

**Text of the Proposed Rule Change:<sup>1</sup>**

**Rules of NYSE Alternext US LLC**

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**PART I [1] –GENERAL RULES**

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**Rule 40. Denial of [86 Trinity] Amex Trading Permit**

(a) In any proceeding by the Exchange to determine whether a person or entity shall be prohibited from receiving an [86 Trinity] Amex Trading Permit, barred from becoming associated with a member or member organization, or prohibited or limited with respect to access to services offered by the Exchange or by any member or member organization, such person shall be given notice of, and provided an opportunity to be heard upon, the specific grounds for such denial, bar, or prohibition or limitation. A written record shall be kept of any such proceeding. Any final determination to deny an [86 Trinity] Amex Trading Permit to a person, bar a person from becoming associated with a member or member organization, or prohibit or limit a person with respect to access to services offered by the Exchange or by any member or member organization, shall be supported by a statement setting forth the specific grounds on which the denial, bar, or prohibition or limitation is based.

(b) If any Exchange rule shall specifically set forth the procedures to be followed in connection with a particular proceeding, hearing or appeal, such specific procedures shall be controlling.

(c) Paragraph (a) of this Rule 40 shall not prohibit or in any way restrict the Exchange, the Board of Directors, or any officer, committee or panel of the Exchange from exercising authority pursuant to any rules of the Exchange from summarily (i) suspending a member or member organization or person associated with a member or member organization who has been and is expelled or suspended from any other national securities exchange, registered securities association or registered clearing agency (a "Self-regulatory Agency") or barred or suspended from being associated with a member of any Self-regulatory Agency, (ii) suspending a member or member organization who is in such financial or operating difficulty that the Exchange, the Board or such officer, committee or panel, determines that such member or member organization cannot be permitted to continue to do business as a member with safety to investors, creditors, other members of the Exchange, or (iii) limiting or prohibiting any person with respect to access to services offered by the Exchange or by members if the Exchange, the Board or such officer, committee or panel determines that such person does not meet the

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<sup>1</sup> New text is underscored and deleted text is in brackets.

qualification requirements or other prerequisites for such access and such person cannot be permitted to continue to have such access with safety to investors, creditors, members or the Exchange; provided, however, that any person aggrieved by any such summary action shall be promptly afforded an opportunity for a hearing by the Exchange in the manner specified in paragraph (a) of this rule.

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## **ADMISSION OF MEMBERS AND MEMBER ORGANIZATIONS**

### **[86 TRINITY] AMEX TRADING PERMITS**

#### **Rule 350. Ownership Requirements**

There is no limit to the number of [86 Trinity] Amex Trading Permits (ATP), that may be issued by the Exchange.

An individual or organization may apply for one or more [86 Trinity] Amex Trading Permits, and must file an application with Membership Services to become the owner of such [86 Trinity] Amex Trading Permit(s) and [either a member or member organization] become an ATP Holder. An individual must file an application with Membership Services to become an approved person.

#### **[Rule 352. Admissions Committee**

Rescinded effective December 14, 1977.

## **MEMBERSHIP REQUIREMENTS AND ADMISSIONS PROCEDURE]**

## **MEMBERSHIP REQUIREMENTS AND ADMISSIONS PROCEDURE**

#### **Rule 353. [86 Trinity] Amex Trading Permit Requirements**

The following requirements are applicable to any person seeking status as an [86 Trinity] Amex Trading Permit Holder.

An applicant for an [86 Trinity] Amex Trading Permit must be at least the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business. He must be of good character and reputation and must meet Exchange standards regarding financial responsibility.

An applicant who plans to become an independent member must file an application with the SEC to be registered as a broker-dealer. All other applicants for an [86 Trinity] Amex Trading Permit must be associated with a broker-dealer registered with the SEC.

A detailed membership application must be filed with all applicable documents as prescribed by the Exchange. Every applicant and all persons associated with the

applicant may be investigated by the Exchange. The applicant shall file with the Exchange such additional documents as may be requested by the Exchange.

[The applicant other than a prior active member must pass a physical examination prescribed by the Exchange physician. Applicants may either take the examination at the Exchange or have it administered by any qualified physician, who forwards his certificate of good health in a form prescribed by the Exchange to the Exchange physician for his review.

Letters of reference from two responsible persons must be furnished; provided, however, such requirement shall be waived for prior active members.]

The Exchange requires that the applicant have adequate experience to qualify him or her to be active in the phase of the securities business in which he/she proposes to engage as an [member] ATP Holder. If the candidate is to be active on the Floor of the Exchange, he/she must pass an examination before being permitted to execute orders on the Floor; provided, however, such requirement shall be waived for a prior active member who was authorized to execute orders on the Floor of the Exchange immediately prior to the [Merger] implementation of the NYSE Amex System and the relocation of the Trading Floor to 11 Wall Street, New York, NY. In addition, pursuant to Rule 50, Specialist candidates other than prior active members who were authorized as specialists immediately prior to the [Merger] implementation of the NYSE Amex System and the relocation of the Trading Floor to 11 Wall Street, New York, NY must successfully complete a mandatory Exchange-sponsored training program including participation in any Exchange testing programs in connection with this mandatory training program.

[An applicant must be sponsored by two Floor members of the Exchange who have been acquainted with the applicant for a sufficient length of time; provided, however, such requirement shall be waived for a prior active member. Sponsors undertake the obligation to accompany the applicant (upon his election to membership) on the Floor of the Exchange and to witness all of his executions of orders for such period of time as the Exchange may determine in order that the new member may be thoroughly acquainted with Floor procedures and practices.]

An applicant other than a prior active member must successfully complete the New Member training program before being permitted to execute orders on the Floor [without the supervision of an experienced Floor member].

An applicant other than a prior active member who is associated with an organization in the securities business must take the required steps to qualify his organization as an [member organization] ATP Holder. See Rule 356.

A member shall cease to be a member and shall surrender his [86 Trinity] Amex Trading Permit if he becomes subject to any "statutory disqualification" as defined in Section 3(a)(39) of the Securities Exchange Act of 1934.

## **Admissions Procedure**

These steps are followed in connection with application for an [86 Trinity] Amex Trading Permit:

- (1) The requirements for membership are reviewed by the Exchange staff with any person requesting an application.
- (2) There is a minimum posting period of 7 days for any applicant. However, the posting period may be extended by the Exchange when necessary. Notice of proposed issuance of the [86 Trinity] Amex Trading Permit shall be posted [on the Bulletin Board in] in the Weekly Bulletin of the Exchange upon the submission, in proper form, of all required documents. The minimum posting period will be waived for prior active members.
- (3) The Exchange staff has an investigation of the applicant conducted in order to verify the information contained on his application.

The applicant may be requested to meet with representatives of the Membership Admissions Department to discuss any questions that have arisen during the investigation.

The Exchange may waive such investigation and/or meeting with the Membership Admissions Department for prior active members.

- (4) Membership Services then either approves the applicant or, if it decides not to approve, notifies the applicant of its reasons for disapproval and that the applicant is entitled to a hearing under Exchange Rule 40.

## **[Designation of Nominee**

(1) Any member organization may, in accordance with the Rules, authorize an individual to act as its nominee with respect to its 86 Trinity Permit(s). A nominee of a member organization shall be permitted to transact business for such member organization on the Floor of the Exchange and otherwise represent such member organization in all matters relating to the Exchange. Contracts made on the Floor of the Exchange by a nominee shall be considered contracts made by his member organization, and such member organization shall be responsible therefor. Such member organization shall also be responsible for all obligations to the Exchange and all obligations to other member organizations resulting from Exchange transactions or transactions in other securities.

(2) The authorization of a nominee hereunder shall be on a form or forms prescribed by the Exchange.

(3) The following requirements shall apply to all nominees:

- (a) A nominee shall be subject to the same requirements for approval as if he were himself applying for an 86 Trinity Permit as an individual member
- (b) A nominee may perform Floor functions only on behalf of the member organization for which he is authorized.
- (c) A nominee shall agree to abide by all rules and regulations, orders, directives and decisions adopted or made in accordance therewith.]

**Rule 353A. Revocable Privilege; Termination of an [86 Trinity] Amex Trading Permit**

(a) The issuance of an [86 Trinity] Amex Trading Permit constitutes only a revocable privilege and confers on its holder no right or interest of any nature to continue as an [86 Trinity] Amex Trading Permit Holder.

An [86 Trinity] Amex Trading Permit will terminate upon the occurrence of any one of the following conditions:

- (1) the expulsion of the [86 Trinity] Amex Trading Permit Holder from the Exchange's Floor;
- (2) the suspension of the [86 Trinity] Amex Trading Permit Holder where such [86 Trinity] Amex Trading Permit Holder failed to be reinstated at the expiration of the period of suspension, including any extension of such period which may have been granted by the Exchange;
- (3) the formal or informal dissolution or winding up of an [86 Trinity] Amex Trading Permit Holder;
- (4) the death of an [86 Trinity] Amex Trading Permit Holder who is a natural person;  
or
- (5) the declaration of legal incompetence of an [86 Trinity] Amex Trading Permit Holder who is a natural person.

(b) Every [86 Trinity] Amex Trading Permit Holder and any successor-in-interest thereto, and each [86 Trinity] Amex Trading Permit Holder whose [86 Trinity] Amex Trading Permit are terminated due to expulsion, suspension without reinstatement, death, declaration of incompetency, dissolution, winding up, or other cessation of business, must be current in all filings and payments of dues, fees and charges relating to that [86 Trinity] Amex Trading Permit, including, without limitation, filing fees and charges required by the Securities and Exchange Commission and the Securities Investor Protection Corporation. If any [86 Trinity] Amex Trading Permit Holder or any successor-in-interest thereto, fails to make all such filings, or to pay all such dues, fees and charges, the Secretary of the Exchange shall retain such jurisdiction over such former

[86 Trinity] Amex Trading Permit Holder to require such filings and collect such outstanding dues, fines and charges until such time as they have been filed and/or paid.

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**Rule 358. Processing Fees and Other Charges Associated with [86 Trinity] Amex Trading Permit**

(a) The processing fee for all applications for [86 Trinity] Amex Trading Permits and authorized representatives shall be \$2,000; provided, however, such fee shall be waived in the case of applications for [86 Trinity] Amex Trading Permits by prior active members.

(b) Other Charges: In addition to transaction fees and the Securities and Exchange Commission registration fee, the Exchange may from time to time fix and impose other charges or fees to be paid by [86 Trinity] Amex Trading Permit Holders for the use of equipment or facilities or for services or privileges granted.

**Rule 358A. Special Charge and Charge Upon Options Transactions**

(a) Special Charge: The Board of Directors may impose upon [86 Trinity] Amex Trading Permit Holders a charge on each securities transaction effected through the facilities of the Exchange, and may change, remove, and reimpose such charge. In fixing the amount of such charge, the Board of Directors may establish different rates for transactions effected for non-members, for members and member organizations, or may omit such charge for any members or member organizations and may establish different rates for transactions effected in different securities or through different mechanisms. Such charges shall be payable at such times and shall be collected in such manner as the Board of Directors may determine, and the proceeds thereof shall be deposited among the general funds of the Exchange.

(b) Options Transactions. In lieu of the charge authorized by the paragraph above, the Board of Directors may impose upon [86 Trinity] Amex Trading Permit Holders in respect of options transactions affected on the Exchange a charge for each such options transaction, and may from time to time change, remove, and reimpose such charge. In fixing the amount of such charge, the Board of Directors may establish different rates for options transactions effected for [non-members] non-ATP Holders, for [members and member organizations] ATP Holders and may establish different rates for transactions effected in different securities or through different mechanisms. Such charge shall be applicable to both the writing and the purchase of options on the Exchange and shall be payable at such times and shall be collected in such manner as the Board of Directors may determine and the proceeds thereof shall be deposited among the general funds of the Exchange.

**Rule 359. Application and Termination Forms (Forms U-4 and U-5)**

(a) An individual who (i) seeks to become an [86 Trinity] Amex Trading Permit Holder or (ii) is or should be an approved person or allied member shall electronically file a Uniform Application for Securities Industry Registration or Transfer (Form U-4) and any amendments thereto with Central Registration Depository. An [member or member organization] ATP Holder that terminates an [member ] ATP Holder or approved person shall electronically file within 10 days of such termination a Uniform Termination Notice for Securities Industry Registration (Form U-5) with the Central Registration Depository. An [member or member organization] ATP Holder shall electronically file with the Central Registration Depository any amendments to Form U-5 within 10 days of the discovery of the information requiring the amendment.

(b) Transition to Web CRD—[86 Trinity] Amex Trading Permit Holders who are natural persons must electronically file a Form U-4 with FINRA's Central Registration Depository system on or before such time as may be specified by the Exchange.

**[Rule 359A. Mandatory Continuing Education for all Floor Members and Mandatory Continuing Education and Initial Test Requirements for Floor Clerks of Members and Member Firms.**

Rescinded effective September 18, 2007.]

**Rule 359B. Limited Transferability**

(a) Transfer by Purchase, Sale or Lease Prohibited. [86 Trinity] Amex Trading Permits may not be purchased, sold or leased. Any purported purchase, sale or lease of an [86 Trinity] Amex Trading Permit shall be void ab initio without further action by the Exchange.

(b) Private Transfer Void: An [86 Trinity] Amex Trading Permit Holder which attempts to transfer an [86 Trinity] Amex Trading Permit by private sale or lease, or otherwise, may be adjudged guilty of conduct detrimental to the interest and welfare of the Exchange, and any purported transfer shall be void ab initio without further action by the Exchange and will confer no rights upon the purported transferee.

(c) Intra-Firm Transfer. An [member organization] ATP Holder may transfer its [86 Trinity] Amex Trading Permit from the name of one [nominee] employee to that of another [nominee] employed by the [member organization] ATP Holder. The name of the proposed transferee [nominee] shall be submitted to the Exchange and approved by the Exchange prior to exercising trading privileges on the Exchange's Floor. Unless the proposed [nominee] employee is a previously approved person or approved allied [member of the member organization] person of the ATP Holder, the [member organization] ATP Holder shall provide all information required for the Exchange to conduct an investigation of the proposed [nominee] employee prior to his or her approval [as a nominee].

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## **Section 900NY - Rules Principally Applicable to Trading of Option Contracts**

### **900.1 NY - Applicability**

The Rules in this Chapter (Trading of Options Contracts) shall be applicable to the trading of option contracts issued by the Options Clearing Corporation and the terms and conditions, and the exercise and settlement thereof, either (i) on and through the NYSE Amex Trading System ("System") facility of the Exchange or (ii) the trading on the Options Trading Floor of the Exchange located at 11 Wall Street, New York NY. The Rules in this Chapter shall also be applicable to the handling of orders, and the conduct of accounts and other matters, relating to option contracts dealt in by any ATP Holder. Except to the extent that specific Rules in this Chapter govern, or unless the context otherwise requires, the Rules and policies of the Board of Directors shall be applicable to the trading on the Exchange of Options contracts. In the event of a conflict, the Rules of this Chapter shall supersede and replace any other Rules of the Exchange governing the trading of Options contracts. Option contracts (as defined below) are included within the definition of "security" or "securities" as such terms are used in the Rules of the Exchange.

### **900.2NY - Definitions**

Whenever and wherever used herein, unless the context requires otherwise, the following terms shall be deemed to have the meanings indicated:

(1) *Affiliate*. An "affiliate" of, or person "affiliated" with a specific person, is a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified.

(2) *Aggregate Exercise Price*. The term "aggregate exercise price" in respect of an option contract means, if the underlying security is a stock or an Exchange-Traded Fund Share, the exercise price of an option contract multiplied by the number of shares of the underlying stock or Exchange-Traded Fund Share covered by such option contract.

(3) *Associated Person*. The term "Associated Person" shall refer to a person who is a partner, officer, director, member of a limited liability company, trustee of a business trust, employee of an ATP Holder or any person directly or indirectly controlling, controlled by or under common control with an ATP Holder.

(4) *ATP*. The term "ATP" shall refer to an Amex Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange's Trading Facilities. An ATP may be issued to a natural person, sole proprietor, partnership, corporation, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Securities Exchange

Act of 1934, as amended, and which has been approved by the Exchange. References to 86 Trinity Permit should be deemed to be references to ATP.

(5) *ATP Holder.* The term "ATP Holder" shall refer to a natural person, sole proprietorship, partnership, corporation, limited liability company or other organization, in good standing, that has been issued an ATP, and references to "member", "member organization" and "86 Trinity Permit Holder" as those terms are used in the Rules of NYSE Alternext US LLC should be deemed to be references to ATP Holders. An ATP Holder must be a registered broker or dealer pursuant to Section 15 of the Securities Exchange Act of 1934. An ATP Holder shall agree to be bound by the Operating Agreement of the Exchange and by the Rules of the Exchange, and by all applicable rules and regulations of the Securities and Exchange Commission. An ATP Holder shall not have ownership or distribution rights in the Exchange. An ATP Holder will have status as a "member" of NYSE Alternext US LLC as that term is defined in Section 3 of the Securities Exchange Act of 1934, as amended.

(6) *Authorized Trader.* The term "Authorized Trader" or "AT" shall mean a person who may submit orders to the Exchange on behalf of his or her ATP Holder or Sponsored Participant.

(7) *BBO.* The term "BBO" shall refer to the best bid or offer on the NYSE Amex System.

(8) *Board.* The term "Board" shall mean Board of Directors of NYSE Alternext US LLC.

(9) *Call.* The term "call" means an option contract under which the holder of the option has the right, in accordance with the terms of the option, to purchase from the Options Clearing Corporation the number of shares of the underlying stock or Exchange-Traded Fund Shares covered by the option contract.

(10) *Class of Options.* The term "class of options" means all option contracts of the same type of option covering the same underlying stock or Exchange-Traded Fund Shares.

(11) *Clearing Member.* The term "Clearing Member" means an Exchange ATP Holder which has been admitted to membership in the Options Clearing Corporation pursuant to the provisions of the Rules of the Options Clearing Corporation.

(12) *Closing Purchase Transaction.* The term "closing purchase transaction" means an option transaction in which the purchaser's intention is to reduce or eliminate a short position in the series of options involved in such transaction.

(13) Closing Sale Transaction. The term "closing sale transaction" means an option transaction in which the seller's intention is to reduce or eliminate a long position in the series of options involved in such transaction.

(14) Consolidated Book. The term "Consolidated Book" means the Exchange's electronic book of limit orders for the accounts of Customers and broker-dealers, and Quotes with Size. All orders and Quotes with Size that are entered into the Book will be ranked and maintained in accordance with the rules of priority as provided in Rule 964NY.

(15) Core Trading Hours. The term "Core Trading Hours" shall mean the regular trading hours for business set forth in the rules of the primary markets underlying those option classes listed on the Exchange; provided, however, that transactions may be effected on the Exchange until the regular time set for the normal close of trading in the primary markets with respect to equity option classes and ETF option classes, and 15 minutes after the regular time set for the normal close of trading in the primary markets with respect to index option classes, or such other hours as may be determined by the Exchange from time to time.

(16) Covered. The term "covered" in respect of a short position in a call option contract means that the writer's obligation is secured by a "specific deposit" or an "escrow deposit" meeting the condition of Rule 610(f) or 610(h), respectively, of the Rules of the Options Clearing Corporation, or the writer holds in the same account as the short position, on a share-for-share basis (if the underlying security is a stock or an Exchange-Traded Fund Share), a long position either in the underlying security or in an option contract of the same class of options where the exercise price of the option contract in such long position is equal to or less than the exercise price of the option contract in such short position. The term "covered" in respect of a short position in a put option contract means that the writer holds in the same account as the short position, on a share-for-share basis (if the underlying security is a stock or an Exchange-Traded Fund Share), a long position in an option contract of the same class of options where the exercise price of the option contract in such long position is equal to or greater than the exercise price of the option contract in such short position.

(17) Crowd Participants. The term "Crowd Participants" means the Market Makers appointed to an option issue under Rule 923NY, and any Floor Brokers actively representing orders at the best bid or offer on the Exchange for a particular option series.

(18) Customer. The term "Customer" means an individual or organization that is not a Broker/Dealer; when not capitalized, "customer" refers to any individual or organization whose order is being represented, including a Broker/Dealer.

(19) Directed Order Market Maker. The term "Directed Order Market Maker" means a Market Maker that receives a Directed Order.

(20) *Electronic Order Capture System.* The term "Electronic Order Capture System" ("EOC") means the Exchange's electronic audit trail and order tracking system that provides an accurate time-sequenced record of all orders and transactions on the Exchange pursuant to Section IV.B.e.(v) of the Commission's order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions. EOC records the receipt of an order and documents the life of the order through the process of execution, partial execution, or cancellation. This system includes the electronic communications interface between EOC booth terminals and the Floor Broker Hand Held applications. Each ATP Holder or ATP Firm's EOC booth terminal and each Floor Broker Hand Held Terminal contains an electronic order entry screen that displays the terms and conditions of each order received by that ATP Holder or ATP Firm. ATP Holders and ATP Firms may record the details of the order directly into the EOC system as described herein, or, in the alternative, into the Electronic Tablet described in subsection (b) (40) below.

(21) *Electronic Tablet.* The term "Electronic Tablet" means the Exchange's electronic method of recording orders that are hand written and transmitted to a Floor Broker's workstation for representation in order to create an accurate time-sequenced record of orders on the Exchange. The Electronic Tablet will automatically timestamp the receipt of an order when such order is transmitted to a Floor Broker's workstation prior to representation in the trading crowd and document the life of the order through the process of execution, partial execution or cancellation. This system includes the ability for a Floor Broker to hand write order information and automatically timestamp the report and provides a method to display report images at an ATP Holder's workstation to manually key the order information for clearing purposes. Such clearing information will become part of the data required pursuant to Section IV.B.e.(v) of the Commission's Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions. ATP Holders may record the details of the order directly into the EOC system (as described above in subsection (b)(39)) or, in the alternative, into the Electronic Tablet as described herein.

(22) *Exchange Act.* "Exchange Act" shall mean the Exchange Act of 1934, as amended.

(23) *Exchange Option Transaction and Exchange Transaction.* The term "Exchange Option Transaction" and the term "Exchange Transaction" means a transaction effected on a national securities exchange which has qualified for participation in Options Clearing Corporation pursuant to the provisions of the Bylaws of Options Clearing Corporation, between members of such exchange or exchanges, for the purchase or sale of an option contract, or for the closing out of a long or short position in an option contract, and as used elsewhere in this Rule means a transaction effected on the Exchange between Exchange ATP Holders

for the purchase or sale of an options contract, or for the closing out of a long or short position in an option contract.

(24) Exchange-Traded Fund Share. For purposes of these Rules, the term "Exchange-Traded Fund Share" shall include Exchange-listed securities representing interests in open-end unit investment trusts or open-end management investment companies that hold securities (including fixed income securities) based on an index or a portfolio of securities.

(25) Exercise Price. The term "exercise price" in respect of an option contract means the stated price per share at which the underlying stock or Exchange-Traded Fund Shares may be purchased (in the case of a call) or sold (in the case of a put) upon the exercise of such option contract.

(26) Expiration Date. The term "expiration date" in respect of an option contract or Exchange-Traded Fund Share means 2:00 P.M. on the Saturday immediately following the third Friday of the expiration month. For a One Week Option Series the term "expiration date" shall mean the close of business on the next Friday that is a business day. If a Friday is not a business day, the "expiration date" shall be the close of business on the first business day immediately prior to that Friday. For a Quarterly Options Series, the term "expiration date" shall mean the close of business on the last business day of a calendar quarter.

(27) Expiration Month. The term "expiration month" in respect of an option contract means the month and year in which such option contract expires.

(28) Firm. The term "Firm" means a broker-dealer that is not registered as a dealer-specialist or market maker on a registered national securities exchange or association.

(29) Floor Market Maker. The term "Floor Market Maker" shall mean a registered Market Maker who makes transactions as a dealer-specialist while on the Floor of the Exchange and provides quotations: (A) manually, by public outcry, and (B) electronically through an auto-quoting device.

(30) Floor. The terms "Floor" and "Trading Floor" shall mean the options trading floor located at 11 Wall Street, New York, NY.

(31) Foreign Broker/Dealer. The term "foreign broker/dealer" means any person or entity that is registered, authorized or licensed by a foreign governmental agency or foreign regulatory organization (or should be so registered, authorized or licensed) to perform the function of a broker or dealer in securities, or both. The terms "broker" and "dealer" mean the same as set out in Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934, provided that a "broker" or "dealer" may be a bank.

(32) *Freely Transferable Security.* The term "Freely Transferable Security" means any security which, on its face, may be transferred without it being necessary that the Board of Directors of the Exchange approved the transferee.

(33) *Good Standing.* The term "good standing" shall refer to an ATP Holder that is not in violation of any of its agreements with the Exchange or any of the provisions of the Rules or Operating Agreement of the Exchange, and who has maintained all of the conditions for approval of the ATP.

(34) *Listed.* The terms "Listed" or "Listed Securities" means securities admitted to dealings on the Exchange.

(35) *Long Position.* The term "long position" means the number of outstanding option contracts of a given series of options held by a person (purchaser).

(36) *Market Center.* The term "Market Center" means a national securities exchange that has qualified for participation in the Options Clearing Corporation pursuant to the provisions of the rules of the Options Clearing Corporation.

(37) *Market Maker Authorized Trader.* The term "Market Maker Authorized Trader" or "MMAT" shall mean an authorized trader who performs market making activities pursuant to Rule 920NY on behalf of an ATP Holder registered as a Remote Market Maker.

(38) *Market Maker.* The term "Market Maker" shall refer to an ATP Holder that acts as a Market Maker pursuant to Rule 920NY.

(39) *Marketable.* The term "Marketable" shall mean, for a Limit Order, the price matches or crosses the NBBO on the other side of the market. Market orders are always considered marketable.

(40) *Minimum Price Variation.* The term "Minimum Price Variation" or "MPV" means the variations established by the Exchange pursuant to Rule 960NY(a).

(41) *NBBO.* The term "NBBO" shall refer to the national best bid or offer.

(42) *Non-ATP Firm or Non-ATP Holder Market Maker.* The terms "Non-ATP Firm or Non-ATP Holder Market Maker" include, but are not limited to, specialists, designated primary market makers, lead market makers, market makers, registered options traders, primary market makers and competitive market makers registered on an exchange other than NYSE Amex.

(43) *Non-Resident Organization.* The term "non-resident organization" shall mean:

(A) in the case of an individual, one who resides in or has their principal place of business in any place not subject to the jurisdiction of the United States;

(B) in the case of a corporation, one incorporated in or having its principal place of business in any place not subject to the jurisdiction of the United States; or

(C) in the case of a partnership or other unincorporated organization or association, one having its principal place of business in any place not subject to the jurisdiction of the United States.

(44) *NOW Recipient*. The term "NOW Recipient" shall mean any Market Center (1) with which the Exchange maintains an electronic linkage, and (2) that provides instantaneous responses to NOW Orders routed from the System. The Exchange shall designate from time to time those Market Centers that qualify as NOW Recipients and shall periodically publish such information via its website.

(45) *NYSE Alternext US LLC*. "NYSE Alternext US LLC" shall mean NYSE Alternext US LLC, a Delaware limited liability corporation.

(46) *NYSE Amex Book, Consolidated Book*. The terms "NYSE Amex Book" and "Consolidated Book" shall refer to the NYSE Amex System's electronic file of orders and quotes, which contains all of the orders in the Display Order Process and the Working Order File and all of the Market Makers' quotes in the Display Order Process.

(47) *NYSE Amex Options*. The term "NYSE Amex Options" shall refer to those aspects of the Self-Regulatory Organization and the Trading Facilities business of NYSE Alternext US LLC licensed to trade Options by the Exchange. The terms "NYSE Amex Options" and "NYSE Amex" shall have the same meaning as "Exchange" as that term is defined in NYSE Alternext US LLC Rule 11.

(48) *NYSE Amex System*. The term "NYSE Amex System" ("System") shall refer to the Exchange's electronic order delivery, execution and reporting system for designated option issues through which orders and quotes of Users are consolidated for execution and/or display. Market Makers must submit quotes to the NYSE Amex System in their appointed classes electronically.

(49) *NYSE Euronext*. The term "NYSE Euronext" shall mean NYSE Euronext, the ultimate parent company of NYSE Alternext US LLC.

(50) *One Week Option Series*. The term "One Week Option Series" is a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Friday that is a business day and that expires at the close of business on the next Friday that is a business day. If a Friday is not a business day, the series may be opened (or shall expire) on the first

business day immediately prior to that Friday. One Week Option Series are P.M. settled, except for One Week Option Series on indexes. One Week Option Series on indexes shall be A.M. settled.

(51) *Opening Purchase Transaction.* The term "opening purchase transaction" means an option transaction in which the purchaser's intention is to create or increase a long position in the series of options involved in such transaction.

(52) *Opening Writing Transaction.* The term "opening writing transaction" means an option transaction in which the seller's (writer's) intention is to create or increase a short position in the series of options involved in such transaction.

(53) *Option Contract.* The term "option contract" means a put or a call issued, or subject to issuance, by the Options Clearing Corporation pursuant to the Rules of the Options Clearing Corporation.

(54) *Option Issue.* The term "option issue" means the option contract overlying a particular underlying security or Exchange-Traded Fund Shares.

(55) *Options Clearing Corporation.* The term "Options Clearing Corporation" means The Options Clearing Corporation, a subsidiary of the Participating Exchanges.

(56) *Options Trading.* The term "options trading", when not preceded by the word "Exchange", means trading in any option issued by the Options Clearing Corporation, whether or not of a class or series which has been approved for trading on the Exchange.

(57) *Order Flow Provider.* The term "Order Flow Provider" ("OFP") means any ATP Holder that submits, as agent, orders to the Exchange.

(58) *Outstanding.* The term "outstanding" in respect of an option contract means an option contract which has been issued by the Options Clearing Corporation and has neither been the subject of a closing sale transaction on the Exchange or a comparable expiration date.

(59) *Parent.* A "parent" of a specified person or organization is an affiliate controlling such person or organization directly, or indirectly through one or more intermediaries.

(60) *Participant.* The term "Participant" shall mean any ATP Holder, partner, Allied Person, Approved Person, stockholder associate, registered employee or other full-time employee of an ATP Holder.

(61) *Participating Exchange.* The term "Participating Exchange" means a national securities exchange which has qualified for participation in the Options

Clearing Corporation pursuant to the provisions of the Rules of the Options Clearing Corporation.

(62) Primary Market. The term "primary market" in respect of an underlying stock or Exchange-Traded Fund Share means the principal market in which the underlying stock or Exchange-Traded Fund Share is traded.

(63) Put. The term "put" means an option contract under which the holder of the option has the right, in accordance with the terms of the option, to sell to the Options Clearing Corporation the number of shares of the underlying stock or Exchange-Traded Fund Shares covered by the option contract.

(64) Quarterly Options Series. The term "Quarterly Options Series" means a series in an options class that is approved for listing and trading on the Exchange in which the series is opened for trading on any business day and that expires at the close of business on the last business day of a calendar quarter.

(65) Quote with Size. The term "Quote with Size" means a quotation to buy or sell a specific number of option contracts at a specific price that a Market Maker has submitted to the NYSE Amex System through an electronic interface.

(66) Registered Employee. The term "Registered Employee" shall mean any person soliciting or conducting business in securities on behalf of an ATP Holder.

(67) Related Persons. "Related persons" shall mean with respect to any ATP Holder

(A) any broker or dealer with which such ATP Holder is associated;

(B) any natural person who is an associated person of such ATP Holder;

(C) any other Person(s) whose beneficial ownership of shares of stock of NYSE Euronext or its successor with the power to vote on any matter would be aggregated with the ATP Holder's beneficial ownership of such stock or deemed to be beneficially owned by such ATP Holder pursuant to Rules 13d-3 and 13d-5 under the Act;

(D) any other Person(s) with which such ATP Holder has any agreement, arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, voting, holding or disposing of shares of the stock of NYSE Euronext or its successor; and

(E) with respect to any ATP Holder and any Person described in (1) to (4) above who is a natural person, any relative or spouse of such Person, or any relative of such spouse, who has the same home as such Person or who is a director or officer of NYSE Euronext or its successor or any of its parents or subsidiaries.

For the avoidance of doubt, "Related Person" as defined above in clause (C) of this paragraph (67) shall include, with respect to any ATP Holder: any other Person beneficially owning pursuant to Rules 13d-3 and 13d-5 under the Exchange Act shares of stock of NYSE Euronext or its successor with the power to vote on any matter that also are deemed to be beneficially owned by such ATP Holder pursuant to Rules 13d-3 and 13d-5 under the Exchange Act; any other Person that would be deemed to own beneficially pursuant to Rules 13d-3 and 13d-5 under the Exchange Act shares of stock of NYSE Euronext or its successor with the power to vote on any matter that are beneficially owned directly or indirectly by such ATP Holder pursuant to Rules 13d-3 and 13d-5 under the Exchange Act; and any additional Person through which such other Person would be deemed to directly or indirectly own beneficially pursuant to Rules 13d-3 and 13d-5 under the Exchange Act shares of stock of NYSE Euronext or its successor with the power to vote on any matter.

(68) Remote Market Maker. The term "Remote Market Maker" shall mean an ATP Holder who is registered with the Exchange for the purpose of making transactions as dealer-specialist from a location off the Floor of the Exchange. Transactions of Remote Market Makers that are executed through the facilities of the Exchange, in accordance with the rules of the Exchange, are deemed to be Market Maker transactions for purposes of Rule 920NY.

(69) Routing Broker. The term "Routing Broker" shall mean the broker-dealer affiliate of NYSE Amex, Inc. that acts as agent for routing orders entered into the NYSE Amex System of ATP Holders and Sponsored Participants to other Market Centers for execution whenever such routing is permitted by NYSE Amex Rules.

(70) Rules of the Options Clearing Corporation. The term "Rules of the Options Clearing Corporation" means the By-laws and the Rules of the Options Clearing Corporation, and all written interpretations thereof, as the same may be in effect from time to time.

(71) Security. The term "security" shall mean any security as defined in Rule 3(a)(10) under the Securities Exchange Act of 1934.

(72) Self-Regulatory Organization ("SRO"). The terms "self-regulatory organization" and "SRO" shall have the same meaning as set forth in the provisions of the Securities Exchange Act of 1934 relating to national securities exchanges.

(73) Series of Options. The term "series of options" means all option contracts of the same class of options having the same expiration date and exercise price, and the same unit of trading.

(74) Short Position. The term "short position" means the number of outstanding option contracts of a given series of options with respect to which a person is obligated as a writer (seller).

(75) Specialist Pool. The term "Specialist Pool" shall mean the aggregated size of the best bid and best offer, in a given series, amongst the Specialist and e-Specialists that match in price.

(76) Specialist. The term "Specialist" means an individual or entity that has been deemed qualified by the Exchange for the purpose of making transactions on the Exchange in accordance with the provisions of Rule 920NY, and who meets the qualification requirements of Rule 927NY(b). Each Specialist must be registered with the Exchange as a Market Maker. Any ATP Holder registered as a Market Maker with the Exchange is eligible to be qualified as a Specialist.

(77) Sponsored Participant. The term "Sponsored Participant" shall mean a person that has entered into a customer agreement with a Sponsoring ATP Holder pursuant to Rule 902.1NY.

(78) Sponsoring ATP Holder. The term "Sponsoring ATP Holder" shall mean a broker-dealer that has been issued an ATP by the Exchange who has been designated by a Sponsored Participant to execute, clear and settle transactions executed on the NYSE Amex System. The Sponsoring ATP Holder shall be either (i) a clearing firm with membership in a clearing agency registered with the Commission that maintains facilities through which transactions may be cleared or (ii) a correspondent firm with a clearing arrangement with any such clearing firm.

(79) Sponsorship Provisions. The term "Sponsorship Provisions" shall mean the provisions set forth in Rule 902.1NY(c). For a Sponsored Participant to obtain authorized access on the NYSE Amex System, the Sponsored Participant and its Sponsoring ATP Holder must enter into a customer agreement which incorporates the Sponsorship Provisions.

(80) Trading Crowd. The term "trading crowd" means all Market Makers who hold an appointment in the option classes at the Trading Zone where such trading crowd is located and all Market Makers who regularly effect transactions in person for their Market Maker accounts at that Trading Zone, but generally will consist of the individuals present at the Trading Zone.

(81) Trading Facilities. The term "Trading Facilities" shall refer to the Exchange's facilities for the trading of options 11 Wall Street, New York, NY; office space provided by the Exchange to ATP Holders in connection with their floor trading activities, and any and all electronic or automated order execution systems and reporting services provided by the Exchange to ATP Holders.

(82) Trading Official. A Trading Official will be an Exchange employee or officer, who is designated by the Chief Executive Officer, or its designee or by the Chief Regulatory Officer or its designee. Any Exchange employee or officer designated as a Trading Official will from time to time as provided in these rules have the ability to recommend and enforce rules and regulations relating to trading access, order, decorum, health, safety and welfare on the Exchange.

(83) Trading Zone. The term "Trading Zone" shall mean the areas on the Floor designated by the Exchange in which issues are assigned for the purposes of open outcry trading.

(84) Type of Option. The term "type of option" means the classification of an option contract as either a put or a call.

(85) Uncovered. The term "uncovered" in respect of a short position in an option contract means that the short position is not covered.

(86) Underlying Stock or Underlying Security. The terms "underlying stock" or "underlying security" in respect of an option contract means the security or Exchange-Traded Fund Share which the Options Clearing Corporation shall be obligated to sell (in the case of a call) or purchase (in the case of a put) upon the valid exercise of such option contract.

(87) User. The term "User" shall mean any ATP Holder that is authorized to obtain access to the NYSE Amex System pursuant to Rule 902.1NY.

(88) Wholly Owned Subsidiary. The term "wholly owned subsidiary" means a subsidiary substantially all of whose outstanding voting securities are owned by its parent and/or the parent's other wholly owned subsidiaries.

### **900.3NY - Orders Defined**

(a) Market Order. A Market Order is an order to buy or sell a stated number of option contracts and is to be executed at the best price obtainable when the order reaches the Exchange.

(b) Limit Order. A Limit Order is an order to buy or sell a stated number of option contracts at a specified price, or better. A "marketable" limit order is a Limit Order to buy (sell) at or above (below) the NBBO.

(c) Inside Limit Order. A Limit Order, which, if routed away pursuant to Rule 964NY(c)(2)(E), will be routed to the market participant or participants with the best displayed price. Any unfilled portion of the order will not be routed to the next best price level until all quotes at the current best bid or offer are exhausted. If the order is no longer marketable it will be ranked in the Consolidated Book pursuant to Rule 964NY.

(d) Contingency Order or Working Order. A Contingency Order or Working Order is an order that is contingent upon a condition being satisfied or an order with a conditional or undisplayed price and/or size. Contingency Orders and Working Orders are maintained in the Working Order File of the Consolidated Book until eligible for execution and/or display, including:

(1) Stop Order. A Stop Order is an order that becomes a Market Order when the market for a particular option contract reaches a specified price (“triggering event”). A Stop Order to buy becomes a Market Order when the option contract trades at or above the stop price on the Exchange or another Market Center or when the NYSE Amex bid is quoted at or above the stop price. A Stop Order to sell becomes a Market Order when the option contract trades at or below the stop price on the Exchange or another Market Center or when the NYSE Amex offer is quoted at or below the stop price. Stop Orders (including Stop Limit Orders) shall not have standing in any Order Process in the Consolidated Book and shall not be displayed. Stop Orders (including Stop Limit Orders) are not eligible to execute against incoming orders and will become eligible to execute via the Display Order Process only after the incoming order is executed in full or rests in the book or the working order is sent to the Display Order Process at the end of a triggering event.

(2) Stop Limit Order. A Stop Limit Order is an order that becomes a Limit Order when the market for a particular option contract reaches a specified price. A Stop Limit Order to buy becomes a Limit Order when the option contract trades at or above the stop price on the Exchange or another Market Center or when the NYSE Amex bid is quoted at or above the stop price. A Stop Limit Order to sell becomes a Limit Order when the option contract trades at or below the stop price on the Exchange or another Market Center or when the NYSE Amex offer is quoted at or below the stop price.

(3) Reserve Order. A Limit Order with a portion of the size displayed (“display size”) and with a reserve portion of the size (“reserve size”) that is not displayed on NYSE Amex. Upon entry into the NYSE Amex System, a marketable Reserve Order will be executed in whole or in part up to its full size, regardless of the reserve size. When the displayed portion of a Reserve Order has been fully executed, the display is refreshed from the reserve portion of the order up to the size of the original display with a new time stamp. After the displayed portion of a Reserve Order is refreshed from the reserve portion, the reserve portion remains ranked with respect to other reserve interest based on the original time of order entry.

(4) All-or-None Order (AON Order). A Market or Limit Order that is to be executed in its entirety or not at all.

(5) Tracking Order. A Tracking Order is an undisplayed Limit Order that is eligible for execution after the Display Order Process against orders equal to or less than the size of the Tracking Order. A Tracking Order is ranked according to

its limit price, but only executable at a price matching the NBBO. If a Tracking Order is executed but not exhausted, the remaining portion of the order shall be cancelled, without routing the order to another market center or market participant. A Tracking Order shall not trade-through the NBBO. Tracking Orders only have standing if contra-side interest in the NYSE Amex System would otherwise be routed to another market center at the NBBO. Tracking Orders will not execute against incoming Linkage Orders.

(e) *Complex Order.* Is an order involving the simultaneous purchase and/or sale of two or more different option series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy.

(f) *Not Held Order.* A Not Held Order is an order that provides a broker with discretion as to price or time in executing the order. A Not Held Order must be designated as such in the "Optional Data" field of the EOC or the Electronic Tablet. For orders excepted from EOC or the Electronic Tablet, pursuant to Rule 955NY(d)(1), a Not Held Order is marked "not held", "NH", "take time" or marked with some qualifying notation giving discretion as to the price or time at which such order is to be executed. The "not held" designation must appear in the "special instructions" portion of the order ticket. Orders that merely include a "not held" designation as part of the timestamp will not be deemed to be "not held" orders.

(g) *One-cancels-the-other (OCO) Order.* A One-cancels-the-other Order consists of two or more orders treated as a unit. The execution of any one of the orders causes the others to be cancelled.

(h) *Stock/option Order.* Is an order to buy or sell a stated number of units of an underlying stock or a security convertible into the underlying stock ("convertible security") coupled with the purchase or sale of option contract(s) on the opposite side of the market representing either (A) the same number of units of the underlying stock or convertible security, or (B) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than 8 option contracts per unit of trading of the underlying stock or convertible security established for that series by the Clearing Corporation.

(i) *Single Stock Future ("SSF")/Option Order.* An order to buy or sell a stated number of units of a single stock future or a security convertible into a single stock future ("convertible SSF") coupled with either (A) the purchase or sale of option contract(s) on the opposite side of the market representing either the same number of units of stock underlying the single stock future or convertible SSF, or the number of units of stock underlying the single stock future or convertible SSF necessary to create a delta neutral position; or (B) the purchase or sale of an equal number of put and call option contracts, each having the same exercise price, expiration date, and each representing the same number of units of underlying stock, as and on the opposite side of the market from, the stock underlying the single stock future or convertible SSF portion of the order.

(j) Facilitation Order. A Facilitation Order is an order which may be executed in whole or in part in a cross transaction with an order for a Customer of an ATP Holder and which is clearly designated as a Facilitation Order.

(k) Immediate-or-Cancel Order (IOC Order). A Market or Limit Order that is to be executed in whole or in part on the Exchange as soon as such order is received, and the portion not so executed is to be treated as canceled.

(l) Fill-or-Kill Order (FOK Order). A Limit Order that is to be executed in its entirety on the Exchange as soon as such order is received, and if not so executed is to be cancelled.

(m) Day Order. An order to buy or sell which, if not executed, expires at the end of the day on which it was entered. All orders by their terms are Day Orders unless otherwise specified.

(n) Good-Till-Cancelled Order (GTC Order). An order to buy or sell that remains in force until the order is filled, cancelled or the option contract expires; provided, however, that GTC Orders will be cancelled in the event of a corporate action that results in an adjustment to the terms of an option contract.

(o) NOW Order. A Limit Order that is to be executed in whole or in part on the Exchange, and the portion not so executed shall be routed pursuant to Rule 964NY(c)(2)(E) only to one or more NOW Recipients for immediate execution as soon as the order is received by the NOW Recipient. Any portion not immediately executed by the NOW Recipient shall be cancelled. If a NOW Order is not marketable when it is submitted to NYSE Amex, it shall be cancelled.

(p) PNP Order. A PNP Order (Post No Preference) is a Limit Order to buy or sell that is to be executed in whole or in part on the Exchange, and the portion not so executed is to be ranked in the Consolidated Book, without routing any portion of the order to another market center; provided, however, the Exchange shall cancel a PNP Order that would lock or cross the NBBO.

(q) Opening Only Order. An Opening Only order is a Market Order or Limit Order which is to be executed in whole or in part during the opening auction of an options series or not at all.

(r) Price Improving Orders and Quotes. A Price Improving Order or Price Improving Quote is an order or quote to buy or sell an option at a specified price at an increment smaller than the minimum price variation in the security. Price Improving Orders and Quotes may be entered in increments as small as one cent. Price Improving Orders and Quotes that are available for display shall be displayed at the minimum price variation in that security and shall be rounded up for offers and rounded down for bids.

(s) Directed Order. The term "Directed Order" means any marketable order to buy or sell which has been directed to a particular Market Maker by an Order Flow Provider. To

qualify as a Directed Order, an order must be delivered electronically to the NYSE Amex System.

### **901NY - Trading Sessions**

Unless otherwise ruled by the Board of Directors or its designee, the Exchange shall be open for the transaction of business daily except on Saturdays and Sundays. The hours at which trading sessions shall open and close shall be established by the Board of Directors or its designee.

Dealings upon the Exchange shall be limited to the hours during which the Exchange is open for the transaction of business. No ATP Holder shall make any bid, offer or transaction upon the Floor or in the case of Remote Market Makers or e-Specialists operating from off the Floor, through the facilities of the Exchange before the official opening of the Exchange. Loans of securities may be made after those hours.

#### **Commentary:**

.01 Except under unusual conditions as may be determined by the Board of Directors or its designee, hours during which transactions in options on individual securities may be made on the Exchange shall correspond to the normal hours for business set forth in the rules of the primary exchange listing the securities underlying the options.

.02 Options on ETFs may be traded on the Exchange until 4:15 p.m. each business day.

### **902NY - Admission and Conduct on the Trading Floor**

(a) Admission. No one but an ATP Holder or authorized Exchange employee shall make any transaction on the Options Trading Floor of the Exchange. Admission to the Floor shall be limited to ATP Holders, employees of the Exchange, clerks or messengers employed by ATP Holders and registered with the Exchange, and such other persons as may be provided by resolution of the Board of Directors.

(b) Conduct on the Floor. Upon the determination of a Trading Official that an ATP Holder's conduct on the Options Trading Floor of the Exchange is such as to impair the maintenance of a fair and orderly market, or to impair public confidence in the operations of the Exchange, an ATP Holder of the Exchange may be fined pursuant to the Operating Agreement and Rules of the Exchange. This shall also apply to an ATP Holder's failure to adequately supervise an employee to ensure his or her compliance with this rule. An ATP Holder adversely affected by a determination made under this Section may obtain review thereof in accordance with the provisions of Section 9A. Fines imposed by a Trading Official hereunder shall not preclude further disciplinary action by the Exchange pursuant to the Operating Agreement and Rules of the Exchange.

(c) Standards of Dress and Conduct. All ATP Holders are required to act in a manner consistent with a fair and orderly market and with the maintenance of public confidence in the Exchange. All persons on the Options Trading Floor shall comply with the standards of dress and conduct in Chapter 13, Floor Conduct Policy, of the *NYSE Floor Officials Manual*. In addition, the following standards shall be observed:

(1) Standards of Dress. All persons on the Options Trading Floor, whether ATP Holders, employees of ATP Holders or visitors, shall at all times, whether prior to, during or after trading sessions, be dressed in a manner appropriate for business purposes and in accordance with good taste and professional standards. The term "good taste" shall be interpreted in a conservative manner. The following requirements and prohibitions shall be observed:

(A) Personal attire must be neat, clean and presentable.

(B) All persons must wear trading jackets and/or suit or sport coats while present on the Trading Floor.

(C) The Exchange may impose additional standards of dress or otherwise modify these standards of dress by means of a written policy that will be distributed to ATP Holders.

(2) Standards of Conduct.

(A) All persons on the Trading Floor are required to conduct themselves in accordance with a seemly and professional standard of behavior. No person while on the Trading Floor shall:

(i) engage in any act or practice that may be detrimental to the interest or welfare of the Exchange; or

(ii) engage in any act or practice that may serve to disrupt or hinder the ordinary and efficient conduct of business; or

(iii) engage in any act or practice that may serve to jeopardize the safety or welfare of any other individual; or

(iv) act in a disorderly manner, which includes, but is not limited to, the use of abusive or indecorous language.

(B) The entry of food or drink may be permitted at the discretion of the Exchange. Alcoholic beverages may not be consumed on the Trading Floor at any time.

(C) Smoking in any form, any kind of tobacco use, or any expectorating on the Trading Floor, is prohibited. This prohibition shall apply at all times whether or not the Floor is in session.

(D) Running on the Floor, which shall mean any movement at a degree of speed which may disrupt other occupants of the Floor, is prohibited.

(E) Standing on chairs, furniture, booths, ladders, stools and similar items is prohibited.

(F) No object of any kind may be placed in the trading post areas if it could obstruct the flow of people in or out of the trading crowd.

(d) Trading Floor Badges.

(1) Admission by Badge Only. Admission to the Trading Floor will be by Exchange issued badge only. While on the Floor, all persons must at all times display appropriate badges. Authorized persons seeking admission to the Floor without a badge must show proper identification and obtain a temporary badge from the Security Office. ATP Holders may be subject to a processing fee related to the issuance of a temporary access badge.

(2) Withdrawal of Trading Floor Badges. In the event that any ATP Holder's Letter of Authorization and/or Letter of Guarantee is revoked by a clearing member in accordance with the procedures stated in Rules 924NY and 932NY, such ATP Holder will not be entitled to enter into transactions on the Floor until and unless a new Letter of Authorization and/or Guarantee has been issued to such ATP Holder by a clearing member. Accordingly, the Exchange will withdraw promptly the trading floor badge of any ATP Holder whose appropriate letter has been properly revoked, and will retain such badge under its control until the ATP Holder is subsequently covered by an appropriate letter. An ATP Holder whose badge has been withdrawn under this Rule may, so long as its ATP Holder status continues, gain access to the Floor by means of its ATP Holder identification pass, but may not enter into any transactions thereon.

(e) Visitors on the Options Floor. Visitors shall not be admitted to the Floor of the Exchange except by permission of an Officer of the Exchange or an Officer of NYSE Amex Options or NYSE Regulation

(f) Complaints from Options Trading Floor ATP Holders. ATP Holder complaints concerning situations arising on or relating to the Options Trading Floor may be directed to the Options Surveillance Department so that appropriate follow-up action may be taken.

(g) Hand Held Wireless Trading Devices: It will be a violation for an ATP Holder or employee of an ATP Holder to remove from the Options Trading Floor, any wireless

device that may be used to enter orders into the NYSE Amex Options automated trading system. This prohibition will apply to any Exchange issued, or ATP proprietary, order routing and/or execution device. Failure to comply will result in disciplinary action pursuant to Rule 476A.

(h) Equity Floor Broker Hand Held Terminal: It will be a violation for anyone to be in possession of an NYSE Floor Broker Hand Held Terminal while on the Options Trading Floor. Failure to comply will result in disciplinary action pursuant to Rule 476A.

***Commentary:***

.01 Only ATP Holders or Exchange employees who have been approved to perform a Floor function are authorized to enter into transactions on the Options Trading Floor. These ATP Holders and Exchange employees include Floor Brokers who are registered pursuant to Rule 933NY, Trading Officials as defined in Rule 900.2NY(82), and Market Makers registered pursuant to Rules 921NY. While on the Floor, such persons shall at all times display appropriate badges.

.02 The Exchange has determined that, in order to insure that trading occurs in an open and public manner, all communications on the Floor among ATP Holders, their clerks and messengers, and others authorized to enter transactions on the Options Trading Floor, shall be conducted in the English language.

.03 While on the Trading Floor, clerks must display at all times the badge(s) supplied to them by the Exchange. A clerk receiving a phone order must immediately record the details of the order into EOC or the Electronic Tablet pursuant to Rule 955NY(c), except as otherwise provided in Rule 955NY(d)(1).

.04 A clerk shall remain at a booth assigned to his employer or assigned to his employer's clearing firm unless he is: (1) entering or leaving the trading floor; (2) transmitting or checking the status of an order or reporting a fill; (3) standing in the same crowd as his employer who is a Market Maker or Floor Broker; (4) supervising his firm's clerks if he is a floor manager; or (5) acting as a stock clerk. Only stock clerks and Market Maker or Floor Broker clerks may stand in or near a trading crowd; in the latter case, the Market Maker or Floor Broker must be present in the same trading crowd. Terminals on the trading floor (except quote terminals or those located in the booths) may not be used by a clerk unless his employer is a Market Maker or Floor Broker who is standing near the terminal.

**902.1NY - Admission to the NYSE Amex System**

(a) Access to NYSE Amex System. Unless otherwise provided in the Rules, no one but a User shall effect any transaction on the NYSE Amex System.

(b) Exchange Conduct. ATP Holders, and persons employed by or associated with any ATP Holder, while using the facilities of the Exchange, shall not engage in conduct (i) inconsistent with the maintenance of a fair and orderly market; (ii) apt to impair public confidence in the operations of the Exchange; or (iii) inconsistent with the ordinary and efficient conduct of business. Activities that may violate the provisions of this paragraph (b) include, but are not limited to, the following:

(1) failure of a Market Maker to provide quotations in accordance with Rules 925NY and 925.1NY;

(2) failure of a Market Maker to bid or offer within the ranges specified by Rule 925NY;

(3) failure of an ATP Holder to supervise a person employed by or associated with such ATP Holder adequately to ensure that person's compliance with this paragraph (b);

(4) failure to abide by a determination of the Exchange; and;

(5) refusal to provide information requested by the Exchange.

(c) Sponsored Participants. A Sponsored Participant may obtain authorized access to NYSE Amex System only if such access is authorized in advance by one or more Sponsoring ATP Holders as follows:

(1) Sponsored Participants must enter into and maintain customer agreements with one or more Sponsoring ATP Holders establishing proper relationship(s) and account(s) through which the Sponsored Participant may trade on NYSE Amex System. Such customer agreement(s) must incorporate the Sponsorship Provisions set forth in paragraph (2) below.

(2) For a Sponsored Participant to obtain and maintain authorized access to NYSE Amex System, a Sponsored Participant and its Sponsoring ATP Holder must agree in writing to the following Sponsorship Provisions:

(A) Sponsoring ATP Holder acknowledges and agrees that

(i) All orders entered by the Sponsored Participants and any person acting on behalf of or in the name of such Sponsored Participant and any executions occurring as a result of such orders are binding in all respects on the Sponsoring ATP Holder; and

(ii) Sponsoring ATP Holder is responsible for any and all actions taken by such Sponsored Participant and any person acting on behalf of or in the name of such Sponsored Participant.

(B) Sponsored Participant shall comply with the Operating Agreement of the Exchange and by the Rules and procedures with regard to the Exchange, as if Sponsored Participant were an ATP Holder.

(C) Sponsored Participant shall maintain, keep current and provide to the Sponsoring ATP Holder a list of Authorized Traders who may obtain access to NYSE Amex System on behalf of the Sponsored Participant.

(D) Sponsored Participant shall familiarize its Authorized Traders with all of the Sponsored Participant's obligations under this Rule and will assure that they receive appropriate training prior to any use or access to NYSE Amex System.

(E) Sponsored Participant may not permit anyone other than Authorized Traders to use or obtain access to NYSE Amex System.

(F) Sponsored Participant shall take reasonable security precautions to prevent unauthorized use or access to NYSE Amex System, including unauthorized entry of information into NYSE Amex System, or the information and data made available therein. Sponsored Participant understands and agrees that Sponsored Participant is responsible for any and all orders, trades and other messages and instructions entered, transmitted or received under identifiers, passwords and security codes of Authorized Traders, and for the trading and other consequences thereof.

(G) Sponsored Participant acknowledges its responsibility to establish adequate procedures and controls that permit it to effectively monitor its employees, agents and customers' use and access to NYSE Amex System for compliance with the terms of this agreement.

(H) Sponsored Participant shall pay when due all amounts, if any, payable to Sponsoring ATP Holder, the Exchange or any other third parties that arise from the Sponsored Participant's access to and use of NYSE Amex System. Such amounts include, but are not limited to applicable Exchange and regulatory fees.

(3) The Sponsoring ATP Holder must provide the Exchange with a Notice of Consent acknowledging its responsibility for the orders, executions and actions of its Sponsored Participant at issue.

**910NY- Compliance with Section 11(a) of the Exchange Act**

An ATP Holder must ensure that each of its transactions complies with Section 11(a) of the Exchange Act, which generally prohibits an ATP Holder from effecting a transaction trading for its own account, the account of an associated person, or an account with respect to which it or an associated person thereof exercises investment discretion (each, a “covered account”) unless a valid exemption in the statute or the rules thereunder applies.

In cases where a Floor Broker's transaction would occur at the same price as one or more orders on the electronic book, the Floor Broker, if it can rely on no exception other than the "G" exception (Section 11(a)(1)(G); Rule 11a1-1(T)), must, in addition to complying with the other requirements of the “G” exemption, yield to all orders in the Consolidated Book at the same price if the Floor Broker has no ability to determine that an order in the Consolidated Book is not the order of a non-ATP Holder. In addition, in the case where an ATP Holder submits an order to the book (or an order is submitted on its behalf) and such ATP Holder is relying on the “G” exemption, the order must be entered as IOC.

In addition, when relying on the exemption set forth in Rule 11a2-2(T) under the Exchange Act, a Floor Broker may not enter into the NYSE Alternext System any order for a covered account, including orders sent to it by an affiliated ATP Holder from off the floor, if the order is for such affiliated ATP Holder’s own account, the account of an associated person, or an account over which it or an associated person exercises investment discretion.

### **920NY – Market Makers**

(a) A Market Maker is an ATP Holder that is registered with the Exchange for the purpose of submitting quotes electronically and making transactions as a dealer-specialist verbally on the Trading Floor or through the NYSE Amex System from on the Trading Floor or remotely from off the Trading Floor, in accordance with the Rules of the Exchange. A Market Maker submitting quotes remotely is not eligible to participate in trades affected in open outcry except to the extent that such Market Maker's quotation represents the BBO. Market Makers are designated as specialists on the Exchange for all purposes under the Securities Exchange Act of 1934 and the Rules and Regulations thereunder. A Market Maker on the Exchange will be either a Remote Market Maker, a Floor Market Maker, a Specialist or an e-Specialist. Unless specified, or unless the context requires otherwise, the term Market Maker refers to Remote Market Makers, Floor Market Makers, Specialists and e-Specialists.

(b) Market Makers are instructed that, except as specified in subsection (c) below, only transactions that are initiated on the Floor of the Exchange or through the facilities of the Exchange by that person shall count as Market Maker transactions and be entitled to special margin treatment, pursuant to the net capital requirements of Rule 15c3-1 under the Securities Exchange Act of 1934 and Regulation T of the Board of Governors of the Federal Reserve system. Accordingly, any position established for the account of a Market Maker which has been "entered through an ATP Holder acting as a floor broker"

must be placed in the Market Maker's investment account and be subject to applicable customer margin.

(c) A Market Maker may enter opening orders from off the Floor of the Exchange and receive special margin treatment for such orders during any calendar quarter, provided that such Market Maker executes in person or through a facility of the Exchange, and not through the use of orders for execution by Floor Brokers, at least 80% of his or her total transactions during that calendar quarter. In addition, the orders for which a Market Maker received market-maker treatment shall be consistent with a Market Maker's duty to maintain fair and orderly markets and in general shall be affected for the purpose of hedging, reducing the risk of, or rebalancing open positions of the Market Maker. Remote Market Makers may enter opening orders from off the Floor of the Exchange for execution by Floor Brokers and receive special margin treatment for them as long as the entry of such orders is consistent with the Remote Market Maker's duty to maintain fair and orderly markets and such orders are entered for the purpose of hedging, reducing the risk of, or rebalancing open positions of the Remote Market Maker.

(d) A Market Maker, while on the floor, may enter a GTC order with a Floor Broker and still receive special margin treatment, as described in subsection (b) above. However, the order must be a limit order where the quantity cannot be increased or the limit changed. If the quantity is increased or the limit changed, the GTC order shall be treated as an order entered from off the floor. Likewise, limit orders to "buy and sell" in the same series, discretionary orders, and "market not-held" orders may not be handled on a GTC basis without being treated as orders subject to customer margin treatment.

(e) With regard to orders of Market Makers entered from off the floor that are not entitled to special margin treatment pursuant to subsections (c) and (d), above, Market Maker clearing firms are directed to instruct their respective trading desks to identify such orders by placing a "C" after the Market Maker's number in the "firm" box on the ticket. Floor Brokers, when accepting an order by phone from a Market Maker, are similarly directed to identify such orders in the same manner.

### **921NY – Registration of Market Makers**

(a) An applicant for registration as a Market Maker shall file an application in writing with the Exchange on such form or forms as the Exchange may prescribe. Applications shall be reviewed by the Exchange, which shall consider an applicant's ability, as demonstrated by his passing a Market Maker examination prescribed by the Exchange, financial resources and such other factors as the Exchange deems appropriate. Applicants reapplying to the Exchange who have previously successfully completed such examination and have been absent from registration as a Market Maker or an MMAT with the Exchange for six months or more will be required to complete an orientation program prescribed by the Exchange. After reviewing the application, the Exchange shall either approve or disapprove the applicant's registration as a Market Maker. The registration of any person as a Market Maker may be suspended or terminated by the Exchange upon a determination of any substantial or continued failure by such Market

Maker to engage in dealings in accordance with Rules 925NY or 923NY.

(b) An ATP Holder registered as a Market Maker on NYSE Amex may not be concurrently registered as a Floor Broker on NYSE Amex.

(1) The restriction contained in subsection (b) above, does not prohibit an Intermarket Linkage Market Maker, or Specialist, from acting in an agency capacity for the purpose of sending Principal Acting as Agent ("P/A") Orders through the InterMarket Linkage System ("Linkage") pursuant to Rule 990NY.

(c) An ATP Holder or prospective ATP Holder adversely affected by a determination of the Exchange under Rule 921NY may obtain a review thereof in accordance with the provisions of Section 9A.

### **921.1NY - Market Maker Authorized Traders**

(a) Remote Market Maker quotations and orders may be submitted to the System only by Market Maker Authorized Traders. An MMAT is permitted to enter quotes and orders only for the account of the Market Maker with which he is associated.

(b) *Registration of MMATs.* The Exchange may, upon receiving an application in writing from a Remote Market Maker on a form prescribed by the Exchange, approve a person as an MMAT.

(1) MMATs may be:

(i) individual ATP Holders registered with the Exchange as Remote Market Makers, or

(ii) officers, partners, employees or associated persons of ATP Holder that are registered with the Exchange as Remote Market Makers.

(2) To be approved as an MMAT, a person must demonstrate knowledge of the Rules of the Exchange by passing an examination conducted by the Exchange. Applicants reapplying to the Exchange who have previously successfully completed such examination and have been absent from registration as a Market Maker or an MMAT with the Exchange for six months or more will be required to complete an orientation program prescribed by the Exchange.

(3) The Exchange may require a Remote Market Maker to provide additional information the Exchange considers necessary to establish whether a person should be approved.

(4) A person may be conditionally approved as an MMAT subject to any conditions the Chief Regulatory Officer considers appropriate in the interests of maintaining a fair and orderly market.

(c) Suspension or Withdrawal of Registration.

(1) The Exchange may suspend or withdraw the registration of an MMAT if the Exchange determines that:

(i) the person has caused the Remote Market Maker to fail to comply with the Rules of the Exchange;

(ii) the person is not properly performing the responsibilities of an MMAT;

(iii) the person has failed to meet the conditions set forth under paragraph (b) above; or

(iv) the Exchange believes it is in the best interest of fair and orderly markets.

(2) If the Exchange suspends the registration of a person as an MMAT, the Remote Market Maker must not allow the person to submit quotes and orders into the NYSE Amex System.

(3) The registration of an MMAT will be withdrawn upon the written request of the ATP Holder for which the MMAT is registered. Such written request shall be submitted on the form prescribed by the Exchange.

**922NY – Trading by ATP Holders on the Floor**

No ATP Holder shall initiate a transaction, while on the Floor, for an account in which he has an interest unless such ATP Holder is registered with the Exchange as a Market Maker and is acting in accordance with Rules 920NY through 928NY; however, an ATP Holder may take into his own error account, and subsequently liquidate, any position that results from an error made while attempting to execute an order while acting as a Floor Broker.

**Commentary :**

.01 Floor Brokers' Use of the Book. Unless otherwise prohibited in this Rule, a Floor Broker may enter an order for its error account in the Consolidated Book for the purpose of liquidating a position resulting from a bona fide error made in the course of its floor brokerage business.

**923NY – Appointment of Market Makers**

(a) On a form or forms prescribed by the Exchange, a Market Maker must apply for an appointment in one or more classes of option contracts.

(b) The Exchange may appoint one Specialist per option class. The Exchange may designate e-Specialists in an option class in accordance with Rule 927.4NY. The Exchange may appoint an unlimited number of Market Makers in each class unless the number of Market Makers appointed to a particular option class should be limited whenever, in the Exchange's judgment, quotation system capacity in an option class or classes is not sufficient to support additional Market Makers in such class or classes. The Exchange will not restrict access in any particular option class until such time as the Exchange has submitted objective standards for restricting access to the SEC for its review and approval.

(c) Each Market Maker must select an appointment as set forth in subsection (d), below. Market Makers may select from among any option issues traded on the Exchange for inclusion in their appointment, subject to the approval of the Exchange. In considering the approval of the appointment of a Market Maker in each security, the Exchange will consider:

(1) the Market Maker's preference;

(2) the financial resources available to the Market Maker;

(3) the Market Maker's experience, expertise and past performance in making markets, including the Market Maker's performance in other securities;

(4) the Market Makers operational capability; and

(5) the maintenance and enhancement of competition among Market Makers in each security in which they are appointed.

(d) The following rules apply to the appointment of Market Makers:

(1) Market Makers with 1 ATP may have up to 100 option issues included in their appointment.

(2) Market Makers with 2 ATPs may have up to 250 option issues included in their electronic appointment.

(3) Market Makers with 3 ATPs may have up to 750 option issues included in their appointment.

(4) Market Makers with 4 ATPs may have all option issues traded on the Exchange included in their appointment.

(5) Floor Market Makers must also apply for appointment to a Trading Zone on the floor, subject to approval by the Exchange. Specialists shall be appointed to the Trading Zone designated for their issues.

(e) Market Makers may change the option issues that are included in their appointment, subject to the approval of the Exchange. Such requests must be made in a form and manner prescribed by the Exchange. In considering whether to approve Market Makers' request to change their appointment, the Exchange will consider the factors set forth in subsection (c), above.

(f) Market Makers may withdraw from trading an option issue that is within their appointment by providing the Exchange with three business days' written notice of such withdrawal. Market Makers who fail to give advance written notice of withdrawal to the Exchange may be subject to formal disciplinary action pursuant to Section 9A of NYSE Alternext US LLC Office Rules.

(g) The Exchange may suspend or terminate any appointment of a Market Maker in one or more option issues under this Rule whenever, in the Exchanges' judgment, the interests of a fair and orderly market are best served by such action.

(h) A Market Maker may seek review of any action taken by the Exchange pursuant to this Rule, including the denial of the appointment for, or the termination or suspension of, a Market Maker's appointment in an option issue or issues, in accordance with Section 9A of NYSE Alternext US LLC Office Rules, as applicable.

(i) *Appointment Trading Requirement.* At least 75% of the trading activity of a Market Maker (measured in terms of contract volume per quarter) must be in classes within the Market Maker's appointment and, in the case of Floor Market Makers, within their designated Trading Zone. A failure to comply with the 75% contract volume requirement may result in a fine pursuant to Rule 476A, however, if aggravating circumstances are present, formal disciplinary action may be taken pursuant to Section 9A.

(j) *Performance Standards.* The Exchange will periodically conduct an evaluation of Market Makers to determine whether they have fulfilled performance standards relating to, among other things, quality of markets, competition among Market Makers, observance of ethical standards, and administrative factors. The Exchange may consider any relevant information including, but not limited to, the results of a Market Maker evaluation, trading data, a Market Maker's regulatory history and such other factors and data as may be pertinent in the circumstances.

(1) If the Exchange finds any failure by a Market Maker to meet minimum performance standards, the Exchange may take the following actions, after written notice and after opportunity for hearing pursuant to Section 9A:

(A) restriction of appointments to additional option issues in the Market Maker's primary appointment;

(B) suspension, termination, or restriction of an appointment in one or more option issues; or

(C) suspension, termination, or restriction of the Market Maker's registration in general.

(2) If a Market Maker's appointment in an option issue or issues has been terminated pursuant to this subsection (j), the Market Maker may not be re-appointed as a Market Maker in that option issue or issues for a period not to exceed 6 months.

**Commentary :**

.01 In option classes in which the Exchange has not appointed a Specialist, the NYSE Amex System Routing Broker, as defined in Rule 900.2NY(69) will be the principal means of routing a customer order to another Market Center for execution. The decision for use of a routing broker is generally determined by the NYSE Amex System using a proprietary algorithm; for classes with no Specialist the preference will be set to use Routing Broker, and the InterMarket Linkage will only be used if Routing Broker is not available.

.02 In option classes in which the Exchange has not appointed a Specialist, a Market Maker on the Exchange will be designated as responsible for settling Principal Acting As Agent ("P/A") orders that may be sent to away markets through the InterMarket Linkage pursuant to Rule 990NY and Rule 991NY ("Intermarket Linkage Market Maker" or "IMM"). The IMM must submit to the Exchange prior written instructions for the routing of any P/A orders the IMM may send through the Exchange to the Intermarket Linkage. NYSE Amex will route P/A orders on the basis of these written instructions.

.03 In classes with no Specialist, the Exchange will determine the first IMM from amongst the pool of appointed Market Makers through a random method. Thereafter, the IMM will be determined on a rotating basis, with a new Intermarket Linkage Market Maker designated at the beginning of each week.

**924NY – Letters of Guarantees**

(a) Required of Each ATP Holder. No Market Maker may make any transaction on the floor of the Exchange or through the facilities of the Exchange unless there is in effect a Letter of Guarantee which has been issued for such ATP Holder by a Clearing Member and approved by the Options Clearing Corporation and the Exchange. An ATP Holder may not have more than one such Letter in effect at the same time except for the purpose of facilitating the transfer of that ATP Holder's Market Maker account from one Clearing Member to another or unless the Exchange determines otherwise.

(b) Terms of Letter of Guarantee. A Letter of Guarantee shall provide that the issuing Clearing Member accepts financial responsibility for all Exchange transactions made by the guaranteed ATP Holder.

(c) Revocation of Letter of Guarantee. A Letter of Guarantee filed with the Exchange shall remain in effect until a final written notice of revocation has been received by the Exchange. If such final written notice has not been received at least one hour prior to the opening of trading on a particular business day, such revocation shall not become effective until the close of trading on such day. A final revocation shall in no way relieve a clearing ATP Holder of responsibility for transactions guaranteed prior to the effective date of such final revocation.

(d) FLEX Options. Market Makers may not effect transactions in FLEX Options unless one or more Letter(s) of Guarantee for FLEX Options on behalf of such Market Makers has been issued by a Clearing ATP Holder in accordance with Rule 924NY.

**Commentary :**

.01 When a Market Maker is subject to a written interim notice of revocation and open positions remain in a Market Maker Account, held by such Market Maker, closing transactions only may be effected for such account for the period between the effective date of the written interim notice of revocation and the effective date of the final notice of revocation required by subsection (c) of this Rule.

**925NY – Obligations of Market Makers**

(a) General. Transactions of a Market Maker should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and no Market Maker should enter into transactions or make bids or offers that are inconsistent with such a course of dealings.

(b) Obligations in Appointed Classes. With respect to each class of options in his appointment, a Market Maker is expected to engage, to a reasonable degree under the existing circumstances, in dealings for his own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for a particular option contract, or a temporary distortion of the price relationships between option contracts of the same class. Without limiting the foregoing, a Market Maker is expected to perform the following activities in the course of maintaining a fair and orderly market.

(1) To compete with other Market Makers to improve the market in all series of options classes to which the Market Maker is appointed.

(2) To make markets that will be honored for the number of contracts entered into NYSE Amex System in all series of options classes within the Market Maker's appointment.

(3) To update market quotations in response to changed market conditions in all series of options classes within the Market Maker's appointment.

(4) During an opening Auction, and in open outcry, bidding and/or offering so as to create differences of:

(A) no more than .25 between the bid and the offer for each option contract for which the bid is less than \$2,

(B) no more than .40 where the bid is \$2 or more but does not exceed \$5,

(C) no more than .50 where the bid is more than \$5 but does not exceed \$10,

(D) no more than .80 where the bid is more than \$10 but does not exceed \$20, and

(E) no more than \$1 when the last bid is \$20.01 or more, provided that a Trading Official may establish differences other than the above for one or more series or classes of options.

(5) Following an opening Auction, options traded on NYSE Amex System may be quoted with a difference not to exceed \$5 between the bid and offer regardless of the price of the bid.

(6) In response to a call for a market from a Floor Broker, bidding no more than \$1 lower and/or offering no more than \$1 higher than the last preceding transaction price for the particular option contract. However, this standard shall not ordinarily apply if the price per share (or other unit of trading) of the underlying security or Exchange-Traded Fund Share has changed since the last preceding transaction for the particular option contract, in which event a Market Maker may then bid no lower than or offer no more than \$1 plus the aggregate change in the price per share (or other unit of trading) of the underlying security or Exchange-Traded Fund Share since the time of the last preceding transaction for the particular option contract. This provision applies from one day's close to the next day's opening and from one transaction to the next in intra-day transactions. With respect to inter-day transactions, this provision applies if the closing transaction occurred within one hour of the close and the opening transaction occurred within one hour after the opening. With respect to intra-day transactions, this provision applies to transactions occurring within one hour of one another. A Trading Official may waive the provisions of this paragraph in an index option when the primary underlying securities market for that index is not trading. Nothing in this subparagraph (b)(6) shall alter the maximum bid/ask differentials established by subparagraph (b)(4)-(5) of Rule 925NY.

(c) Unusual Conditions - Opening Auction. If the interest of maintaining a fair and orderly market so requires, a Trading Official may declare that unusual market conditions exist in a particular issue and allow Market Makers in that issue to make auction bids and offers with spread differentials of up to two times, or in exceptional circumstances, up to three times, the legal limits permitted under Rule 925NY. In making such determinations to allow wider markets, the Trading Official should consider the following factors: (A) whether there is pending news, a news announcement or other special events; (B) whether the underlying security or Exchange-Traded Fund Share is trading outside of the bid or offer in such security then being disseminated; (C) whether ATP Holders receive no response to orders placed to buy or sell the underlying security; and (D) whether a vendor quote feed is clearly stale or unreliable.

(1) In the event that a Trading Official determines that unusual market conditions exist in any option, it will be the responsibility of the Trading Official who declared the unusual market conditions to file a report with Exchange Operations setting forth the relief granted, the time and duration of such relief and the reasons therefore.

(d) In Classes of Option Contracts Other Than Those to Which Appointed. With respect to classes of option contracts outside of their appointment, Market Makers should not engage in transactions for an account in which they have an interest that are disproportionate in relation to, or in derogation of, the performance of their obligations as specified in this Rule with respect to the classes in their appointment. Whenever Market Makers enter the trading crowd for a class of options in which they do not hold an appointment, they must fulfill the obligations established by this rule. In addition, when present anywhere on the Trading Floor, with regard to all securities traded on the Trading Floor, Market Makers are expected to undertake the obligations specified in paragraph (b) of this Rule in response to a demand therefore from the Trading Official that the performance of such obligations by other Market Makers requires supplementation. Furthermore, Market Makers should not:

(1) Individually or as a group, intentionally or unintentionally, dominate the market in option contracts of a particular class; and

(2) Effect purchases or sales on the Exchange except in a reasonable and orderly manner.

(e) Prohibited Practices and Procedures.

(1) Any practice or procedure whereby Market Makers trading any particular option issue determine by agreement the spreads or option prices at which they will trade that issue is prohibited.

(2) Any practice or procedure whereby Market Makers trading any particular option issue determine by agreement the allocation of orders that may be executed in that issue is prohibited.

(f) The obligation of Market Makers to make competitive markets does not preclude Market Makers in a trading crowd from discussing a request for a market that is greater than the disseminated size for that option class, for the purpose of making a single bid (offer) based upon the aggregate of individual bids (offers) by members in the trading crowd, but only when the member representing the order asks for a single bid (offer). Whenever a single bid (offer) pursuant to this paragraph is made, such bid (offer) shall be a firm quote and each member of the trading crowd participating in the bid (offer) shall be obligated to fulfill his portion of the single bid (offer) at the single price.

**Commentary:**

**.01 Leaves of Absence**

(a) Market Makers may request leaves of absence when they plan to be away from the floor or temporarily withdraw from submitting quotations into the NYSE Amex System for periods in excess of two weeks during a calendar quarter.

(b) Requests for leaves of absence must be submitted in writing to the Exchange prior to the commencement of the intended leave.

(c) While on leave, Market Makers will not be permitted to make opening transactions in Exchange listed options, in their Market Maker accounts, through the use of a Floor Brokers, except as provided in Rule 920NY(e).

**925.1NY- Market Maker Quotes**

(a) A Market Maker may enter electronic quotations only in the issues included in its appointment.

(b) *Specialists.* A Specialist must provide continuous two-sided quotations throughout the trading day in its appointed issues for 90% of the time the Exchange is open for trading in each issue. Such quotations must meet the legal quote width requirements of Rule 925NY. These obligations will apply to all of the Specialist's appointed issues collectively, rather than on an issue-by-issue basis. Compliance with this obligation will be determined on a monthly basis.

If a technical failure or limitation of a system of the Exchange prevents a Specialist from maintaining, or prevents a Specialist from communicating to the Exchange, timely and accurate electronic quotes in an issue, the duration of such failure shall not be considered in determining whether the Specialist has satisfied the 90% quoting standard with respect to that option issue. The Exchange may consider other exceptions to this continuous electronic quote obligation based on demonstrated legal or regulatory requirements or other mitigating circumstances.

(c) Market Makers. A Market Maker must provide continuous two-sided quotations throughout the trading day in its appointed issues for 60% of the time the Exchange is open for trading in each issue. Such quotations must meet the legal quote width requirements of Rule 925NY. These obligations will apply to all of the Market Maker's appointed issues collectively, rather than on an issue-by-issue basis. Compliance with this obligation will be determined on a monthly basis.

If a technical failure or limitation of a system of the Exchange prevents a Market Maker from maintaining, or prevents a Market Maker from communicating to the Exchange, timely and accurate electronic quotes in an issue, the duration of such failure shall not be considered in determining whether the Market Maker has satisfied the 60% quoting standard with respect to that option issue. The Exchange may consider other exceptions to this continuous electronic quote obligation based on demonstrated legal or regulatory requirements or other mitigating circumstances.

(d) Required Submission of Quotations. A Market Maker may be called upon by a Trading Official to submit a single quote or maintain continuous quotes in one or more series of an option issue within its appointment whenever, in the judgment of such Trading Official, it is necessary to do so in the interest of maintaining fair and orderly markets.

(e) Firm Quotes. A Market Maker shall be compelled to buy/sell a specified quantity of option contracts at the disseminated bid/offer pursuant to his obligations under Rule 970NY.

### **925.2NY – Market Maker Orders**

A Market Maker may enter all order types permitted to be entered by Users under the Rules to buy or sell options in all classes of options listed on the Exchange.

### **925.3NY - Market Maker Orders Executed by Floor Brokers**

(a) A Market Maker and any orders represented by a Floor Broker on behalf of the Market Maker may not be concurrently represented at a trading post.

(b) Orders on behalf of a Market Maker in a particular option series may not be concurrently represented by more than one Floor Broker. A Floor Broker may not concurrently represent, on behalf of a Market Maker, both buy and sell orders in a particular option series which are designated as "not held."

(c) A Floor Broker representing an order on behalf of a Market Maker order must verbally identify the order as such prior to consummating a transaction. Upon consummation of the transaction, the Floor Broker must, by open outcry, inform the trading crowd of the identity of the Market Maker on whose behalf the order was executed, upon request by any ATP Holder present in the trading crowd.

**Commentary:**

.01 Prior to vocalizing a bid or offer in any class of option contracts designated for trading at a particular trading post, a Market Maker must establish that no orders are concurrently represented by a Floor Broker at the trading post on the Market Maker's behalf.

.02 A Market Maker, having effected a transaction in a particular option class through the services of a Floor Broker, whether in an assigned option class or otherwise, is obligated, for the balance of the trading session, to make a market in the particular option class, upon a call by the Trading Official, pursuant to Rule 925NY.

**926NY – Securities Accounts and Orders of Market Makers**

(a) Identification of Accounts. A Specialist for options on Fund Shares, as defined in Rule 915 Commentary .06, is obligated to conduct all trading in options on Fund Shares in account(s) that have been reported to the Exchange. In addition, in a manner prescribed by the Exchange, each Market Maker shall file with the Exchange a list identifying all accounts for stock, options, non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, any other derivatives based on such currency, physical commodities, physical commodity options, commodity futures contracts, options on futures commodity futures contracts, any other derivative based on such commodity and related securities trading in which the Market Maker may directly or indirectly engage in trading activities or over which the Market Maker exercises investment discretion. No Market Maker shall engage in stock, options, non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, any other derivatives based on such currency, physical commodities, physical commodity options, commodity futures contracts, options on futures commodity futures contracts, any other derivative based on such commodity, or related securities trading in an account that has not been reported pursuant to this Rule.

(b) Report of Executed Orders. In a manner prescribed by the Exchange, with respect to transactions to be cleared into all accounts carried for Market Makers for whom a clearing firm Letter of Guarantee has been issued pursuant to Rule 924NY, each clearing firm shall, upon request, report to the Exchange every executed order entered by the Market Maker for the purchase or sale of a security underlying options traded on the Exchange or a security convertible into or exchangeable for such underlying security as well as opening and closing positions in all such securities held in each account reported pursuant to this Rule.

**Commentary:**

.01 Reports of accounts and transactions required to be filed with the Exchange pursuant to this Rule relate only to accounts in which a Market Maker, as an individual, directly or indirectly controls trading activities or has a direct interest in the profits or losses of such account. Such reports would be required for accounts over which a

Market Maker exercises investment discretion as well as a Market Maker's proprietary accounts.

## **927NY – Specialists**

### **(a) General Provisions:**

(1) *Specialist Defined.* A Specialist is an individual or entity that has been deemed qualified by the Exchange for the purpose of making transactions on the Exchange in accordance with the provisions of Rule 920NY. Each Specialist thereof must be registered with the Exchange as a Market Maker. Any ATP Holder registered as a Market Maker with the Exchange is eligible to be qualified as a Specialist.

(2) *Eligible Issues.* A Specialist may be allocated any one or more of the option issues opened for trading at the Exchange subject to the concentration limits set forth in 927.2NY(a).

### **(b) Qualification of Specialists:**

(1) *Qualification of Specialists.* The qualification of Specialists shall be conducted by the Exchange. The Specialist Qualification Process is as follows:

(A) Applications for qualification as a Specialist shall be general and shall not specify a particular option issue or issues. Applicants for qualification as a Specialist may present any matter they wish the Exchange to consider in conjunction with its decision. The Exchange may require that presentation to be solely or partially in writing, and may require the submission of additional information from an applicant, ATP Holder, or any person associated with an ATP Holder.

(B) The Exchange may also specify one or more conditions on the applicant in respect to any representations made in the application process, including but not limited to representations regarding capital operations, personnel or technical resources.

(2) *Disqualification of Specialists.* The Exchange may disqualify any Specialist due to a material financial, operational or personnel change warranting immediate action.

(3) *Resignation of Specialists.* A Specialist, interim Specialist or back-up Specialist who fails to give a ten-day written notice of resignation to the Exchange may be subject to formal disciplinary action pursuant to Rule 995NY.

(4) *Interim Specialists.* If a Specialist has been relieved of an appointment or resigns or if the allocation otherwise becomes vacant, the Exchange may

designate an interim Specialist pending the conclusion of a new Specialist selection process. The designation of an interim Specialist is not a prejudgment of the new Specialist selection process.

(c) Obligations of Specialists:

Each Specialist must meet the following obligations:

- (1) Assure that disseminated market quotations are accurate;
- (2) Honor guaranteed markets, including markets required by Rule 970NY and any better markets pledged during the allocation process;
- (3) Generate and automatically update two-sided market quotations with size in all appointed series through the Specialists own proprietary autoquoting system;
- (4) Fulfill general Market Maker obligations under Rules 925NY and 925.1NY;
- (5) With respect to trading as a Market Maker, effect trades that have a high degree of correlation with the overall pattern of trading for each series in the option issues involved;
- (6) Participate at all times in any automated execution system that is in effect in designated option issues;
- (7) Make FLEX Quotes in response to a specific Request for Quotes in appointed classes of FLEX Equity Options whenever in the opinion of the FLEX Post Official the interests of a fair, orderly and competitive market are best served by such action.
- (8) Maintain communications with member firms in order to respond to suggestions and complaints;
- (9) Respond to competition by offering competitive markets and competitively-priced services.
- (10) Maintain a cash or liquid asset position of at least \$1,000,000. In the event that two or more Specialists are associated with each other and deal for the same Specialist account, this requirement will apply to such Specialists collectively, rather than to each Specialist individually;
- (11) Fully satisfy conditions of appointments pursuant to Subsection (b)(1)(B) of this Rule;
- (12) Promptly inform the Exchange of any material change in financial or operational condition or in personnel.

(d) Rights of Specialists:

An ATP Holder assigned Specialist status in an issue is entitled to all rights and privileges normally associated with the assumption of the Specialist obligations in that issue during the allocation period. However, Specialist status in a particular option issue is not attached in any way to the status of the ATP Holder Specialist. In addition, when an ATP Holder is allocated an issue, any individual who represents the Specialist organization waives all rights to such allocation in the event that such individual separates from the ATP Holder Specialist.

(e) Specialist Performance of Market Maker Functions.

Specialists must perform all obligations provided in Rules 923NY through 928NY and 920NY.

**927.1NY – Evaluation of Specialist Performance**

(1) The Exchange shall periodically evaluate Specialists to determine whether each has fulfilled performance standards relating to, among other things: 1) quality of markets, 2) NYSE Amex market share, 3) observance of ethical standards, 4) administrative factors, 5) regulatory matters, and such other data as may be pertinent.

In addition to meeting certain performance standards as described above, the Exchange will also take into consideration when evaluating a Specialist, the Specialist's compliance with any Market Maker obligations set forth in Exchange Rules, including, but not limited to, Rules 920NY through 928NY.

A finding by the Exchange that a Specialist has failed to meet minimum performance standards may result in one or more of the following actions: 1) moratorium on the allocation of new option issues, and 2) reallocation of existing options 3) other disciplinary actions as deemed appropriate under the rules of the Exchange.

(A) NYSE Amex market share, as stated in section 2 above, shall be measured as a percentage of total contracts traded across all exchanges in a particular issue. A minimum acceptable volume share shall be prescribed by the Exchange as a condition of an issue being allocated to a Specialist. Volume figures will be calculated on a monthly basis and reviewed quarterly.

(B) The Exchange will provide Specialists with information related to market share, for each of their allocated issues, on a monthly basis. Upon request, Exchange staff will meet with Specialist representatives to discuss such findings.

(C) A failure to meet minimum performance standards by a Specialist may form the basis for Exchange action against the Specialist pursuant to this rule. Any ATP Holder affected by a decision of the Exchange shall be informed in writing of the decision, which decision shall include the findings, conclusions, any remedial action to be taken under this rule and the basis for such actions.

Specialists have the right to appeal the Exchange's decision to the Board of Directors of NYSE Amex pursuant to Section 9A.

**927.2NY – Allocation of Option Issues**

**(a) Allocation:**

(1) Allocation. The allocation of option issues to Specialists will be effected by the Exchange. The Exchange will select that candidate who appears best able to perform the functions of a Specialist in the designated option issue. Factors to be considered for selection include, but are not limited to, the following: experience with trading the option issue; adequacy of capital; willingness to promote the Exchange as a marketplace; operational capacity; support personnel; history of adherence to Exchange rules and securities laws; evaluations made pursuant to Rule 927.1NY and any other criteria specified in this Rule. The Exchange will also consider the number and quality of issues that have been allocated, reallocated or transferred to a Specialist.

(2) Transfer of Issues. Issues allocated to a Specialist may not be transferred to another firm or between ATP Holders without the express approval of the Exchange.

**(b) Reallocation:**

Reallocation in General. The Exchange may, at its discretion, reassign an option issue or issues to a new or existing Specialist or designate such issue as a non-Specialist issue under any of the following circumstances:

(A) If upon review, the Exchange determines, in its discretion, that an Specialist has not met minimum performance standards pursuant to Rule 927.1NY or has not met any condition of such Specialist's appointment under Rule 927NY(b)(1)(B) or (c) hereof; or

(B) If a Specialist incurs a material financial, operational or personnel change or

(C) If for any reason the Specialist is no longer eligible for appointment, resigns or fails to perform any duties required to be performed under this Rule. The incumbent Specialist shall remain eligible to apply for the subject allocation in the new selection process.

**(c) Review of Exchange Decisions:**

(1) Any decision of the Exchange with respect to the qualification or disqualification of a Specialist pursuant to Subsection (b) or with respect to the allocation or reallocation of an issue may be appealed pursuant to Section 9A. If a

decision has been appealed, then an interim Specialist may be appointed until such appeal has been resolved.

### **927.3NY - Limitations on Dealings of Specialists**

(a) No ATP Holder, other than a Specialist acting pursuant to Rule 927NY, limited partner, officer, employee, approved person, or party approved, who is affiliated with a Specialist or ATP Holder, shall, during the period of such affiliation, purchase or sell any option in which such Specialist is appointed for any account in which such person or party has a direct or indirect interest. Any such person or party may, however, reduce or liquidate an existing position in an option in which such Specialist is appointed provided that such orders are (i) identified as being for an account in which such person or party has a direct or indirect interest; (ii) approved for execution by a Trading Official; and (iii) executed by the Specialist in a manner reasonably calculated to contribute to the maintenance of price continuity with reasonable depth. No order entered pursuant to this Subsection (a) shall be given priority over, or parity with, any order represented in the market at the same price.

(b) Notwithstanding the provisions of Rule 927NY, an approved person or ATP Holder that is affiliated with a Specialist shall not be subject to Rule 927.3NY(a), provided it has obtained Exchange approval of procedures restricting the flow of material non-public corporate or market information between itself and the Specialist and any ATP Holder, officer, or employee associated therewith.

(c) For such ATP Holder that controls, is controlled by, or is under common control with another organization, the exemption provided in Subsection (b) of Rule 927.3NY shall be available to it only where the Exchange has determined that the relationship between the Specialist, each person associated therewith, and such other organization satisfies all the conditions specified in the Exemption Guidelines.

(d) The procedures referred to in Subsection (b) of Rule 927.3NY shall comply with such guidelines as are promulgated by the Exchange.

#### Exemption Guidelines

(e) The following restrictions apply to an ATP Holder that is affiliated with a Specialist:

It may not purchase or sell for any account in which it has a direct or indirect interest in any security in which its affiliate is a Specialist.

It may not engage in any business transaction with the issuer of a security or its insiders in which its affiliate is a Specialist.

The ATP Holder may not accept orders directly from the issuer, its insiders or certain designated parties in securities in which its affiliate is a Specialist.

This Subsection provides a means by which an affiliated firm doing business with the public (hereafter "ATP Holder ") may obtain an exemption from the restrictions discussed above. This exemption is only available to an ATP Holder that obtains prior Exchange approval for procedures restricting the flow of material non-public information between it and its affiliated Specialist, (i.e., information barrier procedures). This Subsection sets forth the steps an ATP Holder must undertake, at a minimum, to seek to qualify for exemptive relief. Any firm that does not obtain Exchange approval for its procedures in accordance with these Guidelines shall remain subject to the restrictions set forth above.

(f) These Guidelines require that an affiliated ATP Holder establish procedures that are sufficient to restrict the flow of information between itself and the Specialist. Generally, an affiliated ATP Holder seeking an exemption from the rules discussed in Subsection (a) above should establish its operational structure along the lines discussed below.

(i) The affiliated ATP Holder and the Specialist must be established as separate and distinct organizations. At a minimum, the two organizations must maintain separate and distinct books, records and accounts, and satisfy separately all applicable financial and capital requirements. While the Exchange will permit the affiliated ATP Holder and the Specialist to be under common management, in no instance may persons associated with an ATP Holder exercise influence over or control the Specialist's conduct with respect to particular securities or vice versa. Any general managerial oversight must not conflict with or compromise in any way the Specialist's market making responsibilities pursuant to the Rules of the Exchange.

(ii) The affiliated ATP Holder and the Specialist must establish procedures designed to prevent the use of material non-public corporate or market information in the possession of the affiliated ATP Holder to influence the Specialist's conduct and avoid the misuse of Specialist market information to influence the affiliated ATP Holder. Specifically, the affiliated ATP Holder and the Specialist organization must ensure that material non-public corporate information relating to trading positions taken by the affiliated ATP Holder in a Specialist security are not made available to the Specialist, or to any ATP Holder, partner, director or employee thereof, by a Specialist while in possession of non-public corporate information derived by the affiliated ATP Holder from any transaction or relationship with the issuer or any other person in possession of such information; that advantage is not taken of knowledge of pending transactions or the ATP Holder's recommendations; and that all information pertaining to positions taken or to be taken by the Specialist in a Specialist security is kept confidential and is not made available to the affiliated ATP Holder.

(g) An affiliated ATP Holder seeking exemption shall submit to the Exchange a written statement that shall set forth the following:

(i) The manner in which it intends to satisfy each of the conditions stated in Subsections (f)(i) and (f)(ii) of these Guidelines, and the compliance and audit procedures it proposes to implement to ensure that the functional separation is maintained;

(ii) The designation and identification of the individual(s) within the affiliated ATP Holder responsible for maintenance and surveillance of such procedures;

(iii) That the Specialist may make available to a broker affiliated with it only the sort of market information that it would make available in the normal course of its Specialist activity to any other broker and in the same manner that it would make information available to any other broker; and that the Specialist may only make such information available to a broker affiliated with the ATP Holder pursuant to a request by such broker for such information and may not, on its own initiative, provide such broker with such information;

(iv) That where it issues a recommendation in a security in which it acts as Specialist it must disclose that an associated Specialist makes a market in the security, may have a position in the security, and may be on the opposite side of public orders executed on the Floor of the Exchange in the security, and the firm will notify the Exchange immediately after the issuance of a research report or written recommendation;

(v) That it will file with the Exchange such information and reports as the Exchange may, from time to time, require relating to its transactions in a specialty security;

(vi) That it will take appropriate remedial action against any person violating these Guidelines and/or its internal compliance and audit procedures adopted pursuant to Subsection (g)(i) of these Guidelines, and that it and its associated Specialist each recognizes that the Exchange may take appropriate remedial action, including (without limitation) reallocation of securities in which it serves as Specialist and/or revocation of the exemption, in the event of such a violation;

(vii) Whether the firm intends to clear proprietary trades of the Specialist and, if so, the procedures established to ensure that information with respect to such clearing activities will not be used to compromise the firm's Information Barrier procedures (the procedures followed shall, at a minimum, be the same as those used by the firm to clear for unaffiliated third parties); and

(viii) That no individual associated with it may trade as a market maker in any security in which the associated Specialist has an appointment.

(h) Subsection (f) of these Exemption Guidelines requires the establishment of procedures designed to prohibit the flow of certain market sensitive information from an ATP Holder to its affiliate Specialist or to any ATP Holder, partner, director or employee

thereof. In the event that, notwithstanding these procedures, any Specialist becomes aware of the fact that he has received any such information relating to any of his Specialist securities from his organization's affiliated ATP Holder, the Specialist shall promptly communicate that fact and disclose the information so received to the person in the affiliated member firm responsible for compliance with securities laws and regulations (the compliance officer) and shall seek a determination from the compliance officer as to whether he should, as a consequence of his receipt of such information, give up the appointment in the option class involved. If the compliance officer determines that the Specialist should give up the Specialist appointment, the Specialist shall, at a minimum, give it up to another ATP Holder who is registered as Specialist in the security and who is not in possession of the information so received. In any such event, the compliance officer shall determine when it is appropriate for the Specialist to recover the Specialist security and recommence acting as Specialist in the Specialist security involved. Procedures shall be established by the affiliated member firm to assure that in any instance when the compliance officer determines that a Specialist should give up the appointment, such transfer is effected in a manner which will prevent the market sensitive information from being disclosed to the temporary Specialist.

The compliance officer shall keep a written record of each request received from an Specialist for a determination as referred to above. Such record shall be adequate to record the pertinent facts and shall include, at a minimum, the identification of the security, the date, a description of the information received by the Specialist, the determination made by the compliance officer and the basis therefore. If the appointment is given up, the record shall also set forth the time at which the Specialist reacquired the appointment and the basis upon which the compliance officer determined that such reacquisition was appropriate. The Exchange shall be given prompt notice of any instance when the compliance officer determines that the Specialist should give up the appointment and also of the determination that such Specialist should be permitted to reacquire the appointment. In accordance with such schedules as the Exchange shall from time to time prescribe (at least monthly), the written record of all requests received by the compliance officer from the affiliated Specialist for a determination as referred to above shall be furnished to the Exchange for its review. ATP Holders are cautioned that any trading by any person while in possession of material, non-public information received as a result of any breach of the internal controls required by the Guidelines may have violated Rule 10b-5, Rule 14e-3, just and equitable principles of trade or one or more other provisions of the Exchange Act, or regulations thereunder or rules of the Exchange. The Exchange shall review any such trading of which it becomes aware to determine whether any such violation has occurred.

(i) Subsection (g)(vii) of these Guidelines permits an ATP Holder to clear the Specialist transactions of its affiliated Specialist provided it establishes procedures to ensure that information with respect to such clearing activities will not be used to compromise the firm's information barrier procedures. Such procedures should provide that any information pertaining to security positions and trading activities of the Specialist, and information derived from any clearing and margin financing arrangements between the affiliated ATP Holder and the Specialist, may be made available only to those (other than

employees actually performing clearing and margin financing functions) in senior management positions in the affiliated ATP Holder who are involved in exercising general managerial oversight over the Specialist. Generally, such information may be made available only to the affiliated ATP Holder's chief executive officer, chief operations officer, chief financial officer, and senior officer responsible for managerial oversight of the Specialist, and only for the purpose of exercising permitted managerial oversight. Such information may not be made available to anyone actually engaged in making day-to-day trading decisions for the affiliated member firm, or in making recommendations to the customers or potential customers of the affiliated member firm. Any margin financing arrangements must be sufficiently flexible so as not to limit the ability of any Specialist to meet market making or other obligations under Exchange Rules.

(j) The written statement required by Subsection (g) of these Exemption Guidelines shall detail the internal controls that both the affiliated ATP Holder and the Specialist intend to adopt to satisfy each of the conditions stated in Subsections (g)(i) through (g)(viii) of these Guidelines, and the compliance and the audit procedures they propose to implement to ensure that the internal controls are maintained. If the Exchange determines that the organizational structure and the compliance and audit procedures proposed by the ATP Holder and its affiliated Specialist are acceptable under the Guidelines, the Exchange shall so inform the ATP Holder and its affiliated Specialist, in writing, at which point an exemption shall be granted. Absent such prior written approval, an exemption shall not be made available. The written statement should identify the individuals in senior management positions (and their titles/levels of responsibility) of the affiliated ATP Holder to whom information concerning the Specialist trading activities and security positions, and information concerning clearing and margin financing arrangements, is to be made available, the purpose for which it is to be made available, the frequency with which the information is to be made available, and the format in which the information is to be made available. If any partner, director, officer, or employee of the affiliated ATP Holder intends to serve in any such capacity with the Specialist, or vice versa, the written statement must include a statement of the duties of the particular individual, at both entities, and why it is necessary for such individual to be a partner, director, officer or employee of both entities. The Exchange may grant approval for service at both entities only if the dual affiliation is for overall management control purposes or for administrative and support purposes. Dual affiliation will not be permitted for an individual who intends to be active in the day-to-day business operations of both entities. Nothing in the foregoing, however, shall preclude an employee of one entity who performs strictly administrative or support functions (such as facilities, accounting, data processing, personnel and similar types of services) from performing similar functions on behalf of the other entity, provided that such individual is clearly identified, and the functions performed on behalf of each entity are specified, in the written statement described above, and all requirements in Subsection (f) above as to maintaining the confidentiality of information are met.

#### **927.4NY – e-Specialists**

(a) Designation as an e-Specialist. The Exchange may designate e-Specialists in an options class to fulfill certain obligations required of Specialists. The Exchange shall determine the appropriate number of approved e-Specialists per option class. Factors to be considered in approving e-Specialists include any one or more of the following:

- (i) adequacy of resources including capital, technology, and personnel;
- (ii) history of stability, superior electronic capacity, and superior operational capability;
- (iii) market making and/or specialist experience in a broad array of securities;
- (iv) ability to interact with order flow in all types of markets;
- (v) existence of order flow commitments.
- (vi) willingness to accept allocation as an e-Specialist in options in at least 400 underlying securities; and
- (vii) willingness and ability to make competitive markets on the Exchange and to promote the Exchange in a manner that is likely to enhance the ability of the Exchange to compete successfully for order flow in the options it trades.

In selecting an applicant for approval as an e-Specialist, the Exchange may place one or more conditions on the approval concerning the operations of the applicant and the number of option classes which may be allocated to the applicant.

Each e-Specialist shall retain its approval to act as an e-Specialist until the Exchange relieves the e-Specialist of its approval and obligations to act as an e-Specialist or the Exchange terminates the e-Specialist's approval to act as an e-Specialist pursuant to Exchange Rules. An e-Specialist may not transfer its approval to act as an e-Specialist unless approved by the Exchange.

(b) Allocation of Option Classes. The Exchange shall grant e-Specialists allocations in option classes. Factors to be considered in granting allocations include performance, capacity, performance commitments, efficiency, competitiveness, and operational factors. In addition, the following shall apply:

- (i) More than one e-Specialist may be allocated to the same option class;
- (ii) Option classes that have been allocated to a Specialist may be concurrently allocated to e-Specialists.
- (iii) An e-Specialist's allocation in an option class or group of classes is non-transferable unless approved by the Exchange.

(iv) The Exchange may impose a minimum number of option classes for which an e-Specialist may be allocated.

(v) An e-Specialist may not be allocated an option class for which the e-Specialist organization serves as Specialist on the trading floor,

(vi) The Exchange may remove any option class from the e- Specialist Program at any time if certain factors no longer warrant its inclusion in the program. Factors to be considered in removing an option class include any of the following: market share, number of exchanges trading the product, average daily trading volume, and liquidity in the product. The Exchange shall give prior notice of any removal of an option class to the e-Specialists trading in that option class.

(c) Trading Permit Requirement. Each e-Specialist organization is required to maintain a sufficient number of Trading Permits to include appointments in classes where the organization is acting as an e-Specialist.

(d) Trade Participation. e-Specialists shall participate in trades as set forth in Rule 964NY.

### **927.5NY - e-Specialist Obligations**

Each e-Specialist shall fulfill all of the obligations of a Market-Maker and of a Specialist under the Rules and shall satisfy each of the following requirements:

(a) meet the quoting obligations of Rule 925NY and 925.1NY(b);

(b) assure that its market quotations are accurate;

(c) continue to act as an e-Specialist and to fulfill all of the e-Specialist's obligations as an e-Specialist until the Exchange relieves the e-Specialist of its approval and obligations to act as an e-Specialist;

(d) make competitive markets on the Exchange and otherwise to promote the Exchange in a manner that is likely to enhance the ability of the Exchange to compete successfully for order flow in the classes it trades;

(e) immediately notify the Exchange of any material operational or financial changes to the e- Specialist organization as well as obtain the Exchange's approval prior to effecting changes to the ownership, capital structure, voting authority, distribution of profits/losses, or control of the e- Specialist organization;

(f) maintain information barriers that are reasonably designed to prevent the misuse of material, non-public information with any affiliates that may conduct a brokerage business in option classes allocated to the e- Specialist or act as specialist or Market-Maker in any security underlying options allocated to the e- Specialist, and otherwise

comply with the requirements of NYSE Alternext US LLC Rule 3(j) and 3(l) regarding the misuse of material non-public information.

### **927.6NY - Review of e-Specialist Operations and Performance**

(a) Review. The Exchange may conduct a review of an e-Specialist's operations or performance at any time. Such review may include an evaluation of the extent to which the e-Specialist has satisfied its obligations under Rule 927.5NY. An e-Specialist shall submit to the Exchange such information requested by the Exchange in connection with a review of the e-Specialist's operations or performance on the Exchange.

(b) Termination and Other Limitations. The Exchange may terminate, place conditions upon, or otherwise limit a member organization's approval to act as an e-Specialist on the same basis that Specialist privileges may be terminated and/or conditioned under Rule 927.3NY. If a member organization's approval to act as an e-Specialist is terminated, conditioned, or otherwise limited by the Exchange pursuant to this Rule, the member organization may seek review of that decision under Section 9A.

### **928NY – Market Maker Risk Limitation**

(a) Trade Counter. NYSE Amex System will maintain a "trade counter" for each Market Maker in each class within the Market Maker's appointment. The trade counter will be incremented by one every time the Market Maker executes a trade in any series in an appointed class.

(b) Market Maker Risk Limitation Mechanism. NYSE Amex System will activate the Market Maker Risk Limitation Mechanism in an appointed class whenever the following conditions are met: The trade counter has reached "n" executions within one second against the quotes of the Market Maker in the Market Maker's appointed class. When the above conditions are met, the trading engine will automatically cancel all quotes posted by the Market Maker in that class by generating a "bulk cancel" message.

(1) The Market Maker Risk Limitation Mechanism automatically will default the "n" number of executions to 50 executions per second.

(2) Each Market Maker quoting in an issue may instead opt to set the "n" number of executions at no fewer than five executions per second up to a maximum of 100 executions per second. At no time may the trade counter be set for a trade rate of less than five executions in a one second period.

(c) The bulk cancel message will be processed in time priority with any other quote or order message received by NYSE Amex System. Any orders or quotes that matched with the Market Maker's quote and were received by NYSE Amex System prior to the receipt of the bulk cancel message will be automatically executed. Orders or quotes received by NYSE Amex System after receipt of the bulk cancel message will not be executed against the Market Maker.

(d) Once the Market Maker Risk Limitation Mechanism has been activated for an option class, any bulk quote messages sent by the Market Maker in that class will continue to be rejected until the Market Maker submits a message to NYSE Amex System to enable new quotes.

(e) For purposes of this Rule 928NY, a "bulk quote" message is a single message from a Market Maker that simultaneously updates all of the Market Maker's quotes in multiple series in a class at the same time.

(f) In the event that there are no Market Makers quoting in the issue, the best bids and offers of those orders residing in the NYSE Amex System Book in the issue will be disseminated as the BBO. If there are no Market Makers quoting in the issue and there are no orders in the NYSE Amex System Book in the issue, NYSE Amex System will disseminate a bid of zero and an offer of zero.

### **929NY – Joint Accounts**

(a) No Market Maker shall, directly or indirectly, hold any interest or participate in any joint account for buying or selling any option contract or related security unless

(1) each participant in such joint account is an ATP Holder of the Exchange, and

(2) such joint account agreement is filed with (in a form approved by the Exchange) and approved by the Exchange.

(b) Each participant in a joint account and each ATP Holder with which a participant is associated shall be jointly and severally responsible for assuring that the account complies with all applicable provisions of the Exchange Operating Agreement, Rules, Commentaries, and Procedures. Each joint account which acts in the capacity of Market Maker shall be required to meet all the obligations of a Market Maker with such exceptions as provided by this Section and Commentaries thereunder.

(c) A participant in a joint account must be either: (i) a Market Maker having an appointment under Rule 923NY; or (ii) a clearing member which carries the joint account. A Market Maker may participate on behalf of an ATP Holder with which he is associated. Market Makers participating in a joint account may be associated with the same ATP Holder.

(d) Each participant in a joint account must file with the Exchange and thereafter keep current a completed application on a form prescribed by the Exchange.

(e) Each joint account acting in the capacity of a Market Maker shall have a letter of guarantee executed on its behalf, pursuant to Rule 924NY. Each joint account acting in the capacity of Floor Broker shall have a letter of authorization executed on its behalf, pursuant to Rule 932NY.

(f) Joint Account participants may not enter: (1) opening option transactions from off the Floor for the joint account in option contracts listed on the Exchange (unless otherwise permitted by Exchange Rules); (2) transactions for option contracts not listed on the Exchange; and (3) transactions for any other security. This prohibition does not apply to transactions entered for securities underlying Exchange option contracts in the joint account.

(g) Individual Market Makers trading for a joint account must have a primary appointment, but the joint account itself is not required to have a primary appointment.

(h) The following trading restrictions apply to ATP Holders who are registered with the Exchange to trade on behalf of the same joint account:

(1) A joint account may be simultaneously represented in a trading crowd only by participants who are trading in-person. Orders for a joint account may not be entered in a trading crowd in which a participant of the joint account is trading in-person for the joint account. If no participant is trading in-person in the trading crowd for the joint account, then a Floor Broker may represent orders in the trading crowd on behalf of the joint account as long as the same option series is not concurrently represented for the same joint account by more than one Floor Broker.

(2) Market Makers may alternate trading in-person between their individual and joint accounts while in the trading crowd. Market Makers who alternate trading between accounts must ensure that while trading the joint account another participant does not enter orders through a floor broker for the joint account in the same trading crowd.

(3) Before beginning trading on behalf of a joint account, participants in the joint account are responsible for determining whether any Floor Brokers are representing orders in the same trading crowd on behalf of the same joint account.

(4) Floor Brokers may not represent a joint account of which they are a participant.

(5) Market Makers who are trading in-person in a trading crowd may not enter orders with a Floor Broker either for joint accounts in which they are participants or for their individual accounts.

(6) The following trades are prohibited:

(A) Trades between a joint account participant's individual account and a joint account in which that person is a participant.

(B) Trades between two joint accounts having common participants.

(C) Trades in which the buyer and seller are representing the same joint account and are on opposite sides of the transaction.

**Commentary:**

.01 Adjustments among the participants and the joint account are subject to the provisions of Rule 960.

.02 While on the Floor, participants in joint accounts shall wear badges identifying themselves as ATP Holder of the same joint account, as prescribed by Exchange procedures.

.03 Transactions on the Floor will be presumed to be for the proprietary account of the individual ATP Holder unless the executing ATP Holder enters the joint account symbol into EOC or the Electronic Tablet. For orders excepted from EOC or the Electronic Tablet, pursuant to Rule 955NY, transactions on the Floor will be presumed to be for the proprietary account of the individual ATP Holder unless the joint account symbol is given up and used on the trade ticket to represent the joint account as the executing ATP Holder.

.04 Any order of a joint account participant that is executed by a Floor Broker, must be in accordance with the procedures set forth in Rule 925.3NY, except that the joint account trading number with its alpha identification must be entered into EOC or the Electronic Tablet, or, for order excepted from EOC or the Electronic Tablet, pursuant to Rule 955NY, the joint account trading number with its alpha identification must appear in the "executing firm" area. Additionally, a joint account may not bid, offer, purchase, sell, or enter orders in an option series in which a Floor Broker holds an order on behalf of the joint account or for the proprietary account of another participant in the joint account. Orders of joint account participants in a particular option series may not be concurrently represented by one or more Floor Brokers.

.05 For purposes of evaluating Market Maker performance in accordance with Rule 923NY(i), contract volume in the joint account will be assigned to the participant who effected the transactions for the joint account, under the same guidelines as if they effected the transactions for their own account.

.06 For the purposes of determining compliance with NYSE Alternext US LLC Rule 904, 904C, and 1107 (Position Limits) and NYSE Alternext US LLC Rule 905, 905C, and 1108 (Exercise Limits) by the joint account and each participant in the joint account, the Exchange shall compute the positions or exercises attributable to

each participant and to the joint account be aggregating all the positions or exercises of the joint account with all the related positions or exercises which any participant or member organization associated with a participant holds or controls or is obligated in respect thereof.

.07 The restriction Rule 931NY places on Market Makers acting as such and as Floor Brokers shall apply to joint accounts. Thus, should a participant act as a Floor Broker in options overlying a particular security, no transactions for the joint account in option contracts overlying that particular security may be effected by any participant in the joint account on the same business day. This prohibition also restricts any participant in a joint account from acting as a Floor Broker for an option contract if there have been proprietary transactions for the joint account in option contracts overlying the same security on that day.

### **930NY – Floor Broker Defined**

(a) A Floor Broker for the purposes of this Rule is a sole proprietor ATP Holder or a representative of an ATP Holder who is registered with the Exchange for the purpose, while on the Exchange Floor, of accepting and executing option orders received from ATP Holders. A Floor Broker shall not accept an order from any other source unless he is a sole proprietor ATP Holder or a representative of an ATP Holder approved to transact business with the public in accordance with Rule 441, in which event he may accept orders for customers of the ATP Holder.

#### (b) Conducting a Limited Public Business

(1) Notwithstanding the provisions of subsection (a) of this Rule, qualified Floor Brokers and Floor Clerks of qualified Floor Brokers may conduct a public business limited to accepting orders directly from Professional Customers, as defined below, for execution on the Floor of the Exchange. Any Floor Broker or Floor Clerk of a Floor Broker seeking to conduct such a limited public business must first:

(A) successfully complete the Series 7 Examination; and

(B) register and receive approval from the Exchange. The form of registration will be prescribed by the Exchange.

(2) For purposes of this rule, a "Professional Customer" includes a bank; trust company; insurance company; investment trust; a state or political subdivision thereof; charitable or nonprofit educational institution regulated under the laws of the United States, or any state, or pension or profit sharing plan subject to ERISA or of any agency of the United States as of a state or political subdivision thereof;

or any person (other than a natural person) who has, or who has under management, net tangible assets of at least sixteen million dollars.

(3) ATP Holders who conduct a limited public business pursuant to the provisions of subsection (b) of this Rule 930NY are strictly prohibited from holding Customer funds and Customer securities.

### **931NY – Registration of Floor Brokers**

(a) An applicant for registration as a Floor Broker must file an application in writing with the Exchange on such form or forms as the Exchange may prescribe. Applicants must pass a Floor Broker examination prescribed by the Exchange. Before a registration becomes effective, the Exchange will post the name of the applicant on the bulletin board on the Floor of the Exchange for 3 business days.

(b) An ATP Holder registered as a Floor Broker on NYSE Amex may not be concurrently registered as a Market Maker on NYSE Amex.

(c) The registration of any person as a Floor Broker may be suspended or terminated by the Exchange upon a determination that such person has failed to perform properly as a Floor Broker. Any ATP Holder or prospective ATP Holder adversely affected by a determination of the Exchange under this Rule may obtain a review thereof in accordance with the provisions of Section 9A.

### **932NY – Letters of Authorization**

(a) *Required of Each Floor Broker.* No Floor Broker shall act as such on the Exchange unless there is in effect a Letter of Authorization that has been issued for such Floor Broker by a clearing member. Unless the Exchange determines otherwise a Floor Broker may not have more than one such letter in effect at the same time.

(b) *Terms of Letter of Authorization.* A Letter of Authorization shall provide that the issuing clearing member shall be responsible for the clearance of the Exchange transactions of the Floor Broker when the name of such clearing member is given up.

(c) *Revocation of Letter of Authorization.* A Letter of Authorization filed with the Exchange shall remain in effect until a written notice of revocation has been filed with the Exchange. If such written notice has not been filed at least one hour prior to the opening of trading on a particular business day, such revocation shall not become effective until the close of trading on such day.

(d) *FLEX Options.* Floor Brokers may not act as such in respect of FLEX Options contracts unless one or more Letter(s) of Guarantee on behalf of such Floor Brokers has been issued by a Clearing Member in accordance with Rule 924NY.

### **933NY – Responsibilities of Floor Brokers**

(a) General Responsibility. A Floor Broker handling an order is to use due diligence to execute the order at the best price or prices available to him, in accordance with the Rules of the Exchange.

(b) Contingency order or one-cancels-the-other order. A Floor Broker handling a contingency order or a one-cancels-the-other order that is dependent upon the price of the underlying security shall be responsible for satisfying the dependency requirement on the basis of the last reported price of the underlying security in the primary market that is generally available on the floor of the Exchange at any given time. Unless mutually agreed by the ATP Holders involved an execution or non-execution that results shall not be altered by the fact that such price is subsequently found to have been erroneous.

(c) Combination orders at the opening or close. A Floor Broker shall not be held responsible for executing a single order combining different series of options based upon transaction prices that are established at the opening or close of trading or during any trading auction employed in accordance with Rule 952NY.

(d) Pursuant to Rule 933NY, the Exchange has made a determination regarding print-throughs on limit orders held by a Floor Broker. This determination distinguishes print-throughs which occur intra-day from print-throughs occurring on the opening. When a print-through is discovered, the Floor Broker should ascertain whether the limit price or a more favorable price is available. If a more favorable price is available, the order for the Customer should be filled at the more favorable price; if a more favorable price is not available, the Floor Broker is responsible at the original limit price for whatever number of contracts have traded-through the limit order. Print-throughs on the opening should be treated differently than those which occur intra-day. On the opening, the Floor Broker is responsible for the number of contracts that trade-through the Customer's limit order at the opening price, rather than at the limit price.

(e) Floor Brokers may accept orders that bid for or offer a specified number of contracts and no less. These include orders designated as "fill or kill," "all or none," or "immediate or cancel," (including such orders specifying that any unfilled portion of a multiple order is to be immediately canceled). However, Floor Brokers must assure that all such orders (including the contingency) are vocalized in the trading crowd, and that the bid or offer is not disseminated.

(f) Floor Brokers who are required to establish and maintain error accounts may only use such error accounts for the purpose of correcting bona fide errors, as provided in Rule 960.

#### **Commentary:**

.01 Pursuant to Rule 933NY, a Floor Broker's use of due diligence in executing an order shall include ascertaining whether a better price than is being displayed at that time is being quoted by another Floor

Broker or a Market Maker. This rule requires that Floor Brokers announce solicitations of the best price or prices available and that they allow adequate time, depending upon market conditions, for other ATP Holders to respond. If a market satisfying the standards of Rule 925NY is not present, then the Floor Broker should request the Trading Official to call for bids and offers by Market Makers in accordance with Rule 940NY.

.02 Pursuant to Rule 933NY, a Floor Broker's use of due diligence in executing an order includes the use of a reasonable effort to make all persons in the trading crowd aware of the Floor Broker's request for a quotation.

.03 Pursuant to Rule 933NY, a Floor Broker's use of due diligence in executing a market order as defined in paragraph (a) of Rule 900.3NY shall include (i) the prompt execution of such order at the best obtainable price after representing the order at the post in accordance with the provisions of Commentary .02 of this Rule; and (ii) the representation of such order at the post within a reasonable time after such order reaches the trading floor.

.04 A Floor Broker's use of due diligence in handling an order is applicable to the provisions of Rule 970NY, in that it includes taking the necessary measures to ensure the proper execution of an order as it pertains to the executable quantity for a trading crowd's firm disseminated bid/offer. The failure of a Floor Broker to remove a bid/offer that he has caused to be disseminated, upon his leaving the trading post shall constitute a violation of this Rule.

.05 A Floor Broker's use of due diligence in handling an order shall include the immediate and continuous representation of market and marketable orders at the trading post where the option class represented by his order is designated for trading, except that a Floor Broker who is acting pursuant to Rule 937NY need not represent such orders immediately at the designated trading post.

### **934NY – Crossing**

#### (a) Customer-to-Customer Cross

A Floor Broker who holds a Customer order to buy and a Customer order to sell the same option contract may cross such orders, provided that the Floor Broker proceeds in the following manner:

(1) the Floor Broker must request bids and offers for the option series involved and make the Trading Crowd and the Trading Official aware of the request for the market via open outcry.

(2) After providing an opportunity for such bids and offers to be made, the Floor Broker must bid above the highest bid in the crowd, and offer below the lowest offer in the crowd.

(3) The Floor Broker may cross the orders at such higher bid and lower offer by announcing by open outcry that he is crossing orders on behalf of Customers, and giving the quantity and price, provided, however, that

(A) the execution price must be equal to or better than the NBBO.

(B) the Floor Broker may not trade through any bids or offers in the Consolidated Book that are priced better than the proposed execution price. If there are bids or offers on the Consolidated Book better than the proposed execution price, or Customer Orders in the Consolidated Book priced at the proposed execution price, the Floor Broker must trade against such bids or offers in the Consolidated Book. Once such bids or offers in the Consolidated Book are satisfied, the Floor Broker may cross the balance of the orders, if any, to be crossed. The orders will be cancelled or posted in the Book if an execution would take place at a price that is inferior to the NBBO.

(C) the Floor Broker may cross the orders at split prices provided all provisions of Rule 963NY(f) are met.

(b) Non-Facilitation (Regular Way) Crosses.

A Floor Broker who holds a Customer order and another order on the contra side of the Customer in the same option contract may cross such orders, provided that the Floor Broker proceeds in the following manner:

(1) The Floor Broker must request bids and offers for the option series involved and make the trading crowd and the Trading Official aware of the request for a market via open outcry.

(2) After providing an opportunity for such bids and offers to be made, the Floor Broker must expose the Customer order by bidding above the highest bid in the crowd, or offering below the lowest offer in the crowd, by at least the MPV.

(3) If such higher bid or lower offer is not taken by members of the trading crowd, the Floor Broker may cross the orders (or any part remaining unexecuted) at such higher bid or lower offer by announcing by open outcry that he is crossing the orders and giving the quantity and price; provided, however that (A) the execution price must be equal to or better than the NBBO, and (B) the Floor

Broker may not trade through any bids or offers on the Consolidated Book that are priced better than the proposed execution price. If there are bids or offers in the Consolidated Book better than the proposed execution price, or Customer Orders in the Consolidated Book priced at the proposed execution price, the Floor Broker must trade against such bids or offers in the Consolidated Book. Once bids or offers in the Book are satisfied, the Floor Broker may cross the balance of the orders, if any, to be crossed. The orders will be cancelled or posted in the Book if an execution would take place at a price that is inferior to the NBBO.

### **934.1NY - Facilitation Cross Transactions**

A Floor Broker who holds both an order for a Customer of an ATP Holder and a facilitation order may cross such orders if:

(1) the ATP Holder discloses on its order ticket for the Customer order which is subject to facilitation, all the terms of such order, including, if applicable, any contingency involving other options, underlying securities, or related securities; and

(2) the Floor Broker requests bids and offers for the option series subject to facilitation, then discloses the Customer order and any contingency respecting such order which is subject to facilitation and identifies the order as being subject to facilitation; and

(3) after providing an opportunity for such bids and offers to be made, the Floor Broker, on behalf of the Customer whose order is subject to facilitation establishes priority by, either bidding or offering at or between the best bid or offer in the market consistent with the Exchange's Customer priority rules. After all other market participants are given an opportunity to accept the bid or offer made on behalf of the Customer whose order is subject to facilitation, the Floor Broker may cross all or any remaining part of such order and the facilitation order at such Customer's bid or offer by announcing in public outcry that (s)he is crossing such orders stating the quantity and price(s).

(4) (A) notwithstanding paragraph (3) above, an ATP Holder seeking to facilitate its own Customer's option order for the eligible order size will be permitted to participate in the firm's proprietary account as the contra-side of that order to the extent of 40% of the contracts remaining after filling Customers, provided the order trades at or between the best bid or offer given by the trading crowd in response to the Floor Broker's request for a market.

If, however, a Customer order on the Consolidated book or represented in the trading crowd has priority over the facilitation order, the ATP Holder may participate in only those contracts remaining after the Customer's order has been filled.

(B) the eligible order size shall be 50 contracts or larger.

(C) If a trade pursuant to this Rule occurs at the Specialist's vocalized bid or offer in its appointed class, then the Specialist's guaranteed participation shall apply only to the number of contracts remaining after all those Customer orders which trade ahead of the cross transaction and the number of contracts crossed have been satisfied. The Specialist's guaranteed participation will be a percentage that when combined with the percentage the originating firm crossed, does not exceed 40% of the order.

(D) nothing in this subparagraph (4) is intended to prohibit an ATP Holder or Specialist from trading more than their guaranteed participation allocations if the other members of the trading crowd choose not to trade the remaining portion of the order.

When accepting a bid or offer made on behalf of a Customer whose order is subject to facilitation, all contingencies of the Customer order must be satisfied. Once the bid or offer has been made on behalf of the Customer whose order is subject to facilitation or crossing, such Customer order has precedence over any other bid or offer in the crowd to trade immediately with the facilitation order.

#### **934.2NY - At-Risk Cross Transactions**

In the case of equity options, a Floor Broker holding an order for a Customer on behalf of an ATP Holder and a contra-side order for that same ATP Holder may facilitate the Customer order in accordance with Rule 934.1NY or may execute such orders as an at-risk cross in the following manner:

(i) the eligible order size shall not be less than fifty (50) contracts.

(ii) the ATP Holder discloses on its order ticket for the Customer order which is subject to the cross, all the terms of such order, including, if applicable, any contingency involving other options, underlying securities, or related securities.

(iii) the Floor Broker requests bids and offers from the trading crowd for the execution of all options components of the order.

(iv) in response to the quoted market from the trading crowd, the Floor Broker on behalf of the ATP Holder must first represent the Customer order to the trading crowd as Customer providing the side, size and a price of the order, giving the Customer an opportunity for price improvement.

(v) once the trading crowd has provided a quote in response to the Customer order, it will remain in effect until: (i) a reasonable amount of time has passed, (ii) there is a significant change in the price of the underlying security or (iii) the market given in response to the request has been improved. In the case of a

dispute, the term "significant change" will be interpreted on a case-by-case basis by Trading Officials based upon the extent of the recent trading in the option and in the underlying security, and any other relevant factors.

(vi) in response to the trading crowd's quoted market, the Floor Broker may on behalf of the ATP Holder improve the quoted market establishing priority or facilitate the order pursuant to Rule 934.1NY.

(vii) the Floor Broker may then attempt to consummate a cross transaction at risk to the market by bidding/offering on behalf of the ATP Holder at one minimum price variation (MPV) away from the Customer order, providing the Customer order the opportunity for price improvement.

If a Customer order has established priority over the at-risk cross, the ATP Holder may participate in those contracts remaining after the Customer's order has been filled.

Once a cross transaction has occurred, the order cannot be broken up by a subsequent superior bid or offer by the trading crowd.

### **934.3NY – Solicitation**

A Floor Broker representing an order in options ("originating order") may solicit another ATP Holder or non-member broker dealer outside the trading crowd ("solicited party") to participate in the transaction on a proprietary basis provided the Floor Broker, upon entering the trading crowd to execute the transaction, announces to the trading crowd the same terms and conditions about the originating order as disclosed to the solicited party and bids at the price he is prepared to buy from the solicited party or offers at the price he is prepared to sell to the solicited party.

After all other market participants are given a reasonable opportunity to accept the bid or offer, the solicited party may accept all or any remaining part of such order or the Floor Broker may cross all or any remaining part of the originating order with the solicited party at such bid or offer by announcing that the Floor Broker is crossing the orders stating the quantity and price. Non-solicited market participants and Floor Brokers holding non-solicited discretionary orders in the trading crowd will have priority over the solicited party or the solicited order to trade with the original order at the best bid or offer price subject to the precedence rules set forth in Rule 963NY.

A Floor Broker seeking to cross a Customer order with a solicited order which improves the quoted market will be permitted to cross the solicited order against the Customer order to the extent of 40% of the contracts remaining after filling Customers, provided the eligible order size for the solicited order is not less than fifty (50) contracts.

All orders subject to solicitation pursuant to this Commentary, and all tickets reflecting orders solicited pursuant to this Commentary, must be marked as specified by the

Exchange. For purposes of this Rule, the term "broker/dealer" includes foreign broker/dealers.

When accepting a bid or offer made on behalf of a Customer whose order is subject to crossing against the solicited order, all contingencies of the Customer order must be satisfied. Once the bid or offer has been made on behalf of the Customer whose order is subject to crossing, such Customer order has precedence over any other bid or offer in the crowd to trade immediately with the solicited order.

### **935NY – Order Exposure Requirements**

With respect to orders routed to NYSE Amex System, Users may not execute as principal orders they represent as agent unless (i) agency orders are first exposed on the Exchange for at least three (3) seconds or (ii) the User has been bidding or offering on the Exchange for at least three (3) seconds prior to receiving an agency order that is executable against such bid or offer.

#### **Commentary:**

.01 Rule 935NY prevents a User from executing agency orders to increase its economic gain from trading against the order without first giving other trading interest on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the User was already bidding or offering on the book. However, the Exchange recognizes that it may be possible for a User to establish a relationship with a Customer or other person to deny agency orders the opportunity to interact on NYSE Amex System and to realize similar economic benefits as it would achieve by executing agency orders as principal. It will be a violation of Rule 935NY for a User to be a party to any arrangement designed to circumvent Rule 935NY by providing an opportunity for a Customer to regularly execute against agency orders handled by the User immediately upon their entry into NYSE Amex System.

.02 It will be a violation of Rule 935NY for a User to cause the execution of an order it represents as agent on NYSE Amex System against orders it solicited from ATP Holders and non-ATP Holder broker-dealers, whether such solicited orders are entered into NYSE Amex System directly by the User or by the solicited party (either directly or through another User), if the User fails to expose orders on NYSE Amex System as required by Rule 935NY.

.03 The Order Exposure Requirements of this Rule shall also apply to orders priced in penny increments pursuant to Rules 900.3NY(r) and 960NY. In such cases, agency orders priced in penny increments are deemed "exposed" pursuant to (i) above, and orders entered by Users priced in penny increments are deemed bids or offers pursuant to (ii) above.

.04 Prior to or after submitting an order to the NYSE Amex System, an ATP Holder cannot inform another ATP Holder or any other third party of any of the terms of the order.

.05 It will be a violation of Rule 935NY where an ATP Holder enters a Tracking Order for the purpose of executing as principal an order it also represents as agent.

### **936NY – Discretionary Transaction**

(a) No Floor Broker shall execute or cause to be executed any transaction on this Exchange with respect to which transaction such Floor Broker is vested with discretion as to: (1) the choice of the class or series of options to be bought or sold; (2) the stated number of option contracts to be bought or sold; (3) the ability to increase the stated volume; or (4) whether any such transaction shall be one of purchase or sale. A Floor Broker may be vested with discretion as to the ability to decrease the stated volume of option contracts.

(b) Pursuant to Rule 936NY, the Exchange has determined that no Floor Broker may hold concurrently a "not held" market order to buy and a "not held" market order to sell (or orders which have the effect of such "not held" market orders to buy and to sell) the same series of options for the same account or for accounts of the same beneficial owner. Holding such orders will be interpreted as allowing the Floor Broker discretion with respect to whether to purchase or sell such options.

(c) A Market Maker shall not exercise discretion in an account unless he has a direct interest in such account. Market Makers may not exercise discretion over any account other than: a joint account approved pursuant to Rule 929NY, or an account in which the Market Maker has a direct interest. For purposes of this Rule, the term "direct interest" in an account is limited in its meaning to include only a participation in the profits and losses in such account, or in the case of a partnership or corporation, a representative of such partnership or corporation who has a supervisory responsibility over such account. Only persons registered as Market Makers and subject to the performance obligations set forth in Rule 925NY, may exercise discretion over an account.

(1) A Market Maker wishing to effect such discretionary transactions for accounts other than the Market Maker's personal account or a joint account must enter the order with a Floor Broker and the procedures set forth in Rule 925.3NY. The identification of the order as a discretionary order is required pursuant to Rule 956NY.

(A) The clearing acronym of the Market Maker for whom the transaction is being executed must be entered into EOC or the Electronic Tablet, for orders excepted from EOC or the Electronic Tablet, pursuant to Rule

955NY, written on the ticket along with the clearing acronym of the Market Maker exercising discretion; and

(B) A "D" must be placed after the Market Maker's clearing acronym, for whose account the trade is executed.

**937NY – Floor Broker Acting As Both Principal and Agent in the Same Transaction**

a) A Floor Broker holding an agency order may not fill any part of such order as principal unless that Floor Broker inadvertently "misses the market" for the account of a customer and, owing a report at a specified price or better, cannot effect the necessary transaction except by filling all or some portion of the order as principal.

(b) For the purposes of facilitating a customer order via the firm error account, in connection with a broker's "missing the market," the following procedures will apply:

(1) Floor Broker errors (positions resulting from a broker's error or omission) must be liquidated promptly except for unusual circumstances that are beyond the control of such Floor Broker.

(2) Error account positions not liquidated by the next business day must be maintained in a customer (investment) account and be subject to customer margin.

(3) Error account positions, not initially established as part of an investment transaction (i.e., executed as agent) may not subsequently be transferred, adjusted, or journaled into a Market Maker account.

(4) The price and size of the transaction, if made through the Exchange's adjustment system, must be justified by the market condition at the time the order was entered, if it was a market order and at the limit or better if it was a limit order.

**940NY – Trading Officials – Obligation for Fair, Orderly, and Competitive Market**

At the request of a Floor Broker who holds an order for a particular option contract, or before any crossing transaction is effected in accordance with Rule 934NY, or whenever in the Trading Official's opinion the interests of a fair and orderly and competitive market are best served by such action, a Trading Official must call upon those Market Makers appointed to act as such in that class of option contracts to make bids and/or offers that contribute to meeting the standards set forth in Rule 925NY. To the extent practicable, and in a form prescribed by the Exchange, the Trading Official will keep a record of the responses of Market Makers that provide or improve upon a market commensurate with these standards. If satisfactory responses are not forthcoming promptly, the Trading Official will make a record of this fact. Copies of all records kept in accordance with the Rule will be forwarded to the Options Surveillance Department.

**Commentary :**

.01 Issuing a Call for Market Makers. The issuing of a call for Market Makers to come to a specified post will be the responsibility of the Trading Official. Only the Trading Official may cause this call to be made. A call for Market Makers will be made only after it has been determined that those Market Makers present at the post are not carrying out the functions of Market Makers as stipulated in Rule 925NY, and not on the basis only that Market Makers are not present in numbers.

If as few as two Market Makers are present and the Trading Official determines that an orderly market is being maintained with respect to quote and size, then a call will not be issued merely to bring more Market Makers to the post. However, the provision is not in any way to be taken as a limitation on the responsibilities of the Trading Official to issue such calls for Market Makers as may be necessary to implement fully the requirements of NYSE Amex Rule 925NY.

**952NY – Trading Auctions**

(a) A "Trading Auction" is a process by which trading is initiated in a specified options class. Trading Auctions may be employed at the opening of the Exchange each business day or to re-open trading after a trading halt. Trading Auctions will be conducted automatically by the NYSE Amex System. Trading Auctions will be conducted in the following manner:

NYSE Amex System Automated Opening Auction

(b) Establishing a Market for the Opening Auction. The system will accept market and limit orders and quotes for inclusion in the opening auction process ("Auction Process") until such time as the Auction Process is initiated in that option series. Contingency orders (except for "opening only" orders) will not participate in the Auction Process. Any eligible open orders residing in the NYSE Amex System Book from the previous trading session will be included in the Auction Process. After the primary market for the underlying security disseminates the opening trade or the opening quote, the related option series will be opened automatically based on the following principles and procedures:

(A) The system will determine a single price at which a particular option series will be opened.

(B) Orders and quotes in the system will be matched up with one another based on price-time priority; provided, however, that Orders will have priority over Market Maker quotes at the same price.

(C) Orders in the NYSE Amex System Book that were not executed during the Auction Process shall become eligible for the Core Trading Session immediately after the conclusion of the Auction Process.

(c) Determining the Opening Price for Option Issues Designated for Trading on NYSE Amex System. The opening price of a series will be the price, as determined by NYSE Amex System, at which the greatest number of contracts will trade at or nearest to the midpoint of the initial uncrossed NBBO disseminated by OPRA, if any, or the midpoint of the best quote bids and quote offers in the NYSE Amex System Book. Midpoint pricing of the Trading Auction will not occur if that price would result in an order or part of an order being traded through. Instead the Trading Auction will occur at that order's limit price, or, if the order's limit price is superior to the quoted market, within the range of 75% of the best quote bid and 125% of the best quote offer.

(d) Re-Opening After a Trading Halt. A Trading Auction will be conducted following the procedures described in paragraphs (a) through (c) of this Rule to reopen an option class after a trading halt.

### **953NY – Trading Halts and Suspensions**

(a) Trading on the Exchange in any option contract shall be halted or suspended whenever the Exchange deems such action appropriate in the interests of a fair and orderly market and to protect investors. Among the factors that may be considered are that:

(1) trading in the underlying stock or Exchange-Traded Fund Share has been halted or suspended in the primary market;

(2) the opening of such underlying stock or Exchange-Traded Fund Share in the primary market has been delayed because of unusual circumstances;

(3) the Exchange has been advised that the issuer of the underlying stock or Exchange-Traded Fund Share is about to make an important announcement affecting such issuer; or

(4) other unusual conditions or circumstances are present.

Trading in option contracts of a class or series of options that has been the subject of a halt or suspension by the Exchange may be resumed upon a determination by the Exchange that the conditions which led to the halt or suspension are no longer present and that the interests of a fair and orderly market are best served by a resumption of trading.

(b) The Exchange shall have the same authority to supervise trading of option contracts as it has with respect to other securities or Exchange-Traded Fund Shares, including the authority to delay the opening of a particular class or series of options or to halt, and

reopen after a halt, trading in a particular class or series of options, whenever such action is deemed necessary in the interest of maintaining a fair and orderly market in such class or series of options and to protect investors.

(c) Options Floor Trading Halt Guidelines. Trading halts are, by definition, unusual market conditions. Accordingly, all of the precise circumstances of a trading halt cannot be anticipated. An evaluation of all the circumstances at the time a trading halt is under consideration is critical. Except as provided below, to ensure consistent application of the Exchange's trading halt guidelines, such decisions shall be made by a Trading Official. Bearing in mind the need to exercise discretion in response to particular circumstances as they occur, the following are guidelines for trading halts at the Exchange under varying circumstances:

(1) No last sale and/or quotation dissemination either by the Exchange or by OPRA. At the outset, a time-critical review by a Trading Official and an Exchange officer (the "group") will be made of the circumstances causing the failure of dissemination. If it is believed by the group that the dissemination will resume in less than 15 minutes, trading ordinarily will continue and a message will be given to the news wire services announcing the dissemination difficulty. If it is believed by this group that the dissemination problem will extend beyond 15 minutes, the Trading Official, in the Trading Official's discretion, may impose a halt on all trading in affected securities or Exchange-Traded Fund Shares. In any event, a Trading Official may permit trading to continue for more than 15 minutes after a failure of dissemination only with the concurrence of an Exchange Officer. Trading may resume upon a determination by the group that the conditions that led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading. Generally the Exchange will notify ATP Holders of the resumption of trading.

(2) Primary market halts trading in one or more securities or Exchange-Traded Fund Shares for regulatory reasons. Upon notification by the primary market of a regulatory trading halt of an individual equity security or Exchange-Traded Fund Share in the primary market, the Exchange may impose a trading halt in the individual stock option overlying the security or Exchange-Traded Fund Share so halted. Trading will resume upon a determination by a Trading Official that the conditions that led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading.

(3) Primary market non-regulatory trading halt in one or more equity securities or Exchange-Traded Fund Shares. Upon notification by the primary market of a non-regulatory trading halt of an individual equity security in the primary market, a Trading Official, in the Trading Official's discretion, may impose a trading halt in the individual stock option overlying the security so halted. Trading may resume upon a determination by the Trading Official that the conditions that led to the halt are no longer present or that the interests of a fair and orderly market

are best served by a resumption of trading. Generally the Exchange will notify ATP Holders and the news wire services of the resumption of trading.

(4) *The primary market halts trading floor-wide.* If the primary market halts trading floor-wide, the Exchange will halt trading in all individual equity options overlying the securities so halted in the primary market and will assess the viability of markets in the underlying securities, as measured by transactions and by share volume. In the event that it is determined by a Trading Official, that sufficient markets will support trading other than on the primary exchange, the Exchange will resume trading. Generally the Exchange will notify ATP Holders and the news wire services of the resumption of trading.

(5) *Primary market is open but is unable to disseminate last sale or quotation information.* The Exchange's options trading ordinarily will remain open for trading unless, in the opinion of a Trading Official, the absence of disseminated information will impede the ability of market makers to maintain fair and orderly markets in the option. The concurrence of an Exchange officer is required if more than one option class is affected.

(6) *Over-the-counter quote dissemination halt.* A Trading Official, in his or her discretion, may halt trading in options overlying over-the-counter securities or Exchange-Traded Fund Shares affected by such a quote dissemination halt upon first notification of the dissemination halt. Trading may resume upon a determination by the Trading Official that the conditions that led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading. Generally the Exchange will notify ATP Holders and the news wire services of the resumption of trading.

(7) *Trading in Individual Equity Options Prior to Expiration.* In the event that any of the foregoing should occur on the last trading day prior to Expiration, it is the preference of the Exchange to allow trading to continue on that date. This will be a primary consideration in the assessments to be made by the Trading Official.

**Commentary :**

.01 In the event that trading in an underlying stock or Exchange-Traded Fund Share has not opened in the primary market for such stock or Exchange-Traded Fund Share within a reasonable time after the time set for the opening of trading on the Exchange, the Trading Official shall report the delay to an Exchange officer and appropriate steps shall be taken to determine the cause for the delay. The opening of trading in such options shall be delayed until the underlying stock or Exchange-Traded Fund Share has opened unless the Exchange shall determine that the interest of a fair and orderly market are best served by opening trading in such options.

.02 In the event that trading in any option is halted, it will be the responsibility of the Trading Official who authorized the trading halt to file a report with the Exchange Operations setting forth the time and duration of such halt and the reasons therefore.

.03 For purposes of this Rule, a "regulatory halt" is a halt that is initiated by a regulatory authority in the primary market and a "non-regulatory halt" is a halt initiated by floor staff or at the request of a Market Maker or Trading Crowd in the primary market. For example, regulatory halts may be initiated by exchange staff in the primary market if listing or maintenance requirements are not met; if there is a need for dissemination of news regarding market developments or material information; or at the request of the issuer. Examples of non-regulatory halts in the primary market would be requests by ATP Holder due to an influx, or imbalance of orders, or by Trading Officials due to volatility in market conditions, or natural disasters.

### **954NY – Order Identification**

a) *Must Give Up Clearing Member.* For each transaction in which he or she participates, an ATP Holder must immediately give up the name of the clearing member through whom the transaction will be cleared. If there is a subsequent change in identity of the clearing member through whom a transaction will be cleared, the ATP Holder must, as promptly as possible, report such change to the clearing member on the other side of the transaction. This Subsection shall not apply to Market Maker transactions.

(b) *Market Maker Orders.* A Floor Broker holding an order for the account of a Market Maker shall verbally identify the order as such prior to consummating a transaction.

(c) *Broker-Dealer Orders.* Prior to executing an order in which a broker-dealer has an interest, an ATP Holder must indicate by public outcry that such order is for a broker-dealer. This rule applies regardless of whether such broker-dealer is an Exchange ATP Holder.

(d) *Floor Broker Identification.* A Floor Broker acting as an agent for another Floor Broker in effecting a transaction must give up his or her own name as executing ATP Holder.

## **955NY - Order Format and System Entry Requirements**

(a) Transmitted to the Floor. Each order transmitted to the Floor must be recorded legibly in a format that has been approved by the Exchange, and the ATP Holder receiving such order must record the time of its receipt on the Floor. Each such order must be in a legible format when transmitted to the post for attempted execution. Orders sent electronically into the NYSE Amex System or orders entered into the Exchange's EOC or the Electronic Tablet are approved formats (as described in subsection (b) below) for transmitting orders for purposes of Rule 955NY.

(b) Order Format Requirements. Orders sent to the Exchange for execution must comply with the order format requirements established by the Exchange relating to, among other things, option symbol, expiration month, exercise price, type of option (call or put), quantity of option contracts, clearing member organization, whether the order is to buy or sell, and whether the order is market or limit.

(c) EOC or Electronic Tablet Entry Requirement. Every ATP Holder that receives an order for execution on the Exchange must immediately, prior to representation in the trading crowd, record the details of the order (including any modification of the terms of the order or cancellation of the order) into either the EOC or the Electronic Tablet, unless such order has been entered into the Exchange's other electronic order processing facilities.

(1) EOC. The details of each order required to be recorded upon receipt must include the data elements prescribed in Rule 956NY (1) through (9), and such other information as may be required by the Exchange from time to time. The remaining elements prescribed in Rule 956NY shall be recorded as the events occur and/or during trade reporting procedures.

(2) Electronic Tablet. The details of each order required to be recorded upon receipt must include the data elements prescribed in Rule 956 (1) through (6), and such other information as may be required by the Exchange from time to time. The remaining elements prescribed in Rule 956NY shall be recorded as the events occur and/or during trade reporting procedures.

(d)(1) Exceptions to EOC or Electronic Tablet Entry Requirement. The EOC or Electronic Tablet entry requirement provision of subsection (c) will not apply to any EOC or Electronic Tablet system disruption or malfunction as confirmed by a Trading Official.

(2) EOC/Electronic Tablet Contingency Reporting Procedures. If the exception set forth in subsection (d)(1) applies, then the following procedures must be followed:

(A) ATP Holders shall use a backup supply of tickets to record the details of all orders (the data elements of which are prescribed in Rule 956NY(1) through (9)), received through non-electronic means. All order events (i.e., receipt, changes,

execution, partial execution, cancellation, or nothing done) must be immediately timestamped (a timestamp synchronized with the National Institute of Standards and Technology Atomic Clock in Boulder Colorado "NIST Clock" will be available at all ATP Holder booths.

(B) During such circumstances, existing rules on manual processing of order tickets are applicable.

(C) If there is an EOC or Electronic Tablet system disruption/malfunction as set forth in subsection (1), the EOC or Electronic Tablet order entry requirements in Rule 955NY will be reinstated once the disruption/malfunction to the EOC or Electronic Tablet system has been corrected as determined by a Trading Official. Once the disruption/malfunction to the EOC or Electronic Tablet system has been corrected, all ATP Holders affected by the system disruption/malfunction must input all relevant orders into an EOC device via the "as-of" field, noting the times of events of the orders. The required information must be entered into EOC by such prescribed period of time, as determined by the Exchange, following the trade, but no later than the end of the trading day that such trade occurred (or on the day the order was received if no trade was executed). Any ATP Holder who fails to follow such procedures will be subject to disciplinary action pursuant to Section 9A.

**Commentary :**

.01 FLEX and Cabinet Trades are exempt from the EOC and Electronic Tablet Entry Requirements as set forth in Rule 955NY. Such trades shall be processed using manual timestamped order tickets. The NYSE Amex will maintain a separate record (i.e., spreadsheet) of quotes, orders and transactions related to such trades in the same format required pursuant to Section IV.B.e.(v) of the Commission's order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions.

**956NY – Record of Orders**

(a) Every ATP Holder must maintain and preserve for the period specified under SEC Rule 17a-4, a record of every order and of any other instruction given or received for the purchase or sale of option contracts. Such record must show the terms and conditions (market order, limit order, etc.) of the order or instruction and of any modification or cancellation thereof, and in addition must include:

(1) CMTA Information and clearing ATP Holder;

(2) Option symbol, expiration month, exercise price, and type of option (call or put);

- (3) Side of market (buy or sell) and order type (customer, firm, firm market maker);
- (4) Quantity of option contracts;
- (5) Any limit price, stop price, or special conditions;
- (6) Opening or closing transaction;
- (7) Time in force;
- (8) Account origin code;
- (9) Solicited or unsolicited;
- (10) Order identification number;
- (11) Order entry date and time, or the date and time of any modification of the terms of the order or cancellation of the order;
- (12) Order execution time and price;
- (13) Identity of the executing broker and the other party to the transaction; and
- (14) Such other information as may be required by the Exchange.

(b) Record Retention for Orders Excepted from EOC or the Electronic Tablet Pursuant to Rule 955NY. In addition to the control copy, and/or hard copy, which must be kept for the entire amount of time specified in Securities Exchange Act Rule 17a-4, the commission copy must also be retained for a minimum of 48 hours from the trade date. In the case of those orders executed by independent Floor Brokers, it is their responsibility to retain the commission copy, and the executing ATP Holder must retain the hard copy. Also, all such records must be readily available for use on the trading floor for the resolution of any problems relating to the execution of these orders.

### **957NY – Reporting Duties**

(a) All option transactions must be immediately reported to the Exchange, in a form and manner prescribed by the Exchange, for dissemination to the Options Price Reporting Authority ("OPRA"). This requirement applies to all ATP Holders who are required to report trades either directly to OPRA or to another party who is responsible for reporting trades to OPRA. Transactions not reported to OPRA within 90 seconds after the execution will be designated as "late." An ATP Holder who is responsible for late reporting of an option transaction, without reasonable justification or excuse, will be subject to a fine pursuant to Section 9A. Repeated or aggravated violations of this rule may result in formal disciplinary action.

(b) Reporting of transactions on the Options Floor . All transactions occurring on the Options Floor must be immediately reported to the Exchange in a form and manner prescribed by the Exchange.

(i) Trades involving a Floor Broker For each transaction on the Exchange in which he or she participates a Floor Broker must immediately report the transaction to the Exchange. In the event that there is a Floor Broker participating on both sides of a transaction, the Floor Broker participating as the seller shall report the transaction to the Exchange.

(ii) Trades between two Market Makers. For transaction occurring on the Exchange between Market Makers, the Market Maker participating as the seller must report the transaction to the Exchange.

(iii) Complex Order. For Complex Order transactions, where the transaction is made up of both buy and sell orders and priced on a net debit/credit basis, the seller shall be determined to be the ATP Holder participating on the “debit” side of the trade.

(c) Reporting to ATP Holders. For each transaction on the Exchange in which he participates, an ATP Holder shall report the transaction as promptly as possible to the ATP Holder for which such transaction was made and/or to the ATP Holder that will clear such transaction.

(d) Reporting transactions made off an exchange. For each transaction in which an ATP Holder participates off-board (off a participating Exchange) in any option pertaining to an underlying security which is currently approved for Exchange options transactions, such ATP Holder shall report the transaction to the Exchange in a form and manner prescribed by the Exchange. (With the identity of participants removed, such transaction may be made public by the Exchange.)

(e) Filing of Trade Information. Each business day (the exact hours to be fixed by the Exchange) each ATP Holder which is a clearing member may be required to file with the Exchange trade information in a form prescribed by the Exchange, covering each Exchange option transaction effected during said business day for which such clearing member is responsible. The trade information shall show for each transaction (i) the identity of the purchasing clearing member and the writing clearing member given up at the time of execution, (ii) the underlying stock, (iii) the exercise price, (iv) the expiration month, (v) the number of option contracts, (vi) the premium per share, (vii) whether a purchase or a writing transaction, (viii) the identity of the account of the clearing member in which the transaction was effected, (ix) if a closing writing transaction, whether a certificate will be surrendered, (x) whether a put or call, (xi) the identity of the executing broker representing the clearing member submitting the trade information, (xii) except for a transaction in a Market Maker's account, whether an opening or closing transaction, and (xiii) such other information as may be required by the Exchange. The form used for reporting trade information by each clearing member will be distinguishable (by pre-printed symbol or otherwise) from the form to be used by all other clearing members.

Each ATP Holder which is a clearing member shall be responsible to the Options Clearing Corporation in respect of all trade information filed with the Exchange on such clearing member's form, whether or not such filing was authorized by the clearing member.

**Commentary :**

.01 EOC or Electronic Tablet Reporting Procedure. The Exchange has established the following procedure for reporting of transactions pursuant to Rule 957NY. For each transaction on the Exchange, the responsible ATP Holder (pursuant to subsection (b) above), will immediately record into EOC or the Electronic Tablet, its assigned broker initial code, the symbol of the underlying security, the type, expiration month and exercise price of the option contract sold, the transaction price, the number of contract units comprising the transaction, the name of the contra clearing member, and the assigned broker initial code of the contra ATP Holder. ATP Holders must report any partial execution of a larger order into EOC or the Electronic Tablet. Any agency order must also include the account origin code. Any ATP Holder failing to immediately report a transaction in accordance with Rule 957NY will be subject to disciplinary action pursuant to Section 9A.

.02 Origin Codes for Orders Excepted from EOC or the Electronic Tablet Pursuant to Rule 955NY. For purposes of Rule 957NY, trade information includes the proper account origin codes, which are as follows: "C" for non-broker-dealer customer accounts; "F" for firm proprietary accounts; "M" for Market Maker accounts; and "B/D" for firm orders of non-ATP Holder or ATP Holder broker-dealer accounts, stock specialist accounts, or customer account trades of the broker-dealer or non-ATP Holder or ATP Holder broker-dealer. In addition, Market Maker clearing firms are directed to instruct their respective trading desks to identify Market Maker orders that are entered from off the floor and not entitled to Market Maker margin treatment by placing a "C" after the Market Maker's number in the "firm" box on the ticket. Floor Brokers, when accepting an order by phone from a Market Maker, are similarly directed to identify that order in the same manner.

**958NY – Price Binding Despite Erroneous Report**

The price at which an order is executed shall be binding notwithstanding that an erroneous report in respect thereto may have been rendered, or no report rendered. A report shall not be binding if an order was not actually executed but was in error reported to have been executed.

**Commentary :**

.01 Whenever the print of a transaction in an underlying security so differs from a previous print, or an opening sale differs from the previous close, or a bid or offer differs from a previous bid or offer, as to give rise to the probability that the print or market may have been erroneous, reasonable care should be exercised to verify the print or market prior to effecting transactions based thereon. Reference is made to Rule 953NY, which states that trading on the Exchange in any option contract shall be halted or suspended whenever the Exchange deems such action appropriate in the interests of a fair and orderly market and to protect investors.

In the event that transactions are made based on what is subsequently found to be an erroneous print or market, then all such transactions will be treated in accordance with Rule 933NY, which specifically refers to contingency orders and states that, unless mutually agreed to by the ATP Holders involved, the results of such a trade shall not be altered by the fact that a print or market is subsequently found to be erroneous. The above notwithstanding, every effort must be made by all ATP Holders involved to reach a mutual agreement in removing from the record any trades that are patently unfair in light of the actual price of the underlying security.

**959NY – Meaning of Premium Bids and Offers**

(a) General. Except as provided in paragraph (b), bids and offers shall be expressed in terms of dollars per unit of the underlying security or Exchange-Traded Fund Share. (e.g., a bid of "7" shall represent a bid of \$700 for an option contract having a unit of trading consisting of 100 shares of an underlying security or Exchange-Traded Fund Share, or a bid of \$770 for an option contract having a unit of trading consisting of 110 shares of an underlying security or Exchange-Traded Fund Share.)

(b) Special cases. Bids and offers for an option contract for which the Exchange has established an adjusted unit of trading in accordance with NYSE Alternext Rule 903(g) shall be expressed in terms of dollars per 1/100 part of the total securities and/or other property constituting such adjusted unit of trading. (e.g., an offer of "6" shall represent an offer of \$600 on an option contract having a unit of trading consisting of 100 shares of an underlying security or Exchange-Traded Fund Share plus 10 rights.)

**960NY – Trading Differentials**

(a) The following minimum quoting increments shall apply to options traded on the Exchange:

(1) five cents (\$0.05) for all option contracts trading at less than \$3 other than those defined in (3) below;

(2) ten cents (\$0.10) for all option contracts trading at \$3 and above other than those defined in (3) below;

(3) for options contract traded pursuant to the penny pilot as described in Commentary .02:

(A) one cent (\$0.01) for all options contracts in QQQQ (Nasdaq-100 Index Tracking Stock);

(B) one cent (\$0.01) for all other options contracts included in a penny pilot that are trading at less than \$3;

(C) five cents (\$0.05) for all other option contracts included in a penny pilot that are trading at or above \$3.

(b) The minimum trading increment for option contracts traded on NYSE Amex will be one cent (\$0.01) for all series.

**Commentary :**

.01 The Exchange may only change the trading differentials for option contracts traded on the Exchange by filing a rule change proposal with the SEC, pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 (effective upon filing).

.02 Options on certain issues are subject to a penny pilot which will expire on March 27, 2009. The pilot issues will be announced to the Exchange's membership via Regulatory Bulletin and published by the Exchange on its website.

The penny pilot will provide for such designated options contracts to be quoted in \$0.01 or \$0.05 increments.

**961NY – Manner of Bidding and Offering**

To be effective, a bid or offer must either be represented electronically in the Consolidated Book or be made by open outcry at the trading post where the option is traded. All bids and offers shall be general ones and shall not be specified for acceptance by particular ATP Holders.

The Exchange may designate one or more options to be eligible for Penny Price Improvement. Under this designation, the Exchange will allow all Users to provide price improvement beyond the Exchange's disseminated quotation ("Penny Pricing") for classes or series that are not already quoted in one-cent increments.

(a) Electronic Penny Pricing. Electronic penny prices may be established by submission of a Price Improving Order or Quote, as defined in Rule 900.3NY(r)

All Price Improving Orders and Quotes submitted as above shall be ranked by the Exchange for order allocation purposes, but shall not be displayed except as described in Rule 960NY.

If an order is received that could trade against Penny Pricing and where the Exchange's disseminated quotation is the NBBO, it will automatically execute against the Penny Pricing pursuant to the Exchange's normal allocation procedures.

(b) Open Outcry Penny Pricing. Oral bids (offers) provided by in-crowd market participants may be expressed in one-cent increments in response to an order represented in open outcry provided that: (1) the oral bids (offers) better the corresponding bid (offer) in the Exchange's disseminated quotation; and (2) any resulting transaction(s) is consistent with the requirements of Rule 991NY.

The Exchange may also determine on a class-by-class basis to make the split-price priority provisions of Rule 963NY(f) applicable to a class that is subject to Penny Pricing under this rule.

For purposes of this rule, "in-crowd market participants" includes in-crowd Market-Makers (including the Specialist) and Floor Brokers representing orders in the trading crowd.

(c) Prior to effecting any transactions in open outcry in one-cent increments, ATP Holders must electronically "sweep" any Penny Pricing interest in the NYSE Amex system so as not to violate the priority of such Penny Pricing.

**Commentary :**

.01 Open Outcry/Trading Official Awareness. The "open outcry" requirement means that vocalization of market quotes (Rule 961NY) and transactions (Rule 957NY) at the post where the option is traded to be effective, must be in a tone loud enough to be heard by the ATP Holders in the trading crowd. The Trading Official, under the provisions of Rule 940NY, has specific responsibilities and obligations for a fair, orderly and competitive marketplace. In addition, the Trading Official having solicited comments from the crowd, can require the revocalization of any transaction in dispute. Any transaction not meeting the "open outcry" definition will be deemed a "whisper trade" and in violation of the provisions of "just and equitable principles of trade."

**963NY – Priority and Order Allocation Procedures – Open Outcry**

Except as provided by Rule 964NY below, the following rules of priority shall be observed with respect to orders executed by open outcry:

(a) Priority of bids. The highest bid shall have priority but where two or more bids for the same option contract represent the highest price and one such bid is a Customer Order displayed in the Consolidated Book, such bid shall have priority over any other bid at the post. If two or more bids represent the highest price and one such bid is a non Customer bid displayed in the Consolidated Book, the order in the crowd shall have priority. If two or more bids represent the highest price and a bid displayed in the Consolidated Book is not involved, priority shall be afforded to such bids in the sequence in which they are made.

(b) Priority of offers. The lowest offer shall have priority, but where two or more offers for the same option contract represent the lowest price, priority shall be determined in the same manner as specified in paragraph (a) in the case of bids.

(c) Simultaneous Bids and Offers.

(1) Except as otherwise provided, if the bids (or offers) of two or more ATP Holders are made simultaneously, or if it is impossible to determine clearly the order of time in which they were made, such bids (or offers) will be deemed to be on parity and priority will be afforded to them, insofar as practicable, on an equal basis.

(2) Notwithstanding anything in paragraphs (a), (b), or (c)(1), the Specialist shall be entitled to 40% of the balance of any order after Customer bids and offers in the Consolidated book have been satisfied; provided, however, that the Specialist has vocally responded to the Floor Broker's call for a market, and has responded with a price that is the best bid or offer.

(d) Notwithstanding anything in paragraphs (a) and (b) to the contrary, when a ATP Holder holding a Complex Order and bidding or offering on the basis of a total credit or debit for the order has determined that the order may not be executed by a combination of transactions with or within the Customer bids and offers displayed in the Consolidated Book, in procedures determined by the Exchange, then the order may be executed as a complex transaction at the total credit or debit with one or more ATP Holder without giving priority to Customer bids or offers for the individual option series in the Consolidated Book at the post that are no better than the bids or offers comprising such total credit or debit. Under the circumstances described above, a stock/option order has priority over the bids and offers of ATP Holders in the trading crowd but not over the Customer bids and offers in the Consolidated Book.

### **Order Allocation Procedures**

(e) Determination of Time Priority Sequence.

(1) Floor Brokers. A Floor Broker is responsible for determining the sequence in which bids or offers are vocalized on the Trading Floor in response to the Floor

Broker's bid, offer or call for a market. Any disputes regarding a Floor Broker's determination of time priority sequence will be resolved by the Trading Official.

(2) When a Floor Broker's bid or offer has been accepted by more than one ATP Holder, that Floor Broker must designate the ATP Holders who were first, second, third and so forth. Except as provided below, the ATP Holder with first priority is entitled to buy or sell as many contracts as the Floor Broker may have available to trade. If there are any contracts remaining, the ATP Holder with second priority will be entitled to buy or sell as many contracts as there are remaining in the Floor Broker's order, and so on, until the Floor Broker's order has been filled entirely.

(3) Market Makers. A Market Maker is responsible for determining the sequence in which bids and offers are vocalized on the Trading Floor in response to that Market Maker's bid, offer or call for a market. The order allocation procedures for Market Makers, including the determination of time priority sequence, are the same as those for Floor Brokers as set forth in this Rule 963NY.

(4) Parity Due to Simultaneous Bidding or Offering.

If the bids or offers of more than one ATP Holder are made simultaneously, such bids or offers will be deemed to be on parity and priority will be afforded to them, insofar as practicable, on an equal basis, pursuant to Rule 963NY. Accordingly, efforts will be made to assure that each ATP Holder on parity receives an equal number of contracts, to the extent mathematically possible. One or more ATP Holders on parity may waive their rights to some of their share (or shares) of contracts, but only to the extent that doing so is permissible under Rule 970NY ("Firm Quotes"). In such circumstances the remaining number of contracts will be allocated, to the extent practicable, on an equal basis.

(5) Size Pro Rata Allocations

(A) If the ATP Holders of the trading crowd provide a collective response to an ATP Holder's request for a market in order to fill a large order, pursuant to Rule 925NY, then:

(i) if the size of the trading crowd's market, in the aggregate, is less than or equal to the size of the order to be filled, the ATP Holders of the trading crowd will each receive a share of the order that is equal to the size of their respective bids or offers; and

(ii) if the size of the trading crowd's market exceeds the size of the order to be filled, that order will be allocated on a size pro rata basis, with the ATP Holders of the trading crowd each receiving, to the extent practicable, the percentage of the order that is the ratio of the size of their respective bids or offers to the total size of

all bids or offers. Specifically, in such circumstances, the size of the order to be allocated is multiplied by the size of an individual market participant's quote divided by the aggregate size of all market participants' quotes. For example, assume there are 200 contracts to be allocated, Market Maker #1 is bidding for 100, Market Maker #2 is bidding for 200 and Market Maker #3 is bidding for 500. Under the "size pro rata" allocation formula, Market Maker #1 will be allocated 25 contracts ( $200 \times 100 \div 800$ ); Market Maker #2 will be allocated 50 contracts ( $200 \times 200 \div 800$ ); and Market Maker #3 will be allocated 125 contracts ( $200 \times 500 \div 800$ ).

(f) Priority on Split Price Transactions Occurring in Open Outcry.

(1) *Purchase or sale priority.* If an ATP Holder purchases (sells) one or more option contracts of a particular series at a particular price or prices, the ATP Holder must, at the next lower (higher) price at which another ATP Holder bids (offers), have priority in purchasing (selling) up to the equivalent number of option contracts of the same series that the ATP Holder purchased (sold) at the higher (lower) price or prices, provided that the ATP Holder's bid (offer) is made promptly and continuously and that the purchase (sale) so effected represents the opposite side of a transaction with the same order or offer (bid) as the earlier purchase or purchases (sale or sales). This paragraph only applies to transactions effected in open outcry.

(2) If an ATP Holder purchases (sells) fifty or more option contracts of a particular series at a particular price or prices, he/she shall, at the next lower (higher) price have priority in purchasing (selling) up to the equivalent number of option contracts of the same series that he/she purchased (sold) at the higher (lower) price or prices, but only if his/her bid (offer) is made promptly and the purchase (sale) so effected represents the opposite side of the transaction with the same order or offer (bid) as the earlier purchase or purchases (sale or sales). The Exchange may increase the "minimum qualifying order size" above 100 contracts for all products. Announcements regarding changes to the minimum qualifying order size shall be made via an Exchange Bulletin. This paragraph only applies to transactions effected in open outcry.

(3) *Two or more ATP Holder entitled to priority.* If the bids or offers of two or more ATP Holder are both entitled to priority in accordance with subsections (1) or (2), it shall be afforded them, insofar as practicable, on an equal basis.

(4) Except for the provisions set forth in Rule 963NY(f)(2), the priority afforded by this rule is effective only insofar as it does not conflict with Customer limit orders represented in the Consolidated Book. Such orders have precedence over ATP Holders' orders at a particular price; Customer limit orders in the

Consolidated Book also have precedence over ATP Holders' orders that are not superior in price by at least the MPV.

(5) Floor Brokers are able to achieve split price priority in accordance with paragraphs (1) and (2) above.

### **963.1NY – Complex Order Transactions**

Complex Orders. Following are the proper trading procedures for Complex Orders:

(a) Announcing the Order. Any ATP Holder holding a Complex Order must bid or offer for each series in the order. The ATP Holder may express the order as it applies to each separate series or may express the order at its total or net debit/credit alone, so long as it is clear that the ATP Holder is attempting to execute both series as a complex transaction. The executing ATP Holder must ensure that the trading crowd is aware of the request for a market and has an opportunity to participate in the transaction.

(b) Customer Limit Orders on All Sides of the Consolidated Book. First, an ATP Holder entering a crowd must always determine if Customer limit orders in the Consolidated Book represent the best market in either series. If Customer limit orders represent the best market in the Consolidated Book in all series, the ATP Holder must trade all Customer orders in the Consolidated Book at that price before proceeding with the order.

(c) Customer Limit Orders on One Side of the Order. If a Customer limit order in the Consolidated Book is on just one side of the order, the executing ATP Holder must determine who responds first to the request for a market and how that response is vocalized. If a bid or offer for one series in the order is vocalized first, the executed ATP Holder must trade with the responding member, and the Customer Order in the Consolidated Book in the other series, for at least the same number of contracts as remain at the Customer limit order price in the Consolidated Book. If a response at the total or net debit/credit is vocalized first, then the responding ATP Holder has priority over the Book and the existing markets on a one-for-one basis provided that at least one leg of the Complex Order trades at a price that is better than the corresponding Customer limit order represented in the Consolidated Book by at least one standard MPV as defined in Rule 960NY.

(d) If the Consolidated Book Has No Customer Limit Orders for the Order. The following rule of priority applies when there are no Customer limit orders in the Consolidated Book against which the order can be executed. After the executing broker requests a market, the broker must trade with the first response vocalized at or within the broker's limits. If this response is in the form of a bid or offer for the net debit/credit, then that member has priority on a one-for-one basis. If the first response is for one series only, the executing broker must trade on the other side of the order against the existing market in the crowd. If the executing broker cannot trade the other side of the order in the crowd, priority reverts to the member willing to trade both sides of the order on a one-for-one basis.

(e) Partial Executions. Partial execution of an order, with more than one ATP Holder may occur so long as each ATP Holder with whom that order is executed participates on a one-for-one basis with respect to each series involved in the order.

(f) If there is a Customer interest in the Consolidated Book which creates a Locked Book Market. The situation may occur when the only prices at which the order may be executed are equal to Customer Orders in the Consolidated Book's bids or offers for both series involved in the order. If those prices are the only prices at which the order may be executed, then the order will be given priority over Customer Orders in the Consolidated Book. For example, a Floor Broker enters the crowd with a Complex Order to sell the XYZ April 20/July 20 call spread for a credit of 1. The Customer Orders in the Consolidated Book's bids and offers for these two series are:

XYZ April 20: 1.00 - 1.05

XYZ July 20: 2 - 2 .05

Customer Orders in the Consolidated Book's market for the April 20/July 20 spread is .95 - 1.05.

The spread cannot be executed by accepting the Consolidated Book's bid of 2 for the XYZ July 20s and the Consolidated Book's offer of the XYZ April 20s at 1.05. There are no other prices within the Consolidated Book's bids and offers at which the spread may be done. The spread may be done, however, if the XYZ July 20s are sold at 2.05 and the XYZ April 20s are bought at 1.05 or the July 20s are sold at 2 and the April 20s are bought at 1. Although these prices are equal to both Consolidated Book Customer bids or both Consolidated Book Customer offers, this spread may be done in the crowd with one other member on a one-for-one basis at 1 and 2 or 1.05 and 2.05.

(g) Bid and offers on Complex Orders may be expressed in any decimal price, and the legs of a complex order may be executed in one cent increments regardless of the minimum price variation ("MPV") otherwise applicable to the individual legs of the order, provided, however, when executing a complex order the price of at least one leg of the order must trade at a price that is better than the corresponding price of all customer bids or offers in the Consolidated Book for the same series, by at least one MPV as defined in Rule 960NY.

(h) Limits on Pre-emptive Right. This pre-emptive right pertains only to Complex Orders of equal quantities or to the lesser quantity when the quantities of contracts involved are unequal.

### **964NY – Display, Priority and Order Allocation – Trading Systems**

(a) The NYSE Amex System shall display to Users all non-marketable limit orders in the Display Order Process, unless indicated otherwise. The System also will disseminate current consolidated quotations/last sale information, and such other market information

as may be made available from time to time pursuant to agreement between the Exchange and other Market Centers, consistent with the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information.

(b) Priority and Allocation Procedures for Orders and Quotes with Size

(1) Price Priority. The highest bid has priority over all other bids; and the lowest offer has priority over all other offers.

(2) Multiple bids or offers at the same price are afforded priority based on account type and other principles, as set forth below.

(A) Customer Orders. Bids and offers in the Consolidated Book for Customer accounts, including the displayed portion of Customer Reserve Orders, have first priority over other bids or offers at the same price. If there is more than one highest bid for a Customer account or more than one lowest offer for a Customer account, then such bids or offers, respectively, will be ranked based on time priority.

(B) Directed Order Market Maker Guaranteed Participation. Bids and offers in the Consolidated Book for the account of a Directed Order Market Maker have second priority for Directed Orders if the Directed Order Market Maker is eligible to receive guaranteed participation on such bid or offer pursuant to Rule 964.1NY.

(i) Directed Order Market Makers will not receive any guaranteed participation on an inbound order if their bids or offers are not at the NBBO.

(ii) A Directed Order Market Maker's guaranteed participation is expressed as a percentage of the remaining quantity after all Customer orders, if any, have first been executed, and shall be 40% or such lower number as may be determined by the Exchange.

(iii) Directed Order Market Maker will be allocated a number of contracts equal to the greater of the guaranteed participation or their "size pro rata" allocation as provided in subsection (a)(4) below, but in either case, no greater than the size of the Directed Order Market Maker's disseminated size.

(C) Specialist Pool Guaranteed Participation. Bids and Offers in the Consolidated Book for the account of participants in the Specialist Pool have third priority if the Specialist Pool is eligible to receive guaranteed participation on such bid or offer pursuant to Rule 964.2NY. The Specialist Pool will not receive a guaranteed allocation if a Directed Order Market Maker has received a guaranteed allocation. If a Directed Order

Market Maker has received a guaranteed allocation, the bids and offers of the Specialist Pool will be included in the "size pro rata pool" as described in (D) below.

(i) The Specialist Pool guaranteed participation will not receive any portion of an inbound order if their bids or offers are not at the NBBO.

(ii) The Specialist Pool's guaranteed participation is expressed as a percentage of the remaining quantity after all Customer orders, if any, have first been executed, and shall be 40% or such lower number as may be determined by the Exchange.

(iii) Specialist Pool will be allocated a number of contracts equal to the greater of the guaranteed participation or their "size pro rata" allocation as provided in subsection (a)(4) below, but in either case, no greater than the size of the Specialist Pool's disseminated size.

(iv) For all orders of five (5) contracts or fewer, the Specialist Pool will be allocated the balance after any allocation to Customers, provided the Specialist Pool is quoting at the NBBO, and the order was not originally allocated to a Directed Order Market Maker. The participants in the Specialist Pool will be allocated orders of five contracts or less on a rotating basis, provided the participant's quoted size is equal to or greater than the size of the allocation.

(D) Non-Customer Orders and Quotes with Size. Orders and Quotes with Size in the Consolidated Book for the accounts of non-Customers have next priority. If there is more than one highest bid or more than one lowest offer in the Consolidated Book for the account of a non-Customer, then such bids or offers will be afforded priority on a "size pro rata" basis, and will comprise the "size pro rata pool".

(E) Orders in the Working Order File, if eligible for execution, have next priority; however, orders in the Working Order File do not have any priority or standing until they are eligible for execution and/or display.

(F) Tracking Orders have last priority and will interact with incoming orders when certain conditions are met, but will never become part of the Display Order Process.

### (3) Size Pro Rata Allocation

(A) Orders subject to allocation on a "size pro rata" basis will be allocated based on the following formula:

$$\frac{\text{(Size or Order to be Allocated)}}{\text{(Aggregated Quote Size)}} \times \frac{\text{(Participant's Quote Size)}}{\text{Allocation}} = \text{Size Pro Rata}$$

For example:

200 contracts to be allocated among three Market Makers quoting with the following sizes:

|                              |            |
|------------------------------|------------|
| <u>MM1</u>                   | <u>100</u> |
| <u>MM2</u>                   | <u>200</u> |
| <u>MM3</u>                   | <u>500</u> |
| <u>Aggregated Quote Size</u> | <u>800</u> |

MM1 receives  $(200/800) \times (100) = 25$  contracts

MM2 receives  $(200/800) \times (200) = 50$  contracts

MM3 receives  $(200/800) \times (500) = 125$  contracts

(B) The pro rata share allocated to each participant in the pool will be rounded down to a whole number, if applicable. If there are residual contracts to be filled after the pro rata calculation has been completed, such contracts will be allocated, with no more than one contract per participant, in the following sequence:

(i) The participant in the pool who has the largest fractional amount (based on the pro rata calculation) will receive the first contract, and each successive contract (if any) will be allocated to each subsequent participant who has the next largest fractional share.

(ii) If the last residual contracts are to be allocated between two or more participants with the same fractional amount and initial quote size, then the participant with the first time priority in the pro rata pool will be allocated the next contract. Each successive contract (if any) will be allocated in the same manner.

(c) Executions. This subsection (c) addresses situations in which orders or Quotes with Size are executed through NYSE Amex System.

(1) An inbound order that is marketable will be immediately executed against bids and offers in the Consolidated Book, provided the execution price is at the NBBO.

(2) An inbound order will be either fully or partially executed as follows:

(A) the inbound order will first be matched against all available displayed Customer interest in the Consolidated Book, including the displayed portion of Customer Reserve Orders ;

(B) the inbound order, if not entirely filled, will then satisfy any available interest based on Directed Order Market Maker or Specialist Pool guaranteed participation pursuant to Rule 964NY(a);

(C) the inbound order, if not entirely filled, will then match, on a size pro rata basis, with the interest of the Market Makers, Firms and Non-ATP Holder Market Makers in the Consolidated Book; and

(D) The inbound order, if not entirely filled, shall be matched for execution against orders in the Working Order File in the order of their ranking, at the price of the displayed portion (for Reserve Orders) or at the limit price in the case of other order types, for the total amount of option contracts available at that price or for the size of the incoming bid or offer, whichever is smaller.

(E) the balance of the order, if any, will then be either:

(i) executed at the next available price level based on split-price execution, as provided in subsection (c)(3), below or

(ii) if the order locks or crosses the NBBO, it will be matched against any available Tracking Order, prior to being routed, or

(iii) if the order locks or crosses the NBBO, it will be routed via routing broker or the intermarket linkage to the away market(s) displaying the National Best Bid or Offer Price. The order will be routed according to a proprietary algorithm. The order will be routed, either in its entirety or as component orders, to another Market Center(s) as a Limit Order equal to the price and up to the size of the quote published by the Market Center(s). The remaining portion of the order, if any, will be ranked and displayed in the Consolidated Book in accordance with the terms of such order and such order shall be eligible for execution pursuant to Rule 964NY. A marketable Reserve Order may be routed serially as component orders, such that each component corresponds to the display size of the Reserve Order.

If neither of the conditions specified in subsections (i) or (ii) apply, and the order is no longer marketable, or, if an order has been designated as an order type that is not eligible to be routed away, the order either will be

placed in the Consolidated Book or cancelled if such order would lock or cross the NBBO.

Where an order or portion of an order is routed away and is not executed either in whole or in part at the other Market Center, upon its return the order shall be ranked and displayed in the Consolidated Book in accordance with the terms of such order. The order will not have time standing relative to other orders received from Users at the same price while it was outside the System.

(3) Split-Price Executions. An inbound electronic order will receive an execution at multiple prices if there is some, but insufficient, trading interest at a price and the remainder of the order can be filled at one (or more) other prices based on available trading interest in the Consolidated Book. Orders will not be executed at a price that trades through another market. Executions at prices beyond the initial execution prices will match the inbound order:

(A) first, against Customer Orders in the Consolidated Book at the price level according to entry time.

(B) second, against the interest of the Market Makers, Firms and Non-ATP Holder Market Makers in the Consolidated Book, on a size pro rata basis.

(C) third, if the order now locks the NBBO, against any eligible Tracking Orders.

The balance of the order, if any, will be represented in the Consolidated Book, provided that if such order locks or crosses the NBBO, then the order will be routed via private routing broker or the Intermarket Linkage to the away market(s) displaying the National Best Bid or Offer Price. If Exchange Rules or the order instructions do not permit routing the order will be cancelled.

(d) Prohibited Conduct Related to Crossing Orders.

NYSE Amex Brokers may not execute as principal orders they represent as agent unless:

(1) agency orders are first exposed on the Exchange for at least 3 seconds; or,

(2) the NYSE Amex Broker executes the orders pursuant to Rule 934NY.

(e) Orders Executed Manually.

Floor Brokers manually representing orders in the trading crowd must comply with the order execution and priority principles set forth in Rule 963NY and, in addition, with the following provisions establishing priority for bids and offers by account type:

(1) Customer orders in the Consolidated Book have first priority. Multiple Customer orders at the same price are ranked based on time priority.

(2) Bids and offers of the ATP Holders of the trading crowd have second priority. These bids and offers include those made by Market Makers and Floor Brokers (on behalf of orders they are representing).

(3) Bids and Offers of broker-dealers (including Quotes with Size and orders of Market Makers) in the Consolidated Book have third priority. Multiple bids and offers of broker-dealers will be executed on a size pro rata basis pursuant to Rule 964NY.

### **Commentary**

.01 With regards to Rule 964NY(b)(2)(C)(iv), on a quarterly basis, the Exchange will evaluate what percentage of the volume executed on the Exchange is comprised of orders for five (5) contracts or less allocated to the specialist pool, and will reduce the size of the orders included in this provision if such percentage is over 40%.

### **964.1NY - Directed Orders**

Specialists and Market Makers may receive Directed Orders in their appointed classes in accordance with the provisions of this Rule 964.1NY.

(i) When the Exchange's disseminated price is the NBBO at the time of receipt of the Directed Order, and the Directed Order Market Maker is quoting at the Exchange's disseminated price, the Directed Order shall be automatically executed and allocated in accordance with Rule 964NY(b)(2)(B).

(ii) When the Exchange's disseminated price is the NBBO, and the quotation disseminated by the Directed Order Market Maker on the opposite side of the market from the Directed Order is inferior to the NBBO at the time of receipt of the Directed Order, the Directed Order shall be automatically executed and allocated to those quotations and orders at the NBBO in accordance with Exchange Rule 964NY(b)(2)(C)-(F).

(iii) If the Exchange's disseminated price is not the NBBO at the time of receipt of the Directed Order, the Directed Order shall be processed in accordance with Rule 964NY(c)(2)(E).

(iv) A Directed Order Market Maker must provide continuous two-sided quotations throughout the trading day in issues for which it receives Directed Orders for 90% of the time the Exchange is open for trading in each issue. Such quotations must meet the legal quote width requirements of Rule 925NY. These obligations will apply collectively to all series in all of the issues for which the Directed Order Market Maker receives Directed Orders, rather than on an issue-by-issue basis. Compliance with this obligation will be determined on a monthly basis.

If a technical failure or limitation of a system of the Exchange prevents a Directed Order Market Maker from maintaining, or prevents a Directed Order Market Maker from communicating to the Exchange, timely and accurate electronic quotes in an issue, the duration of such failure shall not be considered in determining whether the Directed Order Market Maker has satisfied the 90% quoting standard with respect to that option issue. The Exchange may consider other exceptions to this continuous electronic quote obligation based on demonstrated legal or regulatory requirements or other mitigating circumstances

#### **964.2NY Participation Entitlement of Specialists and e-Specialists**

(a) The Exchange may establish from time to time a participation entitlement formula that is applicable to all Specialists.

(b) The participation entitlement for Specialists and e-Specialists, collectively the Specialist Pool as defined in Rule 900.2NY(75), shall operate as follows:

(1) Generally.

(i) To be entitled to a participation entitlement, the Specialist/e-Specialist must be quoting at the NBBO.

(ii) A Specialist/e-Specialist may not be allocated a total quantity greater than the quantity than the Specialist/e-Specialist is quoting at the NBBO.

(iii) The participation entitlement is based on the number of contracts remaining after all Customer orders in the book at the best bid/offer on the Exchange have been satisfied.

(iv) An individual Specialist or e-Specialist will be allocated a number of contracts equal to the greater of their share in the Specialist Pool guaranteed participation or their "size pro rata" allocation as provided in Rule 964NY(b)(3), but in either case, no greater than the size of the Specialist's disseminated size.

(v) An e-Specialist shall not receive a participation entitlement with respect to orders represented in open outcry on the Trading Floor.

(2) Participation Rates applicable to Specialist Pool. The collective Specialist/e-Specialist participation entitlement shall be no greater than 40% .

(3) Allocation of Participation Entitlement Amongst Specialist Pool.

(A) Bids and Offers of Specialists and e-Specialists quoting at the NBBO shall participate in the Specialist Pool participation entitlement on a size pro rata basis. The Specialist's size pro-rata participation in the Specialist Pool will receive additional weighting, as determined by the Exchange, and announced via Regulatory Bulletin, but in no case greater than 66 2/3% if there is only one e-specialist, and no more than 50% if there are two or more e-Specialists.

(B) For all orders of five (5) contracts or fewer, the Specialist Pool will be allocated the balance after any allocation to Customers, provided the Specialist Pool is quoting at the NBBO, and the order was not originally allocated to a Directed Order Market Maker. The participants in the Specialist Pool will be allocated orders of five contracts or less on a rotating basis, provided the participant's quoted size is equal to or greater than the size of the allocation.

(4) Participation Entitlement In Instances Where a Directed Order Market-Maker Receives a Participation Entitlement Pursuant to Rule 964.1NY. The participation entitlement set forth in this Rule shall not apply in instances where a Directed Order Market-Maker receives a participation entitlement pursuant to Rule 964.1NY.

### **965NY – Contract Made on Acceptance of Bid or Offer**

(a) All bids or offers made and accepted in accordance with the Rules shall constitute binding contracts, subject to applicable requirements of the Operating Agreement and Rules of the Exchange and the Rules of the Options Clearing Corporation.

(b) NDX or RUT Combination Orders.

(1) A "NDX Combination" is a long (short) NDX call and a short (long) NDX put having the same expiration date and strike price. A "RUT Combination" is a long (short) RUT call and a short (long) RUT put having the same expiration date and strike price.

(2) A "delta" is the positive (negative) number of NDX or RUT combinations that must be sold (bought) to establish a market neutral hedge with the corresponding NDX or RUT option position.

(3) A "NDX combination order" is an order to purchase or sell NDX options and the offsetting number of NDX combinations defined by the delta. A "RUT

combination order" is an order to purchase or sell RUT options and the offsetting number of RUT combinations defined by the delta.

(4) A NDX or RUT combination order may be transacted in the following manner:

(i) When a member holding a NDX or RUT combination order and bidding or offering in a multiple of the minimum price variation (MPV) on the basis of a total debit or credit for the order has determined that the order may not be executed by a combination of transactions with the bids and offers displayed in the NDX or RUT Consolidated Book, then the order may be executed at the best net debit or credit so long as:

(A) no leg of the order would trade at a price outside the currently displayed bids or offers in the trading crowd or bids or offers in the NDX or RUT Consolidated Book and;

(B) at least one leg of the order would trade at a price that is better than the corresponding bid or offer in the NDX or RUT Consolidated Book.

(ii) Notwithstanding any other rules of the Exchange, if a NDX or RUT combination order is not executed immediately, the NDX or RUT combination order may be executed and printed at the prices originally quoted for each of the component option series within two (2) hours after the time of the original quotes, provided at the time of execution, no individual leg of such order may trade ahead of the corresponding bid or offer in the NDX or RUT Consolidated Book.

**Commentary :**

.01 A Trading Official may nullify a transaction or adjust its terms if they determine the transaction to have been in violation of any of the following:

(a) Rule 961NY (Manner of Bidding and Offering);

(b) Rule 963NY (Priority and Order Allocation Procedures – Open Outcry);

(c) Rule 964NY (Display, Priority and Order Allocation – Trading Systems);

(d) Rule 970NY (Firm Quotes);

(e) Rule 954NY (Order Identification: Broker-Dealer Orders: Failure to identify a broker-dealer order, provided that the transaction may be nullified or its terms may be adjusted only if the transaction is for 20 contracts or less).

## **970NY – Firm Quotes**

### **(a) Applicability and Definitions**

(1) For purposes of this Rule the terms "bid or offer," "quotation size," " vendor," "subject security," "listed option," "option series" and "trading rotation" will have the meanings set forth in SEC Rule 600.

(2) For purposes of this Rule and SEC Rule 602 as applied to the Exchange and its ATP Holders, the term "Responsible Broker or Dealer" means that with respect to any bid or offer for any listed option made available by the Exchange to vendors:

(A) the Specialist and any registered Market Makers who are quoting at the disseminated bid or offering price and who are constituting the trading crowd in such option series will collectively be the Responsible Broker or Dealer to the extent of the sizes of their respective bids and offers.

(3) For purposes of this Rule, the term "broker-dealer order" and the term "order," when used with respect to an order for the account of a broker-dealer, will include orders for "foreign broker-dealers" as defined in Rule 900.2(31).

### **(b) Dissemination Requirements**

(1) Price. The Exchange will, at all times that it is open for trading, collect, process and make available to vendors the best bid and best offer for each option series that is a subject security, unless the series is subject to an approved Quote Mitigation Plan. The Exchange may collect, process and make available to vendors a best bid and best offer determined by an automated quotation system.

(2) Size. The Exchange will for each listed option, establish by rule and periodically publish the quotation size for which the Responsible Broker or Dealer is obligated to execute an order to buy or sell an option series that is a subject security at its published bid or offer as set forth in subsection (c) below, unless the series is subject to an approved Quote Mitigation Plan.

(3) The Exchange's obligation to collect, process and make available data as set forth above will not include:

(A) collecting, processing or making available any such bid or offer that is executed immediately after being made in the trading crowd and any such bid or offer that is cancelled or withdrawn if not executed immediately after being made; or

(B) data communicated during any period when trading in such subject security: (i) has been suspended or halted; (ii) prior to the commencement

of trading in such reported security on any trading day; or (iii) during a trading rotation.

(c) Obligations of Responsible Brokers or Dealers(1) *Customer Orders*. Except as provided in subsection (d), below, each Responsible Broker or Dealer is obligated to be firm for all incoming orders in a listed option series in an amount up to the full disseminated size.

(A) *Dissemination of the Size of Orders in the Limit Order Book*. If one or more orders in the limit order book represent the best bid or offer on the Exchange, then the Exchange will disseminate via OPRA the aggregate size of such order or orders as the firm quote size for which the Responsible Broker or Dealer will be firm. In such circumstances:

(i) If one or more additional limit orders at the same price to buy or sell the same series of option contracts are entered into the limit order book for representation on the Exchange, then the firm quote size then being disseminated in that series will be automatically increased to reflect the adjusted size of such orders in the limit order book at that price; and

(ii) If the number of contracts in the limit order book at the same price to buy or sell the same series of option contracts has been reduced because of an execution or cancellation of one or more orders in the limit order book, then the firm quote size then being disseminated in that series will be automatically decreased to reflect the adjusted size of such orders in the limit order book at that price.

(2) *Broker-Dealer Orders*. Except as provided in subsection (d), below each Responsible Broker or Dealer is obligated to execute any order in a listed option for the account of a broker or dealer in an amount up to the quotation size established by rule and periodically published by the Exchange. (3) Each Responsible Broker or Dealer, within thirty seconds of receiving an order to buy or sell a listed option in an amount greater than the quotation size required pursuant to subsections (c)(1) or (c)(2), above, must either:

(A) execute the entire order; or

(B) execute the portion of the order that is equal to the size required pursuant to this subsection (c) and revise its bid or offer.

(4) The minimum quotation size established by rule and published by the Exchange for all orders will be one contract for each option series.

(d) *Exception for Unusual Market Conditions*

(1) If the Exchange determines, in accordance with the procedures set forth below, that the level of trading activity or the existence of unusual market conditions is such that the Exchange is incapable of collecting, processing and making available to vendors quotation data in a manner that accurately reflects the current state of the market at the Exchange, the Exchange will immediately notify the persons specified in SEC Rule 602(a)(3) and, upon such notification, the obligation imposed upon Exchange ATP Holders under SEC Rule 602(cb)(2) and the Exchange under subsection (b), above, will be suspended, until the Exchange determines that the unusual market activity or condition has terminated and the specified persons have been notified that the unusual market activity or condition has terminated.

(A) If a Responsible Broker or Dealer is unable to update its quotations on a timely basis due to the high level of trading activity or the existence of unusual market conditions, the Responsible Broker or Dealer will promptly notify a Trading Official.

(B) Upon notification by a Responsible Broker or Dealer, the Trading Official will promptly verify the existence of the unusual market activity or condition and if, in the Trading Official's judgment, the Responsible Broker or Dealer is unable to update its quotations on a timely basis, the Trading Official will promptly notify the Exchange. If a Trading Official, independent of notification by a Responsible Broker or Dealer, becomes aware of any unusual market activity or condition that adversely affects a Responsible Broker or Dealer's ability to promptly communicate quotation data, the Trading Official will likewise promptly advise the Exchange.

(C) If the Exchange is unable to accurately collect, process, or disseminate quotation data owing to a high level of trading activity or the existence of unusual market conditions, the Exchange, will make a determination that this is the case.

(D) The Exchange, either on its own or after receiving notification from a Trading Official pursuant to either subsection (A) or (B), above, will notify the persons specified in SEC Rule 602(a)(3) regarding the Exchange's inability to accurately collect, process, and make available the quotation data required by SEC Rule 602. The Exchange will append to each quotation made available to a vendor an identifier that will indicate that the obligation that is imposed upon Exchange ATP Holders and the Exchange by SEC Rule 602 has been suspended.

(E) The Trading Official will monitor the unusual market activity or condition until it has terminated. Thereupon, the Exchange will immediately notify the persons specified in SEC Rule 602(a)(3) that the Exchange is once again capable of disseminating the quotation data

required by SEC Rule 602 and Responsible Brokers or Dealers will be once again obligated under SEC Rule 602.

**Commentary:**

.01 The Exchange will collect, process and disseminate the best bid and best offer in each option series, and establish by rule and periodically publish the quotation size for which the responsible broker or dealer is obligated to execute an order to buy or sell an option in that series.

.02 No Specialist or Market Maker will be deemed to be a Responsible Broker or Dealer with respect to a published bid or offer that is erroneous as a result of an error or omission made by the Exchange or any vendor. If a published bid or offer is accurate but the published quotation size associated with it is erroneous as a result of an error or omission made by the Exchange or any vendor, then the Specialist or Market Maker who is responsible for the published bid or published offer will be obligated to the extent set forth in SEC Rule 602, but only to the extent of one unit of trading in the option series in question.

**970.1NY – Quote Mitigation**

For purposes of Quote Mitigation, the Exchange shall only disseminate quotes in active options series. A series is considered active if: (i) the series has traded on any options exchange in the previous 14 calendar days; or, (ii) the series is solely listed on NYSE Amex; or (iii) the series has been trading ten days or less, or; (iv) the Exchange has an order in the series. The Exchange may determine that a series has become active intraday if (i) the series trades at any options exchange; (ii) NYSE Amex receives an order in the series; or (iii) NYSE Amex receives a request for quote from a Customer in that series. If a series becomes active intraday, the Exchange will immediately disseminate quotes in the series to OPRA, and continue to disseminate quotes for the balance of the trading day. If the series does not trade, and there are no orders in the series the next day, the series would no longer be considered active.

**975NY – Obvious Errors and Catastrophic Errors**

(a) Obvious Error Trade Nullification and Price Adjustment Procedures.

The Exchange shall either bust a transaction or adjust the execution price of a transaction that results from an Obvious Error as provided in this rule.

(1) Definition of Obvious Error. For purposes of this rule only, an Obvious Error will be deemed to have occurred when the execution price of a transaction is higher or lower than the Theoretical Price for the series by an amount equal to at least the amount shown below:

**Theoretical Price Minimum Amount**

|                           |             |
|---------------------------|-------------|
| <u>Below \$2</u>          | <u>.25</u>  |
| <u>\$2 to \$5</u>         | <u>.40</u>  |
| <u>Above \$5 to \$10</u>  | <u>.50</u>  |
| <u>Above \$10 to \$20</u> | <u>.80</u>  |
| <u>Above \$20</u>         | <u>1.00</u> |

(2) Definition of Theoretical Price. For purposes of this rule only, the Theoretical Price of an option is:

(A) if the series is traded on at least one other options exchange, the last bid price with respect to an erroneous sell transaction and the last offer price with respect to an erroneous buy transaction, just prior to the trade, that comprise the National Best Bid/Offer (“NBBO”) as disseminated by the Options Price Reporting Authority (“OPRA”); or

(B) if there are not quotes for comparison purposes, as determined by designated Trading Official.

(3) Obvious Error Procedure. The Exchange shall administer the application of this Rule as follows:

(A) Notification. If a Market Maker believes that it participated in a transaction that was the result of an Obvious Error, it must notify the Exchange within five (5) minutes of the execution. If an ATP Holder not serving as a Market Maker believes that an order it executed on the Exchange was the result of an Obvious Error, it must notify the Exchange within twenty (20) minutes of the execution. Except where noted in section (B)(iii) and (B)(iv) of this rule, or absent unusual circumstances, the Exchange will not grant relief under this Rule unless notification is made within the prescribed time periods.

(B) Adjust or Bust. The Exchange will determine whether there was an Obvious Error as defined above. If it is determined that an Obvious Error has occurred, the Exchange shall take one of the following actions listed below. Upon taking final action, the Exchange shall promptly notify both parties to the trade.

(i) Where each party to the transaction is a Market Maker The execution price of the transaction will be adjusted by the Exchange to the prices provided in paragraphs (aa) and (bb) below unless both parties agree to adjust the transaction to a different price or agree to bust the trade within ten (10) minutes of being notified by the Exchange of the Obvious Error.

(aa) Erroneous buy transactions will be adjusted to their Theoretical Price: plus \$.15 if the Theoretical Price is under \$3 and plus \$.30 if the Theoretical Price is at or above \$3.

(bb) Erroneous sell transactions will be adjusted to their Theoretical Price: minus \$.15 if the Theoretical Price is under \$3 and minus \$.30 if the Theoretical Price is at or above \$3.

(ii) Where at least one party to the Obvious Error is not a Market Maker. The trade will be busted by the Exchange unless both parties agree to an adjustment price for the transaction within thirty (30) minutes of being notified by the Exchange of the Obvious Error.

(iii) Obvious Errors occurring on the opening between a Market Maker and a Customer. After the twenty minute notification period as described in (3)(A) above and until 4:30 p.m. eastern time ("ET") on the subject trade date, a Customer who is party to an Obvious Error transaction may request review of the subject transaction, and the execution price of the transaction will be adjusted (provided the adjustment does not violate the Customer limit price) by Trading Officials to the prices provided in Paragraphs (aa) and (bb) above, without the adjustment penalty, unless both parties agree to adjust the transaction to a different price or agree to bust the trade within thirty (30) minutes of being notified by Trading Officials of the Obvious Error. The option contract quantity of any adjustment with respect to an erroneous sell (buy) transaction shall not exceed the disseminated bid (offer) size by the competing options exchange(s) that comprise the National Best Bid (Offer) as disseminated by OPRA at the time of the Obvious Error.

(iv) Transactions occurring on the opening between a Customer and a non-Market Maker: After the twenty minute notification period as described in (3)(A) above and until 4:30 p.m. ET on the subject trade date, where parties to the transaction are a Customer and a non- Market-Maker(s), the Customer may request review of the subject transaction and, the execution price of the transaction will be adjusted (provided the adjustment does not violate the non-Market Maker's limit price) by Trading Officials to the prices provided in Paragraphs (aa) and (bb) above, without the adjustment penalty, unless both parties agree to adjust the transaction to a different price or agree to bust the trade within thirty (30) minutes of being notified by Trading Officials of the Obvious Error. The option contract quantity of any adjustment with respect to an erroneous sell (buy) transaction shall not exceed the disseminated

bid (offer) size by the competing options exchange(s) that comprise the National Best Bid (Offer) as disseminated by the OPRA at the time of the Obvious Error.

(4) Erroneous Print in Underlying: An electronic trade resulting from an erroneous print disseminated by the underlying market which is later cancelled or corrected by that underlying market may be nullified. In order to be nullified, however, the trade must be the result of an erroneous print that is higher or lower than the average trade in the underlying security during a two-minute period before and after the erroneous print by an amount at least five times greater than the average quote width for such underlying security during the same period.

For purposes of this Rule, the average trade in the underlying security shall be determined by adding the prices of each trade during the four minute time period referenced above (excluding the trade in question) and dividing by the number of trades during such time period (excluding the trade in question). For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing by the number of quotes during such time period (excluding the quote in question).

(5) Erroneous Quote in Underlying: Electronic trades (this provision has no applicability to trades executed in open outcry) resulting from an erroneous quote in the underlying security may be adjusted or nullified as set forth in paragraph (a)(3) above. An erroneous quote occurs when the underlying security has a width of at least \$1.00 and has a width at least five times greater than the average quote width for such underlying security on the primary market (as defined in Rule 900.2NY(62)) during the time period encompassing two minutes before and after the dissemination of such quote. For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing by the number of quotes during such time period (excluding the quote in question).

(6) Review Procedures.

(A) If a party to an obvious error determination pursuant to subsection (3) of this Rule requests within the time permitted below, the Obvious Error Panel ("OE Panel") will review decisions made by the Exchange under this subsection (4), including whether an obvious error occurred and whether the correct action was made pursuant to subsection (3).

(i) The OE Panel will be comprised of the NYSE Alternext US LLC Chief Regulatory Officer ("CRO"), or a designee of the CRO, and a representative from two (2) different ATP Holders. One representative on the OE Panel will be from an ATP Holder

directly engaged in market making activities and one representative on the OE Panel will be from an ATP Holder directly engaged in the handling of options orders for Customers.

(ii) The Exchange shall designate at least ten (10) ATP Holder representatives to be called upon to serve on the OE Panel as needed. In no case shall an OE Panel include a person related to a party to the trade in question. To the extent reasonably possible, the Exchange shall call upon the designated representatives to participate in an OE Panel on an equally frequent basis.

(B) A request for review on appeal must be made via facsimile or e-mail within thirty (30) minutes after the party making the appeal is given notification of the initial determination being appealed. The OE Panel shall review the facts and render a decision within the time frame prescribed by the Exchange.

(C) The OE Panel may overturn or modify an action taken by the Exchange under this Rule. All determinations by the OE Panel shall constitute final action by the Exchange on the matter at issue.

(D) If the OE Panel votes to uphold the decision made pursuant to Rule 975NY(a)(3), the Exchange will assess a \$500.00 fee against the party or parties who initiated the request for appeal.

(b) Catastrophic Error Price Adjustment Procedures

The Exchange shall adjust the execution price of a transaction that results from a Catastrophic Error as provided in this rule.

(1) Catastrophic Error. For purposes of Rule 975NY, a Catastrophic Error will be deemed to have occurred when the execution price of a transaction is higher or lower than the Theoretical Price for the series by an amount equal to at least the minimum amount shown below:

| <u>Theoretical Price</u>   | <u>Minimum Amount</u> |
|----------------------------|-----------------------|
| <u>Below \$2</u>           | <u>\$1</u>            |
| <u>\$2 to \$5</u>          | <u>\$2</u>            |
| <u>Above \$5 to \$10</u>   | <u>\$5</u>            |
| <u>Above \$10 to \$50</u>  | <u>\$10</u>           |
| <u>Above \$50 to \$100</u> | <u>\$20</u>           |

Above \$100

\$30

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(2) Theoretical Price. For purposes of Rule 975NY, the Theoretical Price of an option is:

(A) if the series is traded on at least one other options exchange, the last bid price with respect to an erroneous sell transaction and the last offer price with respect to an erroneous buy transaction, just prior to the trade, that comprise the National Best Bid/Offer (“NBBO”) as disseminated by the Options Price Reporting Authority (“OPRA”); or

(B) if there are not quotes for comparison purposes, as determined by a designated Trading Official.

(3) Catastrophic Error Procedure. The Exchange shall administer the application of Rule 975NY as follows:

(A) Notification. If an ATP Holder believes that it participated in a transaction that qualifies as a Catastrophic Error pursuant to paragraph (b) above, it must notify the Exchange by 8:30 am ET, on the first trading day following the date of the Catastrophic Error. For such transactions in an expiring options series that take place on an expiration day, an ATP Holder must notify the Exchange by 5:00 pm ET that same day. Relief will not be granted under this paragraph: (i) unless notification is made within the prescribed time period; and (ii) if an Obvious Error Panel has previously rendered a decision with respect to the transaction in question pursuant to Rule 975NY.

(B) Catastrophic Error Determination. A Catastrophic Error Review Panel (Panel) will determine whether the transaction(s) qualify as a Catastrophic Error. If it is determined that a Catastrophic Error has occurred, the Panel will instruct the Exchange to adjust the execution price(s) of the transaction(s) according to subparagraph (D) below. If it is determined that a Catastrophic Error has not occurred, the ATP Holder will be subject to a charge of \$5,000. All determinations by the Catastrophic Error Review Panel shall constitute final Exchange action on the matter at issue.

(C) Catastrophic Error Review Panel. The Panel shall be comprised of the NYSE Alternext US LLC Chief Regulatory Officer (“CRO”), or a designee of the CRO, and a representative from two (2) different ATP Holders. One representative on the Panel will always be from an ATP Holder directly engaged in market making activities and one representative on the Panel will always be from an ATP Holder directly engaged in the handling of options orders for Customers.

The Exchange shall designate at least ten (10) ATP Holder representatives to be called upon to serve on the Panel as needed. In no case shall a Panel include a person related to a party to the trade in question. To the extent reasonably possible, the Exchange shall call upon the designated representatives to participate in a Panel on an equally frequent basis.

(D) Adjustment. If it is determined that a Catastrophic Error has occurred, unless both (all) parties agree to adjust the transaction to a different price, the execution price(s) of the transaction(s) will be adjusted to the theoretical price,(i) plus the adjustment value provided below for erroneous buy transactions, and (ii) minus the adjustment value provided for erroneous sell transactions.

| <b><u>Theoretical Price</u></b> | <b><u>Adjustment Amount</u></b> |
|---------------------------------|---------------------------------|
| Below \$2                       | \$1                             |
| \$2 to \$5                      | \$2                             |
| Above \$5 to \$10               | \$3                             |
| Above \$10 to \$50              | \$5                             |
| Above \$50 to \$100             | \$7                             |
| Above \$100                     | \$10                            |

**Commentary:**

.01 All determinations made by the Exchange under subsection (a)(3) or (b)(3) will be rendered without prejudice as to the rights of the parties to the transaction to submit a dispute to arbitration.

.02 For purposes of this rule an "erroneous sell transaction" is one in which the price received by the person selling the option is erroneously low by amounts at least equal to the minimum amount described in subsection (a)(1) for Obvious Errors and subsection (b)(1) for Catastrophic Errors. An "erroneous buy transaction" is one in which the price paid by the person buying the option is erroneously high by amounts at least equal to the minimum amount described in subsection (a)(1) for Obvious Errors and subsection (b)(1) for Catastrophic Errors.

.03 When the Exchange determines that an Obvious Error or Catastrophic Error has occurred and action is warranted under Rule 975NY(a)(3)(B) or Rule 975NY(b)(3) above, the identity of the parties to the trade will be disclosed to each other in order to encourage conflict resolution.

.04 Buyers of options with a zero bid may request that their execution be busted if at least one strike below (for calls) or above (for puts) in the same options class was quoted with a zero bid at the time of the execution. Such buyers must follow the procedures of Rule 975NY(a)(3) above.

.05 For the purposes of Rule 975NY, the term Market Maker shall mean an ATP Holder acting as a Market Maker on NYSE Amex pursuant to Rule 920NY.

.06 For the purposes of Rule 975NY, the term Customer, as defined in Rule 900.2NY(18), shall not include a broker or dealer.

### **990NY - Operation of the Linkage**

By subscribing to the Plan, the Exchange has agreed to comply with, and enforce compliance by its ATP Holders with the Plan. In this regard, the following will apply:

(a) Pricing. ATP Holders may send P/A Orders and Principal Orders through the Linkage only if such orders are priced at the NBBO.

(b) P/A Orders.

(1) Sending of P/A Orders for Sizes No Larger than the Firm Customer Quote Size. A Specialist or IMM may send through the Linkage a P/A Order that is equal to or less than the size of the Firm Customer Quote Size for automatic execution, if available.

(2) Sending of P/A Orders Larger than the Firm Customer Quote Size. If the size of a P/A Order is larger than the Firm Customer Quote Size, a Specialist or IMM may send through the Linkage such P/A Order in one of two ways:

(i) The Specialist or IMM may send a P/A Order representing the entire Customer order. If a receiving Participant Exchange's disseminated quotation is equal to or better than the Reference Price when the P/A Order arrives at that market, that exchange will execute the P/A Order at its disseminated quotation for at least the Firm Customer Quote Size (an automatic execution is not required if the P/A Order is larger than the Firm Customer Quote Size). Within 5 seconds of receipt of such order, the receiving Participant Exchange will inform the Specialist or IMM of the amount of the order executed and the amount, if any, that was canceled.

(ii) Alternatively, the Specialist or IMM may send an initial P/A Order for the Firm Customer Quote Size pursuant to subparagraph (b)(1) above. If one of more of the Participant Exchanges that executed the P/A Order continues to disseminate the same quotation at the NBBO after reporting

the execution of the initial P/A Order, the Specialist or IMM may send an additional P/A Order to such Participant Exchanges. If sent, such additional P/A Order must be for at least the lesser of:

- the size of the disseminated quotation;
- 100 contracts; or
- the entire remainder of the Customer order.

If the sending Participant Exchange initially sent P/A Orders to more than one Participant Exchange for up to the Firm Customer Quote Size, the sending Participant Exchange may send additional P/A Orders to the same Participant Exchanges as long as such orders are, in the aggregate, for at least the lesser of 100 contracts or the entire remainder of the Customer Order; provided that the sending Participant Exchange may limit the size of any single additional P/A Order to the size of the Participant Exchange's currently-disseminated quotation.

In any situation where a receiving Participant Exchange does not execute a P/A Order in full, such exchange will be required to move its quotation to a price inferior to the Reference Price of the P/A Order.

(c) *Principal Orders.*

An Eligible Market Maker may send a Principal Order through the Linkage at a price equal to the NBBO. If the Principal Order is not larger than the Firm Principal Quote Size, the receiving Participant Exchange will execute the order in its automatic execution system, if available, if its disseminated quotation is equal to or better than the price specified in the Principal Order when that order arrives at the receiving Participant Exchange. If the Principal Order is larger than the Firm Principal Quote Size, the receiving Participant Exchange will (a) execute the Principal Order at its disseminated quotation for at least the Firm Principal Quote Size and (b) within 5 seconds of receipt of such order, reply to the sending Participant Exchange, informing such Participant Exchange of the amount of the order that was executed and the amount, if any, that was canceled. If the receiving Participant Exchange does not execute the Principal Order in full, it will move its quote to a price inferior to the Reference Price of the Principal Order.

(d) *Responses to Linkage Orders.*

(1) *Failure to Receive a Timely Response.* An ATP Holder who does not receive a response to a P Order or a P/A Order within 5 seconds of sending the order may reject any response received thereafter purporting to report an execution of all or part of that order. The ATP Holder so rejecting the response will inform the Exchange Participant sending that response of the rejection within 5 seconds of receipt of the response.

(2) Failure to Send a Timely Response. If an ATP Holder responds to a P Order or P/A Order more than 5 seconds after receipt of that order, and the Participant Exchange to whom the ATP Holder responded cancels such response, the ATP Holder will cancel any trade resulting from such order and will report the cancellation to OPRA.

(e) Receipt of Linkage Orders. The Exchange will provide for the execution of P/A Orders and Principal Orders if its disseminated quotation is (i) equal to or better than the Reference Price, and (ii) equal to the then-current NBBO. Subject to paragraph (c), above, if the size of a P/A Order or Principal Order is not larger than the Firm Customer Quote Size or Firm Principal Quote size, respectively, the Exchange will provide for the execution of the entire order, and will execute such order in its automatic execution system if that system is available. If the size of a P/A Order or Principal Order is larger than the Firm Customer Quote Size or Firm Principal Quote Size, respectively, the Exchange will address the order within 5 seconds to provide an execution for at least the Firm Customer Quote Size or Firm Principal Quote Size, respectively. If the order is not executed in full, the Exchange will move its disseminated quotation to a price inferior to the Reference Price.

### **991NY - Order Protection**

(a) Avoidance and Satisfaction of Trade-Throughs.

(1) General Provisions. Absent reasonable justification and during normal market conditions, ATP Holders should not effect Trade-Throughs. Except as provided in paragraph (b) below, if an ATP Holder effects a Trade-Through with respect to the bid or offer of a Participant Exchange in an Eligible Option Class and the Exchange receives a Satisfaction Order from an Aggrieved Party, either:

(i) the ATP Holder who initiated the Trade-Through must satisfy, or cause to be satisfied, the Aggrieved Party by filling the Satisfaction Order in accordance with subsection (a)(2) below; or

(ii) if the ATP Holder elects not to do so (and, in the case of Third Participating Market Center Trade-Through, the ATP Holder obtains the agreement of the contra party that received the Linkage Order that caused the Trade-Through), then the price of the transaction that constituted the Trade-Through will be corrected to a price at which a Trade-Through would not have occurred. If the price of the transaction is corrected, the ATP Holder correcting the price must report the corrected price to OPRA, notify the aggrieved party of the correction and cancel the Satisfaction Order.

(2) Price and Size. The price and size at which the Satisfaction Order will be filled are as follows:

(i) Price. A Satisfaction Order will be filled at the Reference Price. However, if the Reference Price is the price of an apparent Block Trade that caused the Trade-Through, and such trade was not, in fact, a Block Trade, then the ATP Holder may cancel the Satisfaction Order. In that case, the ATP Holder will inform the Aggrieved Party within three minutes of receipt of the Satisfaction Order of the reason for the cancellation. Within three minutes of receipt of such cancellation, the Aggrieved Party may resend the Satisfaction Order with a Reference Price of the bid or offer that was traded-through.

(ii) Size. An Aggrieved Party may send a Satisfaction Order up to the lesser of the size of the Verifiable Number of Customer Contracts that were included in the disseminated bid or offer that was traded through and the size of the transaction that caused the Trade-Through. Subject to subparagraph (2)(i) above and paragraph (b) below, an ATP Holder will fill in full all Satisfaction Orders it receives following a Trade-Through, subject to the following limitation:

If the transaction that caused the Trade-Through was for a size larger than the Firm Customer Quote Size with respect to any of the Participant Exchange(s) traded through, the total number of contracts to be filled, with respect to all Satisfaction Orders received in connection with any one transaction that caused a Trade-Through, will not exceed the size of the transaction. In that case, the ATP Holder will fill the Satisfaction Orders pro rata based on the Verifiable Number of Customer Contracts traded through on each Participant Exchange, and will cancel the remainder of such Satisfaction Order(s); and

(3) Change in Status of Underlying Customer Order. During the time period that a Satisfaction Order is pending at another Participant Exchange, an ATP Holder will cancel such Satisfaction Order as soon as practical if (1) the order(s) for the Customer contracts underlying the Satisfaction Order are filled; or (2) the Customer order(s) to buy (sell) the contracts underlying the Satisfaction Order are canceled (either being a "change in status of the underlying customer order(s)"). Notwithstanding this obligation to cancel the Satisfaction Order, within 30 seconds of receipt of notification that a Participant Exchange has filled a Satisfaction Order, the Participant that sent the Satisfaction Order may reject such fill if there has been a change in status of the underlying customer order(s), provided that the status change of the customer order occurred prior to the receipt of the Satisfaction Order fill report. However, if the underlying customer order(s) has been executed against the sender of the Satisfaction Order, the Satisfaction Order fill report may not be rejected.

(4) Protection of Customers. Whenever subsection (a)(1) applies, if Customer orders (or P/A Orders representing Customer orders) constituted either or both

sides of the transaction involved in the Trade-Through, each such Customer order (or P/A Order) will receive:

(i) the price that caused the Trade-Through; or

(ii) the price at which the bid or offer traded through was satisfied, if it was satisfied pursuant to subsection (a)(1)(i), or the adjusted price, if there was an adjustment, pursuant to subsection (a)(1)(ii), whichever price is most beneficial to the Customer order. Resulting differences in prices will be the responsibility of the ATP Holder who initiated the Trade-Through.

(b) *Exceptions to Trade-Through Liability.* The provisions of subsection (a) pertaining to the satisfaction of Trade-Throughs will not apply under the following circumstances:

(1) the ATP Holder who initiated the Trade-Through made every reasonable effort to avoid the Trade-Through, but was unable to do so because of a systems/equipment failure or malfunction;

(2) the ATP Holder traded through the market of a Participant Exchange to which such ATP Holder had sent a P/A Order or Principal Order, and within 5 seconds of sending such order the receiving Participant Exchange had neither executed the order in full nor adjusted the quotation traded through to a price inferior to the Reference Price of the P/A Order or Principal Order;

(3) the bid or offer traded through was being disseminated from a Participant Exchange whose quotes were Non-Firm with respect to such Eligible Option Class;

(4) the Trade-Through was other than a Third Participating Market Center Trade-Through and occurred during a period when, with respect to the Eligible Option Class, the Exchange's quotes were Non-Firm; provided, however, that unless one of the other conditions of this subsection (b) applies, during any such period: (i) ATP Holders must make every reasonable effort to avoid trading through the firm quotes of another Participant Exchange; and (ii) it will not be considered an exception to paragraph (a) if an ATP Holder regularly trades through the firm quotes of another Participant Exchange during such period;

(5) the bid or offer traded through was being disseminated by a Participant Exchange during a trading rotation in the Eligible Option Class;

(6) the transaction that caused the Trade-Through occurred during a trading rotation;

(7) the transaction that caused the Trade-Through was the execution of a Complex Trade;

(8) in the case of a Trade-Through other than a Third Participating Market Center Trade-Through, a Satisfaction Order with respect to the Trade-Through was not received by the Exchange from the Aggrieved Party promptly following the Trade-Through and, in any event, (i) except in the final five minutes of trading, within three minutes from the time the report of the transaction(s) that constituted the Trade-Through was disseminated over OPRA, and (ii) in the final five minutes of trading, within one minute from the time the report of the transaction(s) that constituted the Trade-Through was disseminated over OPRA;  
or

(9) in the case of a Third Participating Market Center Trade-Through, a Satisfaction Order with respect to the Trade-Through was not received by the Exchange promptly following the Trade-Through. In applying this provision, the Aggrieved Party must send the Exchange a Satisfaction Order within three minutes from the time the report of the transaction that constituted the Trade-Through was disseminated over OPRA. To avoid liability for the Trade-Through, the ATP Holder receiving such Satisfaction Order must cancel the Satisfaction Order and inform the Aggrieved Party of the identity of the Participant Exchange that initiated the Trade-Through within three minutes of the receipt of such Satisfaction Order (within one minute in the final five minutes of trading). The Aggrieved Party then must send the Participant Exchange that initiated the Trade-Through a Satisfaction Order within three minutes of receipt of the cancellation of the initial Satisfaction Order (within one minute in the final five minutes of trading).

(c) Responsibilities and Rights Following Receipt of Satisfaction Orders.

(1) When an ATP Holder receives a Satisfaction Order, that ATP Holder must respond as promptly as practicable pursuant to Exchange procedures by either:

(i) specifying that one of the exceptions to Trade-Through liability specified in paragraph (b) above is applicable and identifying that particular exception; or

(ii) taking the appropriate corrective action pursuant to paragraph (a) above.

(2) If the ATP Holder who initiated the Trade-Through fails to respond to a Satisfaction Order or otherwise fails to take the corrective action required under paragraph (a) within three minutes of receiving notice of a Satisfaction Order, and the Exchange determines that:

(i) there was a Trade-Through; and

(ii) none of the exceptions to Trade-Through liability specified in subsection (b) above were applicable;

then, subject to the next paragraph, the ATP Holder who initiated the Trade-Through will be liable to the Aggrieved Party for the amount of the actual loss resulting from non-compliance with paragraph (a) and caused by the Trade-Through.

If either (a) the Aggrieved Party does not establish the actual loss within 30 seconds from the time the Aggrieved Party received the response to its Satisfaction Order (or, in the event that it did not receive a response, within four minutes from the time the Aggrieved Party sent the Satisfaction Order) or (b) the Aggrieved Party does not notify the Exchange Participant that initiated the Trade-Through of the amount of such loss within one minute of establishing the loss, then the liability will be the lesser of the actual loss or the loss caused by the Trade-Through that the Aggrieved Party would have suffered had that party purchased or sold the option series subject to the Trade-Through at the "mitigation price."

The "mitigation price" is the highest reported bid (in the case where an offer was traded through) or the lowest reported offer (in the case where a bid was traded through), in the series in question 30 seconds from the time the Aggrieved Party received the response to its Satisfaction Order (or, in the event that it did not receive a response, four minutes from the time the Aggrieved Party sent the Satisfaction Order). If the Participant Exchange receives a Satisfaction Order within the final four minutes of trading (on any day except the last day of trading prior to the expiration of the series which is the subject of the Trade-Through), then the mitigation price will be the price established at the opening of trading in that series on the Aggrieved Party's Participant Exchange on the next trading day. However, if the price of the opening transaction is below the opening bid or above the opening offer as established during the opening rotation, then the mitigation price will be the opening bid (in the case where an offer was traded through) or opening offer (in the case where a bid was traded through). If the Trade-Through involves a series that expires on the day following the day of the Trade-Through and the Satisfaction Order is received within the four minutes of trading, the "mitigation price" will be the final bid (in the case where an offer was traded through) or offer (in the case where a bid was traded through) on the day of the trade that resulted in the Trade-Through.

(3) An ATP Holder that is an Aggrieved Party under the rules of another Participant Exchange governing Trade-Through liability must take steps to establish and mitigate any loss such ATP Holder might incur as a result of the Trade-Through of the ATP Holder's bid or offer. In addition, the ATP Holder must give prompt notice to the other Participant Exchange of any such action in accordance with subsection (c)(2) above.

(d) *Limitations on Trade-Throughs.* ATP Holders may not repeatedly trade through better prices available on other exchanges, whether or not the exchange or exchanges whose

quotations are traded through are Participant Exchanges, unless one or more of the provisions of paragraph (b) above are applicable. In applying this provision:

(1) The Exchange will consider there to have been a Trade-Through if an ATP Holder executes a trade at a price inferior to the NBBO even if the Exchange does not receive a Satisfaction Order from an Aggrieved Party pursuant to subparagraph (a)(1);

(2) The Exchange will not consider there to have been a Trade-Through if an ATP Holder executes a Block Trade at a price inferior to the NBBO if such ATP Holder satisfied all Aggrieved Parties pursuant to subsection (a)(2) following the execution of the Block Trade; and

(3) The Exchange will not consider there to have been a Trade-Through if an ATP Holder executes a trade at a price inferior to the quotation being disseminated by an exchange that is not a Participant Exchange if the ATP Holder made a good faith effort to trade against the superior quotation of the non-Participant Exchange prior to trading through that quotation. A "good faith effort" to reach a non-Participant Exchange's quotation requires that an ATP Holder at least had sent an order that day to the non-Participant Exchange in the class of options in which there is a Trade-Through, at a time at which such non-Participant Exchange was not relieved of its obligation to be firm for its quotations pursuant to Rule 602 under the Exchange Act, and that the non-Participant Exchange neither executed that order nor moved its quotation to a price inferior to the price of the ATP Holder's order within 5 seconds of receipt of that order.

(e) *Declaring Away Markets Unreliable.* When the Exchange determines that quotes from one or more particular markets in one or more options series are not reliable, the Exchange may direct the senior person in charge of the Exchange's Control Room to exclude the unreliable quotes from the determination of the NBBO in the particular options series.

(A) *Determining Unreliability.* The Exchange may determine that quotes in one or more particular options classes in a market are not reliable only under the following circumstances:

(i) A market's quotes in a particular options class are not firm based upon direct communication to the Exchange from the market or the dissemination through OPRA of a message indicating that disseminated quotes are not firm;

(ii) A market has directly communicated to the Exchange or otherwise confirmed that the market is experiencing systems or other problems affecting the reliability of its disseminated quotes; or

(iii) A market has been disconnected from Linkage.

(B) Procedures to Follow. If either of the factors set forth in subsection (A)(i) or (ii) above occurs, then the procedures in (i) - (vi) below must be followed. If the factor set forth in subsection (A)(iii) above occurs, then the procedure in (vii) below must be followed.

(i) First, a Specialist contacts a Trading Official and requests that the away market be declared unreliable.

(ii) Second, the Trading Official contacts the Control Room and requests that the Control Room confirm with the away market that it is unreliable pursuant to subsection (A).

(iii) Third, if the Control Room has confirmed that an away market is unreliable, then the Trading Official will contact the Exchange and request a declaration that the away market is unreliable.

(iv) Fourth, the Exchange reviews and verifies the circumstances and determines whether the away market should be declared unreliable. The Trading Official notifies the Control Room that the away market is unreliable and should be removed from the NBBO calculation.

(v) Fifth, the Floor Surveillance Unit ("FSU") contacts the away market, and notifies the away market that one or more of its quotes have been removed from the NBBO calculation.

(vi) Sixth, the Exchange will continue to monitor the away market that has been declared unreliable and notify the Control Room to return to firm mode when appropriate.

(vii) Seventh, the senior person in charge of the Control Room will direct that the unavailable away market be declared unreliable and removed from the NBBO calculation until the sooner of the end of the trading day, or at the time that the quotes are confirmed by the Exchange to be reliable again.

(C) Documentation Required. The following documentation is required when an away market is declared unreliable. If either of the factors set forth in subsection (A)(i) or (ii) above occurs, then the procedures in (i) - (iv) below must be followed. If the factor set forth in subsection (A)(iii) above occurs, then the procedure in (v) below must be followed.

(i) The Trading Official must log the issue(s) and time of the Specialist's request for a declaration that the away market was unreliable. This provision does not apply if an away market is declared unreliable because a market has been disconnected from Linkage.

(ii) The Trading Official must prepare an Unusual Activity Report ("UAR") documenting the facts giving rise to the Specialist's request, the date, time, and duration of the exclusion and the reasons for placing the away market back into the NBBO calculation. This provision does not apply if an away market is declared unreliable because a market has been disconnected from Linkage.

(iii) An Exchange officer or member of the Floor Surveillance Unit must sign the UAR.

(iv) The Control Room will maintain a log of the time the away market was taken out of the NBBO calculation and the time that the away market was placed back into the NBBO calculation.

(v) When an away market is declared unreliable because it has been disconnected from Linkage, the Control Room will document a UAR and the UAR must be signed by a Trading Official.

(D) Duration of the Declaration. Any determination to exclude a market or any of its quotes from the determination of the NBBO pursuant to subsections (A)(i), (ii) or (iii) will expire at the sooner of the end of the trading day, or at the time that the quotes are confirmed by the Exchange to be reliable again. Exclusion of a market or its quotes from the determination of the NBBO will be reported to Exchange ATP Holders.

### **992NY - Locked and Crossed Markets**

(a) Eligible Market Maker Locking or Crossing a Market. An Eligible Market Maker that creates a Locked Market or a Crossed Market will unlock (uncross) that market or will direct a Principal Order through the Linkage to trade against the bid or offer that the Eligible Market Maker locked (crossed).

(b) ATP Holders other than an Eligible Market Maker Locking or Crossing a Market. An ATP Holder other than an Eligible Market Maker that creates a Locked Market or a Crossed Market will unlock (uncross) the market.

(c) The provisions of paragraphs (a) and (b) above do not apply to situations where an ATP Holder or Eligible Market Maker books an order that would lock a market and contemporaneously sends through the Linkage a P/A Order or Principal Order for the full size of the bid or offer that was locked.

### **993NY - Limitation on Principal Order Access**

A Market Maker will not be permitted to send Principal Orders in an Eligible Option Class through the Linkage for a given calendar quarter if the Market Maker effected less than 80 percent of its volume in that Eligible Option Class on the Exchange in the

previous calendar quarter (that is, the Market Maker effected 20 percent or more of its volume by sending Principal Orders through the Linkage). This provision only applies to Market Makers for each Eligible Option Class in which a Market Maker has total contract volume of at least 1000 contracts in the previous calendar quarter. This "80/20" is represented as follows:

X

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X+Y

"X" equals the total contract volume the Market Maker effects in an Eligible Option Class against orders of Customers on the Exchange during a calendar quarter (a) including contract volume effected by executing P/A Orders sent to the Exchange through the linkage, but (b) excluding contract volume effected by sending P/A Orders through the Linkage for execution on another Participant Exchange. "Y" equals the total contract volume the Market Maker effects in such Eligible Option Class by sending Principal Orders through the Linkage during that calendar quarter.

#### **995NY – Prohibited Conduct**

(a) It is conduct inconsistent with just and equitable principles of trade for any ATP Holder or associated person of an ATP Holder to engage, directly or indirectly, in any conduct that threatens, harasses, intimidates, constitutes a "refusal to deal" or retaliates against any ATP Holder or associated person of an ATP Holder because such ATP Holder or associated person of an ATP Holder:

- (1) has made a proposal to any exchange or other market to list or trade any option issue;
- (2) has advocated or made proposals concerning the listing or trading of an option issue on any exchange or other market;
- (3) has commenced making a market in or trading any option issue on any exchange or other market;
- (4) seeks to increase the capacity of any options exchange or the options industry to disseminate quote or trade data;
- (5) seeks to introduce new option products or;
- (6) seeks to act competitively.

(b) Limit Orders- ATP Holders shall not enter Customer orders into the NYSE Amex system, as agent, limit orders in the same option series, for the account or accounts of the same or related beneficial owner, in such a manner that the Customer or beneficial owner(s) effectively is operating as a market maker by holding itself out as willing to buy

and sell such option contract on a regular or continuous basis. In determining whether a Customer or beneficial owner effectively is operating as a market maker, the Exchange will consider, among other things, the simultaneous or near-simultaneous entry of limit orders to buy and sell the same option contract; or, the multiple acquisition and liquidation of positions in the same option series during the same day.

(c) Anticipatory Hedging and Front Running - It will be considered conduct inconsistent with just and equitable principles of trade for any ATP Holder or person associated with an ATP Holder, who has knowledge of all material terms and conditions of an originating order, a solicited order, or a facilitation order, the execution of which are imminent, to enter, based on such knowledge, an order to buy or sell an option on the underlying securities of any option that is the subject of the order, or an order to buy or sell the security underlying any option that is the subject of the order, or any order to buy or sell any related instrument until either:

(1) All the terms and conditions of the originating order and any changes in the terms or conditions of the order of which the ATP Holder or person associated with the ATP Holder has knowledge are disclosed to the trading crowd, or

(2) The trade can no longer reasonably be considered imminent in view of the passage of time since the order was received.

For the purposes of this rule, an order to buy or sell a "related instrument" means, in reference to an index option, an order to buy or sell securities comprising 10% or more of the component securities in the index or an order to buy or sell a futures contract on an economically equivalent index.

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**Rule 476A. Imposition of Fines for Minor Violation(s) of Rules**

(a) – (e) No Change

••• *Supplementary Material:* -----

**Part 1A: List of Exchange Rule Violations and Fines Applicable Thereto**

No Change

**Part 1B: List of Exchange Legacy Rule Violations and Fines Applicable Thereto**

No Change

**Part 1C List of Options Rule Violations and Fines Applicable Thereto**

The violations and fines listed in Part 1C shall apply on and after February 9, 2009 with the implementation of the NYSE Amex System and the relocation of the Trading Floor to 11 Wall Street, New York, New York.

(i) Minor Rule Plan: Options Floor Decorum and Minor Trading Rule Violations<sup>1</sup>

(1) Floor Broker failed to use due diligence in the handling or execution of an order. (Rule 933NY)

(2) Failure to comply with the order format and system entry requirements of Rule 955NY or proper documentation of time stamps (Rule 955NY)

(3) Floor Broker improperly executed a cross transaction. (Rule 934NY-934.3NY)

(4) Market Maker or Floor Broker violated procedures concerning the Market Maker's use of a Floor Broker to effect transactions. (Rule 936NY and 925.3NY)

(5) Market Maker failed to respond to a call for Market Makers by a Trading Official. (Rule 940NY)

(6) Market Maker failed to respond to demands for bids and/or offers. (Rule 925NY)

(7) ATP Holder failed to give up the name of the clearing member by open outcry when requesting a quote and size of the market or after effecting a trade. (Rule 954NY)

(8) ATP Holder failed to remain accessible for a specified amount of time after trade processing. (NYSE Alternext US LLC Rule 964)

(9) ATP Holder failed to honor a guaranteed market. (Rules 927NY and 970NY)

(10) ATP Holder failed to identify broker-dealer order. (Rules 954NY(c) and 970NY)

(11) Improper communication on the floor. (Rule 902NY, Commentary .02,)

(12) ATP Holder established or maintained a telephonic or electronic communication between the Floor and another location, or between

locations on the Floor, without the prior approval of the Exchange (Rule 220).

(13) Improper vocalization of a trade. (Rules 959NY and 961NY)

(14) Violation of rules related to floor decorum. (Rule 902NY)

(15) Disruptive action involving physical contact while on the Trading Floor. (Rule 902NY)

(16) ATP Holder used abusive language on the Trading Floor. (Rule 902NY)

(17) Position Limit or Exercise Limit Violation. (Rule 904, 904C, 905, 905C, 1107, 1108)

(18) Failure to meet 75% Primary Appointment Requirement. (Rule 923NY)

(19) Failure to comply with Authorized Trader rules. (Rule 921.1NY).

(20) Violation of rules on visitors to the Options Floor. (Rule 902NY)

(21) Misuse of ATP Holder badge or identification. (Rule 902NY)

(22) Violation of rules pertaining to Exercise of Option Contracts (Rule 980 and 980C)

(23) Failure to satisfy the Order Exposure Requirements set forth in Rule 935NY and its Commentary.

(24) Failure to unlock or uncross a market as required by Rule 992NY.

(25) Abusing Exchange Property. (Rule 902NY)

(26) Market Maker failed to apply for an Appointment in one or more option classes. (Rule 923NY)

(27) Failure to comply with the reporting duties of Rule 957NY

(28) Failure by a Specialist or Market Maker to comply with the Quotation Requirements of Rule 925NY or 964.1NY.

(29) ATP Holder failed to honor the priority of bids and offers. (Rule 963NY)

(30) Market Maker failed to quote markets within the maximum quote spread differentials or failed to disseminate quotes accurately. (Rules 925NY and 927NY)

(31) ATP Holder traded either before the opening or after the close of market. (Rule 901NY)

(32) ATP Holder failed to maintain an accurate record of orders. (Rule 956NY)

(33) Failure to maintain adequate procedures and controls to monitor and supervise the entry of electronic orders by Users to prevent the prohibited practices set forth in Rule 995NY.

(34) Failure to adhere to the principles of good business practice in the conduct of business affairs, as required by Rule 16.

(35) ATP Holder failed to follow the provisions of the Options Linkage program relating to Principal Acting as Agent Orders and Principal Orders (Rule 990NY(a), (b), (c)(1), (d) and (e)) or limitations on Principal Order Access (80/20) (Rule 993NY).

(36) Removal of handheld wireless trading device from the Options Trading Floor or have possession of an NYSE Floor Broker Hand Held Terminal while on the Options Trading Floor. (Rule 902NY(g) and (h)).

(ii) Minor Rule Plan: Record Keeping and Other Minor Rule Violations

(1) Failure to submit trade data to the Exchange in a timely manner. (Section 9A)

(2) Failure to furnish in a timely manner books, records or other requested information or testimony in connection with an examination of financial responsibility and/or operational conditions. (Rule 31)

(3) Failure to notify the Exchange of any change of address where notices may be served. (Rule 311)

(4) Failure to file a financial report or financial information in the type, form, manner and time prescribed by the Exchange (Rule 441). Failure to comply with the notification requirements of (Rule 440)

(5) Delaying, impeding or failing to cooperate in an Exchange investigation. (Rule Section 9A)

(6) Failure to comply with the requirements for preventing the Misuse of Material Nonpublic Information as set forth in Rule 3(j) and 3(l).

(7) Failure to comply with the Supervision requirements set forth in Rule 320, including but not limited to, an ATP Holder's failure to:

(a) supervise persons associated with it to assure their compliance with the federal securities laws and the Constitution and Rules of the Exchange (Rule 320(e)); or

(b) establish and maintain a system to supervise the activities of its associated persons and the operations of its business that is reasonably designed to ensure compliance with applicable federal securities laws and regulations and NYSE Arca Rules (Rule 320(e)); or

(c) establish, maintain, and enforce written procedures to supervise the business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable federal securities laws and regulations and with the NYSE Amex Rules (Rule 320(e)).

(8) (a) Failure to exercise due diligence as to accounts as required by Section 7.

(b) Failure to diligently supervise all accounts and licensed personnel as required by Section 7.

(c) Failure to keep current and preserve records concerning all Customer accounts as required by Section 7.

(9) Failure to comply with the books and records requirements of Rule 324.

(10) Failure to comply with the Employee Registration or other requirements of Rule 341.

(11) Failure to satisfy the anti-money laundering compliance program requirements set forth in Rule 432.

(iii) Minor Rule Plan: Recommended Fine Schedule

The following fine schedule sets forth the amount of the fine(s) to be imposed. Except as noted below, the amount of the fine(s) shall be imposed at the First Level pursuant to the chart below. If another Minor Rule Plan Fine has been issued to the same ATP Holder, or associated person for the same or similar

conduct violating the same rule (regardless of when paid) within 24 months from the date of occurrence of the violation(s) set forth in the current Notice of Minor Rule Plan Fine, then the fine(s) shall be imposed at the Second Level. If two or more separate Notices of Minor Rule Plan Fine have previously been issued to the same ATP Holder or associated person for the same or similar conduct violating the same rule within 24 months from the date of occurrence of the violation(s) set forth in the current Notice of Minor Rule Plan Fine, then the fine(s) shall be imposed at the Third Level.

These fines are intended to apply to minor violations. For more serious violations, other disciplinary action may be sought.

| <b><u>(i) Options Floor Decorum and Minor Trading Rule Violations</u></b>   | <b><u>Fine Levels</u></b> |                         |                         |
|---|---------------------------|-------------------------|-------------------------|
|   | <b><u>1st Level</u></b>   | <b><u>2nd Level</u></b> | <b><u>3rd Level</u></b> |
| <u>1. Floor Broker failed to use due diligence in the handling or execution of an order. (Rule 933NY)</u>   | <u>\$1,000.00</u>         | <u>\$2,500.00</u>       | <u>\$3,500.00</u>       |
| <u>2. Failure to comply with the order format and system entry requirements of Rule 955NY or proper documentation of time stamps (Rule 955NY)</u>                             | <u>\$1,500.00</u>         | <u>\$3,000.00</u>       | <u>\$5,000.00</u>       |
| <u>3. Floor Broker improperly executed a cross transaction. (Rule 934NY-934.3NY)</u>  | <u>\$1,000.00</u>         | <u>\$2,500.00</u>       | <u>\$3,500.00</u>       |
| <u>4. Market Maker or Floor Broker violated procedures concerning the Market Maker's use of a Floor Broker to effect transactions. (Rule 936NY and 925.3NY)</u>               | <u>\$1,000.00</u>         | <u>\$2,500.00</u>       | <u>\$3,500.00</u>       |
| <u>5. Market Maker failed to respond to a call for Market Makers by a Trading Official. (Rule 940NY)</u>  | <u>\$2,000.00</u>         | <u>\$2,500.00</u>       | <u>\$3,500.00</u>       |
| <u>6. Market Maker failed to respond to demands for bids and/or offers. (Rule 925NY)</u>  | <u>\$1,000.00</u>         | <u>\$2,500.00</u>       | <u>\$3,500.00</u>       |
| <u>7. ATP Holder failed to give up the name of the clearing member by open outcry when requesting a quote and size of the market or after effecting a trade. (Rule 954NY)</u> | <u>\$500.00</u>           | <u>\$1,000.00</u>       | <u>\$2,500.00</u>       |
| <u>8. ATP Holder failed to remain</u>   | <u>\$500.00</u>           | <u>\$1,000.00</u>       | <u>\$2,500.00</u>       |

|     |   |                   |                   |                   |
|-----|---|-------------------|-------------------|-------------------|
|     | <u>accessible for a specified amount of time after trade processing. (Rule 964)</u>   |                   |                   |                   |
| 9.  | <u>ATP Holder failed to honor a guaranteed market. (Rules 927NY and 970NY)</u>  | <u>\$1,000.00</u> | <u>\$2,500.00</u> | <u>\$3,500.00</u> |
| 10. | <u>ATP Holder failed to identify broker-dealer order. (Rules 954NY(c) and 970NY)</u>  | <u>\$500.00</u>   | <u>\$1,500.00</u> | <u>\$3,000.00</u> |
| 11. | <u>Improper communication on the floor. (Rule 902NY, Commentary .02)</u>  | <u>\$1,000.00</u> | <u>\$2,500.00</u> | <u>\$3,500.00</u> |
| 12. | <u>ATP Holder or ATP Firm established or maintained a telephonic or electronic communication between the Floor and another location, or between locations on the Floor, without the prior approval of the Exchange (Rule 220)</u> | <u>\$500.00</u>   | <u>\$1,000.00</u> | <u>\$2,500.00</u> |
| 13. | <u>Improper vocalization of a trade. (Rule 959NY and 961NY)</u>   | <u>\$1,000.00</u> | <u>\$2,500.00</u> | <u>\$3,500.00</u> |
| 14. | <u>Violation of rules related to floor decorum (Rules 902NY)</u>  | <u>\$1,000.00</u> | <u>\$2,000.00</u> | <u>\$3,500.00</u> |
| 15. | <u>Disruptive action involving physical contact while on the Trading Floor. (Rule 902NY)</u>  | <u>\$2,000.00</u> | <u>\$4,000.00</u> | <u>\$5,000.00</u> |
| 16. | <u>ATP Holder used abusive language on the Trading Floor. (Rule 902NY)</u>  | <u>\$500.00</u>   | <u>\$2,000.00</u> | <u>\$3,500.00</u> |
| 17. | <u>Position Limit or Exercise Limit violation. (Rule 904, 904C, 905, 905C, 1107, 1108)</u>  | <u>\$500.00</u>   | <u>\$1,000.00</u> | <u>\$2,500.00</u> |

**Fine Levels**

|     | <u>1st</u>   | <u>2nd</u>        | <u>3rd</u>        |                   |
|-----|--|-------------------|-------------------|-------------------|
|     | <u>Level</u>   | <u>Level</u>      | <u>Level</u>      |                   |
| 18. | <u>Failure to meet 75% Primary Appointment Requirement. (Rule 923NY)</u> | <u>\$1000.00</u>  | <u>\$2500.00</u>  | <u>\$3,500.00</u> |
| 19. | <u>Failure to comply with Authorized Trader rules. (Rules 921.1NY )</u>  | <u>\$1,000.00</u> | <u>\$2,500.00</u> | <u>\$3,500.00</u> |

|   |                   |                   |                   |
|---|-------------------|-------------------|-------------------|
| 20. <u>Violation of rules on visitors to the Options Floor. (Rule 902NY)</u>                              | <u>\$1,000.00</u> | <u>\$2,500.00</u> | <u>\$3,500.00</u> |
| 21. <u>Misuse of ATP Holder badge identification. (Rule 902NY)</u>  | <u>\$1,000.00</u> | <u>\$2,500.00</u> | <u>\$3,500.00</u> |
| 22. <u>Violation of rules pertaining to Exercise of Options Contracts (Rule 980, 980C)</u>                | <u>\$1,000.00</u> | <u>\$2,500.00</u> | <u>\$5,000.00</u> |
| 23. <u>Failure to satisfy the Order Exposure Requirements set forth in Rule 935NY and its Commentary.</u> | <u>\$500.00</u>   | <u>\$1,000.00</u> | <u>\$2,500.00</u> |

<sup>1</sup> Quantifiable monetary gains attributable to these violations may be required to be disgorged in addition to the specified fine amounts.

|   |                   |                   |                   |
|---|-------------------|-------------------|-------------------|
| 24. <u>Failure to unlock or uncross a market (Rule 992NY)</u>   | <u>\$500.00</u>   | <u>\$1,000.00</u> | <u>\$2,500.00</u> |
| 25. <u>Abusing Exchange Property (plus repair or replacement costs). (Rule 902NY)</u>   | <u>\$1,000.00</u> | <u>\$2,000.00</u> | <u>\$3,500.00</u> |
| 26. <u>Market Maker failed to apply for an Appointment in one or more option classes. (Rule 923NY)</u>  | <u>\$1,000.00</u> | <u>\$2,500.00</u> | <u>\$5,000.00</u> |
| 27. <u>Failure to comply with the reporting duties of Rule 957NY.</u>   | <u>\$1,500.00</u> | <u>\$3,000.00</u> | <u>\$5,000.00</u> |
| 28. <u>Failure by a Specialist or Market Maker to comply with the Quotation Requirements of Rule 925NY or 964.1NY.</u>  | <u>\$1,000.00</u> | <u>\$2,500.00</u> | <u>\$5,000.00</u> |
| 29. <u>ATP Holder failed to honor the priority of bids and offers. (Rule 963NY)</u>   | <u>\$500.00</u>   | <u>\$1,000.00</u> | <u>\$2,000.00</u> |
| 30. <u>Market Maker failed to quote markets within the maximum quote spread differentials or failed to disseminate quotes accurately. (Rules 925NY and 927NY)</u> | <u>\$1,000.00</u> | <u>\$2,500.00</u> | <u>\$5,000.00</u> |
| 31. <u>ATP Holder traded either before the opening of market or after the close of market. (Rule 901NY)</u>   | <u>\$1,000.00</u> | <u>\$2,500.00</u> | <u>\$3,500.00</u> |
| 32. <u>ATP Holder failed to maintain accurate record of orders. (Rule 956NY)</u>  | <u>\$500.00</u>   | <u>\$1,000.00</u> | <u>\$2,500.00</u> |
| 33. <u>Failure to maintain adequate</u>   | <u>\$500.00</u>   | <u>\$1,000.00</u> | <u>\$2,500.00</u> |

|     |   |                   |                   |                   |
|-----|---|-------------------|-------------------|-------------------|
|     | <u>procedures and controls to monitor and supervise the entry of electronic orders by Users to prevent the prohibited practices set forth in Rule 995NY</u>   |                   |                   |                   |
| 34. | <u>Bad Business Practice (Rule 16).</u>   | <u>\$1,000.00</u> | <u>\$2,500.00</u> | <u>\$3,500.00</u> |
| 35. | <u>ATP Holder failed to follow the provisions of the Options Linkage program relating to Principal Acting as Agent Orders and Principal Orders (Rule 990NY or limitations on Principal Order Access (80/20) (Rule 993NY).</u> | <u>\$500.00</u>   | <u>\$1,000.00</u> | <u>\$2,500.00</u> |
| 36. | <u>Removal of handheld wireless trading device from the Options Trading Floor or have possession of an NYSE Floor Broker Hand Held Terminal while on the Options Trading Floor. (Rule 902NY (g) and (h)).</u>                 | <u>\$1,000.00</u> | <u>\$2,500.00</u> | <u>\$3,500.00</u> |

|   |                         | <u><i>Fine Levels</i></u> |                         |  |
|---|-------------------------|---------------------------|-------------------------|--|
| <u>(ii) Record Keeping and Other Minor Rule Violations</u>  | <u><i>1st Level</i></u> | <u><i>2nd Level</i></u>   | <u><i>3rd Level</i></u> |  |
| 1. <u>Failure to submit trade data to the Exchange in a timely manner (Section 9A)</u>  | <u>\$1,000.00</u>       | <u>\$2,500.00</u>         | <u>\$3,500.00</u>       |  |
| 2. <u>Failure to furnish in a timely manner books, records or other requested information or testimony in connection with an examination of financial responsibility and/or operational conditions. (Rule 31)</u> | <u>\$2,000.00</u>       | <u>\$4,000.00</u>         | <u>\$5,000.00</u>       |  |
| 3. <u>Failure to comply with the notification requirements of Rule 311).</u>  | <u>\$500.00</u>         | <u>\$1,000.00</u>         | <u>\$2,500.00</u>       |  |
| 4. <u>Failure to file a financial report or financial information in the type, form, manner and time prescribed by the Exchange. Failure to follow the notification requirements (Rule 440, 441)</u>              | <u>\$2,000.00</u>       | <u>\$4,000.00</u>         | <u>\$5,000.00</u>       |  |
| 5. <u>Delaying, impeding or failing to</u>  | <u>\$3,500.00</u>       | <u>\$4,000.00</u>         | <u>\$5,000.00</u>       |  |

|     |  |                   |                   |                   |
|-----|--|-------------------|-------------------|-------------------|
|     | <u>cooperate in an Exchange investigation. (Section 9A)</u>  |                   |                   |                   |
| 6.  | <u>Failure to comply with the requirements for preventing the Misuse of Material Nonpublic Information as set forth in Rule 3(j) and 3(l).</u> | <u>\$2,000.00</u> | <u>\$4,000.00</u> | <u>\$5,000.00</u> |
| 7.  | <u>Failure to comply with the Supervision requirements set forth in Rule 320(e).<sup>2</sup></u>   | <u>\$3,500.00</u> | <u>\$4,000.00</u> | <u>\$5,000.00</u> |
| 8a. | <u>Failure to exercise due diligence as to accounts as required by Section 7.<sup>2</sup></u>  | <u>\$3,500.00</u> | <u>\$4,000.00</u> | <u>\$5,000.00</u> |
| 8b. | <u>Failure to diligently supervise all accounts and licensed personnel as required by Section 7.<sup>2</sup></u>                               | <u>\$3,500.00</u> | <u>\$4,000.00</u> | <u>\$5,000.00</u> |
| 8c. | <u>Failure to keep current and preserve records concerning all Customer accounts as required by Section 7.</u>                                 | <u>\$2,000.00</u> | <u>\$4,000.00</u> | <u>\$5,000.00</u> |
| 9.  | <u>Failure to comply with the books and records requirements of Rule 324.</u>  | <u>\$2,000.00</u> | <u>\$4,000.00</u> | <u>\$5,000.00</u> |
| 10. | <u>Failure to comply with the Employee Registration or other requirements of Rule 341.<sup>3</sup></u>   | <u>\$1,000.00</u> | <u>\$2,500.00</u> | <u>\$3,500.00</u> |
| 11. | <u>Anti-Money Laundering Compliance Program Violations (Rule 432)<sup>2</sup></u>  | <u>\$2,000.00</u> | <u>\$4,000.00</u> | <u>\$5,000.00</u> |

<sup>2</sup> In addition to the specified fines, the Exchange may require the violator to make specified changes to its supervisory or other compliance procedures.

<sup>3</sup> In addition to the specified fines, the Exchange may require the violator to remit all fees that it should have paid to the Exchange pursuant to compliance with Rule 341.

\* \* \* \* \*