

**Exhibit 5E**

Additions underlined  
Deletions [bracketed]

**Chicago Board Options Exchange, Incorporated Rules**

**CHAPTER I Definitions**

**Rule 1.1. Definitions**

When used in these Rules, unless the context otherwise requires:

(a) Any term defined in the Bylaws [Article I of the Constitution] and not otherwise defined in this Chapter shall have the meaning assigned to such term in the Bylaws [such Article I].

**Bylaws [Constitution]**

(b) The term "Bylaws" ["Constitution"] means the Bylaws [Constitution] of the Exchange as the same may be amended from time to time.

(c) – (e) No changes.

**Clearing Trading Permit Holder [Member]**

(f) The term "Clearing Trading Permit Holder" ["Clearing Member"] means a Trading Permit Holder [member of the Exchange] who has been admitted to membership in the Clearing Corporation pursuant to the provisions of the Rules of the Clearing Corporation.

(g) No change.

**Executive Officer**

(h) The term "executive officer" of a TPH organization means the chairman of the board, president, executive vice-president, other vice-presidents engaged in the management of the TPH organization's [member corporation's] business pertaining to options, treasurer, secretary, and any other person who performs for a TPH organization [member corporation] functions corresponding to those performed by the foregoing officers.

(i) – (k) No change.

**Exchange Transaction**

(l) The term "Exchange transaction" means a transaction on the [floor of the] Exchange between Trading Permit Holders [members of the Exchange] for the purchase or sale of an option contract

or the purchase or sale of any other security admitted to trading on the Exchange, or for the closing out of a long or short position in an option contract.

(m) – (ee) No changes.

**[Lessor] Person**

(ff) The term "person" means an individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust or unincorporated organization, or any governmental entity or agency or political subdivision thereof. [The term "lessor" means the owner of a transferable membership that has been leased to an individual or organization in accordance with the provisions of Rule 3.17, and includes any successor in interest of such owner.]

**[Lessee] Trading Permit Holder**

(gg) The term "Trading Permit Holder" shall have the meaning given to that term in Section 1.1 of the Bylaws. [The term "lessee" means an individual or organization that has leased a transferable membership from the owner thereof in accordance with the provisions of Rule 3.17. For the duration of the lease agreement, a lessee shall be deemed to be a member. Except as otherwise expressly provided in the Constitution or Rules, a lessee shall be subject to all of the provisions of the Constitution and Rules that are applicable to the owner of an Exchange membership other than those provisions that concern the ownership of membership.]

(hh) - (ii) No changes.

**Good Standing**

(jj) The term "good standing" means that a Trading Permit Holder [member] or associated person is not delinquent respecting Exchange [dues,] fees or other charges and is not suspended or barred from being a Trading Permit Holder [Exchange membership] or from being associated [association] with a Trading Permit Holder [an Exchange member either by the Exchange or by means of a statutory disqualification].

(kk) – (ll) No changes.

**Exchange Act**

(mm) The term "Exchange Act" or "Act" means the Securities Exchange Act of 1934, as amended.

(nn) – (oo) No change.

## **Nominee**

(pp) The term "nominee" means an individual who is authorized by a TPH [member] organization, in accordance with Rule 3.8, to represent such TPH [member] organization in all matters relating to the Exchange.

## **Associated Person or Person Associated with a Trading Permit Holder [Member]**

(qq) The term "associated person" or "person associated with a Trading Permit Holder [member]" means any partner, officer, director, or branch manager of a Trading Permit Holder [member] (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with a Trading Permit Holder [member], or any employee of a Trading Permit Holder [member].

(rr) – (fff) No changes.

## **Trading Permit**

(ggg) The term "Trading Permit" means a license issued by the Exchange that grants the holder or the holder's nominee the right to access one or more of the facilities of the Exchange for the purpose of effecting transactions in securities traded on the Exchange without the services of another person acting as broker, and otherwise to access the facilities of the Exchange for purposes of trading or reporting transactions or transmitting orders or quotations in securities traded on the Exchange, or to engage in other activities that, under the Rules, may only be engaged in by Trading Permit Holders, provided that the holder or the holder's nominee, as applicable, satisfies any applicable qualification requirements to exercise those rights. A Trading Permit shall not convey any ownership interest in the Exchange, shall only be available through the Exchange, and shall be subject to the terms and conditions set forth in Rule 3.1.

## **Restructuring Transaction**

(hhh) The term "Restructuring Transaction" means the restructuring of the Exchange from a non-stock corporation to a stock corporation and wholly-owned subsidiary of CBOE Holdings, Inc.

## **TPH Department**

(iii) The term "TPH Department" shall refer to the department or division of the Exchange (which may be referred to by the Exchange from time to time by a name other than the TPH Department) that has the functions set forth in the Rules for the TPH Department.

*. . . Interpretations and Policies:*

**.01 - .05** No change.

## CHAPTER II Organization and Administration (Rules 2.1-2.40)

### Part A—Committees (Rule 2.1)

#### Rule 2.1. Committees of the Exchange

(a) *Establishment of Exchange Committees.* In addition to committees specifically provided for in the Bylaws and the Rules [Constitution], there shall be the following committees that are not solely composed of directors from the Board of Directors of the Exchange (“Exchange committees”): Appeals, Arbitration, Business Conduct, and such other Exchange committees as may be established in accordance with the Bylaws and Rules. [Constitution. The President, with the approval of the Board, shall appoint the chairman and members of the Business Conduct Committee to serve for terms expiring at the first regular meeting of the Board of Directors of the next calendar year and until their successors are appointed or their earlier death, resignation or removal. The President may, at any time, with or without cause, remove any member of the Business Conduct Committee. Any vacancy occurring in the Business Conduct Committee shall be filled by the President for the remainder of the term. Except as may be otherwise provided in the Constitution or the Rules, t]The Vice Chairman of the Board, with the approval of the Board, shall appoint the chairmen and members of all Exchange [such other] committees other than the Business Conduct Committee, as well as fill any vacancies on those committees, [to serve for terms expiring at the first regular meeting of the Board of Directors of the next calendar year and until their successors are appointed or their earlier death, resignation or removal] unless a different manner of appointment is provided for any Exchange committee under the Bylaws, the Rules or a resolution of the Board establishing that committee. The President, with the approval of the Board, shall appoint the chairman and members of the Business Conduct Committee, as well as fill any vacancies on the Business Conduct Committee. The term of an Exchange committee member’s appointment shall expire at the first regular meeting of the Board of Directors of the next calendar year and until that committee member’s successor is appointed or that committee member’s earlier death, resignation or removal. In selecting Exchange committee members, [C]consideration shall be given to continuity and to having, where appropriate, a cross section of the Trading Permit Holders [membership] represented on each Exchange committee. Except as may be otherwise provided in the Bylaws [Constitution] or the Rules, [the Vice Chairman of] the Board may, at any time, with or without cause, remove any member of any [such] Exchange committee[s]. [Any vacancy occurring in one of these committees shall be filled by the Vice Chairman of the Board for the remainder of the term. Notwithstanding the foregoing, the Chairman of the Board, with the approval of the Board, shall appoint Directors to serve on the Governance Committee and the Regulatory Oversight Committee, whose members shall not be subject to removal except by the Board. The Chairman of the Governance Committee and the Chairman of the Regulatory Oversight Committee shall be appointed by the Chairman of the Board. Whenever the Vice Chairman of the Board is, or has reason to believe he may become, a party to any proceeding of an Exchange committee, he shall not exercise his power to appoint or remove members of that committee, and the Chairman of the Board shall have such power.]

(b) *Committee Procedures.* Except as otherwise provided in the Bylaws [Constitution], the Rules or a resolution of the Board, each committee shall determine its own time and manner of conducting its meetings, and the vote of a majority of the members of a committee voting at a meeting at which a quorum is present shall be the act of the committee. Absent a different provision in the Bylaws, the Rules, a committee charter or a Board resolution related to a specific committee, a majority of members of a committee shall constitute a quorum. Committees may act [informally] by written consent of all of the members of the committee.

(c) No change.

(d) *Duties and Powers of Committees.* In addition to any powers and duties specifically granted in the [Constitution] Bylaws or Rules, each committee shall have such other powers and duties as may be delegated to it by the Board of Directors in a committee charter or otherwise.

(e) *Control and Supervision of Exchange Committees.* Each Exchange committee is subject to the control and supervision of the Board of Directors.

## **Part B—Board Review (Rule 2.2)**

### **Rule 2.2. Power of the Board to Review Exchange Decisions**

[In connection with any delegation to a committee or committees pursuant to Article EIGHTH of the Certificate of Incorporation, the Board retains the power and authority to review, affirm, modify, suspend or overrule] A[a]ny and all actions (or inactions) of any committee,[s and of all officer[s], representative[s] or designee[s] of the Exchange taken (or not taken) pursuant to the Rules may be reviewed, modified, suspended or overruled by the Board of Directors; provided, however, that the Board shall act in accordance with any review procedures set forth in Chapters XVII, XVIII and XIX of the Rules, to the extent applicable to actions (or inactions) under those Chapters. [; provided, however, that such power and authority shall not apply to (a) actions taken (or inactions) pursuant to Chapters XVII, XVIII and XIX of the Rules, unless specifically provided for in those Rules, or (b) actions taken by (or inactions of) the Nominating Committee or Executive Committee pursuant to Article IV of the Constitution.]

## **Part C —Departments (Rule 2.15)**

**Rule 2.15.** No change.

## **Part D —[Dues,] Fees and Other Charges (Rules 2.20-2.40)**

### **Rule 2.20. Trading Permit Holder Fees and Charges [Membership Dues]**

The Exchange shall from time to time fix the fees and charges payable by Trading Permit Holders. [The dues payable by members shall be fixed from time to time by the Board.] Except as otherwise provided in respect of particular fees and charges, all such fees and charges [Dues] shall be due and payable in full in advance on the first day of each month on a nonrefundable basis and shall be applied to the month beginning on that day. The Exchange [Board] may, on

the request of a Trading Permit Holder [member] who is serving on active duty in the Armed Forces of the United States, waive any fees and charges [dues] during the period of such service.

**Rule 2.21.** No change.

### **Rule 2.22. Other Fees or Charges**

In addition to the fees [dues] and charges provided for by Rule[s] 2.20 [and 2.21] of this Chapter, the Exchange [Board] may, from time to time, fix and impose other fees [, assessments] or charges to be paid to the Exchange or to an organization designated by the Exchange by Trading Permit Holders [members] or by categories of Trading Permit Holders [members] with respect to applications, registrations, approvals, use of Exchange facilities, or other services or privileges granted.

(a) Regulatory Oversight Service Fees. TPH [Member O]organizations that are subject to the SEC Net Capital Rule and for which the Exchange has been assigned as the Designated Examining Authority ("DEA") pursuant to SEC Rule 17d-1 shall be required to pay quarterly Regulatory Oversight Service Fees. The fee shall be \$0.40 per \$1,000 gross revenue as reported on the TPH [member] organization's quarterly FOCUS Report, provided that, upon application to the Department of Financial and Sales Practice Compliance, accompanied by appropriate documentation, fees shall not be assessed against commission revenue generated from the conduct of a retail commodities futures business.

(b) Registration Fees. TPH [Member] organizations (and individual Trading Permit Holders [members], if applicable) shall pay application, maintenance and transfer registration fees for their Series 7 qualified Registered Representatives ("RR") as described in Rule 9.3, their Registered Options Principals ("ROP") as described in Rule 9.2 and their Financial/Operations Principals ("FINOP") as described in Rule 3.6A. The fees are listed below:

(i) - (iv) No change.

*. . . Interpretations and Policies:*

**.01** No change.

### **Rule 2.23. Liability for Payment**

With regard to a [A] Trading Permit Holder [member] or associated person that does not pay any [dues,] fees, [assessments,] charges, fines or other amounts due to the Exchange within 30 days after the same has become due and payable, the Exchange may, [shall be reported to the Vice Chairman of the Board, who may,] after giving reasonable notice to the Trading Permit Holder [member] or associated person of such arrearages, suspend the Trading Permit Holder [member] or associated person from being a Trading Permit Holder [membership], being associated with any Trading Permit Holder [and association with any member], or both until payment is made. Should payment not be made by a Trading Permit Holder [member] within 6 months after payment is due, any Trading Permit held by that Trading Permit Holder may be revoked by the Exchange [membership owned by that member may be disposed of by the Exchange in

accordance with Rule 3.14(b) and any CBOE Stock Exchange Permit and Interim Trading Permit held by that member may be revoked by the Exchange]. With regard to a [A] former Trading Permit Holder [member] or associated person that does not pay any [dues,] fees, [assessments,] charges, fines or other amounts due to the Exchange within 30 days after the same has become payable, the Exchange may, [shall be reported to the Vice Chairman of the Board, who may,] after giving reasonable notice to the former Trading Permit Holder [member] or associated person of such arrearages, bar the former Trading Permit Holder [member] or associated person from becoming a Trading Permit Holder [member], [and] an associated person, or both until payment is made.

*. . . Interpretations and Policies:*

**.01** Reasonable notice under Rule 2.23 shall include, but is not limited to, service on a Trading Permit Holder's [member] or associated person's address as it appears on the books and records of the Exchange either by (1) hand delivery or (2) deposit in the United States post office, postage prepaid via registered or certified mail.

**.02** No change.

**Rule 2.24. Exchange's Costs of Defending Legal Proceedings**

Any Trading Permit Holder [member] or person associated with a Trading Permit Holder [member] who fails to prevail in a lawsuit or other legal proceeding instituted by such person against the Exchange or any of its directors, officers, committee members, employees or agents, and related to the business of the Exchange, shall pay to the Exchange all reasonable expenses, including attorneys' fees, incurred by the Exchange in the defense of such proceeding, but only in the event that such expenses exceed Fifty Thousand Dollars (\$50,000.00). This provision shall not apply to disciplinary actions by the Exchange, to administrative appeals of Exchange actions or in any specific instance where the Board has granted a waiver of this provision.

**Rule 2.25. – Rule 2.30** No change.

**Rule 2.40. Market-Maker Surcharge for Brokerage**

*(a) Definitions.*

(i) Stationary Floor Broker. A Stationary Floor Broker ("SFB") in a particular option class is a floor broker (A) who has established a business in the trading crowd for that option class of accepting and executing orders for Trading Permit Holders [members] or registered broker-dealers and (B) who transacted at least 80% of his orders for the previous month in the trading crowd at which that option class is traded.

(ii) No change.

(iii) ORS Orders. For purposes of this Rule, an ORS order is an order that is (A) sent over the Exchange's Order Routing System ("ORS"), (B) given an ORS identification number and (C) not

an order of the firm for which the SFB acts as a nominee [or for whom the SFB has registered his membership].

(iv) - (vi) No change.

(b) - (i) No change.

## **CHAPTER III Trading Permit Holders [Membership] (Rules 3.1-3.32)**

### **[Rule 3.1. Public Securities Business]**

[(a) Every individual member or member organization shall have as the principal purpose of its membership the conduct of a public securities business. No individual member or member organization shall own or have registered for it more memberships than are reasonably necessary to carry on that member's Exchange activities.]

[(b) A member shall be deemed to have such a purpose if and so long as]

[(1) the member has qualified and acts in respect of its business on the Exchange in one or more of the following capacities: (i) a member organization approved to transact business with nonaffiliated public customers in accordance with Rule 9.1; (ii) a member organization approved to clear Exchange transactions of other members in accordance with the Rules of the Clearing Corporation; (iii) a Market-Maker as defined in Rule 8.1; (iv) a Floor Broker as defined in Rule 6.70; (v) an order service firm as defined in Rule 6.77; or]

[(2) the member is a lessor; or]

[(3) the member is an individual with a membership that has been registered for a member organization; or]

[(4) the member is a nominee of a member organization.]

[(c) No member shall utilize any scheme, device, arrangement, agreement, or understanding designed to circumvent or avoid, by reciprocal means or in any other manner, the provisions of this Rule.]

### **Rule 3.1. Trading Permits**

#### **(a) General**

(i) Requirement to Hold Trading Permit. Any person who wishes to perform one or more of the trading functions of a Trading Permit Holder as described in the Bylaws and Rules must hold a Trading Permit. All references in the Rules to "Trading Permit Holder" shall mean a Trading Permit Holder, or a nominee of such a person.

(ii) Rights. No rights shall be conferred upon a Trading Permit Holder except those set forth in

the Bylaws or Rules as amended from time to time. Except as provided in Rule 3.1A, nothing in the Bylaws or Rules shall create a right for a person to be issued a Trading Permit by the Exchange.

(iii) Exchange Jurisdiction over Trading Permit Holders. Every Trading Permit Holder and every nominee of such a person shall be subject to the regulatory jurisdiction of the Exchange under the Act, the Bylaws and the Rules, including without limitation the Exchange's disciplinary jurisdiction under Chapter XVII of the Rules.

(iv) Types and Terms of Trading Permits. The Exchange shall have the authority to issue different types of Trading Permits that allow holders to trade one or more products authorized for trading on the Exchange, and to act in one or more trading functions authorized by the Rules. Trading Permits shall be for terms as shall be determined by the Exchange from time to time. The Exchange shall announce the types and terms of the Trading Permits that the Exchange has determined to issue.

(v) Fees and Charges for Trading Permits. Trading Permits shall be subject to such fees and charges as are established by the Exchange from time to time pursuant to Rule 2.20 and the Exchange Fee Schedule. The entire fee for a Trading Permit shall be due and payable in accordance with the Exchange Fee Schedule. A TPH organization holding a Trading Permit shall be responsible for paying all fees and charges for that Trading Permit. An individual holding a Trading Permit shall be responsible for paying all fees and charges for that Trading Permit.

(vi) Limiting or Reducing the Number of Types of Trading Permits. The Exchange shall have the authority to limit or reduce the number of any type of Trading Permit it has determined to issue. The Exchange shall announce any limitation or reduction it imposes pursuant to this subparagraph. In the event the Exchange imposes such a limitation or reduction, the Exchange may not eliminate or reduce the ability to trade one or more product(s) of a person currently trading such product(s), and may not eliminate or reduce the ability to act in one or more trading function(s) of a person currently acting in such trading function(s), unless the Exchange is permitted to do so pursuant to a rule filing submitted to the Securities and Exchange Commission ("Commission") under Section 19(b) of the Act. In no event shall the Exchange act in a manner under this subparagraph that does not comply with the provisions of Section 6(c)(4) of the Act.

(vii) Increasing the Number of Types of Trading Permits. The Exchange shall have the authority to increase the number of any type of Trading Permit it has determined to issue by issuing additional Trading Permits of that type. The Exchange shall announce any increase it implements pursuant to this subparagraph.

(viii) Objective Standards for Trading Permits. The Exchange shall have the authority, pursuant to a rule filing submitted to the Commission under Section 19(b) of the Act, to establish objective standards that must be met to be issued, or to have renewed, a Trading Permit.

(ix) Preservation of Exchange's Authority. Notwithstanding any other provision in this Rule 3.1, as well as any provision in Rule 3.1A, nothing in those rules shall eliminate or restrict the Exchange's authority to delist any product or to take any action (remedial or otherwise) under the Act, the Bylaws and the Rules, including without limitation the Exchange's authority to take

disciplinary or market performance actions against a person with respect to which the Exchange has jurisdiction under the Act, the Bylaws and the Rules.

(b) Applications for and Issuance of Trading Permits

(i) Application Requirements. Only a person approved to hold a Trading Permit (a “Qualified Person”) is eligible to submit an application for a Trading Permit. In the event a Qualified Person seeks to hold one or more of a type of Trading Permit, such person must submit an application to the Exchange for that type of Trading Permit, in a form and manner prescribed by the Exchange, that includes a selection of the number and term(s) of the Trading Permit(s) that such person would like to receive. To be eligible to be issued a type of Trading Permit, a Qualified Person must have satisfied the application requirements for that type of Trading Permit. To be eligible to use a type of Trading Permit, a Qualified Person must satisfy all requirements related to that type of Trading Permit.

(ii) Waiting List. The Exchange in its discretion either may maintain a waiting list for a type of Trading Permit, or may not accept applications for that type of Trading Permit until such time as the Exchange determines to accept applications for that type of Trading Permit pursuant to subparagraph (b)(iii) of this Rule 3.1. Such a waiting list shall be used only to issue Trading Permits pursuant to the Order in Time Process set forth in subparagraph (b)(iii)(B) of this Rule 3.1. Any Exchange decision regarding whether to maintain a waiting list under this subparagraph shall not control whether a waiting list is maintained pursuant to Rule 8.3A. In the event the Exchange maintains a waiting list under this subparagraph, the Exchange shall place Qualified Persons on that waiting list based on the order in time that such persons submitted applications pursuant to subparagraph (b)(i) of this Rule 3.1, and such persons may at any time voluntarily withdraw from that waiting list. A person on the waiting list may submit a notification to the Exchange to adjust the number of Trading Permits that such person would like to receive at any time prior to an announcement of an issuance of such Trading Permits.

(iii) Issuance of Trading Permits. Any issuance of Trading Permits shall be in accordance with the procedures set forth in this subparagraph. From time to time, the Exchange in its discretion may determine to make available one or more of a type of Trading Permit in accordance with one of the objective processes listed below in subparagraphs (A) or (B) (the number of such Trading Permits that the Exchange determines to make available shall be referred to as the “issuance number”). In connection with an issuance of such Trading Permits, and notwithstanding an application for a greater number of such Trading Permits, a Qualified Person and any affiliated Qualified Person shall be eligible to receive no more than the greater of 10 such Trading Permits or 20% of the issuance number of such Trading Permits. Such a limit shall not apply in the event the issuance number of such Trading Permits exceeds the demand for such Trading Permits.

(A) Random Lottery Process. The Exchange shall issue Trading Permits to Qualified Persons through a random lottery process. Prior to the issuance of such Trading Permits, the Exchange shall announce that it will use a random lottery to issue such Trading Permits, the issuance number, and the period of time during which Qualified Persons must submit completed applications for such Trading Permits to be able to participate in the random lottery.

(B) Order in Time Process. The Exchange shall issue Trading Permits to Qualified Persons based on the order in time that such Qualified Persons applied for such Trading Permits. In the event the Exchange maintains a waiting list for such Trading Permits and the issuance number is less than the demand for such Trading Permits by persons on the waiting list, the Exchange shall issue such Trading Permits to persons on the waiting list based on the order in time that such persons were placed on the waiting list. In the event the Exchange maintains a waiting list for such Trading Permits and the issuance number is greater than the demand for such Trading Permits by persons on the waiting list, or in the event the Exchange does not maintain a waiting list for such Trading Permits, the Exchange shall announce that it will use an order in time process to issue such Trading Permits, the issuance number, and the period of time during which Qualified Persons (other than persons on the waiting list, if any) must submit completed applications for such Trading Permits to be able to participate in the order in time process.

(C) Other Process. The Exchange shall have the authority to modify the processes described above in subparagraphs (A) and (B) or to establish any other objective process to issue such Trading Permits pursuant to a rule filing submitted to the Commission under Section 19(b) of the Act.

(c) Termination, Change and Renewal of Trading Permits.

(i) Termination of Trading Permits. A Trading Permit Holder seeking to terminate that holder's Trading Permit must notify the Exchange, prior to the deadline announced by the Exchange and in a form and manner prescribed by the Exchange, that the holder is terminating that Trading Permit at the end of its term.

(ii) Replacement of Trading Permits. A Trading Permit Holder seeking to replace that holder's Trading Permit with a different Trading Permit must file with the Exchange, prior to the deadline announced by the Exchange, an application for that different Trading Permit pursuant to paragraph (b) of this Rule 3.1.

(iii) Renewal of Trading Permits. The Exchange shall automatically renew for the same term as the expiring term a Trading Permit of a Trading Permit Holder if that holder does not take one of the actions specified in subparagraphs (c)(i) or (c)(ii) of this Rule 3.1 with respect to that Trading Permit. In renewing that holder's Trading Permit, the Exchange shall have the authority to issue one or more Trading Permits that represent the same or more trading right(s) as the expiring permit. Notwithstanding the foregoing, nothing in this subparagraph shall limit the Exchange's authority in subparagraph (a)(vi) of this Rule 3.1 to limit or reduce the number of any type of Trading Permit.

(iv) Additional Trading Permits. A Trading Permit Holder seeking to hold an additional Trading Permit must file with the Exchange an application for that Trading Permit pursuant to paragraph (b) of this Rule 3.1.

(v) Changing the Term of a Trading Permit. To change the term of a Trading Permit at the end of its current term to a longer or shorter term currently offered by the Exchange, a Trading Permit Holder must notify the Exchange of that holder's desire to change the term prior to the deadline and in a form and manner prescribed by the Exchange. Such a change will be effective only at

the end of the current term of the Trading Permit.

(d) *Non-transferability of Trading Permits*

(i) *Non-transferability of Trading Permits.* A Trading Permit may be issued only by the Exchange and may not be leased or transferred to any person under any circumstances, except as provided in subparagraph (d)(ii) of this Rule 3.1. A Trading Permit Holder has no ownership interest or property rights in a Trading Permit. No recognition or effect shall be given by the Exchange to any agreement or to any instrument entered into or executed by a Trading Permit Holder or his legal representatives that purports to transfer or assign any interest in a Trading Permit, or which purports to create any lien or other right with respect thereto, other than pursuant to subparagraph (d)(ii) of this Rule 3.1.

(ii) *Limited Exceptions.* A TPH organization may change the designation of the nominee in respect of each Trading Permit it holds in a form and manner prescribed by the Exchange. In addition, a Trading Permit Holder may, with the prior written consent of the Exchange, transfer a Trading Permit to a TPH organization or to an organization approved to be a TPH organization: (A) which is an affiliate; or (B) which continues substantially the same business without regard to the form of the transaction used to achieve such continuation, e.g., merger, sale of substantially all assets, reincorporation, reorganization or the like.

**Rule 3.1A. Issuance of Trading Permits in Respect of Memberships and Pre-Restructuring Transaction Trading Permits**

(a) *The Restructuring Transaction.* Notwithstanding paragraph (b) of Rule 3.1, prior to the date of the Restructuring Transaction, a person who is, or is treated the same as, a “member” of the Exchange under Sections 1.1 and 2.1 of the Constitution of the Exchange then in effect may submit a post-Restructuring Transaction trading application to the Exchange in accordance with such procedures as shall be established by the Exchange. Provided such applicant is in good standing as of the date of the Restructuring Transaction, complies with the application procedures established by the Exchange and pays any applicable fees, the Exchange in connection with the Restructuring Transaction shall issue to such applicant, as applicable, a Trading Permit in respect of: (A) each membership not subject to an effective lease as of the date of the Restructuring Transaction that is owned by such applicant; (B) each membership that is leased as a lessee by such applicant as of the date of the Restructuring Transaction; (C) each trading permit issued by the Exchange prior to the Restructuring Transaction that is held by such applicant, provided that in the case of a CBSX trading permit, the Exchange shall issue a Trading Permit in respect of such CBSX trading permit that only provides the right to effect transactions on the CBSX; and (D) each Temporary Membership that is held by such applicant. Such applicant must select the term(s) of the Trading Permit(s) to be issued to such applicant. Subject to the Exchange’s authority in subparagraphs (a)(vi) and (a)(ix) of Rule 3.1 and to the continuing satisfaction of any applicable qualification requirements, such applicant shall have the ability pursuant to those Trading Permit(s) to continue after the Restructuring Transaction trading any product, and acting in any trading function, that such applicant traded, or acted in, at the time of the Restructuring Transaction. Those Trading Permit(s) shall be subject to the terms and conditions set forth in paragraphs (a), (c) and (d) of Rule 3.1, including the processes described in paragraph (c) of that rule once the initial term(s) for those permit(s) expire. In the event such

applicant seeks to hold an additional Trading Permit other than one issued pursuant to this paragraph, such applicant must submit an application for that Trading Permit pursuant to paragraph (b) of Rule 3.1.

(b) Tier Appointments. In the event a person who will be issued Trading Permit(s) pursuant to paragraph (a) of this Rule 3.1A is trading an options class with respect to which the Exchange is establishing a tier appointment pursuant to paragraph (e) of Rule 8.3, the Exchange in connection with the Restructuring Transaction shall issue to that person such a tier appointment provided that the Exchange is notified by that person of that person's desire to hold such a tier appointment. Other than this exception from the application requirement for tier appointments, such a tier appointment shall be subject to the terms and conditions set forth paragraph (e) of Rule 8.3

(c) Failure to Comply with Application or Other Requirements. A person who was eligible to receive Trading Permit(s) pursuant to paragraph (a) of this Rule 3.1A but who failed to comply with the application or other requirements in that subparagraph, must submit an application pursuant to paragraph (b) of Rule 3.1 and must go through the approval process to hold a Trading Permit to be eligible to receive a Trading Permit.

### **Rule 3.2. Qualifications [and Membership Statuses] of Individual Trading Permit Holders [Members]**

(a) An individual [A person] must satisfy the following requirements in order to be an individual Trading Permit Holder [member], whether in the capacity of a holder of a Trading Permit or a nominee of a TPH organization:

(i) the individual [person] must be at least 21 years of age;

(ii) the individual [person] must be registered as a broker or dealer pursuant to Section 15 of the Exchange Act or be associated with a TPH [member] organization that is registered as a broker or dealer pursuant to Section 15 of the Exchange Act [,except that an individual member who is approved to act solely as a lessor is not required to comply with this requirement]; and

(iii) the person must meet the other qualification requirements for being a Trading Permit Holder [membership] under the Bylaws [Constitution] and Rules.

(b) The individual must be approved to engage in one or more of the following trading functions authorized for individual Trading Permit Holders under the Rules: (i) Market-Maker (Rule 8.2); (ii) Floor Broker (Rule 6.71); (iii) Trading Permit Holder eligible to trade securities traded pursuant to Chapter XXX (Rule 30.2); (iv) Trading Permit Holder eligible to trade securities traded pursuant to Chapter L (Rule 50.4) (v) DPM Designee (Rule 8.81); (vi) FLEX Appointed Market-Maker (Rules 24A.9 and 24B.9); (vii) FLEX Qualified Market-Maker (Rules 24A.9 and 24B.9); (viii) Lead Market-Maker (Rules 8.15 and 8.15A); (ix) Supplemental Market-Maker (Rule 8.15); and (x) all categories of SBT Traders including SBT Market-Makers, SBT Brokers, and SBT Proprietary Traders (Rule 41.2).

[(b) The individual membership statuses that are approved by the Exchange (along with the primary Exchange Rule that provides for such approval if it is not Rule 3.9) include: (i) owner; (ii) lessor; (iii) lessee; (iv) Chicago Board of Trade exerciser; (v) sole proprietor; (vi) individual with a membership that has been registered for a member organization; (vii) nominee of a member organization; (viii) Market-Maker ( Rule 8.2); (ix) Floor Broker ( Rule 6.71); (x) member eligible to trade securities traded pursuant to Chapter XXX ( Rule 30.2); (xi) member eligible to trade securities traded pursuant to Chapter L ( Rule 50.2); and (xii) Trust Member ( Rule 3.25).]

[(c) Every individual member who is a lessee, a Chicago Board of Trade exerciser, a holder of an Interim Trading Permit, or an owner (who is not a lessor) must have an authorized trading function. An individual member is deemed to have an authorized trading function if the member is approved by the Membership Committee to act as a Market-Maker, Floor Broker, or nominee or person registered for an e-DPM organization. In addition, every individual member who is a holder of a CBOE Stock Exchange Permit must have an authorized trading function in accordance with Rule 50.3.]

**[. . . Interpretations and Policies:]**

[.01 Individual membership statuses that are approved by the Exchange (along with the primary Exchange Rule that provides for such approval) also include: (i) DPM Designee ( Rule 8.81); (ii) FLEX Appointed Market-Maker ( Rules 24A.9) and 24B.9; (iii) FLEX Qualified Market-Maker ( Rules 24A.9 and 24B.9); (iv) Lead Market-Maker in OEX or DJX options ( Rule 8.15); (v) Supplemental Market-Maker in OEX or DJX options ( Rule 8.15); and (vi) all categories of SBT Traders including SBT Market-Makers, SBT Brokers, and SBT Proprietary Traders ( Rule 42.1).]

**Rule 3.3. Qualifications [and Membership Statuses] of TPH [Member] Organizations**

(a) An organization must satisfy the following requirements in order to be a TPH [member] organization:

(i) the organization must be a corporation, [or] partnership, or limited liability company;

(ii) the organization must be registered as a broker or dealer pursuant to Section 15 of the Exchange Act [, except that an organization that is approved to act solely as a lessor is not required to comply with this requirement]; and

(iii) the organization must meet the other qualification requirements [for membership] under the Bylaws [Constitution] and Rules, including obtaining a Trading Permit.

(b) An organization also must be approved to engage in one or more of the following trading functions authorized for TPH organizations under the Rules: (i) TPH organization approved to transact business with the public (Rule 9.1); (ii) Clearing Trading Permit Holder; (iii) order service firm (Rule 6.77); (iv) Market-Maker (Rule 8.1); (v) Lead Market-Maker (Rules 8.15 and 8.15A) (v) Designated Primary Market-Maker (Rule 8.83); (vi) Electronic DPM (Rule 8.92);

(vii) SBT Designated Primary Market-Maker and SBT Lead Market-Maker (Rule 41.2); and (viii) Trading Permit Holder eligible to trade securities traded pursuant to Chapter L (Rule 50.4)

[(b) The member organization membership statuses that are approved by the Exchange (along with the primary Exchange Rule that provides for such approval if it is not Rule 3.9) include: (i) owner; (ii) lessor; (iii) lessee; (iv) member organization for which an individual member has registered his or her membership; (v) member organization approved to transact business with the public (Rule 9.1); (vi) Clearing Member; (vii) order service firm (Rule 6.77); and (viii) Market-Maker (Rule 8.1).]

[(c) A member organization that is a Clearing Member or an order service firm is required either to possess at least one membership for which the organization is not a lessor or to hold at least one Interim Trading Permit.]

[(d) A member organization that desires to become a different type of business entity permitted under the Rules must apply for membership in the name of the new entity.]

**[. . . Interpretations and Policies:]**

[.01 For purposes of eligibility for membership, an entity organized as a limited liability company shall be deemed a corporation, its members shall be deemed principal shareholders, and its members with management responsibility and its managers shall be deemed executive officers.]

[.02 Member organization membership statuses that are approved by Exchange bodies other than the Exchange (along with the primary Exchange Rule that provides for such approval) include: Designated Primary Market-Maker (Rule 8.83), Electronic DPMs (Rule 8.92), SBT Designated Primary Market-Makers and SBT Lead Market-Makers (Rule 42.1).]

**Rule 3.4. Foreign Trading Permit Holders [Members]**

(a) A Trading Permit Holder [member] that does not maintain an office in the United States responsible for preparing and maintaining financial and other reports required to be filed with the Securities and Exchange Commission and the Exchange must:

(i) prepare all such reports, and maintain a general ledger chart of account and any description thereof, in English and U.S. dollars;

(ii) reimburse the Exchange for any expense incurred in connection with examination of the Trading Permit Holder [member] to the extent that such expenses exceed the cost of examining a Trading Permit Holder [member] located within the continental United States; and

(iii) ensure the availability of an individual fluent in English knowledgeable in securities and financial matters to assist the representatives of the Exchange during examinations.

**Rule 3.5. Denial of and Conditions to Being a Trading Permit Holder or Associated with a Trading Permit Holder [Membership and Associations]**

(a) The Exchange shall deny a person from becoming a Trading Permit Holder [membership] where the person [an applicant] has failed a required qualification exam [membership test].

(b) The Exchange may deny a person from becoming (or may condition being) a Trading Permit Holder [membership] or may prevent a person from becoming associated (or may condition an association) with a Trading Permit Holder [member] for the same reasons that the Securities and Exchange Commission may deny or revoke a broker-dealer registration and for those reasons required or allowed under the Exchange Act.

(c) The Exchange also may deny a person from becoming (or may condition being) a Trading Permit Holder [membership] or may prevent a person from becoming associated (or may condition an association) with a Trading Permit Holder [member] when the applicant:

(i) is a broker-dealer and (A) has a net worth (excluding personal assets) below \$25,000 if the applicant is an individual, (B) has a net worth (excluding personal assets) below \$50,000 if the applicant is an organization, (C) has financial difficulties involving an amount that is more than 5% of the applicant's net worth, or (D) has a pattern of failure to pay just debts;

(ii) is unable satisfactorily to demonstrate a capacity to adhere to all applicable Exchange, Securities and Exchange Commission, Clearing Corporation, and Federal Reserve Board policies, rules, and regulations, including those concerning record-keeping, reporting, finance, and trading procedures;

(iii) would bring the Exchange into disrepute; or

(iv) for such other cause as the Exchange reasonably may decide.

(d) The Exchange may determine not to permit a Trading Permit Holder [member] or person associated with a Trading Permit Holder [member] to continue being a Trading Permit Holder or associated with a Trading Permit Holder [in membership or association with a member] or may condition such continuance as a Trading Permit Holder or associated person [in membership or association], if the Trading Permit Holder [member] or associated person:

(i) fails to meet any of the qualification requirements for being a Trading Permit Holder or associated with a Trading Permit Holder [membership or association] after approval as a Trading Permit Holder or associated person [the membership or association has been approved];

(ii) fails to meet any condition placed by the Exchange on being a Trading Permit Holder or associated with a Trading Permit Holder [such membership or association]; or

(iii) violates any agreement with the Exchange.

(e) Any decision made by the Exchange pursuant to paragraph (a), (b), (c), or (d) of this Rule must be consistent with both the provisions of this Rule and the provisions of the Exchange Act.

(f) Any applicant who has been denied from becoming a Trading Permit Holder or associated with a Trading Permit Holder [membership or association with a member] or has condition(s) imposed on becoming a Trading Permit Holder or associated with a Trading Permit Holder [granted only conditional membership or association] pursuant to paragraph (a), (b), or (c) of this Rule, and any Trading Permit Holder [member] or person associated with a Trading Permit Holder [member] who is not permitted to continue being a Trading Permit Holder or associated with a Trading Permit Holder [in membership or association with a member] or whose continuance as a Trading Permit Holder or associated person [in membership or association] is conditioned pursuant to paragraph (d) of this Rule, may appeal the Exchange's decision under Chapter XIX. No determination of the Exchange to discontinue or condition a person[']s as a Trading Permit Holder or associated person [membership or association with a member] pursuant to paragraph (d) of this Rule shall take effect until the review procedures under Chapter XIX have been exhausted or the time for review has expired.

### **Rule 3.6. Persons Associated with TPH [Member] Organizations**

(a) Persons associated with TPH [member] organizations shall be bound by the Bylaws [Constitution] and Rules of the Exchange and of the Clearing Corporation. The Exchange may bar a person from becoming or continuing to be associated with a TPH [member] organization if such person does not agree in writing, in a manner and form prescribed by the Exchange, to furnish the Exchange with information with respect to such person's relationship and dealings with the TPH [member] organization, and information reasonably related to such person's other securities business, as may be required by the Exchange, and to permit the examination of its books and records by the Exchange to verify the accuracy of any information so supplied.

(b) Each associated person of a TPH [member] organization that is required to be disclosed on Exchange Act Form BD as a direct owner or executive officer (or, if the TPH [member] organization is not required to be a registered broker-dealer, each associated person of the organization that would be required to be disclosed on Form BD as a direct owner or executive officer in the event that the organization was a registered broker-dealer) is required to submit to the TPH [Membership] Department, pursuant to Rule 3.9, an application for approval to become associated with the TPH [member] organization in that capacity. No person may become associated with a TPH [member] organization in the capacity of a direct owner or executive officer that is (or would be) required to be disclosed on Form BD unless and until the Exchange approves that association.

(c) A claim of any associated person required to be approved by the Exchange pursuant to paragraph (b) of this Rule against the TPH [member] organization with which that person is associated shall be subordinate in right of payment to customers and other Trading Permit Holders [members].

### **Rule 3.6A. Qualification and Registration of Certain Associated Persons**

(a) *Financial/Operations Principal.* Each individual Trading Permit Holder [member] or TPH [member] organization subject to Exchange Act Rule 15c3-1 shall designate a Financial/Operations Principal. The duties of a Financial/Operations Principal shall include taking appropriate actions to assure that the Trading Permit Holder [member] complies with

applicable financial and operational requirements under the Rules and the Exchange Act, including but not limited to those requirements relating to the submission of financial reports and the maintenance of books and records. Each Financial/Operations Principal is required to have successfully completed the Financial and Operations Principal Examination (Series 27 Exam). Each Financial/Operations Principal designated by a Trading Permit Holder [member] shall be registered in that capacity with the Exchange in a form and manner prescribed by the Exchange. A Financial/Operations Principal of a Trading Permit Holder [member] may be a full-time employee, a part-time employee or independent contractor of the Trading Permit Holder [member]. TPH organizations [Member firms] for which the Exchange is the Designated Examining Authority ("DEA") must provide prompt written notice to the Exchange's Department of Financial and Sales Practice Compliance for each person designated as a Financial/Operations Principal reporting whether such person is a full-time employee, part-time employee, independent contractor or has any outside business affiliations.

(b) No change.

*... Interpretations and Policies:*

.01 No change.

.02 Any Trading Permit Holder [member] that discharges or terminates the employment or retention of an associated person enumerated in paragraph (a) or (b) of this Rule shall comply with the termination filing requirements set forth in Rule 9.3(b) and Rule 9.3(c).

.03 No change.

**Rule 3.7. Certain Documents Required of Trading Permit Holders [Members], Applicants, and Associated Persons**

(a) Each Trading Permit Holder [member] and Trading Permit Holder [member] applicant shall promptly file the following documents with the TPH [Membership] Department:

(i) each TPH [member] organization and TPH [member] organization applicant that is a corporation shall promptly file with the TPH [Membership] Department a copy of the articles or certificate of incorporation of the organization, the by-laws of the organization, and all amendments to those documents;

(ii) each TPH [member] organization and TPH [member] organization applicant that is a partnership shall promptly file with the TPH [Membership] Department a copy of any registration certificate of the organization, the partnership agreement of the organization, and all amendments to those documents;

(iii) each TPH organization and TPH organization applicant that is a limited liability company shall promptly file with the TPH Department a copy of the registration certificate of the organization, the operating agreement of the organization, and all amendments to those documents;

(iv) [(iii)] each TPH [member] organization and TPH [member] organization applicant shall promptly file with the TPH [Membership] Department any other documents relating to the registration, governance, capital structure, or ownership of the organization that are requested by the Exchange; and

(v) [(iv)] each Trading Permit Holder [member] and Trading Permit Holder [member] applicant shall promptly file with the TPH [Membership] Department any other documents requested by the Exchange that are reasonably related to that Trading Permit Holder's [member's] business on the Exchange or proposed business on the Exchange.

(b) Each Trading Permit Holder [member] and Trading Permit Holder [member] applicant shall promptly file with the TPH [Membership] Department its business and residence addresses, an address where notices may be served, and any changes to this information.

(c) Each Trading Permit Holder [member] shall comply with the provisions of Exchange Act Section 17(f) and Exchange Act Rule 17f-2 respecting the fingerprinting of the Trading Permit Holder [member] and its covered employees. Each Trading Permit Holder [member] applicant and its covered employees shall also be fingerprinted in accordance with those provisions.

(d) Each Trading Permit Holder [member] and Trading Permit Holder [member] applicant that is a registered broker or dealer pursuant to Section 15 of the Exchange Act shall complete Exchange Act Form BD and keep its Form BD current by promptly completing any required amendments to its Form BD. Each Trading Permit Holder [member] or applicant that is a registered broker-dealer shall also promptly file with the TPH [Membership] Department, in a manner prescribed by the Exchange, its Form BD and all required amendments thereto. [Each member and member applicant that is not required to be a registered broker-dealer shall, in a manner and form prescribed by the Exchange, promptly file with the Exchange a list and descriptive identification of those associated persons of the organization that have been, and that are applying to be, approved by the Exchange pursuant to Rule 3.6(b) and any changes to this information.]

(e) In a manner and form prescribed by the Exchange, each Trading Permit Holder [member], Trading Permit Holder [member] applicant, and associated person required to be approved by the Exchange pursuant to Rule 3.6(b) shall pledge to abide by the Bylaws [Constitution] and Rules of the Exchange, as from time to time amended, and by all circulars, notices, directives, or decisions adopted pursuant to or made in accordance with the Bylaws [Constitution] and Rules.

(f) All documents filed with the TPH [Membership] Department by Trading Permit Holders [members], applicants, and associated persons shall be subject to review by the Exchange; however, no action or failure to act by the Exchange shall be construed to mean that the Exchange has in any way passed on the investment merits of the Trading Permit Holder [member], applicant, or associated person, or the adequacy of disclosure given to investors by the Trading Permit Holder [member], applicant, or associated person, or that the Exchange has in any other way given approval to any such document.

[(g) Each member shall keep and maintain a current copy of the Constitution and Rules in a readily accessible place. Member organizations that are approved to do business with the public

pursuant to Rule 9.1 shall make the Constitution and Rules available for examination by customers.]

**[. . . Interpretations and Policies:]**

[.01 For purposes of paragraph (a)(i) of this Rule, an entity organized as a limited liability company shall promptly file with the Membership Department a copy of the registration certificate of the organization, the operating agreement of the organization, and all amendments to those documents.]

**Rule 3.8. Nominees [and Members Who Register Their Memberships for Member Organizations]**

(a) Each TPH [member] organization that is the holder [owner] of a Trading Permit [membership for which the member organization will not be acting as a lessor, each member organization that is the holder of an Interim Trading Permit, and each member organization that is a lessee of a membership] or that has associated with it an individual who holds a Trading Permit in his or her name shall be subject to the following provisions:

(i) the TPH [member] organization must designate an individual nominee to represent the organization with respect to that Trading Permit [membership or Interim Trading Permit] in all matters relating to the Exchange, provided that in the case of a Trading Permit held in the name of an individual, the TPH organization shall be required to designate that individual as the nominee for that Trading Permit;

(ii) in the situation where the TPH organization is holding multiple Trading Permits in its name, the TPH organization may designate the same individual to be a nominee for those Trading Permits [if the member organization is the owner or lessee of more than one such membership, or the holder of more than one such Interim Trading Permit, the member organization may designate one individual to be the nominee for all memberships and Interim Trading Permits utilized by the organization. However, for each membership and Interim Trading Permit utilized for trading in open outcry on the trading floor, the organization must designate a different individual to be the nominee for each of the memberships or Interim Trading Permits];

(iii) each nominee of a TPH [member] organization designated pursuant to subparagraph (a)(i) of this Rule, except for a nominee of a TPH [member] organization approved solely as a Clearing Trading Permit Holder [Member] and/or to transact business with the public pursuant to Rule 9.1, is required to have an authorized trading function;

(iv) each nominee of a TPH [member] organization designated pursuant to subparagraph (a)(i) of this Rule must be approved to be a Trading Permit Holder [for membership] in accordance with the Rules; and

(v) each nominee of a TPH [member] organization designated pursuant to subparagraph (a)(i) of this Rule who is approved to be a Trading Permit Holder [for membership] shall be deemed to be an individual Trading Permit Holder [member].

[(b) Each member organization that is the owner of a membership for which the member organization will be acting as a lessor shall be subject to the following provisions:]

[(i) the member organization must designate an individual nominee to represent the organization with respect to that membership in all matters relating to the Exchange;]

[(ii) if the member organization will be acting as a lessor for more than one membership, the organization must designate a single individual to act as the nominee with respect to all of those memberships;]

[(iii) the nominee of the member organization for the membership(s) with respect to which the organization will be acting as a lessor may not have an authorized trading function with respect to such membership(s);]

[(iv) the nominee of the member organization for the membership(s) with respect to which the organization will be acting as a lessor must satisfy all of the qualification requirements for membership, except for those requirements that are not applicable to lessors or that are applicable solely to members who will have an authorized trading function; and]

[(v) the nominee of the member organization for the membership(s) with respect to which the organization will be acting as a lessor shall be deemed to be an associated person of the organization and shall not be deemed to be an individual member by virtue of being approved to act as the nominee for such membership(s).]

[(c) Each individual member who owns a membership and each Chicago Board of Trade exerciser may apply to register his or her membership for a member organization. Upon approval of such an application, an individual who has registered his or her membership for a member organization shall represent the organization in all matters relating to the Exchange in the same manner that a nominee represents a member organization. Each individual who registers his or her membership for a member organization must have an authorized trading function.]

(b) [(d)] A TPH [member] organization [represented by a nominee or by an individual who has registered his or her membership for the organization] shall, in a manner and form prescribed by the Exchange:

(i) authorize each of its nominees [that person] to represent the organization with respect to all matters relating to the Exchange;

(ii) agree to be responsible for all obligations arising out of each of its nominees' [that person's] representation of the TPH [member] organization in all matters relating to the Exchange; and

(iii) agree to guarantee payment of all monetary disciplinary sanctions assessed against each of its nominees [that person] with respect to activity that takes place while that individual [the person] is a nominee of the organization [or has registered his or her membership for the organization].

The responsibility of the TPH [member] organization pursuant to subparagraph (b)(ii) [(d)(ii)] of this Rule shall include all obligations to the Exchange and all obligations to other Trading Permit

Holders [members] resulting from Exchange transactions or transactions in other securities made by such a nominee [the person] on behalf of the TPH [member] organization. A nominee shall not, solely by virtue of being a nominee of a TPH [member] organization, have any personal liability to the Exchange or to any other Trading Permit Holder [member] for Exchange transactions and other securities transactions made by the nominee on behalf of the TPH [member] organization. [Similarly, an individual shall not, solely by virtue of registering his or her membership for a member organization, have any personal liability to the Exchange or to any other member for Exchange transactions and other securities transactions made by the individual on behalf of the member organization.]

(c) [(e)] The following requirements shall apply to every nominee of a TPH [member] organization [and to every individual who has registered his or her membership for a member organization]:

(i) the person must be materially involved in the daily operation of the Exchange business activities of the TPH [member] organization for which the person is a nominee [or has registered his or her membership];

(ii) the person may have authorized trading functions only on behalf of one TPH [member] organization; and

(iii) the person may perform trading functions only on behalf of the TPH [member] organization for which the person is approved by the Exchange to perform such functions and may not perform trading functions on the person's own behalf or on behalf of another TPH [member] organization.

(d) [(f)] Notwithstanding the provisions of subparagraph (c)(iii) [(e)(iii)] of this Rule, a nominee [or person who has registered his or her membership for a member organization] may act as an independent Market-Maker and/or an independent Floor Broker if the following 4 requirements are satisfied:

(A) the person obtains the prior written approval to do so, in a manner and form prescribed by the Exchange, from the TPH [member] organization for which the person is approved by the Exchange to perform trading functions;

(B) the TPH [member] organization for which the person is approved by the Exchange to perform trading functions agrees, in a manner and form prescribed by the Exchange, to guarantee all obligations arising out of that person's activities as an independent Market-Maker and/or an independent Floor Broker;

(C) the person is registered as a broker or dealer pursuant to Section 15 of the Exchange Act; and

(D) the person obtains the prior approval to act in this capacity from the Exchange.

A person who is approved to act as an independent Market-Maker and/or an independent Floor Broker pursuant to this paragraph (d) [(f)] shall be personally responsible for all obligations arising out of those activities, and the TPH [member] organization for which the person is approved by the Exchange to perform trading functions shall guarantee these obligations.

(e) [(g)] A TPH [member] organization may designate one or more inactive nominees. An "inactive nominee" of a TPH [member] organization is an individual who is eligible to become an effective nominee of that organization with respect to any Trading Permit [Interim Trading Permit held by the organization or any membership for] which the organization holds [is either an owner (and not a lessor) or is a lessee]. The following requirements shall apply to inactive nominees:

(i) to become an inactive nominee of a TPH [member] organization, an individual must be approved to be a Trading Permit Holder [for membership] and become an effective nominee of the TPH [member] organization, with authorized trading functions, within 90 days of the approval to be a Trading Permit Holder [for membership];

(ii) an individual may be an inactive nominee of only one TPH [member] organization;

(iii) an inactive nominee shall have no rights or privileges of a Trading Permit Holder [membership] and shall have no right of access to the trading floor of the Exchange to trade as a Trading Permit Holder, unless and until the inactive nominee becomes an effective Trading Permit Holder [member] pursuant to Rule 3.10; and

(iv) if at any time an individual remains an inactive nominee for 9 consecutive months, the individual's eligibility to be a Trading Permit Holder [for membership] will be terminated and the individual must reapply to be a Trading Permit Holder [for membership] in order to again become eligible for inactive nominee status.

*... Interpretations and Policies:*

.01 Nothing in paragraph (b) [(d)] of this Rule is intended to define or limit (i) any obligations between a nominee of a TPH [member] organization, [or an individual who has registered his or her membership for a member organization,] and the TPH [member] organization itself, (ii) any responsibility such a person may have for obligations of a TPH [member] organization by virtue of a contractual obligation or ownership relationship to the organization beyond merely being a nominee [or individual who has registered his or her membership for the organization], or (iii) the ability of the Exchange to sanction or take other remedial action against such a person pursuant to other Exchange rules for rule violations or other activity for which remedial measures may be imposed.

### **Rule 3.9. Application Procedures and Approval or Disapproval**

(a) Any individual or organization desiring to become a Trading Permit Holder [member], any applicant or Trading Permit Holder [member] desiring to act in one or more of the trading functions [membership statuses] set forth in Rule 3.2(b) or 3.3(c) [3.3(b)], any associated person required to be approved by the Exchange pursuant to Rule 3.6(b), and any Trading Permit Holder [member] desiring to change the Clearing Trading Permit Holder [Member] that guarantees the Trading Permit Holder's [member's] Exchange transactions shall submit an application to the TPH [Membership] Department in a form and manner prescribed by the Exchange.

(b) The Exchange shall establish for each type of application a submission deadline of up to 90 days prior to the date that such an application will be considered for approval. These submission deadlines shall be published in a regulatory circular. An application must be submitted to the TPH [Membership] Department in accordance with the applicable submission deadline in order to be eligible for consideration.

(c) No change.

(d) Each applicant shall promptly update the application materials submitted to the TPH [Membership] Department if any of the information provided in these materials becomes inaccurate or incomplete after the date of submission of the application to the TPH [Membership] Department and prior to any approval of the application.

(e) Within a reasonable time following receipt of an application to become a Trading Permit Holder [for membership] from an applicant that has not been a Trading Permit Holder [member] within 9 months prior to the date of receipt of the application by the TPH [Membership] Department or an application to change Clearing Trading Permit Holders [Members], the name of the applicant and the application request shall be published in the Exchange Bulletin, [and posted on the Exchange Bulletin Board. The Exchange shall determine for each type of the foregoing applications the required time period that the above information must be posted on the Exchange Bulletin Board, provided that in no event shall any such required posting period be less than 10 days. Notwithstanding the foregoing, the required posting period for a member's application to change Clearing Members shall be waived if the Clearing Member(s) that will no longer be guaranteeing the member's Exchange transactions consent to such waiver in a form and manner prescribed by the Exchange. The Exchange may also determine to implement a posting period requirement for other types of applications submitted pursuant to paragraph (a) of this Rule. The Exchange may shorten or waive a required posting period for an applicant if the Exchange determines that doing so is warranted due to extenuating circumstances.]

(f) The TPH [Membership] Department shall investigate each applicant applying to be a TPH [member] organization, each associated person required to be approved by the Exchange pursuant to Rule 3.6(b), and each applicant applying to be an individual Trading Permit Holder [member] (with the exception of any associated person applicant that is a current Trading Permit Holder [member], any Trading Permit Holder [member] applicant that was a Trading Permit Holder [member] within 9 months prior to the date of receipt of that applicant's [membership] application by the TPH [Membership] Department, and any Trading Permit Holder [member] or associated person applicant that was investigated by the TPH [Membership] Department within 9 months prior to the date of receipt of that applicant's application by the TPH [Membership] Department). The TPH [Membership] Department may investigate any applicant that is not required to be investigated pursuant to this paragraph (f) and any other person or organization that submits an application pursuant to paragraph (a) of this Rule. In connection with an investigation conducted pursuant to this paragraph (f), the Exchange may (i) conduct a fingerprint based criminal records check of the applicant or (ii) utilize the results of a fingerprint based criminal records check of the applicant conducted by the Exchange or another self-regulatory organization within the prior year.

(g) Any person applying pursuant to paragraph (a) of this Rule to have an authorized trading function is required to have completed the Exchange's Trading Permit Holder [Member] Orientation Program and to have passed an Exchange Trading Permit Holder [Member] Qualification Exam. Additionally, any person who has completed the Trading Permit Holder [Member] Orientation Program and taken and passed the applicable Trading Permit Holder [Member] Qualification Exam and who then does not possess an authorized trading function or Exchange trading floor capacity for more than 1 year is required to complete the Trading Permit Holder [Member] Orientation Program and to re-pass the applicable Trading Permit Holder [Member] Qualification Exam in order to once again become eligible to have an authorized trading function. A person must score 75% or better on the applicable Trading Permit Holder [Member] Qualification Exam in order to pass the Exam. Any person who fails the applicable Trading Permit Holder [Member] Qualification Exam must wait 30 days to re-take the Exam after failing the Exam for the first time, must wait 60 days to re-take the Exam after failing the Exam for the second time, and must wait 120 days to re-take the Exam after failing the Exam for a third or subsequent time. The Exchange may not waive any of the requirements set forth in this paragraph (g).

(h) The Exchange may approve an application submitted pursuant to paragraph (a) of this Rule only if [any applicable posting period requirement pursuant to paragraph (e) of this Rule has been satisfied,] any investigation pursuant to paragraph (f) of this Rule has been completed, and any applicable orientation and exam requirements pursuant to paragraph (g) of this Rule have been satisfied.

(i) Each applicant that submits an application pursuant to paragraph (a) of this Rule and each person associated with the applicant shall submit to the TPH [Membership] Department any additional information requested by the Exchange in connection with the Exchange's review of the application and may be required to appear before the Exchange for an in-person interview or interviews.

(j) Upon completion of the application process, the Exchange shall determine whether to approve or disapprove the application, unless there is just cause for delay. One such just cause for delay is when an applicant is the subject of an inquiry, investigation, or proceeding conducted by a self-regulatory organization or governmental authority that involves the applicant's fitness to be a Trading Permit Holder [for membership]. In such an instance, the Exchange need not act on any application submitted by that applicant until the matter has been resolved.

(k) [Any applicant that is approved to be a member must be approved to perform in at least one of the recognized capacities of a member as stated in Rule 3.1(b).] Written notice of the action regarding an application to become a Trading Permit Holder [a membership application], specifying in the case of disapproval of an application the grounds therefor, shall be provided to the applicant.

(l) No change.

*. . . Interpretations and Policies:*

**.01** Any Trading Permit Holder [member] that submits an application pursuant to paragraph (a) of this Rule to change Clearing Trading Permit Holders [Members] shall submit to the TPH [Membership] Department along with the application a financial statement in a form prescribed by the Exchange which sets forth the Trading Permit Holder's [member's] assets and liabilities. The TPH [Membership] Department shall provide a copy of this financial statement to the new Clearing Trading Permit Holder [Member] designated in the application.

**.02** The Exchange may disapprove the [membership] application of an organization if the Exchange determines that the name of the organization is confusingly similar to the name of an existing TPH [member] organization. A TPH [member] organization desiring to change the name of the organization shall submit an application to the TPH [Membership] Department in a form and manner prescribed by the Exchange. As with TPH [member] organization applicants, the Exchange may disapprove a name change requested by a TPH [member] organization if the Exchange determines that the desired name is confusingly similar to the name of another TPH [member] organization. For the purposes of this Interpretation and Policy .02 [.01], the name of an organization shall include both its official name and the name under which the organization conducts business.

**.03** No change.

### **Rule 3.10. Effectiveness of Trading Permit Holder [Membership] or Approved Associated Person Status**

(a) Each applicant to be a Trading Permit Holder [for membership], for one of the trading functions [membership statuses] set forth in Rule 3.2(b) or 3.3(c) [3.3(b)], or for an approved associated person status pursuant to Rule 3.6(b) must become effective in that status within 90 days of the date of the applicant's approval for that status[, except that an applicant to become a lessor may become effective in that status within 6 months of the date of the applicant's approval for that status].

(b) An applicant to be a Trading Permit Holder [for membership] shall become an effective Trading Permit Holder [member] upon (i) satisfying the applicable requirements to obtain a Trading Permit [membership] and (ii) release of a Trading Permit [membership] to that Trading Permit Holder [member] by the TPH [Membership] Department.

### **Rule 3.11. Notice of Effectiveness of Trading Permit Holder and Trading Function [Membership or Approved Associated Person] Statuses**

Promptly following the effectiveness of Trading Permit Holder status [any membership], or approval of a trading function pursuant to Rule 3.2(b) or 3.3(c) [membership status pursuant to Rule 3.2(b) or 3.3(b)], or associated person status pursuant to Rule 3.6(b)], notice of such effectiveness shall be published in the Exchange Bulletin.

### **Rule 3.12. Reserved [Membership Rights and Restrictions on Their Transfer]**

[(a) No rights shall be acquired by ownership of a regular membership except the right to an aliquot part of the net assets, if any, remaining after the payment of all debts and obligations of

the Exchange in the event of its dissolution and winding up and, if the owner of the membership is in good standing, such rights as may be provided by the Constitution and Rules to members in good standing.]

[(b) Except for the rights granted to the grantee of an Authorization to Sell a membership pursuant to Rule 3.14(d) and Rule 3.15(b):]

[(i) The Exchange shall not recognize any interest in the property or other rights represented by a membership except that of its owner as registered with the Exchange.]

[(ii) No recognition or effect shall be given by the Exchange to any agreement or to any instrument entered into or executed by a member or his legal representatives which purports to transfer or assign the interest of the member in the member's membership, or in the proceeds or any part thereof, or which purports to create any lien or other right with respect thereto, or which purports in any manner to provide for the disposition of such proceeds to a creditor of such member, nor shall payment of such proceeds be made by the Exchange on the order of such member.]

### **Rule 3.13. Reserved [Purchase of Membership]**

[(a) *Newly Issued Memberships.* When and as made available by the Exchange, newly issued memberships may be purchased, pursuant to procedures established by the Exchange, by those approved to be an owner or lessor.]

[(b) *Outstanding Memberships.* Outstanding transferable memberships with respect to which notices of sale have been filed under Rule 3.14(a) may be purchased through the Membership Department and in accordance with the following procedures by those approved to be an owner or lessor. Each membership bid must be submitted in writing and during Seat Market Hours to the Membership Department. Only those approved to be an owner or lessor may submit a bid and any such bid shall be canceled at such time that the bidder is no longer approved to be an owner or lessor. Provided that a bid is not canceled pursuant to the foregoing sentence, the bid shall remain in effect for 6 months unless written revocation of the bid is received by the Membership Department. The Membership Department will file each bid according to the highest price and the earliest submission date. The highest bid with the earliest filing date will be posted on the Exchange Bulletin Board and published in the Exchange Bulletin. When a bid filed in accordance with the procedures of this paragraph (b) is matched with an offer filed in accordance with the procedures of Rule 3.14(a), neither can be changed or withdrawn. In the event that a properly filed bid is more than the lowest properly posted offer, a match shall occur at the lowest offer and neither can be changed or withdrawn.]

[(c) *Payment.* Not later than the second business day following the acceptance of a bid pursuant to paragraph (a) of this Rule or the matching of a bid and offer pursuant to paragraph (b) of this Rule, the purchaser shall deliver to the Membership Department a certified or cashier's check in the amount of the purchase price made payable to the Exchange or complete a wire transfer in the amount of the purchase price to an Exchange account designated by the Exchange.]

### **Rule 3.14. Reserved [Sale and Transfer of Membership]**

[(a) *Sale by Owner*. The owner of a transferable membership that desires to sell the membership shall submit a written offer of sale during Seat Market Hours to the Membership Department. Each offer shall remain in effect for 6 months unless written revocation of the offer is received by the Membership Department. The Membership Department will file each offer according to the lowest price and the earliest submission date. The lowest offer with the earliest filing date will be posted on the Exchange Bulletin Board and published in the Exchange Bulletin. When an offer filed in accordance with the procedures of this paragraph (a) is matched with a bid filed in accordance with the procedures of Rule 3.13(b), neither can be changed or withdrawn. In the event that a properly filed offer is less than the highest properly posted bid, a match shall occur at the highest bid and neither can be changed or withdrawn. The owner of a membership for which an offer of sale has been matched with a bid shall, so long as the member remains in good standing and until the purchase price of the membership has been paid, continue to have all of the rights, privileges, duties, and obligations of membership.]

[(b) *Sale by Exchange*. Whenever one or more of the following conditions exist with respect to a member that is the owner or lessee of a transferable membership, the Exchange may offer the membership for sale in accordance with Rule 3.14(a):]

[(i) An individual member has died or has been declared legally incompetent, and the owner or the legal representative of the owner has failed to consummate a transfer of the membership within 6 months of the member's death or incompetence or within such extended time as may have been granted by the Exchange;]

[(ii) A member's good standing has been terminated, or has been suspended and has failed to be reinstated at the expiration of the period of suspension including any extension of such period that may have been granted by the Exchange;]

[(iii) A member organization has been dissolved, formally or informally[, and no transfer of its membership has been accomplished within 6 months of the dissolution or within such extended time as may have been granted by the Exchange.]

[(c) *Transfer by Owner*. The owner of a transferable membership may transfer the membership without adhering to the provisions contained in Rule 3.13(b) and paragraph (a) of this Rule so long as one of the following qualifying circumstances is applicable to and descriptive of the desired transfer and the transferee is approved to be an owner or lessor:]

[(i) The owner of a transferable membership (whether or not the membership is registered for a member organization) requests the transfer of the membership to the member's spouse, brother, sister, parent, child, grandparent, or grandchild;]

[(ii) The owner of a transferable membership requests the transfer of the membership to an organization which has succeeded, through statutory merger, exchange of stock, or acquisition of assets to the business of the transferor;]

[(iii) The owner of a transferable membership requests the transfer of the membership to an organization in which the transferor will maintain an interest at least equal in value to the current market price of the membership; or]

[(iv) The owner of a transferable membership requests the transfer of such membership to an individual or organization which is a partner or shareholder with a 50% or greater interest in the transferor as part or all of a distribution of the transferor.]

[(d) *Authorizations to Sell.* The owner of a transferable membership may voluntarily grant to another Exchange member an Authorization to Sell the membership. Authorizations to Sell shall be subject to the following provisions:]

[(i) An Authorization to Sell shall be effective only if it has been executed on a form prescribed by the Exchange and filed with the Membership Department.]

[(ii) A membership owner may not grant an Authorization to Sell a particular membership to more than one member.]

[(iii) The grantee of an Authorization to Sell shall have all of the authority granted under the Constitution and Rules relating to the sale of the membership that would otherwise be vested in the membership owner, including the sole authority to determine whether and when to submit an offer to sell the membership in accordance with the provisions of paragraph (a) of this Rule. Notwithstanding the foregoing, unless the following notice requirement is waived as described below, a grantee of an Authorization to Sell must (A) notify the membership owner in writing at least 3 business days prior to exercising the grantee's right to sell the membership of any decision by the grantee to exercise that right and (B) provide the Membership Department with written verification in a form and manner prescribed by the Exchange that the required notice has been provided to the membership owner. The membership owner may waive the foregoing notice requirement in a form and manner prescribed by the Exchange.]

[(iv) A membership owner that has granted an Authorization to Sell shall have no authority to direct the sale or transfer of the membership. An Authorization to Sell shall be irrevocable and may only be canceled if the grantee of the Authorization to Sell consents to its cancellation in a form and manner prescribed by the Exchange.]

[(v) When a membership owner has granted an Authorization to Sell a membership, the Exchange shall take direction solely from the grantee of the Authorization to Sell with respect to matters relating to the sale of the membership. Notwithstanding the foregoing, a membership owner and a grantee may have a written contract between them which sets forth the circumstances under which the grantee may exercise the grantee's authority to sell the membership, and any breaches of this written contract may be redressed through arbitration under Chapter XVIII of the Rules or through other means permitted by that Chapter. The membership owner and the grantee shall promptly file with the Membership Department a copy of any such contract and any amendments thereto.]

[(vi) In the event a grantee of an Authorization to Sell exercises the grantee's right to sell the membership by submitting an offer to sell the membership in accordance with the provisions of paragraph (a) of this Rule, the grantee may not be the purchaser of the membership and no bid

submitted by the grantee pursuant to Rule 3.13(b) shall be matched with the offer to sell the membership unless the membership owner consents in a form and manner prescribed by the Exchange to having the grantee be the purchaser of the membership.]

[(vii) Following the receipt by the Membership Department of an Authorization to Sell that has been granted by a member, a cancellation of the Authorization to Sell, or a contract concerning the exercise of authority under the Authorization to Sell, the Membership Department shall provide a copy of the applicable document to any Clearing Member that guarantees the member's Exchange transactions.]

[(viii) The grant of an Authorization to Sell a membership shall include the grant of a security interest (A) in any proceeds from the sale of the membership that the grantee of the Authorization to Sell is entitled to receive pursuant to Rule 3.15(b) and (B) in the membership to the extent necessary to establish the priority of the preceding security interest in such proceeds. A properly executed Authorization to Sell form that has been filed with the Membership Department shall constitute a security agreement which grants the foregoing security interest to the grantee of the Authorization to Sell. The grantee of an Authorization to Sell may act to perfect the foregoing security interest under applicable law, which may include the filing of one or more UCC-1 Financing Statements. However, failure by a grantee of an Authorization to Sell to perfect the foregoing security interest under applicable law shall not affect the rights of the grantee under the Rules. In the event of a cancellation of an Authorization to Sell pursuant to paragraph (d)(iv) of this Rule, the grantee of the Authorization to Sell shall promptly file a Termination Statement with every filing authority where UCC-1 Financing Statements were filed with respect to the Authorization to Sell. The grantee of an Authorization to Sell shall promptly file with the Membership Department a file-stamped copy of any UCC filings made with respect to the Authorization to Sell.]

[. . . *Interpretations and Policies:*]

[.01 In circumstances in which the Board of Directors deems it necessary in the interest of maintaining a fair and orderly market in transferable Exchange memberships, the Board may declare a suspension of membership purchase and sale transactions to allow for the dissemination of information deemed to be material to the value of Exchange memberships. Any such suspension shall be limited in duration to no longer than one business day. During any such suspension, any bid or offer previously submitted to the Membership Department in accordance with Rule 3.13(b) or Rule 3.14(a) may be withdrawn by the submission to the Membership Department of a written revocation of the bid or offer. No new bids or offers may be submitted during any such suspension.]

**Rule 3.15. Reserved [Proceeds from Sale of Membership]**

[(a) In the event of a sale of a membership for which no Authorization to Sell has been granted, the Exchange shall remit the sale proceeds from the sale of the membership to the member whose membership was sold promptly following receipt of the sale proceeds by the Exchange pursuant to Rule 3.13(c).]

[(b) In the event of a sale of a membership for which an Authorization to Sell has been granted:]

[(i) The grantee of the Authorization to Sell shall have 2 business days from the date of the sale to notify the Membership Department in writing of any claims the grantee has against the member whose membership was sold. Such claims shall be limited to claims that are related to the Exchange business activities of the member whose membership was sold.]

[(ii) For the purposes of this Rule, claims related to Exchange business activities shall include, but not be limited to, claims associated with Exchange transactions, securities or futures transactions other than on the Exchange that are related to Exchange transactions or positions resulting from Exchange transactions, loans or guarantees of loans for the purpose of purchasing an Exchange membership, and services provided in connection with any of the foregoing. Whether a claim is related to Exchange business activities shall be determined solely by the Exchange.]

[(iii) The written claims notification provided by the grantee of the Authorization to Sell shall be in a form prescribed by the Exchange and shall specify the amount and nature of the claims. Promptly following its receipt by the Membership Department, the Membership Department shall provide a copy of the written claims notification to the member whose membership was sold.]

[(iv) The member whose membership was sold shall have 5 business days from the date of the sale to either acknowledge or contest, in a form and manner prescribed by the Exchange, the claims set forth in the written claims notification. In the event the member whose membership was sold does not contest a claim in the written claims notification within the prescribed time period and in the manner prescribed by the Exchange for doing so, the claim shall be deemed to have been acknowledged by the member whose membership was sold.]

[(v) Promptly following the expiration of the 5 business day period under subparagraph (b)(ii) of this Rule:]

[(A) The Exchange shall remit to the grantee of the Authorization to Sell that portion of the sale proceeds applicable to claims in the written claims notification that were acknowledged by the member whose membership was sold.]

[(B) The Exchange shall escrow that portion of the remaining sale proceeds applicable to claims in the written claims notification that were contested by the member whose membership was sold.]

[(C) The Exchange shall remit to the member whose membership was sold any portion of the sale proceeds remaining after the provision for any payments and escrow under the above provisions.]

[(vi) Any portion of the sale proceeds applicable to contested claims that has been escrowed pursuant to this Rule shall remain in escrow until the grantee of the Authorization to Sell and the member whose membership was sold resolve the claims through arbitration under Chapter XVIII of the Rules or through other means permitted by that Chapter. Notwithstanding the foregoing, the Exchange may determine to release the escrowed portion of the sale proceeds to the member whose membership was sold in the event the Exchange determines that the grantee of the Authorization to Sell is not proceeding in good faith to resolve the contested claims. Escrowed

sale proceeds shall bear interest at the prevailing money market rate determined by the Exchange. The interest on the escrowed sale proceeds shall be available to contribute toward the satisfaction of the contested claims.]

[(vii) Following the resolution of any contested claims for which sale proceeds have been escrowed pursuant to this Rule, the grantee of the Authorization to Sell and the member whose membership was sold shall notify the Membership Department in a form and manner prescribed by the Exchange of the resolution of the claims. Following receipt by the Membership Department of notification of the resolution of the contested claims, the Exchange shall promptly (A) remit to the grantee of the Authorization to Sell that portion of the escrowed sale proceeds and interest thereon to which the grantee is entitled pursuant to the resolution and (B) remit to the member whose membership was sold that portion of the escrowed sale proceeds and interest thereon to which the member whose membership was sold is entitled pursuant to the resolution.]

**[. . . Interpretations and Policies:]**

[.01 It is the policy of the Exchange not to impose a transfer fee on the sale of an Exchange membership and not to remit to the member whose membership was sold any interest earned while the proceeds of the sale are held by the Exchange, except as provided in subparagraphs (b)(iv) and (b)(v) of this Rule with respect to escrowed sale proceeds.]

**Rule 3.16. Reserved [Special Provisions Regarding Chicago Board of Trade Exerciser Memberships]**

[(a) Termination of Nontransferable Memberships. A nontransferable membership acquired by a person pursuant to Paragraph (b) of Article Fifth of the Certificate of Incorporation shall terminate (i) upon receipt by the Membership Department of written notice from the person that the person is surrendering the membership or (ii) at such time that the person is no longer entitled to membership on the Exchange in accordance with Paragraph (b) of Article Fifth of the Certificate of Incorporation. Notice of each such termination shall be published in the Exchange Bulletin.]

[(b) Board of Trade Exercisers. For the purpose of entitlement to membership on the Exchange in accordance with Paragraph (b) of Article Fifth of the Certificate of Incorporation of the Exchange ("Article Fifth(b)") the term "member of the Board of Trade of the City of Chicago" (the "CBOT"), as used in Article Fifth(b), is interpreted to mean an individual who is either an "Eligible CBOT Full Member" or an "Eligible CBOT Full Member Delegate," as those terms are defined in the Agreement entered into on September 1, 1992 (the "1992 Agreement") between the CBOT and the Exchange, and in the Agreement entered into on December 17, 2003, ("the 2003 Agreement") between the CBOT and the Exchange, in the Agreement entered into on August 7, 2001, ("the 2001 Agreement") between the CBOT and the Exchange as amended and supplemented by the Letter Agreement among CBOT Holdings, Inc., CBOT and the Exchange entered into on October 7, 2004, and by the Letter Agreement among CBOT Holdings, Inc., CBOT and the Exchange entered into on February 14, 2005, as further interpreted in accordance with that certain proposed rule change filed with the Securities and Exchange Commission as File No. SR-CBOE-2002-41, and shall not mean any other person. In order to permit Eligible CBOT Full Members and Eligible CBOT Full Member Delegates to participate in an offer,

distribution or redemption of the kind referred to in the last two sentences of Paragraph 3(a) of the 1992 Agreement, and solely for such purpose, the Exchange agrees to waive all membership dues, fees and other charges and all qualification requirements, other than those that may be imposed by law, that may be applicable to the application for membership on the Exchange of each Eligible CBOT Full Member and Eligible CBOT Full Member Delegate who wishes to exercise the Exercise Right during the period commencing on the date the Exchange gives notice to the CBOT pursuant to Paragraph 3(b) of the 1992 Agreement and ending on the date such individual participates in such offer, distribution or redemption (as the case may be); provided, however, that (i) no Exerciser Member (as defined in the 1992 Agreement) for whom dues, fees and other charges and qualification requirements are waived in accordance with the foregoing shall have any rights as a member of the Exchange other than to participate in such offer, distribution or redemption, and (ii) the membership on the Exchange of each such Exerciser Member shall terminate immediately following the time such individual participates in such offer, distribution or redemption.]

### **Rule 3.17. Reserved [Leased Memberships]**

[(a) The owner of a transferable membership in good standing may lease the membership to an individual or organization, provided that the lessee is approved for membership in accordance with the Rules, the lease is made pursuant to a written lease agreement, and the lease is pre-approved by the Exchange. The Exchange shall bear no liability to a lessor or lessee in connection with the Exchange's review and approval of a lease agreement.]

[(b) A lessor of a membership shall not have any liability for claims against a lessee of that membership solely by virtue of being a lessor of the membership. Nothing in this paragraph (b) is intended to limit or define any responsibility a lessor may have for claims against a lessee by virtue of a contractual obligation or ownership relationship between the lessor and lessee beyond the lease of a membership from the lessor to the lessee.]

[(c) Each membership lease agreement must include such provisions as may be required by the Exchange and must also include provisions covering the following subjects: (i) the duration of the lease arrangement; (ii) the consideration to be paid by the lessee; (iii) the assignability of the respective interests of the lessee and lessor in the lease agreement; (iv) as between the parties, which party shall exercise the voting rights of the membership; and (v) as between the parties, which party shall provide the funds necessary to satisfy all applicable Exchange dues, fees, and other charges.]

[(d) The lessee under a lease shall promptly file the lease agreement and any amendments thereto with the Membership Department and shall promptly notify the Membership Department of any termination of the lease before the termination becomes effective.]

[(e) In the event a lessor sells or transfers a membership while it is being leased to a lessee, the purchaser or transferee of the membership shall be required to lease the membership to the lessee pursuant to the terms of the lessee's existing lease agreement with the lessor for a period of 20 business days following the date the membership is transferred to the purchaser or transferee. The purchaser or transferee may satisfy this requirement by making arrangements with another membership owner to permit the lessee to lease a membership from that membership owner for

the required time period pursuant to the terms of the lessee's existing lease agreement. The lessee may waive the requirements of this paragraph (e) in a form and manner prescribed by the Exchange. It shall be a violation of this Rule for a lessor to circumvent the requirements of this paragraph (e) by improperly terminating a membership lease prior to the sale or transfer of the membership for the purpose of avoiding the applicability of the requirements of this paragraph (e). If the Exchange determines that such a circumvention has taken place, the Exchange may impose the requirements of this paragraph (e) upon the purchaser or transferee of the membership and/or take disciplinary action against the lessor pursuant to Chapter XVII of the Rules.]

[(f) In the event a lessor sells or transfers a membership while it is being leased to a lessee, the lessor shall remit to the purchaser or transferee of the membership no later than the date the membership is transferred to the purchaser or transferee any amounts paid to the lessor by the lessee under the lease agreement for any portion of the lease period, up to 20 business days from the transfer date, during which the lessor will no longer be leasing the membership to the lessee. The lessor shall also remit to the lessee by the transfer date any amounts paid to the lessor by the lessee under the lease agreement for any portion of the lease period beyond 20 business days from the transfer date. Notwithstanding the foregoing, in the event the lessee waives the requirements of paragraph (e) of this Rule, the lessor shall remit to the lessee by the transfer date all amounts paid to the lessor by the lessee under the lease agreement for any portion of the lease period during which the lessor will no longer be leasing the membership to the lessee.]

### **Rule 3.18. Trading Permit Holders [Members] and Associated Persons Who Are or Become Subject to a Statutory Disqualification**

(a) The Exchange may determine in accordance with the provisions of this Rule not to permit a Trading Permit Holder [member] or associated person of a Trading Permit Holder [member] to continue being a Trading Permit Holder or associated with a Trading Permit Holder [in membership or association with a member], or to condition such continuance as a Trading Permit Holder or associated person [in membership or association], if the Trading Permit Holder [member] or associated person is or becomes subject to a statutory disqualification under the Exchange Act.

(b) If a Trading Permit Holder [member] or associated person of a Trading Permit Holder [member] who is or becomes subject to a statutory disqualification under the Exchange Act wants to continue being a Trading Permit Holder or associated with a Trading Permit Holder [in Exchange membership or association with a member], the Trading Permit Holder [member] or associated person must, within 10 days of becoming subject to a statutory disqualification, submit an application to the TPH [Membership] Department, in a form and manner prescribed by the Exchange, seeking to continue being a Trading Permit Holder or associated with a Trading Permit Holder [in membership or association with a member] notwithstanding the statutory disqualification. The application shall be accompanied by copies of all documents that are contained in the record of the underlying proceeding that triggered the statutory disqualification.

(c) Following the receipt of an application submitted pursuant to paragraph (b) of this Rule, or in the event the Exchange becomes aware that a Trading Permit Holder [member] or associated person of a Trading Permit Holder [member] is subject to a statutory disqualification and has

failed to submit an application pursuant to paragraph (b) of this Rule within the required time period, the Exchange shall appoint a panel composed of three Trading Permit Holders [Exchange members] to conduct a hearing concerning the matter pursuant to paragraph (f) of this Rule.

(d) No change.

(e) Any person who is the subject of a proceeding under this Rule and any Trading Permit Holder [member] or associated person of a Trading Permit Holder [member] shall promptly submit any information requested by the TPH [Membership] Department or hearing panel in connection with the proceeding.

(f) The hearing panel shall hold a hearing to determine whether to permit the Trading Permit Holder [member] or associated person of a Trading Permit Holder [member] who is the subject of a proceeding under this Rule to continue being a Trading Permit Holder or associated with a Trading Permit Holder [in membership or association with a member], and if so, whether to condition such continuance as a Trading Permit Holder or associated person [in membership or association]. The hearing shall be held 14 or more days following the receipt of an application, or the initiation of a proceeding, pursuant to paragraph (c) of this Rule. The Exchange shall notify the subject of the proceeding in writing of the date, time, and location of the hearing. Both the subject of the proceeding and Exchange staff will be afforded an opportunity to present relevant information, arguments, and witnesses during the hearing. The hearing panel shall regulate the conduct of the hearing, and formal rules of evidence shall not apply. The subject of the proceeding shall be required to attend the hearing, and the TPH [Membership] Department or hearing panel may require any Trading Permit Holder [member] or associated person of a Trading Permit Holder [member] to testify at the hearing. A verbatim record of the hearing shall be kept.

(g) – (h) No change.

(i) No determination to discontinue or condition a person[’s] as a Trading Permit Holder or associated person [membership or association with a member] pursuant to this Rule shall take effect until the review procedures under paragraph (h) of this Rule have been exhausted or the time for review has expired.

*... Interpretations and Policies:*

**.01** The Exchange may waive the provisions of this Rule when a proceeding is pending before another self-regulatory organization to determine whether to permit an associated person of a Trading Permit Holder [member] to continue being a Trading Permit Holder or associated [in membership or association] with the Trading Permit Holder [member] notwithstanding a statutory disqualification. In the event the Exchange determines to waive the provisions of this Rule with respect to a Trading Permit Holder [member] or associated person, the Department of Financial and Sales Practice Compliance shall determine whether the Exchange will concur in any Exchange Act Rule 19h-1 filing made by another self-regulatory organization with respect to the associated person.

**.02** If an associated person of a Trading Permit Holder [member] is or becomes subject to a statutory disqualification under the Exchange Act, the Trading Permit Holder [member] shall

immediately provide written notice to the TPH [Membership] Department of the name of the associated person, the person's capacity with the Trading Permit Holder [member], and the nature of the statutory disqualification.

**.03** In those instances where Exchange Act Rule 19h-1(a)(2) does not require the Exchange to make a notice filing with the Commission to permit an associated person to continue in association with a Trading Permit Holder [member], and where the Exchange intends to grant the associated person's application for continued association, the Exchange may waive the hearing provisions of Rule 3.18(c) with respect to that associated person.

### **Rule 3.19. Termination from Trading Permit Holder Status [Membership]**

The Trading Permit Holder [membership] status of a Trading Permit Holder [member] shall automatically terminate at such time that the Trading Permit Holder [member] does not [either] possess a Trading Permit [membership through ownership, lease, or registration of a membership to the member or hold a CBOE Stock Exchange Permit or an Interim Trading Permit]. The Trading Permit Holder status [membership] of a TPH [member] organization shall also automatically terminate at such time that the TPH [member] organization has no nominee [or person who has registered his or her membership for the member organization]. Notwithstanding the foregoing, if the Exchange determines that there are extenuating circumstances, the Exchange may permit a Trading Permit Holder [member] to retain the Trading Permit Holder's [member's] Trading Permit Holder [membership] status for such period of time as the Exchange deems reasonably necessary to enable the Trading Permit Holder [member] to obtain a Trading Permit [membership, a CBOE Stock Exchange Permit (subject to the requirements in Rule 3.26), an Interim Trading Permit (subject to the requirements in Rule 3.27),] or a substitute nominee[, or a substitute person to register his or her membership for the member, as applicable].

#### **[... *Interpretations and Policies:*]**

**[.01** If the proposed merger between Chicago Mercantile Exchange Holdings, Inc. and CBOT Holdings, Inc. ("CME/CBOT Transaction"), the parent company of the Board of Trade of the City of Chicago, Inc. ("CBOT"), is consummated and if such consummation occurs before the Securities and Exchange Commission ("Commission") takes final action on SR-CBOE-2006-106, a person who is a member of CBOE (an "exerciser member") pursuant to paragraph (b) of Article Fifth of the CBOE Certificate of Incorporation ("Article Fifth(b)") as of July 1, 2007, will be granted temporary membership status at the Exchange, until the Commission takes final action on SR-CBOE-2006-106, if and only if such person (i) remains an exerciser member in good standing as of the close of business on the trading day immediately before the consummation of the CME/CBOT Transaction, (ii) thereafter remains in good standing and continues to pay all applicable fees, dues, assessments and other like charges that are assessed against CBOE members, and (iii) pays to the Exchange, for each month starting in the second month after the CME/CBOT Transaction is consummated, a monthly access fee set by the Exchange. Such access fee shall be due and payable in accordance with the provisions of the Exchange Fee Schedule. All such access fees shall be payable to and held in an interest-bearing escrow account maintained by the Exchange until the Commission takes final action on SR-CBOE-2006-106. The Exchange will retain such fees if the Commission approves SR-CBOE-2006-106, and such fees will be returned to the payor, with interest, if the Commission

disapproves SR-CBOE-2006-106. The temporary membership status granted pursuant to this paragraph shall be subject to the regulatory jurisdiction of CBOE under the Act, the Constitution and the Rules, including CBOE's disciplinary jurisdiction under Chapter XVII.]

[.02 A person ("Temporary Member") who has been granted temporary membership ("Temporary Membership") status at the Exchange pursuant to Interpretation and Policy .01 of this Rule 3.19 shall continue in that Temporary Membership status after the Commission's approval of SR-CBOE-2006-106, if and only if such person (i) has not previously terminated that Temporary Membership status and remains in good standing as of the close of business on the trading day immediately before the date of that approval, (ii) thereafter remains in good standing and continues to pay all applicable fees, dues, assessments and other like charges that are assessed against CBOE members, and (iii) pays to the Exchange a monthly access fee set by the Exchange, which shall be due and payable in accordance with the provisions of the Exchange Fee Schedule. Such access fee shall be paid directly to the Exchange and shall not be escrowed. The Temporary Membership status granted to a Temporary Member pursuant to this Interpretation and Policy .02 shall terminate upon the earlier of (i) the voluntary termination of that Temporary Membership status by the Temporary Member, (ii) the approval by the Commission of a further proposed rule change that provides for the termination of that status and the granting of trading permits or another form of trading access to Temporary Members, or (iii) the consummation of a transaction pursuant to which either CBOE is converted into a stock corporation or memberships in CBOE are converted into stock. Temporary Members shall be subject to the regulatory jurisdiction of CBOE under the Act, the Constitution and the Rules, including CBOE's disciplinary jurisdiction under Chapter XVII.]

### **Rule 3.20. Dissolution and Liquidation of TPH [Member] Organizations**

Every TPH [member] organization shall promptly provide written notice to the Department of Financial and Sales Practice Compliance and to the TPH [Membership] Department of any adoption of a plan of liquidation or dissolution of the TPH [member] organization and of any actual liquidation or dissolution of the TPH [member] organization. Upon receipt of such a notice, the Trading Permit Holder [member] may be suspended in accordance with Chapter XVI of the Rules.

### **Rule 3.21. Obligations of Terminating Trading Permit Holders [Members]**

Each terminating Trading Permit Holder [member] shall promptly (i) return to the Exchange all Exchange badges, including trading and access badges, that were issued to the Trading Permit Holder [member] by the Exchange with respect to that Trading Permit Holder's [member's] terminating Trading Permit Holder [membership] status, (ii) make any outstanding filings required under Exchange rules, and (iii) pay any outstanding [dues,] fees, assessments, charges, fines, or other amounts due to the Exchange, the Securities and Exchange Commission, or the Securities Investor Protection Corporation.

### **Rule 3.22. Reserved [Temporary Access]**

[Reserved.]

### **Rule 3.23. Integrated Billing System**

Every Trading Permit Holder [member, other than members that are approved to act solely as lessors,] must designate a Clearing Trading Permit Holder [Member] for the payment of the Trading Permit Holder's [member's] Exchange invoices and vendor invoices for Exchange-related services designated by the Exchange by means of the Exchange's integrated billing system ("IBS"). The designated Clearing Trading Permit Holder [Member] shall pay to the Exchange on a timely basis any amount that is not disputed pursuant to IBS procedures by the Trading Permit Holder [member] who is directly involved. Such payments shall be drafted by the Exchange against the designated Clearing Trading Permit Holder's [Member's] account at the Clearing Corporation. The Clearing Corporation shall have no liability in connection with its forwarding to the Exchange each month a check representing the total amount that the Exchange advises the Clearing Corporation is owed to the Exchange.

### **Rule 3.24. Reserved [Member Death Benefit]**

[(a) Upon the death of an individual who is eligible for the Member Death Benefit, the Exchange shall pay the Member Death Benefit to the beneficiary designated by such individual in a filing made with the Membership Department in a form and manner prescribed by the Exchange.]

[(b) The following individuals shall be eligible for the Member Death Benefit:]

[(i) any individual who is an active member at the time of his or her death; and]

[(ii) any individual who (i) was an active member within 90 days prior to the date of his or her death and (ii) was an active member during at least 274 out of the 365 days preceding the date of his or her last termination from active member status.]

[(c) For the purposes of this Rule, the term "active member" shall mean any individual member who is a nominee of a member organization, a Chicago Board of Trade exerciser, a lessee of an Exchange membership, an individual who is holder of an Interim Trading Permit or an owner of an Exchange membership that is not being leased to a lessee.]

[(d) In no event shall more than one Member Death Benefit be paid by reason of the death of an individual who is eligible to receive the Member Death Benefit.]

[(e) The Member Death Benefit shall be \$50,000.]

[(f) In the event that the Exchange pays a Member Death Benefit, the Exchange shall assess each active member at the time of the assessment an amount equal to \$50,000 divided by the number of active members at the time of the assessment.]

### **Rule 3.25. Reserved [Transfer of Individual Membership in Trust]**

[An individual member in good standing who owns a membership may transfer the membership in trust, subject to each of the following conditions:]

[(a) Subject to paragraph (b) of this Rule, the member transferring a membership in trust (the "Trust Member"), during the member's lifetime, shall be the sole trustee and sole beneficiary of the trust. The Trust Member shall remain personally responsible for all obligations and liabilities associated with the membership and its use, and the membership shall remain subject to all of the Rules of the Exchange.]

[(b) The trust must be a living trust. The terms of the trust shall provide that in the event the Trust Member dies, is declared legally incompetent, or is in any condition that substantially impairs the Trust Member's ability to transact ordinary business (is "disabled"), as certified in a written opinion furnished to the Exchange by the Trust Member's physician who has personally examined or treated the Trust Member, a legally qualified individual or institution may be appointed as successor trustee for the sole purpose of transferring the membership in accordance with the Rules, subject to the right of the Exchange to offer the membership for sale in accordance with Rule 3.14(b)(i). Notwithstanding the foregoing, the terms of the trust may authorize the successor trustee to continue to hold the membership in trust for the benefit of the Trust Member during any period when the Trust Member is declared legally incompetent or is disabled so long as the membership is leased for that period in accordance with the requirements of Rule 3.17. Furthermore, the trust shall provide that the Exchange shall bear no liability for any actions taken or omitted by the Trust Member or any successor trustee in respect of the administration of the trust or the management of trust assets.]

[(c) A membership held in trust may be transferred during the lifetime of the Trust Member or at the Trust Member's death in accordance with the provisions of Rule 3.14(c)(i) and may also be transferred during the lifetime of the Trust Member in accordance with the provisions of Rule 3.14(c)(iii). Additionally, an Authorization to Sell may be granted with respect to a membership held in trust, in which case the provisions of Rule 3.14(d) and Rule 3.15(b) shall be applicable, and a membership held in trust may be sold in accordance with the provisions of Rule 3.14 and Rule 3.15.]

[(d) A membership held in trust may also be transferred to the Trust Member to be held directly and not in trust.]

[(e) A member desiring to transfer a membership into trust must submit to the Membership Department, in a form and manner prescribed by the Exchange, an application to transfer the membership into trust, a copy of the trust agreement reflecting the foregoing requirements, and the certification of the attorney who prepared the trust agreement that it conforms to the requirements of this Rule. The Exchange may disapprove the transfer if it finds the trust agreement fails to satisfy the requirements of this Rule by written notice of such disapproval sent to the member proposing the transfer.]

[(f) After the transfer of a membership into trust has been approved by the Exchange, the Trust Member must promptly submit to the Membership Department any amendments to the trust agreement and must promptly notify the Membership Department in writing of any changes in the information set forth in the application to transfer the membership into trust, any changes in successor trustee, any release of the membership out of trust, and any termination of the trust. In the event that the membership is released from the trust, the trust terminates, or the trust agreement is amended so that it no longer complies with the requirements of this Rule, the

Exchange shall deem the membership to have reverted to the Trust Member to be held directly and not in trust.]

**Rule 3.26. Reserved [CBOE Stock Exchange (CBSX) Permit Program]**

[(a) Generally. The Exchange shall issue up to 100 trading permits ("CBSX Permits") that confer the ability to transact on CBSX without the necessity of acquiring a regular Exchange membership through purchase, lease, or otherwise.]

[(b) Qualification Requirements and Approval. The following requirements must be satisfied (in lieu of the regular application process for Exchange membership) in order to be eligible for a CBSX Permit:]

[(i) the CBSX Permit holder must (A) be registered as a broker-dealer pursuant to Section 15 of the Exchange Act; (B) complete a CBSX Permit application; and (C) pay the applicable CBSX Permit application fees.]

[(ii) If the CBSX Permit holder intends to transact business with the public, it must obtain approval to transact business with the public pursuant to Rule 9.1 or be approved to transact business with the public by another national securities exchange or national securities association which has requirements that the Exchange deems comparable to the Exchange's requirements to transact business with the public.]

[(iii) Regular members are not eligible for CBSX Permits.]

[Upon satisfaction of the above requirements, the Exchange will determine whether to issue a permit to the applicant. If there are fewer available CBSX Permits than qualified applicants, the Exchange will determine which of the applicants to approve by lot. Applicants that are affiliated shall be deemed one applicant in cases where there are fewer available CBSX Permits than qualified applicants.]

[(c) Privileges. CBSX Permit holders have full trading privileges on CBSX. CBSX Permit holders are not entitled to trade options on the Exchange or to enter option trading crowds on the Exchange's trading floor. Except as provided in this Rule and Sections 2.1(d) and 2.6 of the Constitution, except for purposes of Article Fifth(b) and Article Tenth of the Certificate of Incorporation and Sections 4.1(a) and 6.1(a) of the Constitution, and notwithstanding any references in the Rules suggesting that CBSX Permit holders are members under the Rules, CBSX Permit holders are treated the same as members for purposes of the Certificate of Incorporation, Constitution, and Rules. An organization that holds a CBSX Permit or that has a CBSX Permit registered for it shall be treated the same as a "member organization" for purposes of the Rules.]

[(d) Obligations.]

[(i) A CBSX Permit holder and its associated persons shall comply with and be subject to Exchange Rules to the same extent that Exchange members and their associated persons are obligated to comply with and are subject to Exchange Rules. Without limiting the generality of the foregoing, a CBSX Permit holder and its associated persons shall be subject to the

disciplinary, appeals, and arbitration jurisdiction and rules of the Exchange and entitled to the procedural rights under those rules to the same extent that Exchange members and their associated persons are subject to such jurisdiction and rules and entitled to such procedural rights.]

[(ii) A CBSX Permit holder shall pay the CBSX Permit fee established by the Exchange as well as any Exchange transaction and service fees which are assessed to Exchange members that are applicable to the CBSX Permit holder's activities on CBSX.]

[(e) Limitations.]

[(i) A CBSX Permit holder shall have the same voting and petition rights as regular members except that a CBSX Permit holder shall have no right to vote or petition on (1) issues that relate to Exchange ownership matters, specifically those matters related to demutualization, mergers, consolidations, dissolution, liquidation, transfer, or conversion of assets of the Exchange, and (2) matters that relate to the Chicago Board of Trade exercise right provided for under Article Fifth(b) of the Certificate of Incorporation. The holding of a CBSX Permit does not satisfy the requirement in Section 6.1(a) of the Constitution to own and control a membership for purposes of the definitions of floor director and lessor director in that section.]

[(ii) CBSX Permit holders shall have no interest in the assets or property of the Exchange, and shall have no right to share in any distribution by the Exchange.]

[(iii) CBSX Permits are non-transferable.]

[(iv) The number of CBSX Permits shall not exceed 100.]

[(v) CBSX Permits expire every October. CBSX Permits may, however, be renewed without interruption upon completion of a renewal application and approval by the Exchange, unless the Exchange determines to terminate the CBSX Permit Program.]

### **Rule 3.27 – Reserved [Interim Trading Permits]**

[(a) General. The Exchange shall have the authority to issue up to 50 Interim Trading Permits, which shall be subject to the terms and conditions in paragraphs (c) - (h) of this Rule 3.27.]

[(b) Issuances of Interim Trading Permits. The Exchange may issue one or more Interim Trading Permits in accordance with the procedures set forth in this paragraph. The Exchange may issue an Interim Trading Permit pursuant to this paragraph only if it determines in its sole discretion that there are insufficient transferable Exchange memberships available for lease at that time at a rate reasonably related to the indicative lease rate to meet existing demand for such leases, and that it would be in the interest of fair and orderly markets to provide additional trading access under the circumstances. The "indicative lease rate" shall be the highest clearing firm floating monthly rate of the Clearing Members that assist in facilitating at least 10% of the transferable membership leases. The "clearing firm floating monthly rate" shall be the floating rate that a Clearing Member designates, in connection with transferable membership leases that the Clearing Member assisted in facilitating, for leases that utilize that monthly rate.

In the event the Exchange determines to issue Interim Trading Permits pursuant to this paragraph, the Exchange shall announce the number of Interim Trading Permits that the Exchange determines to make available, that the Exchange is taking applications for such permits, the process the Exchange will follow in issuing such permits, and the beginning and ending dates during which period of time individuals and organizations must submit applications for such permits. An individual or organization must be approved and satisfy all requirements for membership in the Exchange to be eligible to apply for an Interim Trading Permit to be issued pursuant to this paragraph. An individual will be eligible to receive no more than one Interim Trading Permit in connection with an issuance of Interim Trading Permits pursuant to this paragraph, with a maximum of eight such permits for a member organization and individuals and member organizations affiliated with that member organization in connection with that issuance. Each issuance of Interim Trading Permits pursuant to this paragraph shall occur in accordance with one of the following processes:

(i) Random Lottery Process. After the deadline for applications has passed, the Exchange through a random lottery process shall issue a number of Interim Trading Permits to applicants equal to the number of Interim Trading Permits that the Exchange announced it would make available.

(ii) Order in Time Process. After the deadline for applications has passed, the Exchange shall issue an Interim Trading Permit to each applicant who applied for such a permit in the order in time that such applicant applied, until the number of Interim Trading Permits that the Exchange announced it would make available have been issued.

(iii) Other Process. The Exchange shall have the authority to modify the processes described in subparagraphs (b)(i) and (b)(ii) of this Rule 3.27 or to establish any other process to issue Interim Trading Permits pursuant to a rule filing submitted to the Commission under Section 19(b) of the Act.]

[(c) Duration of Interim Trading Permits. An Interim Trading Permit issued pursuant to this Rule 3.27 shall remain in effect until the earlier of one of the following events: (i) a transaction is consummated pursuant to which either the Exchange is converted into a stock corporation or memberships in the Exchange are converted into stock, (ii) the holder of the Interim Trading Permit notifies the Exchange in a form and manner prescribed by the Exchange that the holder is terminating that Interim Trading Permit, (iii) the Interim Trading Permit is terminated as a result of a regulatory action by the Exchange, or (iv) the Exchange terminates all Interim Trading Permits through a rule filing submitted to, and approved by, the Commission pursuant to Section 19(b) of the Act. A holder of an Interim Trading Permit that fails to notify the Exchange that the holder is terminating that Interim Trading Permit by the fifteenth day of the month shall be required to pay to the Exchange an amount equal to the following month's monthly access fee for an Interim Trading Permit. If an Interim Trading Permit is terminated, the Exchange may reissue that permit under the circumstances and subject to the provisions of paragraph (b) of this Rule 3.27.]

[(d) Transfer to Leases. To the extent that one or more lessors notify the Exchange that they have transferable Exchange memberships available for lease ("open leases") at a rate reasonably related to the indicative lease rate as determined by the Exchange in its sole discretion, the

Exchange shall endeavor to facilitate the transfer of Interim Trading Permit holders to those open leases. In the event the Exchange receives such a notification, the Exchange shall notify each Interim Trading Permit holder of the number of open leases and the names of the lessors with those open leases. As part of that notification by the Exchange, the Exchange will advise each Interim Trading Permit holder that the holder may contact those lessors if the holder is interested in transferring to an open lease. If, after a reasonable period of time following this process, such a lessor notifies the Exchange that the lessor continues to have an open lease, the Exchange shall compensate that lessor through a monthly payment equal to the indicative lease rate, provided that lessor is offering for lease the transferable membership subject to the open lease at a rate reasonably related to the indicative lease rate as determined by the Exchange in its sole discretion. If the indicative lease rate changes, the Exchange may modify that monthly payment from time to time so that the payment is equal to that rate. In the event the Exchange compensates such a lessor, the Exchange shall not enter into, nor be deemed to have entered into, a lease or other agreement with that lessor, and shall have no rights with respect to that lessor's membership, including without limitation the right to trade on the Exchange or the right to vote. That lessor may at any time thereafter lease that membership to any qualified individual or organization and shall notify the Exchange in the event of such a lease. The Exchange shall cease compensating that lessor if it receives such a notification or otherwise learns that lessor has leased that membership, and may recoup from that lessor any compensation paid pursuant to this paragraph to that lessor for any period of time during which that lessor has leased that membership. The Exchange also may cease compensating that lessor if the Exchange learns an offer to lease that membership at a rate reasonably related to the indicative lease rate, as determined by the Exchange in its sole discretion, has been declined by that lessor. Notwithstanding the foregoing, in the event that the number of lessors receiving compensation pursuant to this paragraph becomes greater than the number of outstanding Interim Trading Permits, the Exchange shall compensate each such lessor, on a monthly basis, in an amount equal to the current indicative lease rate as determined by the Exchange in its sole discretion times the number of holders of such permits divided by the number of such lessors. The Exchange shall cease compensating such lessors pursuant to this paragraph during any period when there are no Interim Trading Permits currently outstanding.]

[(e) Privileges.

(i) An Interim Trading Permit provides the same trading privileges on the Exchange as a transferable Exchange membership, including the right to trade on the CBOE Stock Exchange (CBSX) and, as provided in Rule 3.29, the trading rights on the Exchange necessary to become a member of OneChicago, LLC. Except as provided in this Rule and Sections 2.1(c) and 2.6 of Article II of the Constitution, except for purposes of Article Fifth(b) and Article Tenth of the Certificate of Incorporation and Section 4.1(a) of Article IV and Section 6.1(a) of Article VI of the Constitution, and notwithstanding any references in the Rules suggesting that Interim Trading Permit holders are members under the Rules, Interim Trading Permit holders in good standing are treated the same as members for purposes of the Certificate of Incorporation, Constitution, and Rules. An organization that holds an Interim Trading Permit or that has an Interim Trading Permit registered for it shall be treated the same as a "member organization" for purposes of the Rules. Except as provided in the Constitution, an Interim Trading Permit holder will be eligible to serve on any Exchange committee to the same extent that a member can serve on that committee.

(ii) If the Exchange is converted into a stock corporation or if memberships in the Exchange are converted into stock, each holder of an Interim Trading Permit as of the consummation of such transaction shall be entitled to receive a trading permit on the same terms as the holder of a transferable Exchange membership who is eligible to receive a trading permit in connection with that transaction.]

[(f) Obligations.

(i) An Interim Trading Permit holder and all of its associated persons shall comply with, and be subject to, Exchange Rules to the same extent that holders of transferable Exchange memberships and all of their associated persons are obligated to comply with, and are subject to, Exchange Rules. Without limiting the generality of the foregoing, an Interim Trading Permit holder and all of its associated persons shall be subject to the disciplinary, appeals, and arbitration jurisdiction and Rules of the Exchange and shall be entitled to the procedural rights under those rules to the same extent that holders of transferable Exchange memberships and all of their associated persons are subject to such jurisdiction and Rules and are entitled to such procedural rights.

(ii) An Interim Trading Permit holder shall remain in good standing and continue to pay all applicable fees, dues, assessments and other like charges that are assessed against Exchange members. An Interim Trading Permit holder shall pay to the Exchange a monthly access fee set by the Exchange. Such access fee shall be due and payable in accordance with the provisions of the Exchange Fee Schedule and shall be the same for all Interim Trading Permit holders. The Exchange shall file a proposed rule change with the Commission under Section 19(b)(3)(A) of the Act to implement the monthly access fee. The Exchange also shall file a proposed rule change with the Commission under Section 19(b)(3)(A) of the Act any time it adjusts that fee.]

[(g) Limitations.

(i) An Interim Trading Permit holder shall have the same voting and petition rights as regular members, except that an Interim Trading Permit holder shall have no right to vote or petition on (1) issues that relate to Exchange ownership matters, including without limitation those matters related to demutualization, mergers, consolidations, dissolution, liquidation, transfer, or conversion of assets of the Exchange, or (2) matters that relate to the exercise right provided for under Article Fifth(b) of the Certificate of Incorporation.

(ii) Interim Trading Permit holders shall have no interest in the assets or property of the Exchange, and shall have no right to share in any distribution by the Exchange.

(iii) Interim Trading Permits are non-transferable, except that in a form and manner prescribed by the Exchange (1) a member organization may change the designation of the nominee in respect of each Interim Trading Permit it holds, and (2) an individual Interim Trading Permit holder at any time after the issuance of that Interim Trading Permit may transfer that Interim Trading Permit to a member organization with which such individual is then associated.]

[(h) Conforming changes.

(i) (A) An Interim Trading Permit shall count as one membership for purposes of the Participation Entitlement provisions in Rule 6.45A(a)(i)(C)(1) and Rule 6.45B(a)(ii)(C)(1), except that an Interim Trading Permit shall not satisfy the requirement in Rule 8.85(e) referenced in those provisions that a DPM own at least one membership.

(B) An Interim Trading Permit shall count as one membership for purposes of the appointment costs provisions in Rule 8.3(c)(v), Rule 8.85(e) and Rule 8.92(d), except that an Interim Trading Permit shall not satisfy the requirements in Rule 8.85(e) and Rule 8.92(d) that a DPM or an e-DPM own at least one membership.

(C) An Interim Trading Permit shall be treated as a separate membership for purposes of the pilot programs referenced in Rule 8.3(c)(vii)(1), Rule 8.3(c)(vii)(2), Rule 8.855(a)(v), Rule 8.93(vii), and subparagraph (b)(viii) of the Guidelines for Exemptive Relief Under Rule 8.91(e) for Members Affiliated with DPMs.

(D) An individual Interim Trading Permit holder may satisfy the qualification requirements to be a DPM Designee or SBT DPM Designee as set forth in Rule 8.81(b)(ii) and Rule 44.11(b)(2) by registering the Interim Trading Permit for a DPM or SBT DPM or an affiliate of the DPM or SBT DPM. In addition, a DPM may satisfy the requirement in Rule 8.81(d) by having DPM Designees who have registered their Interim Trading Permits for the DPM.

(ii) An individual Interim Trading Permit holder shall have the same ability to register that Interim Trading Permit for a member organization as the holder of a transferable Exchange membership has to register that membership for a member organization under Rule 3.8(c). An Interim Trading Permit holder whose Interim Trading Permit is registered for a member organization shall be subject to the same obligations as an individual member whose transferable Exchange membership is registered for a member organization. All rules that apply to an individual member registering a membership for a member organization or that apply to a member organization that has a membership registered for it shall also be deemed to apply both to an individual Interim Trading Permit holder who has registered an Interim Trading Permit for a member organization and to a member organization that has an Interim Trading Permit registered for it.

(iii) The holding of an Interim Trading Permit does not satisfy the requirement in Section 6.1(a) of the Constitution to own and control a membership for purposes of the definitions of floor director and lessor director in that section.]

### **Rule 3.28 – Letter Of Guarantee**

Each Trading Permit Holder [member] with trading functions on the Exchange shall provide a letter of guarantee for the Trading Permit Holder's [member's] trading activities on the Exchange from a Clearing Trading Permit Holder [Member] in a form and manner prescribed by the Exchange.

### **Rule 3.29 Membership in OneChicago, LLC**

Each Trading Permit Holder [member] with trading rights on the Exchange is a member of OneChicago, LLC, and to the extent provided in OneChicago rules, becomes bound by OneChicago rules and subject to jurisdiction of OneChicago by accessing or entering any order into the OneChicago System.

### **Rule 3.30. Extension of Time Limits**

Any time limit imposed on an applicant, Trading Permit Holder [member], or other person under this Chapter may be extended by the Exchange in the event that the Exchange determines that such an extension is warranted due to extenuating circumstances.

### **Rule 3.31. Reserved**

### **Rule 3.32. Ownership Concentration and Affiliation Limitation**

(a) Concentration Limitation. For purposes of this paragraph (a), and unless the context otherwise requires, the terms "Affiliate", "Share", and "Percentage Interest" shall have the same meaning specified in the CBOE Stock Exchange, LLC ("CBSX LLC") Operating Agreement. For as long as CBSX LLC operates as a facility of the Exchange, no Trading Permit Holder [member of the Exchange], either alone or together with its Affiliates, at any time, may own, directly or indirectly, of record or beneficially, an aggregate amount of Shares that would result in a greater than twenty percent (20%) Percentage Interest in CBSX LLC (the "Concentration Limitation").

(b) Without prior Commission [SEC] approval, the Exchange or any entity with which it is affiliated shall not directly acquire or maintain an ownership interest in a Trading Permit Holder [an Exchange member]. In addition, without prior Commission [SEC] approval, no Trading Permit Holder [Exchange member] shall be or become affiliated with (i) the Exchange or (ii) any affiliate of the Exchange. Nothing herein shall prohibit a Trading Permit Holder [member] from (i) acquiring or holding an equity interest in the CBSX LLC that is permitted by the Concentration Limitation contained in paragraph (a) of this Rule or an equity interest in CBOE Holdings, Inc. that is permitted by the CBOE Holdings, Inc. Certificate of Incorporation; or (ii) being affiliated with OneChicago, LLC, provided that the Exchange's proportionate share of OneChicago, LLC's gross revenues does not exceed 5% of the Exchange's gross revenues.

(c) Disciplinary Action. A Trading Permit Holder [member] shall have 180 days to cure an inadvertent violation of paragraph (a) of this Rule. In the event such violation is not cured during such time, the Trading Permit Holder [member] shall have all trading rights and privileges suspended on CBSX LLC, and shall also be subject to any appropriate disciplinary action, including action for the failure of such Trading Permit Holder [member] to enter into the CBSX LLC Operating Agreement.

\* \* \* \* \*

### **Rule 8.3. Appointment of Market-Makers**

(a)(i) No change.

(ii) In the event a Market-Maker is a nominee of a TPH [member] organization [or has registered the Market-Maker's membership for a member organization], the TPH [member] organization with which the Market-Maker is associated can request that the Exchange deem all class appointments be made to the TPH [member] organization instead of to the individual Market-Maker. If such a request is made, the individual Market-Maker will continue to have all of the obligations of a Market-Maker under Exchange rules, except that the submission of electronic quotations and orders will be made by and on behalf of the TPH [member] organization with which the individual Market-Maker is associated.

(b) No change.

(c) Market-Maker Appointments. Absent an exemption by the Exchange, an appointment of a Market-Maker confers the right to quote electronically and in open outcry in the Market-Maker's appointed classes as described below. Subject to paragraph (e) below, a [A] Market-Maker may change its appointed classes upon advance notification to the Exchange in a form and manner prescribed by the Exchange.

(i) Hybrid Classes. Subject to paragraphs (c)(iv) and (e) below, a Market-Maker can create a Virtual Trading Crowd ("VTC") appointment, which confers the right to quote electronically in an appropriate number of Hybrid classes (as defined in Rule 1.1(aaa)) selected from "tiers" that have been structured according to trading volume statistics. All classes within a specific tier will be assigned an "appointment cost" depending upon its tier location. The following table sets forth the tiers and related appointment costs.

\* \* \* \* \*

(ii) Open Outcry. A Market-Maker has an appointment to trade open outcry in all Hybrid classes traded on the Exchange. A TPH [member] organization that is registered as a Market-Maker may only trade in open outcry through one of its nominees. A Market-Maker must be physically present in the trading crowd to trade in open outcry.

(iii) Hybrid 3.0 Classes. In addition to paragraphs (i) and (ii) above, and subject to paragraphs (c)(iv) and (e) below, a Market-Maker can select as the Market-Maker's appointment one or more Hybrid 3.0 classes traded on the Exchange, which confers the right to trade in open outcry in an appropriate number of Hybrid 3.0 classes as described below. Each Hybrid 3.0 class will be assigned an "appointment cost", which are set forth below.

\* \* \* \* \*

(iv) Each Trading Permit [membership] held [owned or leased] by a Market-Maker has an appointment credit of 1.0. A Market-Maker may select for each Trading Permit [Exchange membership] the Market-Maker holds [owns or leases] any combination of Hybrid classes and Hybrid 3.0 classes, whose aggregate appointment cost does not exceed 1.0. The Exchange will rebalance the tiers (excluding the "AA" and "A+" tiers) set forth in subparagraph (i) above once each calendar quarter, which may result in additions or deletions to their composition. When a class changes tiers it will be assigned the appointment cost of that tier. Upon rebalancing, each Market-Maker with a VTC appointment will be required to hold [own or lease] the appropriate

number of Trading Permits [Exchange memberships] reflecting the revised appointment costs of the Hybrid classes constituting the Market-Maker's appointment.

(v) No change.

(vi) Except as provided below, a Market-Maker may not hold an appointment and submit electronic quotations in any class in which an affiliated DPM or e-DPM is appointed, or in which an affiliated Market-Maker holds an appointment and submits electronic quotations.

(1) As part of a pilot program until March 14, 2009, an e-DPM, Off-Floor DPM or Off-Floor LMM can have one affiliated Market-Maker trade on CBOE's trading floor and submit electronic quotations in any specific option class allocated to the e-DPM, Off-Floor DPM or Off-Floor LMM, provided such affiliated Market-Maker trades on a separate Trading Permit [membership] and is present in the trading crowd (see Rules 8.15A.01(c) 8.85(a)(v) and 8.93(vii));

(2) As part of a pilot program until March 14, 2009, a Market-Maker may have one affiliated Market-Maker trade in open outcry and submit electronic quotations in any specific option class in which the Market-Maker holds an appointment, provided such affiliated Market-Maker trades on a separate Trading Permit [membership] and is present in the trading crowd;

(3) No change.

(4) A Trading Permit Holder or TPH organization [CBOE member or member firm] may have, as part of a pilot program until March 14, 2009, multiple aggregation units operating as separate Market-Makers within the same class provided:

(A) The Trading Permit Holder or TPH organization [member or member firm] has a written plan of organization that identifies each aggregation unit, specifies its trading objective(s), and supports its independent identity. The independence of aggregation units may be evidenced by separate management structures, location, business purpose, or separate profit-and-loss treatment within the TPH organization [member firm]. Each aggregation unit must maintain all trading activity of that aggregation unit in a segregated account, which shall be reported to the Exchange as such.

(B) Each aggregation unit must operate independently of other aggregation units of the Trading Permit Holder or TPH organization [member or member firm]. Moreover, all traders in an aggregation unit may pursue only the trading objectives or strategies of that aggregation unit and may not transmit or otherwise share information relating to those trading objectives or strategies to the Trading Permit Holder's or TPH organization's [member's or member firm's] other aggregation units. The Trading Permit Holder or TPH organization [member or member firm] may have risk management personnel outside of the Market-Maker aggregation units view the positions of the multiple Market-Makers within the entity and direct position adjustments for risk management purposes. However, such persons may not transmit information to traders in an Market-Maker aggregation unit about the trading strategies, objectives, or positions of another Market-Maker aggregation unit.

Senior risk management personnel are prohibited from engaging in any of the following activities with respect to the Aggregation Units for which they oversee: (i) establishing quoting

parameters for any trader including but not limited to delta and volatility values; (ii) directing the submission of specific quotes by any trader; or (iii) directing the timing of a trader's trading activities with anything other than general, nonspecific timeframes. Prior to being approved in a Market-Maker capacity, each Trading Permit Holder or TPH organization [member or member organization] operating multiple Aggregation Units will be required to certify that it is aware of these prohibitions, that it will comply with these prohibitions, and that it will ensure continued compliance with these prohibitions.

(C) No change.

(D) The Trading Permit Holder or TPH organization [member or member firm] as part of its compliance and/or internal audit routines establishes and maintains surveillance and audit procedures that facilitate the review and surveillance programs of the firm and CBOE to ensure the independent operation of the separate aggregation units operating as Market-Makers. As part of these routines, the Trading Permit Holder or TPH organization [member or member firm] must retain written records of information concerning the aggregation units, including, but not limited to, trading personnel, names of personnel making trading decisions, unusual trading activities, disciplinary action resulting from a breach of the Trading Permit Holder's or TPH organization's [member or member firm's] systems firewalls and information-sharing policies, and the transfer of securities between the Trading Permit Holder's or TPH organization's [members or member firm's] aggregation units, which information shall be promptly made available to the Exchange upon its request. The Trading Permit Holder or TPH organization [member or member firm] must promptly provide to the Exchange a written report at such time there is any material change with respect to the aggregation units, at which point the Exchange will re-examine its status.

(d) A Trading Permit Holder [member] or prospective Trading Permit Holder [member] adversely affected by a determination made by the Exchange under this Rule, including the denial of an appointment in a particular class, may obtain a review thereof in accordance with the provisions of Chapter XIX.

(e) The Exchange in its discretion may determine to establish one or more types of "tier appointments." A "tier appointment" means an appointment to trade one or more options classes that must be held by a Market Maker to be eligible to trade the options class or options classes subject to that appointment. The Exchange shall announce the types of tier appointments that it has established. A Market-Maker that seeks to trade an options class or options classes subject to a tier appointment must submit an application for that tier appointment in accordance with, and subject to the same terms and conditions as, the application process set forth for Trading Permits in paragraph (b) of Rule 3.1. Issuance of tier appointments shall be in accordance with, and subject to the same terms and conditions as, the issuance processes set forth for Trading Permits in paragraph (b) of Rule 3.1. A Market-Maker that is issued a tier appointment must designate to the Exchange the Trading Permit with which that tier appointment is associated, and may designate no more than one tier appointment per Trading Permit. A tier appointment shall be for the same term as the Trading Permit with which that tier appointment is associated. Termination, change, renewal, and transfer of tier appointments shall be in accordance with, and subject to the same terms and conditions as, the processes set forth for Trading Permits in paragraphs (c) and (d) of Rule 3.1. Tier appointments shall be subject to such fees and charges as are established by

the Exchange from time to time pursuant to Rule 2.20 and the Exchange Fee Schedule. In accordance with, and subject to same terms and conditions as, the processes set forth for Trading Permits in subparagraphs (a)(vi) – (a)(viii) of Rule 3.1, the Exchange shall have the authority with respect to any type of tier appointment it has determined to establish to limit or reduce the number of that type of tier appointment, to increase the number of that type of tier appointment, and to establish objective standards to be issued, or to have renewed, that type of tier appointment. Notwithstanding the foregoing, nothing in this rule shall eliminate or restrict the Exchange’s authority to delist any product or to take any action (remedial or otherwise) under the Act, the Bylaws and the Rules, including without limitation the Exchange’s authority to take disciplinary or market performance actions against a person with respect to which the Exchange has jurisdiction under the Act, the Bylaws and the Rules.

*. . . Interpretations and Policies:*

**.01** No change.