]Member Organization or participant organization, and such other operational reports as it may deem advisable.

(f) The Business Conduct Committee shall have supervision over the advertising of [m]Members, participants and [m]Member Organizations and participant organizations.

(g) The Business Conduct Committee shall consist of nine (9) members as follows: three (3) [non-industry Governors (at least one (1) of whom shall be a public Governor)] Independent Governors; one (1) Member whose business is principally carried out on the [E]quity [F]loor [member]; one (1) Member whose business is principally carried out on the [E]quity [O]ptions [F]loor [member; one (1) At-Large Floor member]; and four (4) [three (3) Off-Floor members] persons who are Members or persons associated with a Member Organization.
Compensation Committee

SEC. 10-12.(a) No Change.

(b) The Compensation Committee shall consist of five (5) members as follows: the [two (2)] Vice-Chairman of the Board of Governors; and [three (3) non-industry] **four (4) Independent Governors** [(at least one (1) of whom shall be a public Governor)]. The Chairman of the Committee shall be one (1) of the [non-industry] **Independent Governors**.


Executive Committee

SEC. 10-14.(a) The Executive Committee shall consist of the following nine (9) Governors: the Chairman of the Board of Governors, who shall be the Chairman of the Committee; the [two (2)] Vice-Chairman of the Board of Governors; the Chairman of the Finance Committee; the Chairmen of [the] two (2) floor committees [whose floors are not represented by the On-Floor Vice-Chairman]; two (2) [one (1) Off-Floor Governor;] **Stockholder Governors and two (2) Independent Governors**, [and two (2) non-industry Governors, of whom at least one (1) is a public Governor.] The Board of Governors shall select and approve the latter [three (3)] **six (6) Committee members or, at its discretion, designate the Chairman of the Board of Governors to select such members, subject to the approval of the Board of Governors.**

(b) – (d) No Change.

(e) With respect to claims, disputes, or controversies filed with the Exchange prior to October 1, 1998, the following remains in effect:

(i) Member Controversies: Any dispute, claim or controversy between or among parties who are [m]Members, participants, [m]Member [o]Organizations, participant organizations or persons associated with a [m]Member Organization or a participant organization, arising in connection with the securities business of such [m]Member, participant, [m]Member [o]Organization, participant organization and/or associated person in his/her capacity as an associated person shall be administered by the Arbitration Department of the Exchange pursuant to Rule 950 of the Rules of the Board of Governors. [A legal titleholder of a membership and an equitable titleholder of such membership shall arbitrate any controversy relating to the legal titleholder's membership or the related lease as a member controversy.]
(ii) Public Customer Controversies: Any dispute, claim or controversy between a public customer(s), in his/her capacity as such, and a [m]Member, participant, [m]Member Organization, participant organization and/or associated person in connection with the securities business of such [m]Member, [m]Member Organization, participant and/or associated person in connection with his/her activities as an associated person shall be administered [by the Arbitration Department of the Exchange] pursuant to Rule 950, Section 44 of the Rules of the Board of Governors.

(iii) It may be deemed conduct inconsistent with just and equitable principles of trade for a [m]Member, participant, [m]Member Organization, participant organization, or person associated with a [m]Member Organization or participant organization to fail to submit to arbitration on demand under the provisions of this By-Law, or to fail to provide any document properly requested pursuant to discovery or to fail to honor an award of the arbitration panel.

Finance Committee

SEC. 10-15. The Finance Committee shall consist of the following nine (9) members: the Chairman of the Board of Governors, who shall not be permitted to create a tie vote; the [two (2)] Vice-Chairman of the Board of Governors; one (1) Stockholder Governor; four (4) [non-industry] Independent Governors, [of whom at least one (1) is a public Governor]; and two (2) [On-Floor] Members or persons associated with a Member Organization, who may be [g]Governors, one of whom conducts business primarily on the equity or equity options floor. The Chairman of the Committee shall be [an industry] either the Vice-Chairman, a Stockholder Governor or a Member Governor. The Budget Subcommittee of the Finance Committee shall be chaired by a Governor. The Finance Committee shall have charge of the funds of the Exchange. It shall serve in an advisory capacity to the Board of Governors in the investment from time to time of the funds of the Exchange, and in the sale from time to time of any of the securities held by the Exchange.

The Finance Committee shall examine the accounts and vouchers of the Exchange and report the result of its examination to the Board of Governors. It shall prepare and present to the Board of Governors at its first regular meeting in December of each year an estimate of the income of the Exchange for the succeeding calendar year and its recommendations as to the appropriations for expenses for said period. It may at any time recommend additional appropriations or the increase or decrease of any appropriations made by the Board of Governors.
and shall make reports and recommendations to the Board of Governors as to the financial policy of the Exchange. Not less than three (3) days prior to the date upon which dues of Members become payable it shall make a report and recommendation to the Board of Governors as to the amount thereof.

The Finance Committee shall have such other powers and duties as may be delegated to it by the Board of Governors.

The Finance Committee shall assist the Board of Governors in the preparation of the annual budget and make recommendations thereon, oversee the review of contracts, approve unbudgeted expenditures, assist the Audit Committee with respect to special reviews relating to financial matters and review any other financial matter that it deems appropriate.

**Floor Procedure Committee**

SEC. 10-16. At least 50% of the members of the Floor Procedure Committee shall be permit holders or be associated with a Member Organization.

The Floor Procedure Committee shall have general supervision of the dealings of Members on the equity trading floor, and of the premises of the exchange facility immediately adjacent thereto. It shall make or recommend for adoption, and administer such rules as it may deem necessary for the convenient and orderly transaction of business upon the equity trading floor.

The Floor Procedure Committee shall have supervision of the activities on the equity trading floor of specialists, alternate or assistant specialists, odd-lot dealers, floor brokers, or other types of market-makers and shall establish standards and procedures for the training and qualification of Members active on the equity trading floor. It shall have supervision over all equity floor employees of members of the Exchange, and shall make and enforce such rules with respect to such employees as it may deem necessary.

The Floor Procedure Committee shall resolve trading disputes and have supervision over all questions pertaining to or arising out of the delivery of securities on exchange contracts. It shall have supervision of all connections or means of communication with the equity trading floor and may require the discontinuance of any such connection or means of communication where, in the opinion of the Floor Procedure Committee, it is contrary to the welfare or interest of the Exchange. It shall also have supervision over the location of equipment and the assignment and use of space on the equity trading floor.
The Floor Procedure Committee shall have supervision of operations related to and policies adopted by participants in the national market system insofar as these matters relate to the function of the Exchange in such system. It shall coordinate with and provide information and assistance to the Allocation, Evaluation and Securities Committee and shall be empowered to make temporary appointments of specialists, alternate or assistant specialists, odd-lot dealers, or other types of equity floor market-makers until permanent appointments are made by the latter Committee.

The Floor Procedure Committee shall make and enforce rules and regulations relating to order, decorum, health, safety and welfare on the equity trading floor and the immediately adjacent premises of the Exchange and shall be empowered to impose penalties for violations thereof.

The Floor Procedure Committee shall consult with the Quality of Markets Committee on all matters of policy and all matters which are to be presented to the Board of Governors by the Floor Procedure Committee.

**Foreign Currency Options Committee**

SEC. 10-17. At least 50% of the members of the Foreign Currency Options Committee shall be permit holders or participants or be associated with a Member Organization or participant organization.

The Foreign Currency Options Committee shall have general supervision of the dealings of Members, participants and Member Organizations and participant organizations on the foreign currency options trading floor, and of the premises of the Exchange immediately adjacent thereto. It shall make or recommend for adoption, and administer, such rules as it may deem necessary for the convenient and orderly transaction of business upon the foreign currency options trading floor.

The Foreign Currency Options Committee shall have supervision of the activities on the foreign currency options trading floor of specialists, assistant specialists, registered option traders, floor brokers, or other types of market-makers and shall establish standards and procedures for the training and qualification of Members, participants and Member Organizations and participant organizations active on the foreign currency options trading floor. It shall have supervision over all foreign currency options floor employees of Members, participants and member and participant organizations, and shall make and enforce such rules with respect to such employees as it may deem necessary.
The Foreign Currency Options Committee shall resolve trading disputes. It shall have supervision of all connections or means of communications with the foreign currency options trading floor and may require the discontinuance of any such connection or means of communication when, in the opinion of such Committee, it is contrary to the welfare or interest of the Exchange. It shall also have supervision over the location of equipment and the assignment and use of space on the foreign currency options trading floor.

The Foreign Currency Options Committee shall have supervision over relations with other options exchanges in the areas of foreign currency options trading, market-making and related matters. It shall coordinate with and provide information and assistance to the Allocation, Evaluation and Securities and the Options Committees as appropriate.

The Foreign Currency Options Committee shall make and enforce rules and regulations relating to order, decorum, health, safety and welfare on the foreign currency options trading floor and the immediately adjacent premises of the exchange facility and shall be empowered to impose penalties for violations thereof.

The Foreign Currency Options Committee, in its discretion, may delegate to other Standing or Special Committees of the Exchange supervision over questions pertaining to foreign currency options trading and over administration of such Rules as it deems appropriate.

The Foreign Currency Options Committee shall consult with the Quality of Markets Committee on all matters of policy and all matters which are to be presented to the Board of Governors by the Foreign Currency Options Committee.

SEC. 10-18.  No Change.

Nominating, [and] Elections and Governance Committee

SEC. 10-19.(a) The Nominating, [and] Elections and Governance Committee shall consist of seven (7) persons as follows: four (4) [non-industry] Independent Governors, [at least two (2) of whom shall be Public Governors; one (1) Off-Floor member, who may be a] two (2) Stockholder Governors; and one (1) [On-Floor Equity] Member Governor ]; and one (1) On-Floor Equity Options Governor]. The Nominating, [and] Elections and Governance Committee shall select its Chairman from among the members of such Committee who are [Public] Independent Governors.

(b) No member of the Nominating, [and] Elections and Governance Committee shall be appointed to serve on such Committee consecutively for more than two (2) full terms of one year.
each from and after the effective time of the Merger. No member of the Nominating, [and]
Elections and Governance Committee shall be eligible for a position on the Board of Governors
to be filled for the term commencing immediately after the next annual meeting of the
stockholders of the Exchange. As promptly as possible after each annual meeting of
[s]Stockholders, the Board of Governors shall appoint the Nominating, [and] Elections and
Governance Committee, and from time to time the Board of Governors shall fill any vacancies
created on such Committee. The Nominating, [and] Elections and Governance Committee may
submit nominations for its successors, some or all of whom may be approved by the Board of
Governors.

(c) The Nominating, [and] Elections and Governance Committee shall have supervision
over the balloting at all meetings of [m]Members, Member Organization Representatives,
[m]Member [o]Organizations and [s]Stockholders. The Nominating, [and] Elections and
Governance Committee shall administer these By-Laws and any other rules, regulations and
procedures governing voting that may be established from time to time by the Board of
Governors at all elections and meetings of [m]Members, Member Organization Representatives,
[m]Member [o]Organizations and [s]Stockholders and shall make or recommend for adoption
such rules, recommendations and procedures as it may deem necessary for the conduct of such
voting.

(d) The Nominating, [and] Elections and Governance Committee shall select all
Chairmen of Standing Committees in accordance with this Article X and subject to the approval
of the Board of Governors.

(e) A person is not eligible for an independent nomination for a position on the Board of
Governors, nor shall the Nominating, [and] Elections and Governance Committee nominate any
person for a position on the Board of Governors if one or more other persons associated with
such person's [m]Member Organization or participant organization would be serving an
unexpired term or terms on the Board of Governors upon the commencement of such nominee's
term of office in the event of such nominee's election. The Nominating, [and] Elections and
Governance Committee shall nominate no more than one person associated with the same
[m]Member Organization or participant organization to fill vacancies on the Board of Governors
and regardless of the number of vacancies to be filled. For purposes of these By-Laws, the term
"person associated with the same [m]Member Organization or participant organization" means,
with respect to any person associated with a [m]Member Organization or participant
organization, any other person who is a partner, officer, director (or person in a similar position),
or holder of ten percent (10%) or more of the outstanding shares of the same [m]Member or participant organization or of a [m]Member Organization or participant organization that directly controls, is controlled by or is under common control with such [m]Member Organization or participant organization. Participation in a joint account does not per se constitute an association with the same [m]Member Organization or participant organization.

(f) A candidate [who is not an incumbent officer or Governor on the Board of Governors] may run for only one of the [offices] vacancies [of On-Floor or Off-Floor] for Governor in any election.

(g) No more than one (1) person associated with the same [m]Member Organization or participant organization shall be certified by the Nominating, [and] Elections and Governance Committee for independent nomination to a position on the Board of Governors. In the event more than one such nomination is received, the Nominating, [and] Elections and Governance Committee shall not certify any such candidate. A person who has previously accepted nomination by the Nominating, [and] Elections and Governance Committee for one (1) category of [industry] Governor [(e.g. On-Floor or Off-Floor Governor)] pursuant to Section 3-6 or 28-3 of these By-Laws is not eligible to qualify as an independently nominated candidate in any category. There may be no independent nominations of incumbent [industry] Governors whose terms are not set to expire at the next annual meeting of [s]Stockholders.

(h) The names of all Designated Nominees, together with the names of the nominees to be elected as [Off-Floor] Stockholder Governors and [non-industry] Independent Governors, whose nominations conform with the requirements of these By-Laws, shall be sent to the stockholders of the Exchange by the Secretary of the Exchange.

(i) No Change.

Options Committee

SEC. 10-20. At least 50% of the members of the Options Committee shall be permit holders or be associated with a [m]Member [o]Organization.

The Options Committee shall have general supervision of the dealings of [m]Members on the equity and index options trading floor, and of the premises of the Exchange immediately adjacent thereto. It shall make or recommend for adoption, and administer, such rules as it may deem necessary for the convenient and orderly transaction of business upon the equity and index options trading floor.
The Options Committee shall have supervision of the activities on the equity and index options trading floor of specialists, assistant specialists, registered option traders, floor brokers, or other types of market-makers and shall establish standards and procedures for the training and qualification of Members active on the equity and index options trading floor. It shall have supervision over all equity and index options floor employees of Members, and shall make and enforce such rules with respect to such employees as it may deem necessary.

The Options Committee shall resolve trading disputes. It shall have supervision of all connections or means of communications with the equity and index options trading floor and may require the discontinuance of any such connection or means of communication when, in the opinion of the Options Committee, it is contrary to the welfare or interest of the Exchange. It shall also have supervision over the location of equipment and the assignment and use of space on the equity and index options trading floor.

The Options Committee shall have supervision over relations with other options exchanges in the areas of trading, market-making and related matters. It shall coordinate with and provide information and assistance to the Allocation, Evaluation and Securities and the Foreign Currency Options Committees.

The Options Committee shall make and enforce rules and regulations relating to order, decorum, health, safety and welfare on the equity and index options trading floor and the immediately adjacent premises of the Exchange and shall be empowered to impose penalties for violations thereof.

The Options Committee, in its discretion, may delegate to other Standing or Special Committees of the Exchange supervision over questions pertaining to equity and index options trading and over administration of such Rules as it deems appropriate.

The Options Committee shall consult with the Quality of Markets Committee on all matters of policy and all matters which are to be presented to the Board of Governors by the Options Committee.

Quality of Markets Committee

SEC. 10-21. There shall be a Quality of Markets Committee. The Quality of Markets Committee shall provide advice and guidance to the Board of Governors on the Exchange's competitive position in new and existing products and the quality and depth of markets. The Quality of Markets Committee shall also provide advice and guidance on issues relating to the
fairness, integrity, efficiency and competitiveness of the information, order handling and
execution mechanisms of the Exchange and systems operated by the Exchange from the
perspective of investors, both individual and institutional, retail firms, specialist and registered
options trader firms, listed companies and other participants of the Exchange. The Quality of
Markets Committee will have broad representation that shall include at least as many [non-
industry] Independent as it does Stockholder and Member [as industry] Committee members.

ARTICLE XI
Appeals
When Allowed

SEC. 11-1.(a) An appeal to the Board of Governors from a decision of a Standing
Committee may be taken by a [m]Member or [m]Member [o]Organization interested therein or a
foreign currency options participant or a foreign currency options participant organization
interested therein by filing with the Secretary of the Exchange written notice of appeal within ten
(10) days after the decision has been rendered. A member of a Standing Committee taking part in
the hearing of a matter, may by filing written notice with the Secretary of the Exchange within
ten (10) days after a decision has been made thereon, appeal therefrom to the Board of
Governors.

(b) No Change.

(c) Notwithstanding the foregoing, any appeal from a decision of the Allocation,
Evaluation and Securities Committee pursuant to Rule 511(e) of the Rules of the Board of
Governors shall be heard by a special committee of the Board of Governors composed of three
(3) Governors, of whom at least one (1) shall be [a non-industry] an Independent Governor. The
member requesting review shall be permitted to submit a written statement to and/or appear
before this special committee. The Secretary of the Exchange shall certify the record of the
Allocation, Evaluation and Securities Committee's hearing and its written decision and shall
submit these documents to the special committee. The special committee's review of the
Allocation, Evaluation and Securities Committee's action shall be based solely on the record, the
written decision and any statement submitted by the member. The special committee shall
prepare and deliver to the member a written decision and reasons therefore. If the special
committee affirms the Allocation, Evaluation and Securities Committee's action, the action shall
become effective ten (10) days from the date of the special committee's decision. There shall be no appeal to the Board of Governors from any decision of the special committee.

Advisory Committee on Appeals

SEC. 11-2. On all appeals to the Board of Governors from a decision of a Standing Committee in accordance with Section 11-1 of these By-Laws, an advisory committee of three (3) Governors, of whom at least one (1) shall be [a non-industry] an Independent Governor, appointed by the Chairman of the Board of Governors, shall examine the record on appeal and give an advisory opinion thereon to the Board of Governors.

SEC. 11-3. No Change.

ARTICLE XII

Permits-Eligibility-Election-Initiation Fee

Right to Issue Permits and Non-Transferability

SEC. 12-1.(a) No Change.

(b) Except as otherwise set forth in the rules of the Exchange or any resolution of the Board of Governors authorizing a specific class or series of permits, a permit will confer upon and subject the holder thereof to all the privileges and obligations of a [m]Member pursuant to these By-Laws and the rules of the Exchange, including, without limitation, the right to vote (exclusively through the Member Organization Representative of the [m]Member [o]Organization identified by such holder as its primary affiliation) and to conduct business on the Exchange as provided in these By-Laws and such rules. Except as otherwise provided in the rules of the Exchange or any resolution of the Board of Governors authorizing a specific class or series of permits, no permit may be sold, transferred (by operation of law or otherwise), leased or otherwise encumbered by any person to whom such permit is issued by the Exchange.

Eligibility

SEC. 12-2. Every applicant for a permit, other than a corporate [m]Member that has been issued a permit pursuant to Section 12-4 of these By-Laws, and every non-member seeking
admission as a foreign currency options participant must be a natural person of at least twenty-one (21) years of age.

SEC. 12-3. No Change.

SEC. 12-4. No Change.

Application

SEC. 12-5. (a) – (c) No Change.

(d) If the Admissions Committee votes favorably upon the candidate, his name shall be posted upon the website of the Exchange for a period of seven (7) days and shall also appear in the Exchange's Weekly Bulletin (mailed) to the [m]Members. An objection by a [m]Member of the Exchange to the issuance to a candidate for a permit or to the admission of a non-member as a foreign currency options participant upon acquisition of an existing foreign currency options participation shall be in writing addressed to the Admissions Committee and filed at any time with the Membership Services Department.

(e) If during the seven (7) day posting period no objection to the issuance to the applicant of a permit or to the admission of the non-member as a foreign currency options participant has been received, his status as a [m]Member or his admission as a foreign currency options participant shall become effective, with respect to permits, upon the expiration of the posting period and, with respect to foreign currency options participations, upon the expiration of the posting period and upon his acquisition by transfer of a foreign currency options participation.

(f) No Change.

(g) If during the seven (7) day posting period an objection or objections to the issuance of a permit to the applicant or to the applicant's admission as a foreign currency options participant have been received, the Admissions Committee shall reconsider its favorable vote on the candidate upon the expiration of such period. If the Admissions Committee reaffirms its favorable vote, the applicant shall thereupon be issued a permit or be admitted as a foreign currency options participant upon his acquisition by transfer of a foreign currency options participation, as the case may be. If the Admissions Committee rescinds its favorable vote, changing it to unfavorable, the applicant shall have the rights of notice, hearing and review as provided in Section 12-5(f) of these By-Laws. If, after hearing and review, unfavorable action on
his application is reversed, his status as a [m]Member or his admission as a foreign currency options participant shall become effective in accordance with this subsection (g) and without the requirement of an additional posting or notice period.

(h) The Chairman of the Board of Governors or his designate may, in his discretion, reduce any permit and/or foreign currency options participation related notice and/or posting period requirements, including, without limitation, any such requirements involving new permit holders or foreign currency options participants and concerning transfers of foreign currency options participations, as the Chairman may deem appropriate if the Chairman or his designate shall determine that such action is in the best interests of the Exchange. The Chairman or designate may condition any reduction of the posting period upon receipt of an indemnity or other form of security which he or his designate deems adequate to protect the interests of the Exchange, [m]Members, participants, [m]Member Organizations and participant organizations, [s]Stockholders, investors and the public interest.

(i) The provisions of this Section shall not apply to a corporation that is issued a permit under Section 12-4 of these By-Laws. In addition, the provisions of this Section shall not apply to any [m]Member who was issued a permit in connection with the Merger or any participant who owned a foreign currency options participation immediately prior to the Merger and retained such foreign currency options participation after the Merger; provided, however, that each such [m]Member and participant shall provide to the Admissions Committee and the Exchange not later than the date specified in transitional rules of the Exchange adopted pursuant to Section 12-12 of these By-Laws such documentation and information as the Admissions Committee or the Exchange may request. The consequences and sanctions applicable to [m]Member, participants and [m]Member Organizations and participant organizations of the failure to furnish any such documentation and information shall be as set forth in the rules of the Exchange.

Rights and Privileges

SEC. 12-6.(a) Upon receipt of a permit, a person shall, except as otherwise set forth in the rules of the Exchange or any resolution of the Board of Governors authorizing a specific class or series of permits, have all the rights and privileges and shall be under all the duties and obligations of a [m]Member in accordance with these By-Laws and the rules of the Exchange, and, if permitted in the rules of the Exchange or any resolution of the Board of Governors
authorizing a specific class or series of permits, enter into foreign currency options transactions on the Exchange.

(b) Notwithstanding anything to the contrary contained in these By-Laws or the rules of the Exchange, the ability of a permit holder to exercise any right or privilege of a Member is subject to such holder's compliance with applicable registration, testing, capital, fitness, allocation, deposit, bonding or other rules, requirements or procedures of the Exchange as may be established from time to time relating to trading on the Exchange (in any particular security, capacity or otherwise), use of given services of, or facilities of or operated by, the Exchange, engaging in any particular line of business at the Exchange, maintaining employees or agents at the Exchange, and to the payment of applicable fees, dues and other charges.

SEC. 12-7. No Change.

Maintenance of Qualifying Permit Holder and Member Organization Representative

SEC. 12-8. Each Member Organization must have a Member Organization Representative and must be qualified by a permit holder who is associated with such organization. In the event that such Member Organization Representative or permit holder dies, ceases to be associated with the Member Organization or otherwise is unable to serve as such, such organization shall replace such Member Organization Representative or permit holder through which such Member Organization is qualified promptly, as specified in the rules of the Exchange, provided that until such replacement is effected the ability of other officers or agents of the Member Organization to act temporarily for such organization shall be as set forth in the rules of the Exchange. The penalties and other consequences of a Member Organization failing to designate or replace a Member Organization Representative within the time period specified above shall be as provided in the rules of the Exchange. The rules of the Exchange may provide for appropriate procedures concerning the designation and replacement of, and any other matters pertaining to, Member Organization Representatives.

Acceptance of Certificate of Incorporation, By-Laws and Rules

SEC. 12-9.(a) No Change.
(b) No [m]Member [o]Organization or participant organization shall be entitled to the rights and privileges thereof until it has pledged in writing to abide by the Certificate of Incorporation, these By-Laws and all rules and regulations of the Exchange, in each case as they have been or shall be from time to time amended.

(c) No Change.

Inactive Nominees

SEC. 12-10. A [m]Member [o]Organization may designate an individual as an "Inactive Nominee." The [m]Member [o]Organization shall pay a fee for the privilege of maintaining the Inactive Nominee status.

The following requirements shall apply to Inactive Nominees:

(a) To be eligible for Inactive Nominee status, an individual must be approved as eligible to hold a permit in accordance with these By-Laws and the rules of the Exchange.

(b) An Inactive Nominee shall have no rights or privileges of a permit holder unless and until said Inactive Nominee becomes an effective permit holder and all applicable Exchange fees are paid.

(c) An Inactive Nominee's status will terminate after six (6) months unless it has been reaffirmed in writing by the [m]Member [o]Organization or terminated prior thereto. Further, the Inactive Nominee's status must be reaffirmed in writing every six (6) months thereafter to remain in effect.

Use of Facilities of Exchange

SEC. 12-11. The Exchange shall not be liable for any damages sustained by a [m]Member, participant or [m]Member [o]Organization or participant organization growing out of the use or enjoyment by such person or organization of the facilities afforded by the Exchange to such person or organization for the conduct of their business. The Options Clearing Corporation shall not be liable to a [m]Member, participant or [m]Member [o]Organization or participant organization with respect to the use, non-use or inability to use the Intermarket Options Linkage, including without limitation the content of orders, trades, or other business facilitated through the Intermarket Options Linkage, the truth or accuracy of the content of
messages or other information transmitted through the Intermarket Options Linkage, or otherwise.

Certain Transitional Rules

SEC. 12-12.(a) The rules of the Exchange may specify such transitional provisions concerning, without limitation: (i) the status, rights and obligations following the Merger of persons who were lessors and lessees in respect of Exchange memberships, parties to A-B-C Agreements, [m]Members, [m]Member [o]Organizations, Inactive Nominees and equitable titleholders prior to the Merger; (ii) the procedures to be followed, forms to be submitted and other requirements to be satisfied by [m]Members, Inactive Nominees and [m]Member [o]Organizations at the time of the Merger in respect of the issuance of permits and the continuation of such [m]Members', Inactive Nominees' and organizations' status as [m]Members, Inactive Nominees and [m]Member [o]Organizations (and the penalties and other consequences for failing to comply with such procedures or to submit such forms); (iii) the designation and replacement of Member Organization Representatives; and (iv) other appropriate matters concerning the transition and continuity of the Exchange and its [m]Members and [m]Member [o]Organizations. In the event of any conflict between such transitional provisions and any otherwise applicable provision of these By-Laws or the rules of the Exchange, such transitional provisions shall govern.

(b) No Change.

(c) Any person who was a [m]Member, Inactive Nominee, participant or [m]Member Organization or participant organization or approved lessor of a foreign currency options participation immediately before the time that the Merger became effective and who received a permit or which has continued to be an Inactive Nominee, participant, [m]Member Organization or participant organization or approved lessor of a foreign currency options participation in connection with such Merger shall be deemed to have pledged to abide by the Certificate of Incorporation, these By-Laws and all rules and regulations of the Exchange (which, for all purposes under these By-Laws, shall be deemed to include any dues, fees and other charges imposed by the Exchange), in each case as they have been or shall be from time to time amended.
ARTICLE XIII

Member Organizations-[Off-Floor] Trading Specialist and Floor Brokerage Operations

Qualification

SEC. 13-1. Notwithstanding any provision in these By-Laws or the rules of the Exchange to the contrary, the Board of Governors may permit a member of this Exchange to qualify an entity as a Member Organization and may permit a foreign currency options participant to qualify an entity as a foreign currency options participant organization, subject to such terms and conditions as may from time to time be prescribed by rule or may be imposed by the Board of Governors. The purchase of a foreign currency options participation by a member of the Exchange shall be sufficient to qualify the Member Organization of such a member as a foreign currency options participant organization.

Qualifications

SEC. 13-2. Only an organization whose principal purpose is the transaction of business as a broker or dealer in securities may be qualified as a Member Organization (provided, however, that this sentence shall not apply to an organization sought to be qualified as a foreign currency options participant organization by a non-member foreign currency options participant). A Member Organization shall be organized under the laws of a jurisdiction approved by the Admissions Committee.

If it appears to the Admissions Committee that the business form of a Member Organization or participant organization is being used to evade financial responsibility, such organization shall not be registered as a Member Organization or participant organization.

Exclusion of Banks and Investment Trusts

SEC. 13-3. No bank and no investment trust may be qualified or registered as a Member Organization or participant organization.
Provisions of By-Laws and Rules Applicable to Member and Participant Organizations

SEC. 13-4. For the purpose of enforcing these By-Laws and the Rules of the Exchange, and unless otherwise specifically provided therein, any provision hereof or thereof applicable to a Member Organization that is not a corporation shall apply likewise to a Member Organization that is a corporation and any provision hereof applicable to a foreign currency options participant organization that is not a corporation shall apply likewise to a foreign currency options participant organization that is a corporation; any provision applicable to a partner of a Member Organization that is not a corporation shall apply likewise to an officer or director of a Member Organization that is a corporation and any provision applicable to a partner of a foreign currency options participant organization that is not a corporation shall apply likewise to an officer or director of a foreign currency options participant organization that is a corporation; and any provision applicable to a special or limited partner of a Member Organization that is not a corporation shall apply likewise to a holder of stock, other than an officer or director, of a Member Organization that is a corporation and any provision applicable to a special or limited partner of a foreign currency options participant organization that is not a corporation shall apply likewise to a holder of stock, other than an officer or director, of a foreign currency options participant organization that is a corporation.

Liability of Officers, Directors and Substantial Stockholders

SEC. 13-5. Any officer, director or substantial Stockholder of a Member Organization that is a corporation who commits any act or omission which violates these By-Laws or the Rules of the Exchange shall be personally liable and subject to the same discipline and penalties as a member of the Exchange. A member of the Exchange who is an officer of a Member Organization that is a corporation shall be liable and subject to the same discipline and penalties for any act or omission of said corporation or any officer, director, or employee thereof, as if the same were committed by him personally, but the Board of Governors may, in its discretion, by the affirmative vote of fourteen (14) Governors, relieve him from the penalty therefor.
Conditions to Member Organization Status

SEC. 13-6. To obtain and maintain the status of a member organization, an organization shall: (a) be a broker or dealer duly registered under the Exchange Act; (b) be duly qualified by a permit holder who is primarily affiliated with such organization for purposes of voting as provided in these By-Laws; (c) have submitted to the Admissions Committee an application for such status in the form approved by such Committee or the Exchange and any other information and materials requested by such Committee or the Exchange; (d) have had such application approved by the Admissions Committee; and (e) meet such other requirements as are set forth in these By-Laws or the rules of the Exchange.

Violation of Terms of Registration

SEC. 13-7. Upon any violation of the terms and conditions of its registration, or if at any time the requirements thereof are not met, the Board of Governors may terminate the registration of a member organization by the affirmative vote of fourteen (14) Governors.

Termination of Registration

SEC. 13-8. A member of the Exchange who has qualified a member organization may apply to the Board of Governors for termination of the registration of the member organization. Such termination shall become effective upon such date as the Board of Governors may determine and in no event shall it be effective until and unless the member organization and the member have discharged all commitments and liabilities to the Exchange and to its members and member organizations, or have made provision therefor satisfactory to the Business Conduct Committee. If the member who has qualified the member organization is prevented by death or incapacity from applying for the termination of such registration, the application may be made under the same terms and conditions as herein provided by his legal representative.

Absence or Disability of an Officer, Member of the Exchange

SEC. 13-9. During the unavoidable absence or disability of an officer (or person in a similar position) of a member organization who is a member of the Exchange, any officer or director (or person in a similar position) of such member organization shall have the
Application to Member Organizations

SEC. 13-10. Whenever necessary for the proper conduct of business of the Exchange, the By-Laws and the Rules of the Exchange shall be construed so as to apply to Member Organizations.

ARTICLE XIV

Dues, Fines, Net Commissions and Other Charges-Penalties for Non-Payment

Fees, Dues and Other Charges

SEC. 14-1.(a) The Board of Governors shall have the power (i) to establish, assess and levy such fees, dues and other charges (including, without limitation, any extraordinary assessments) upon permit holders, Members, participants, Member Organizations and participant organizations, lessors, lessees, owners of foreign currency options participations, and any other persons using the facilities or services of the Exchange, and upon applicants for and persons being admitted, registered, qualified and/or initiated to any such status, in each case as the Board of Governors may from time to time establish by resolution or in the rules of the Exchange (which shall be deemed to include any schedule of fees, dues, other charges and penalties as may be in effect from time to time), (ii) to establish rebates, credits and discounts with respect to any of the foregoing, (iii) to establish programs whereby the Exchange shares or permits any person to participate in any identified source of revenues (less any expenses or other charges as the Exchange shall determine) of the Exchange, (iv) to provide for the direct reimbursement to the Exchange of any cost, expense or category thereof, and (v) except insofar as otherwise specified or provided for in these By-Laws, to establish and assess penalties and late charges for failure to pay any fees, dues or charges owed to the Exchange, including, without limitation, termination of a permit or participation (which permit or participation may be reissued) and forfeiture of all rights as a Member, Member Organization or participant organization, permit holder or (with respect to a foreign currency options participation) an owner, lessor or lessee. The Board of Governors may authorize any committee thereof or the
Chairman of the Board of Governors to exercise any powers of the Board of Governors with respect to the assessment of fees, dues, other charges and penalties authorized in accordance with this Section.

(b) Without limiting the generality of the provisions of Section 14-1(a) of these By-Laws, the Board of Governors may, from time to time, fix and impose charges upon [m] Members, participants or [m] Member Organizations or participant organizations, measured by their respective net commissions on transactions effected on the Floor of the Exchange. Such charges shall be payable at such times and shall be collected in such manner as may be determined by the Board of Governors.

(c) The obligation of members, participants and [m] Member Organizations and participant organizations to abide by the provisions of these By-Laws and the rules of the Exchange shall include, without limitation, the obligation to pay all applicable fees, dues and other charges imposed thereon by these By-Laws or the rules of the Exchange.

SEC. 14-2. No Change.

Corporate Member Exempt

SEC. 14-3. A corporate [m] Member issued a permit under the provisions of Section 12-4 of these By-Laws shall not be liable for dues.

May Be Waived for Members in Military Service

SEC. 14-4. The Board of Governors may waive dues and assessments of any [m] Member or foreign currency options participant who is in the active military or naval service of the United States.

Penalty for Non-Payment

SEC. 14-5. A [m] Member, participant, [m] Member Organization or participant organization or an employee thereof using facilities or services of the Exchange, or enjoying any of the privileges therein, who shall not pay dues, foreign currency options users' fees, fees, other charges, and/or other monies due and owed the Exchange, within fifty (50) days from the date of the original invoice, and/or who shall not pay a fine and/or other monetary sanctions within twenty (20) days after the same shall become payable, and the total amount due is in excess of
$10,000 shall, after due notice, be reported by the Controller of the Exchange to the Board of Governors. The Board of Governors may suspend any permit or rights and privileges of a foreign currency options participation of any [m]Member, foreign currency options participant, [m]Member Organization or participant organization or employee thereof until payment is made in full to the Exchange of such [m]Member's, participant's, or [m]Member Organization’s or participant organization's entire outstanding account balance of all dues, foreign currency options users' fees, fees, charges, fines and/or other monies due and owed the Exchange.

Fines and/or other monetary sanctions shall be payable on the day after their imposition.

Should payment of dues, foreign currency options users' fees, fees, charges, or other monies due and owed the Exchange, fines and/or other monetary sanctions in excess of $10,000 not be made within one (1) year after payment is due, the foreign currency options participation of the delinquent may be disposed of by the Admissions Committee upon at least ten (10) days written notice mailed to the address registered with the Exchange.

Liability for Dues Until Transfer

SEC. 14-6. Notwithstanding the death or expulsion of a [m]Member, until the transfer of his permit, if transferable, he shall continue to be liable for dues to the Exchange, as from time to time fixed by the Board of Governors, and notwithstanding the death or expulsion of a foreign currency options participant, until the transfer of his foreign currency options participation he shall continue to be liable for such foreign currency options users' fees as are assessed from time to time against such participant by the Board of Governors.

SEC. 14-7. No Change.

SEC. 14-8. No Change.


Service Fee

SEC. 14-10. Members, participants and [m]Member Organizations and participant organizations, who are not also members of a subsidiary of the Exchange but who use or benefit from the facilities or services of such subsidiary, may be required by the Board of Governors to pay fees or charges to the Exchange for such use or benefit; provided, however, that such fees or
charges may be imposed only if they are similar in structure and rate to those imposed by such subsidiary on its own members using or benefiting from the same facilities or services.

Claims by Former or Deceased Members

SEC. 14-11. When a [m]Member is in debt to another [m]Member or foreign currency options participant, the death of the creditor member shall not affect the rights of such creditor foreign currency options participant or [m]Member, his organization or estate in respect of such debt.

Effect of Suspension or Termination on Payment of Fees

SEC. 14-12. The suspension or termination of a permit shall not relieve the holder thereof or its [m]Member [o]Organization from any obligation to pay any applicable dues, fees or other charges billed or accrued through the time of such suspension or termination, and any fines or penalties assessed before or after the time of such suspension or termination.

ARTICLE XV

Transfer of Foreign Currency Options Participations

Transfer of Foreign Currency Options Participations

SEC. 15-1. A transfer of a foreign currency options participation shall be made upon submission of the name of the proposed transferor and transferee thereof to and the approval of the transfer by the Admissions Committee. Notice of the proposed transfer shall be sent to each [m]Member and foreign currency options participant at least seven (7) days prior to transfer, which notice shall specify the date on which the proposed transfer will become provisionally effective. The lease of legal title to a foreign currency options participation or reversion thereof shall be deemed to be a transfer of the foreign currency options participation under this Article. The transfer of equitable title only shall not be deemed to be a transfer of a foreign currency options participation under this Article.

Exceptions to Notice

Notice to the [m]Members and foreign currency options participants of the proposed transfer of a foreign currency options participation may be waived by the Admissions Committee when the transferee is a corporation issued a permit under the provisions of Section 12-4 of these
By-Laws, or where the transferee is the Exchange or a nominee to hold the foreign currency options participation for the Exchange.

**Transfer of Equitable Title – Lease of Foreign Currency Options Participation** No Change.

**Contracts of Transferor**

SEC. 15-2. A foreign currency options participant proposing to transfer his foreign currency options participation shall not, after the seventh day of notice of the proposed transfer, make any contracts on the floor of the exchange facility pending the effective date of the proposed transfer unless the contract is expressly made on behalf of another foreign currency options participant or on behalf of a foreign currency options participant organization which will continue to be a foreign currency options participant organization notwithstanding the completion of such transfer or unless the foreign currency options participant is also a [m]ember (who does not also hold a foreign currency options permit) and is proposing to transfer only his foreign currency options participation (in which case the member shall be prevented only from making any foreign currency option contracts on the floor of the exchange facility after the seventh day of notice of the proposed transfer unless either of the exceptions set forth above applies).

No contract made by a foreign currency options participant proposing to transfer his foreign currency options participation or by his foreign currency options participant organization after the said seventh day shall if the transfer becomes effective, be the basis of a claim against the proceeds of the transfer thereof under Section 15-3 of these By-Laws, but may, if the transfer is to another partner in the foreign currency options participant organization in which the transferring foreign currency options participant is a partner or officer, constitute the basis of a claim under said Section 15-3 of these By-Laws, against the proceeds of the subsequent transfer of such foreign currency options participation by the partner or officer to whom it is transferred.

On the seventh day after notice of a proposed transfer of the foreign currency options participation has been mailed to the [m]embers and the foreign currency options participants, all exchange contracts of the foreign currency options participant proposing to make the transfer and of his foreign currency options participant organization, unless such organization will continue to be a foreign currency options participant organization notwithstanding the completion of such transfer, shall mature and if not settled shall be closed out as in the case of an
insolvency, unless the same are assumed or taken over by another foreign currency options participant or foreign currency options participant organization; provided, however, that, in the case of a foreign currency options participant who is also a [m]Member (and does not hold a foreign currency options permit) proposing to transfer only his foreign currency options participation, the provisions of this sentence shall apply only to the foreign currency option contracts of such foreign currency options participant and of his foreign currency option participant organization (and shall not apply even to the latter contracts if such organization will continue to be a foreign currency options participant organization notwithstanding the completion of such transfer).

Effect of Involuntary Transfers No Change.

Disposition of Proceeds of Sale of Foreign Currency Options Participation

SEC. 15-3. Disposition of Proceeds of Sale – Claims of Stock Clearing Corporation

No Change.

Certain Claims

Third. The payment to creditors who are [m]Members, foreign currency options participants or [m]Member Organizations or participant organizations of all filed claims as follows:

(a) Claims arising in the ordinary course of business from exchange contracts for the purchase, sale, borrowing or loaning of securities entered into on the Floor of the Exchange;

(b) Claims arising from exchange contracts entered into in the ordinary course of business other than those included in the preceding subsection;

(c) Claims arising from exchange contracts other than those included in the two preceding subsections, except those made for non-business purposes; and

(d) Claims arising from [m]Members' contracts other than exchange contracts.

Pro Rata Payments of Claims

If the proceeds of the transfer of a foreign currency options participation are insufficient to pay all filed claims allowed by the Board of Governors of creditors who are [m]Members,
participants or [m]Member Organizations or participant organizations, then so far as possible
each of the above classes of claims shall be paid in full in the order of priority set forth and
whenever said proceeds are insufficient to pay all claims in any class, the claims in such class
shall be paid pro rata except as provided in Sections 15-4 and 15-5 of these By-Laws.

**Unmatured Contracts – Balance of Proceeds** No Change.

**Determination of Claims**

An Advisory Committee of (3) Governors, of whom at least two (2) shall be [non-
industry] Independent Governors, shall be appointed by the Chairman of the Board of Governors
to examine the validity of claims asserted against the members or the foreign currency options
participants and give an advisory opinion to the Board of Governors thereon. The examination of
the validity of the claims shall be made upon written submission of claimants and respondents
with provision for these parties to request oral argument before the Advisory Committee. The
Board of Governors, based upon the written record before the Advisory Committee, shall
determine the payment of such sums that are or may become due to the claimants pursuant to
these By-Laws and the rules of the Exchange. The decision of the Board of Governors shall be in
writing and sent to the parties to the proceeding respecting the determination of claims.

**Assignment of Foreign Currency Options Participation – Sale of Foreign Currency Options**

**Participation Pursuant to a Collateral Agreement** No Change.

SEC. 15-4. No Change.

SEC. 15-5. No Change.


**Claims by Former or Deceased Foreign Currency Options Participants**

SEC. 15-10. When a foreign currency options participant is in debt to another foreign
currency options participant or [m]Member, the death of the creditor foreign currency options
participant or the transfer of his foreign currency options participation, either by himself voluntarily or pursuant to a sale by the Admissions Committee, shall not affect the rights of such creditor foreign currency options participant or [m]Member, his organization, or estate, to share in the proceeds of the foreign currency options participation of the debtor foreign currency options participant under this Article, in the same manner and to the same extent as if such creditor foreign currency options participant had not died or his foreign currency options participation had not been transferred.


ARTICLE XVI

Members’ Contracts and Exchange Contracts

Members’ Contracts

SEC. 16-1. All contracts of a member or participant of the Exchange or a [m]Member Organization or participant organization with any member or participant of the Exchange or with any [m]Member Organization or participant organization for the purchase, sale, borrowing, loaning or hypothecation of securities, or for the borrowing, loaning, or payment of money, whether occurring upon the floor of the Exchange or elsewhere, are [m]Members' contracts.

Exchange Contracts

SEC. 16-2. An exchange contract is:

(a) a [m]Member's contract made on the floor of the Exchange; and

(b) a [m]Member's contract not made on the floor of the Exchange, unless made subject to the rules of another exchange, or unless the parties thereto have expressly agreed that the same shall not be an exchange contract.

SEC. 16-3. No Change.

SEC. 16-4. No Change.
ARTICLE XVII

Insolvency-Suspension-Reinstatement

Suspension for Insolvency on Declaration

SEC. 17-1. A [m]Member or foreign currency options participant who fails to perform his contracts, or is insolvent, or a [m]Member who is a general partner or officer in a [m]Member Organization or participant organization which fails to perform its contracts, or is insolvent, shall immediately inform the Director, Membership Services Department in writing that he or his organization is unable to meet his or its engagements, and prompt notice thereof shall be given to the Exchange. The permit of such [m]Member or [m]Member [o]Organization shall thereby be suspended (or, in the case of a foreign currency options participant, such participant and its participant organization shall be suspended from exercising the privileges afforded to the holders of that status) until, after having settled with his creditors or the creditors of such organization, such permit has (or such rights and privileges have) been reinstated by the Admissions Committee.

Suspension for Insolvency on Advice to Committee on Business Conduct

SEC. 17-2. Whenever it shall appear to the Business Conduct Committee that a [m]Member or foreign currency options participant or [m]Member Organization or participant organization has failed to meet his or its engagements or is insolvent, or the Business Conduct Committee has been advised by the Board of Directors of Stock Clearing Corporation that such [m]Member, participant or organization is in such financial condition that he or it cannot be permitted to continue in business with safety to his or its creditors or this Exchange, the Business Conduct Committee shall announce to the [m]Members and foreign currency options participants the suspension of any permit or the rights and privileges of such [m]Member, participant or organization, which suspension shall continue until the member's or participant's permit or rights and privileges have been reinstated as provided in these By-Laws.

Investigation of Insolvency

SEC. 17-3. Every [m]Member, participant and [m]Member Organization and participant organization whose permit or rights and privileges have been suspended under the provisions of
this Article shall immediately afford every facility required by the Business Conduct Committee for the investigation of his or its affairs, and shall after the announcement of such suspension file with the Director, Membership Services Department and Director, Examinations Department a written statement covering all information required by said Committee, including a complete list of his or its creditors and the amount owing to each.

**Time for Settlement of Insolvent Member or Participant**

SEC. 17-4. If a Member or foreign currency options participant whose permit or rights and privileges have been suspended under the provisions of this Article fails to settle with his creditors and apply for reinstatement within six (6) months from the time of such suspension, or within such further time as the Board of Governors may grant, or fails to obtain reinstatement as hereinafter provided, his permit or participation may be terminated by the Admissions Committee.

**Extension**

The Board of Governors may, by the affirmative vote of fifteen (15) Governors present at a regular or special meeting of the Board of Governors, extend the time of settlement for periods not exceeding one (1) year each.

**Reinstatement of Insolvent Member or Participant**

SEC. 17-5. When a Member or foreign currency options participant whose permit or rights and privileges have been suspended under the provisions of this Article applies for reinstatement thereof, notice of such application shall be sent by the Secretary of the Exchange to each Member and foreign currency options participant of the Exchange and advertised in the weekly bulletin at least fourteen (14) days prior to the consideration by the Admissions Committee of said application. The applicant shall furnish to said Committee a list of his creditors, a statement of the amounts originally owing and the nature of the settlement in each case. If he furnishes satisfactory proof of settlement with all his creditors, said Committee may approve such reinstatement.

**Disciplinary Measures During Suspension for Insolvency**

SEC. 17-6. A Member or foreign currency options participant of the Exchange whose permit or rights and privileges have been suspended under the provisions of this Article, or his
Member Organization or participant organization, may be proceeded against by the Exchange for any offense committed by him either before or after the announcement of such suspension in all respects as if such suspension had not occurred.

Rights of Member Suspended for Insolvency

SEC. 17-7. A Member or foreign currency options participant whose permit or rights and privileges have been suspended under the provisions of this Article, and his Member Organization or participant organization, shall be deprived during the term of such suspension of all rights and privileges of a Member or foreign currency options participant, or a Member Organization or participant organization, except the right to have his or its business transacted at Members' or foreign currency options participants' commission rates.

ARTICLE XVIII

Offenses, Discipline, Penalties and Business Connections

Offenses, Discipline, Penalties

SEC. 18-1. If a Member, participant or Member Organization or participant organization or any partner, officer, director (or person in a similar position) of, or persons employed by or associated with, any such person or organization is found in a disciplinary proceeding, brought in accordance with the By-Laws and Rules of the Exchange, to have committed a violation defined by Rule 960.1 of the Rules of the Board of Governors as within the disciplinary jurisdiction of the Exchange, the Business Conduct Committee shall be empowered to impose one or more of the disciplinary sanctions provided for in these By-Laws and Rule 960.1(a).

Announcement of Penalties

SEC. 18-2. Any disciplinary sanctions imposed by the Exchange upon any Member, participant or Member Organization or participant organization or any partner, officer, director (or person in a similar position) of, or persons employed by or associated with, any such person or organization shall be publicized in such manner as the Board of Governors may from time to time direct.
Publicity on Fines, Censures and Disciplinary Actions

The Board of Governors has adopted the following directive:

The Board of Governors of the Philadelphia Stock Exchange, Inc. has approved a policy of publicizing fines, censures, and disciplinary actions imposed on Members and Member Organizations by the Exchange. In approving the policy the Board of Governors has determined that such publicity shall be directed to the entire membership of the Exchange.

Responsibility of Member or Participant for Acts of His Organization

SEC. 18-3. A Member or a foreign currency options participant who is a general partner in a Member Organization or participant organization that is a partnership is liable for the same discipline and penalties for any act or omission of said organization as for his own personal act or omission. The Board of Governors, by the affirmative vote of fifteen (15) Governors, may relieve him from the penalty therefor or may remit or reduce such penalty on such terms and conditions as the Board of Governors shall deem fair and equitable.

Disapproval of Business

SEC. 18-4. Whenever it shall appear to the Board of Governors that a Member or foreign currency options participant has formed a business entity or established an office or headquarters or is individually or through any member of his organization interested in a business entity, or has formed any business connection, whereby the interest or good repute of the Exchange may suffer, the Board of Governors may require the dissolution of any such business entity or the discontinuance of such business, office or headquarters or business connection, as the case may be.

Effect of Suspension or Termination

SEC. 18-5. When a Member's permit or a foreign currency options participant's rights and privileges are suspended under the provisions of this Article, such Member or participant shall be deprived during the term of such suspension of all rights and privileges of a Member or participant, but he may be proceeded against by the Exchange for any offense other than that for which such suspension was imposed.
The termination of any permit or rights and privileges of a Member or foreign currency options participant shall terminate all rights and privileges (but not the obligations) arising out of his possession of a permit (or, in the case of a foreign currency options participant, all rights and privileges (but not the obligations) afforded to the holder of that status), except such rights as he may have under the provisions of Sections 15-3 and 15-10 of these By-Laws.

ARTICLE XIX

No Change

ARTICLE XX

Vacancies Created by Expulsion, Suspension, or Termination

Office Vacated by Suspension or Termination

SEC. 20-1. Upon the suspension or termination by the Exchange of any permit or the rights and privileges of a Member or a foreign currency options participant, whether for insolvency or otherwise, any office in the Exchange held by him shall thereupon become vacant.

SEC. 20-2. No Change.

Change in Status of Partner or Officer

SEC. 20-3. A general partner or an officer of a Member Organization who is not himself a member of the Exchange, shall become ineligible to act as a Governor of the Exchange if he ceases to be a partner or officer of such organization (unless he shall be a partner or officer of another Member Organization), or if his organization ceases to be a Member Organization, or upon the suspension of such Member Organization. Upon the happening of any such event the office of Governor held by such person shall become vacant.

ARTICLE XXI

No Change
ARTICLE XXII

Amending the By-Laws

Amendments to By-Laws

SEC. 22-1. These By-Laws may be amended by the affirmative vote of a majority of the entire Board of Governors, or by the affirmative vote of the holders of a majority of the shares of Common Stock then issued and outstanding, at any regular or special meeting of the Board of Governors or the stockholders (as the case may be).

ARTICLE XXIII – ARTICLE XXVI

No Change

ARTICLE XXVII


Privileges and Obligations of Foreign Currency Options Participants

SEC. 27-3. Upon admission as a foreign currency options participant, a person shall have all the rights and privileges and shall be under all the duties and obligations of a foreign currency options participant in accordance with these By-Laws and the rules of the Exchange. Without limiting the foregoing, a foreign currency options participant who meets all pertinent requirements imposed by the Foreign Currency Options Committee shall be entitled to: (i) be admitted to the Floor of the Exchange during business days, (ii) enter into foreign currency options transactions on the Exchange as a floor broker, retail member, Specialist or Registered Options Trader (provided, however, that approval of the Allocation, Evaluation and Securities Committee will be required before such a participant will be able to function in either of the latter two capacities), and (iii) such other privileges as may be subsequently granted by the Board of Governors. A foreign currency options participant shall not be required to pay the yearly dues imposed on each Member (unless such participant is also a Member). However, such a participant shall be subject to any foreign currency options users' fees imposed on foreign currency options participants by the Board of Governors; provided, however, that the yearly dues assessed against and paid to the Exchange during a particular year by a Member who is also a
foreign currency options participant shall be credited in their entirety against the foreign
currency options users' fees assessed against such a member during that year. A foreign currency
options participant shall not be authorized to trade securities other than foreign currency options
on the Exchange (unless such participant is also a member of the Exchange).

SEC. 27-4. No Change.

ARTICLE XXVIII

Stockholder Nominations-Stockholder Annual Elections-Stockholder Meetings

Place of Stockholder Meetings

SEC. 28-1. All meetings of Stockholders shall be held at such place within or without
the State of Delaware as may be designated by the Board of Governors from time to time. If no
such place is designated by the Board of Governors, meetings of the Stockholders shall be
held at the principal offices of the Exchange.

Annual Stockholders Meetings

SEC. 28-2. An annual meeting of Stockholders shall be held in each calendar year
promptly following the annual meeting of Members and Member Organizations for
such year, at such time the Board of Governors shall establish, for the purpose of electing
Governors to replace those Governors whose terms shall be set to expire at such annual meeting
and for the purpose of considering such other matters as may properly be brought before the
meeting.

Nomination of Chairman and Vice-Chairman of the Board of Governors;
Independent Nominations by Stockholders; Election of Nominees for Off-
Floor Stockholder and Non-Industry Independent Governors

SEC.28-3.(a) At any meeting of Stockholders at which the then current term of the
Chairman of the Board of Governors shall expire, or a vacancy of the office of Chairman of the
Board of Governors shall be filled, the Nominating, [and] Elections and Governance Committee
shall nominate the individual then holding the office of Chief Executive Officer of the Exchange
for election by the [s]Stockholders to the Board of Governors in accordance with Article SIXTH of the Certificate of Incorporation.

(b) The Vice-Chairman shall be recommended by the Chairman for nomination by the Nominating, Elections and Governance Committee and shall be elected by the Stockholders as set forth in these By-Laws and Certificate of Incorporation.

([b]c) No independent nominations for the positions of [Off-Floor Governors] Stockholder Governor and [non-industry] Independent Governor, excluding Designated Independent Governors, may be made by any [s]Stockholder unless written notice of such nomination shall have been given by such [s]Stockholder to the Secretary of the Exchange not less than ninety (90) nor more than one hundred twenty (120) days prior to the first Monday in February (or such other deadline for the submission of such nominees established by the Board of Governors). Such notice, with respect to each proposed nominee therein, shall state such nominee's name and, in reasonable detail, the reasons for which such nominee is qualified to serve as a [n Off-Floor Governor] Stockholder Governor or an [non-industry] Independent Governor. Such nominee shall provide the Nominating, Elections and Governance Committee with such information as it may request from time to time in connection with determining whether he/she is so qualified.

([c]d) If [non-industry] Governors [or On-Floor Governors] are to be elected to fill vacancies differing in length, the nominees with the largest number of votes shall be elected for the longest terms.

Death, Withdrawal or Disqualification of Nominees for [Off-Floor] Stockholder or [Non-Industry] Independent Governors

SEC. 28-4. In the case of the death, withdrawal or disqualification at any time in advance of any election of a nominee for [Off-Floor] Stockholder Governor or [non-industry] Independent Governor (not including the Designated Independent Governors), proposed or certified by the Nominating, Elections and Governance Committee to be filled at such election, the election for such position shall proceed at the appointed date therefore, notwithstanding such death, withdrawal or disqualification. In the event that by reason of such death, withdrawal or disqualification there are fewer candidates for such office of Governor than there are vacancies to be filled, the Nominating, Elections and Governance Committee, subject to approval by the Board of Governors, at a meeting held subsequent to such annual
election, shall appoint a person to each office left vacant under such circumstances, the person to be appointed to serve until the fourth Wednesday of March following the next annual meeting of stockholders of the Exchange or until his successor is elected and qualified or until his earlier resignation or removal.

Votes Required

SEC. 28-5. When a quorum is present at any meeting of the [s]Stockholders, the vote of the holders of a majority of the outstanding capital stock of the Exchange entitled to vote at such meeting, present in person or represented by proxy, shall decide any question brought before such meeting, unless the question is one upon which by any express provision of applicable law or the Certificate of Incorporation, a different vote is required, in which case such express provision shall govern and control the decision of such question. The nominees receiving, at a meeting of [s]Stockholders held for the purpose of such election, the highest number of votes for the category of Governor for which they were respectively nominated as candidates shall be declared elected as Governors of those offices. In the case of a tie, the names of the nominees involved in such tie shall be referred to the Board of Governors, which shall make the selection as to who among such tying nominees shall serve as Governor.

Special Meetings of Stockholders

SEC. 28-6. Except as otherwise specifically provided by law, special meetings of the [s]Stockholders may be called at any time only by the Chairman of the Board of Governors, by the affirmative vote of a majority of the Board of Governors or by the affirmative vote of the holders of a majority of the Common Stock then outstanding. Upon the call of a special meeting of the [s]Stockholders by the Chairman or by the Board of Governors, the Secretary of the Exchange shall give prompt written notice of such meeting to be held at such time as the Chairman or the Board of Governors may fix, subject to the provisions of Section 28-7 of these By-Laws. Business transacted at any special meeting called pursuant to this Section shall be limited to the purposes stated in the notice therefor.

Notice of Stockholders Meetings

SEC. 28-7.(a) Except as otherwise provided in Section 28-7(b) of these By-Laws, any notice of any annual or special meeting of [s]Stockholders that is required or permitted to be given under these By-Laws shall be in writing and state the place, date, hour and purpose of such
meeting and shall be given not less than ten (10) nor more than fifty (50) days before the date of such meeting to each [s]Stockholder entitled to vote at such meeting. If mailed, notice is given when deposited in the United States Mail, postage prepaid, directed to the [s]Stockholder at his or its address as it appears on the books and records of the Exchange. Such notice may be given in the name of the Board of Governors, the Chairman of the Board of Governors, any Vice President, the Secretary or any Assistant Secretary. Whenever notice is required to be given under any provision of law or of the Certificate of Incorporation or these By-Laws, a written waiver thereof, signed by the person entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to such notice. Attendance of a person at any meeting with respect to which such person is entitled to notice under any provision of law, the Certificate of Incorporation or these By-Laws shall constitute a waiver of such notice of such meeting, except when such person attends such meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any annual or special meeting of [s]Stockholders need be specified in any written waiver of notice unless so required by the Certificate of Incorporation.

(b) An Exchange Representative shall deliver a Member Vote Notice to the Trustee (as each such term is defined in the Trust Agreement) in accordance with the Trust Agreement.

Vote of Stockholders

SEC. 28-8. Except as otherwise provided by law or the Certificate of Incorporation, at every meeting of the [s]Stockholders each [s]Stockholder shall be entitled to one vote in person or by proxy for each share of the capital stock of the Exchange owned by such [s]Stockholder entitled to vote at such meeting. All elections by the [s]Stockholders shall be by written ballot unless otherwise provided in the Certificate of Incorporation. Except as otherwise specifically provided by law, all other votes may be taken by voice unless the Nominating, [and] Elections and Governance Committee determines that it be taken by ballot, in which latter event the vote shall be taken by secret written ballot.

Quorum of Stockholders – Proxies

SEC. 28-9. At all meetings of the [s]Stockholders, the holders of a majority of the outstanding capital stock of the Exchange entitled to vote at any such meeting, present in person
or represented by proxy, shall constitute a quorum for the transaction of business, except as
otherwise provided by applicable law or by the Certificate of Incorporation. The [s]Stockholders
present at a duly organized meeting thereof can continue to do business until adjournment,
notwithstanding the withdrawal of enough votes of such [s]Stockholders to leave less than a
quorum. If a meeting (including any adjourned meeting) cannot be organized because of the
absence of a quorum, those [s]Stockholders entitled to vote at such meeting and present in person
or represented by proxy may, except as otherwise provided by law, adjourn the meeting to such
time and place as they may determine, without notice other than announcement at such meeting,
until a quorum shall be present or represented. All proxies shall be executed in writing and shall
be filed with the Secretary of the Exchange not later than the day on which exercised. No proxy
shall be voted or acted upon after three (3) years from its date, unless the proxy provides for a
longer period.

Lists of Stockholders Entitled to Vote

SEC. 28-10. The officer who has charge of the lists of [s]Stockholders shall prepare and
make, at least ten (10) days before every meeting of the [s]Stockholders, a complete list of the
[s]Stockholders entitled to vote at the meeting, arranged in alphabetical order, showing their
names and addresses and the number of votes they are entitled to cast. Such list shall be open to
the examination of any [s]Stockholder for any purpose germane to the meeting, during ordinary
business hours, for a period of at least ten (10) days prior to the meeting, either at a place within
the city where the meeting is to be held, which place shall be specified in the notice of the
meeting, or, if not so specified, at the place where said meeting is to be held. The list shall also
be produced and kept at the time and place of the meeting during the whole time thereof, and
may be inspected by any [s]Stockholder who is present.

Determination of Record Dates

SEC. 28-11. The Board of Governors may fix in advance a record date to determine the
[s]Stockholders entitled to notice of or to vote at any meeting of the [s]Stockholders or any
adjournment thereof, or to express consent to corporate action in writing without a meeting, or
for the purpose of any other lawful action. Such date shall be not more than sixty (60) nor less
than ten (10) days before the date of any such meeting, nor more than sixty (60) days prior to any
other action. If no record date is fixed, the record date for determining the [s]Stockholders
entitled to notice of or to vote at a meeting thereof shall be at the close of business on the day
next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of the [s]Stockholders of record entitled to notice of or to vote at a meeting thereof shall apply to any adjournment of the meeting; provided, however, that the Board of Governors may fix a new record date for the adjourned meeting.

Governance of Stockholders

SEC. 28-12. The Chairman of the Board of Governors, or if there be none, or in his/her absence, [any] the Vice-Chairman of the Board of Governors, or if there be none, or in [their] absence, any person designated by resolution of the Board of Governors shall preside over all meetings of the [s]Stockholders. To the maximum extent permitted by law, such presiding person shall have the power to administer any such meeting in accordance to the procedures pertaining thereto as may be set from time to time by such presiding person and/or the Nominating, [and] Elections and Governance Committee (in each case subject to any procedures to the contrary established by the Board of Governors), including, but not limited to, any such procedures respecting the time allotted to [s]Stockholders and any other persons in attendance at such meeting to speak.

ARTICLE XXIX

Restrictions on Transfer of Stock of the Exchange

SEC. 29-1. No Change.

Conditions to Transfer

SEC. 29-2.(a) No sale, transfer or other disposition of the capital stock of the Exchange shall be effected except (i) pursuant to an effective registration statement under the Securities Act and in accordance with all applicable state securities laws, (ii) upon delivery to the Exchange of an opinion of counsel satisfactory to the Board of Governors that such sale, transfer or other disposition may be effected pursuant to a valid exemption from the registration requirements of the Securities Act and all applicable state securities laws, (iii) upon delivery to the Exchange of such certificates or other documentation as counsel to the Exchange shall deem necessary or appropriate in order to ensure that such sale, transfer or other disposition complies with the Securities Act and all applicable state securities laws or (iv) pursuant to such procedures as the
Chairman of the Board of Governors (or his designee) may adopt from time to time with respect to such transactions.

(b) No sale, transfer or other disposition of the capital stock of the Exchange shall be effected by any holder of such stock until all amounts due and owing by such holder to the Exchange (whether any such amounts relate to such holder's status as a stockholder, Member, participant or Member Organization or participant organization of the Exchange or otherwise) shall have been paid in full.

Lockup

SEC. 29-3. No Stockholders shall, if requested by the Exchange or any underwriter of equity securities of the Exchange, sell or otherwise transfer or dispose of any shares of capital stock of the Exchange held by such Stockholder during the 180-day period following the effective date of a registration statement of the Exchange filed under the Securities Act in respect of that class of capital stock. If requested by the Exchange or any such underwriters, each Stockholder shall execute an agreement to the foregoing effect. The Exchange may impose stop-transfer instructions with respect to the shares (or securities) subject to the foregoing restriction until the end of said 180-day period.

SEC. 29-4. No Change.

SEC. 29-5. No Change.

ARTICLE XXX

General Provisions

Stock Certificates

SEC. 30-1.(a) Subject to Section 30-1(e) of these By-Laws, every Stockholder shall be entitled to have a certificate, signed by, or in the name of the Exchange by, the Chief Executive Officer, the President or a Vice President and the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary of the Exchange, certifying the number of shares of capital stock of the exchange owned by him. If the Exchange shall be authorized to issue more than one class or series of stock, the designations, preferences, and relative, participating, optional or other special rights of each class and the qualifications, limitations or restrictions of such preferences
and/or rights shall be set forth in full or summarized on the face or back of the certificate which the Exchange shall issue to represent such class of stock.

(b) – (e) No Change

Closing of Transfer Books

SEC. 30-2. The Board of Governors may close the stock transfer books of the Exchange for a period not exceeding sixty (60) days preceding the date of any meeting of [s]Stockholders or the date for payment of any dividend or the date for the allotment of rights or the date when any change or conversion or exchange of capital stock shall go into effect or for a period not exceeding sixty (60) days in connection with obtaining the consent of [s]Stockholders for any purpose. In lieu of closing the stock transfer books as aforesaid, the Board of Governors may fix in advance a date, not exceeding sixty (60) days preceding the date of any meeting of [s]Stockholders, or the date for the payment of any dividends, or the date for the allotment of rights, or the date when any change or conversion or exchange of capital stock shall go into effect, or a date in connection with obtaining such consent, as a record date for the determination of the [s]Stockholders entitled to notice of, and to vote at, such meeting and any adjournment thereof, or entitled to receive payment rights, or to exercise the rights in respect of any such change, conversion or exchange of capital stock, or to give such consent, and in such case such [s]Stockholders and only such [s]Stockholders as shall be [s]Stockholders of record on the date so fixed shall be entitled to such notice of, and to vote at, such meeting and any adjournment thereof, or to receive payment of such dividend, or to receive such allotment of rights, or to exercise such rights, or to give such consent, as the case may be, notwithstanding any transfer of any stock on the books of the Exchange after any such record date fixed as aforesaid.

SEC. 30-3. No Change.

SEC. 30-4. No Change.