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UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 80983 / June 20, 2017

Admin. Proc. File No. 3-17906

In the Matter of

ABN AMRO Clearing Chicago LLC

BRIEF ADDRESSING STANDARD OF REVIEW TO BE APPLIED BY CBOE BOARD OF DIRECTORS IN REVIEWING INITIAL DETERMINATIONS BY BUSINESS CONDUCT COMMITTEE

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I. Introduction

The Exchange Act does not identify a standard of review to be followed by the Board of Directors of the Chicago Board Options Exchange, Inc. ("Board") when conducting an appellate review of initial decisions by the Business Conduct Committee ("Committee" or "BCC") of the Chicago Board Options Exchange, Inc. ("Exchange" or "CBOE"). Indeed, the Exchange Act does not even specify that the Board is required to conduct an appellate review in the first place. The Exchange Act merely requires that the Exchange provide a "fair procedure."[1]

Approximately forty years ago, the Commission approved the Exchange's disciplinary hearing and appeal process—which includes appellate review by the Board—as a "fair procedure." However, the Exchange and the Board itself have dramatically changed since the Commission first approved the Exchange's appeal process. In the intervening four decades, the Exchange has demutualized and become a publicly held company; at the same time, the options market and its attendant enforcement issues have become radically more complex and technological in nature. These market and business developments impact the fairness and sufficiency of the Exchange's disciplinary process at every level.

ABN AMRO is very supportive of the Commission's efforts to address the fairness of the Exchange's appeal process and appreciates the opportunity to answer the questions raised by the Commission in its Order dated June 20, 2017 (the "Order").[2] In the view of ABN AMRO, however, there is another critical question that also should be addressed: whether the Board, in light of the dramatic changes in the options market and the Board itself, still can be expected to conduct a sufficient appellate review of BCC decisions in the first place? As a direct party to the

[1] Exchange Act Sections 6(b)(7) and 15A(b)(8), 15 U.S.C. §§ 78f(b)(7), 78o-3(b)(8).

[2] Securities Exchange Act of 1934 Release No. 80983 (June 20, 2017).

litigation[3] related to the Order and a broker-dealer with a substantial stake in these issues, ABN AMRO feels compelled to address this threshold question in the final portion of this brief in the interest of improving the fairness and effectiveness of the CBOE disciplinary appeal process.[4]

II. % The Board Should Apply the "Clearly Erroneous" Standard of Review With Respect To BCC Determinations

The "standard of review" denotes the strictness or intensity with which an appellate tribunal evaluates the decision of the trier of fact. The standard of review, if conducted properly, does not affect the substantive right of a party to present an adequate claim or defense. In this respect, the standard of review is similar to standards by which the Exchange addresses the admission of evidence, the presentation of witnesses and the length and sequence of opening statements and closing arguments at the disciplinary hearing. These are standards that do not restrict the substantive rights of the parties to present their claim or defense; rather, these standards merely address the manner in which the parties' evidence is presented and reviewed. As such, these long-established standards, like the standard of review, are neither codified in CBOE rules nor deemed to be a "policy, practice or interpretation" within the meaning of SEC Rule 19b-4. For the same reasons, the standard of review should not be deemed an Exchange "policy, practice or interpretation" within the meaning of SEC Rule 19b-4. *See, e.g., General Bond & Share Co. v. S.E.C.*, 39 F.3d 1451, 1459-60 (10th Cir. 1994) ("the establishment of a new standard of conduct . . . must be considered a rule change").

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[3] In the Matter of ABN AMRO Clearing Chicago LLC (CBOE File No. 14-0188 & C2 File No. 14-0003 and STAR File Nos. 20140438963 & 20140439040).

[4] For clarity's sake, the violations alleged in this matter occurred on both the CBOE and C2 Options Exchange ("C2") and were substantially similar in nature. The disciplinary process for both CBOE- and C2-related matters were combined and flowed through the CBOE BCC and Board in a single proceeding at both levels. For the sake of convenience, ABN AMRO will collectively refer to both Exchanges as the "Exchange" or "CBOE."

With respect to the type of "policy, practice or interpretation" that warrants a rule-making submission, it is evident that SEC Rule 19b-4 is focused on regulatory matters and the substantive rights and obligations of market participants, not disciplinary hearing and appeal methods and standards. Extensive research has failed to disclose a single case where SEC Rule 19b-4 has been applied to the standard of review—or, for that matter, any procedural aspect of an SRO's adjudicative rules. By contrast, SEC Rule 19b-4 has typically been invoked to require rule-making submissions with respect to regulatory matters or policies or interpretations directly impacting market participants' substantive rights or standards of conduct. *See, e.g., In the Matter of the Application of Interactive Brokers LLC for Review of Action Taken by the Pac. Exch., Inc.,* SEC Release No. 34-39765 (Mar. 17, 1998); *In the Matter of Nat'l Stock Exch. & David Colker*, SEC Release No. 34-51714 (May 19, 2005).

Even if the Commission concludes that the standard of review is, in fact, a "policy, practice or interpretation" within the meaning of SEC Rule 19b-4, it seems apparent that no particular standard of review properly can be implied from the language of CBOE Rule 17.10. Certainly, the *de novo* standard of review cannot be implied from CBOE Rule 17.10. For decades, the Board has expressly followed the "clearly erroneous" standard of review, and has reiterated this standard in many reported decisions. *See Electronic Transaction Clearing, Inc.,* SEC Release No. 34-78093, 2016 WL 3345702 (June 16, 2016), and cases collected therein. Through long-established CBOE precedent, therefore, the Exchange has repeatedly ruled, in effect, that the "clearly erroneous" standard of review, not the *de novo* standard of review, is most reasonably implied from and consistent with CBOE Rule 17.10. As federal courts have repeatedly ruled in other contexts, deference should be accorded to the SROs' interpretations of

their own rules. *See Heath v. Securities and Exchange Commission,* 586 F.3d 122, 138-39 (2d Cir. 2009); *Krull v. Securities and Exchange Commission,* 248 F.3d 907 (9th Cir. 2001).

Finally, the "clearly erroneous" standard of review is consistent with the Exchange Act's scheme of enforcement and review—*so long as* the Board properly applies this standard of review. If the designated Board members personally review the entire record, do not ignore or second-guess undisputed fact findings, uphold all plausible findings, do not simply substitute their judgment for that of the trier of fact and otherwise comply with the requirements of the "clearly erroneous" standard of review, then the appellate process will comport with the policy objectives of the Exchange Act.

III. + The *De Novo* Standard of Review Would Be Proper But Only If the Board Actually Comports With That Standard Of Review

A. + *De Novo* Standard Of Review Would Advance Exchange Act's Enforcement And Review Scheme

Although the CBOE rules do not imply a particular standard of review, the Commission could certainly require the Board to follow a specific standard of review if it concluded that the Exchange Act required it. The *de novo* standard of review, *if properly applied*, provides a superior method of appellate review and would most effectively advance the Exchange Act's scheme of enforcement and review. The *de novo* standard of review would require the Board to conduct an original assessment of the evidence and legal arguments and a non-deferential review of all fact findings and legal conclusions. As such, *de novo* review would provide a more fulsome and thoughtful record for the Commission.

However, the advantages of *de novo* review depend upon the Board carefully complying with the significant burdens associated with this standard of review. The *de novo* standard of review would require the Board to review the entire record, including the transcript and exhibits

as well as the pleadings and briefs. The *de novo* standard of review would also require the Board to consider, analyze and apply the law (including SEC regulations) in accordance with its own judgment. This would require the Board to exercise independent legal judgment and expertise, and while the Board is entitled to solicit legal advice from Exchange counsel, it cannot delegate its exercise of legal judgment to non-Board members, *i.e.*, Exchange counsel. Therefore, to the extent that the Commission requires the Board (via a three-member panel) to conduct a *de novo* review, at least one member of that Board panel must be an attorney. Otherwise, the Board panel would be entirely unqualified to make or assess legal judgments, and would effectively be outsourcing those judgments to lawyers who are not Board members.

B. # If The Commission Requires *De Novo* Review, It Should Provide Guidance For The Application Of That Standard

If the Commission determines that the *de novo* standard of review is required by the Exchange Act or implied by CBOE Rule 17.10 or both, then the Commission should and will require that the Board apply the *de novo* standard henceforth. However, it should be borne in mind that, as a matter of policy, the Board has never applied the *de novo* standard of review; as a result, neither the Board nor its counsel has any experience in applying that standard. In that event, therefore, ABN AMRO urges the Commission to provide specific guidance so as to ensure that the Board properly comports with the strict requirements of that review standard. Ideally, the Commission should require that the Exchange undergo the rule-making process so that the Exchange's proposed application of the *de novo* standard is spelled out and comments are solicited.

If the Commission were to provide such guidance, ABN AMRO believes that the Commission should, in detailed fashion, set forth all the requirements associated with the *de novo* standard of review. Among other things, the Commission should require that any panel

appointed by the Board to review a BCC decision be comprised of at least one attorney who is qualified to assess and analyze legal issues. Second, the Commission should require that every member of the Board panel personally review the entire record on appeal, including the transcript of the disciplinary hearing as well as all exhibits, pleadings, briefs and other filings. Third, the Commission should require that the Board address every finding of fact and conclusion of law upon which the original decision was based and, if the Board rejects any or all of those findings and conclusions, the Board should explain its reasoning and the factual and legal basis therefor. Only in this way can the Board's appellate review advance the enforcement scheme of the Exchange Act and enhance the Commission's own review of the record.

IV. The Board Decision Should Be Reversed Without Further Proceedings

A. If The Board Failed To Follow The Proper Standard Of Review, This Matter Should Be Brought To An End

In this remarkable case, ABN AMRO has already endured three years of costly litigation in the defense of charges which, according to the BCC itself, were brought at the behest of Exchange staff who were profoundly ignorant about the technological issues at the core of the proceeding. (FINRA 1911) At the original evidentiary hearing, literally *all of the evidence pertaining to the technological inability of ABN AMRO or any other firm in the industry to implement the risk control in question, i.e., the so-called "block" of customer COA activity, was undisputed and unrebutted.* (FINRA 1911) At the hearing, it became evident that the Exchange staff had made no effort to ascertain whether the "block" and surveillance they were demanding, was even technologically possible. (FINRA 1911-12) In the face of this overwhelming and undisputed evidence, the BCC made 19 findings of fact and 12 conclusions of law in favor of ABN AMRO in its original decision on the merits. (FINRA 2060-64) In unprecedented fashion, the BCC expressed "extreme concern" regarding the staff's sloppy investigation and its

ignorance of the defects or limitations of its own technology. (FINRA 1911-12) But without question, the capstone of this unfortunate proceeding was the Board's decision, which completely ignored all of the BCC's undisputed fact findings as to technological impossibility and then simply substituted its judgment for that of the BCC with respect to every other finding of fact and conclusion of law. The ignorance of the staff and the impossibility of implementing the risk control in question, which caused the BCC "extreme concern," did not seem to concern the Board at all.

If the Commission decides that the Board used the wrong standard of review because the *de novo* standard is either implied by CBOE Rule 17.10 or required by the Exchange Act or otherwise mandated by law, it means that the Board violated SEC Rule 19b-4 and/or that ABN AMRO did not receive the "fair procedure" required by the Exchange Act. On either basis, the Board's rulings would be invalid and improper and must be reversed. The only question is whether the case should be remanded for further proceedings before the Board (presumably following the *de novo* standard of review).

In the event that the Commission reverses the decision, ABN AMRO urges reversal of the Board decision without remand and without further proceedings. There are several compelling arguments for this outcome. First, in the event that the Commission were to decide that the *de novo* standard of review is, in fact, implied by CBOE Rule 17.10 or required by the Exchange Act, the Exchange may be required to undergo the rule-making process, and this matter should not be delayed while the rule-making process unfolds over the course of many months or even years. Second, to the extent that the Board violated SEC Rule 19b-4 and/or the Exchange Act in the course of this appeal, there is simply no provision of the Exchange Act or the SEC rules which allows the Board, having conducted its original review in violation of the

law, to get another bite at the apple so as to "get it right" at the expense of the respondent. Third, the CBOE rules themselves only allow one round of appeals before the Board; thus, it would be contrary to CBOE rules and SEC Rule 19b-4, in and of itself, to require the parties to "start over" and undertake the type of proper Board appeal that should have been conducted in the first place. Nowhere is this contemplated by the CBOE or SEC rules. Fourth, to the extent that the Board failed to provide a "fair procedure" by using the wrong standard of review, in the interest of equity and fairness ABN AMRO should not be penalized for the Board's transgression by being forced to endure yet another round of appeal. Finally, based upon its composition, the Board does not "bring to the table" any expertise with respect to SEC Rule 15c3-5 that might further elucidate the issues. At this stage, considerations of fairness and equity dictate that the Board decision be reversed and this matter be brought to an end.

B. ° The Board's Composition And Decision Casts Doubt On Its Ability To Apply The Proper Standard Of Review Without Commission Guidance And Provides Additional Bases For Reversal Without Further Proceedings

Nearly forty years ago, when the Commission approved the current Exchange disciplinary process—including appellate review of disciplinary decisions by the Board—the Exchange was merely a not-for-profit self-regulatory organization, not a for-profit commercial enterprise. The Exchange was owned by its members and its Board was comprised of Exchange members or associated persons with extensive knowledge of the options market, floor rules and procedures and back office functions. In the first decades of its existence, furthermore, the options market was predominantly comprised of traditional floor-based trading of equity options products and technology rarely, if ever, was the central issue in enforcement proceedings.

The Exchange has now demutualized and is a publicly-held company that is both a regulator and a for-profit, multi-billion dollar commercial enterprise. Its current Board reflects

this new reality: the Board is predominated by individuals who lack career experience operating a member trading or clearing firm at the CBOE and expertise in CBOE rules and procedures.[5] Indeed, the Board members generally have full-time jobs unaffiliated with the CBOE that demand their time and attention. In addition, in recent years the CBOE options market has experienced seismic shifts in which electronic order entry and execution, algorithmic trading and advanced, high-speed order flow technology now predominate the options landscape and form the focal point of many enforcement proceedings—including this one. But a cursory review of the Board membership reveals that few of the Board members—and none of the Panel members who considered this appeal[6]—have expertise in the technology and order entry protocols that now predominate trading and operations at the Exchange.[7]

At this juncture in the evolution of the Exchange, it is reasonable to inquire whether the Board possesses the capability of conducting a knowledgeable, in-depth appellate review that comports with the statutory requirement of a "fair procedure," regardless of the standard of review. Any appellate process provides only a limited opportunity for assessment of the

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[5] Specifically, none of Board Members Edward Fitzpatrick, Janet Froetscher, Jill R. Goodman, R. Eden Martin, Roderick A. Palmore, Susan M. Phillips, Samuel K. Skinner, Carole E. Stone, or Eugene S. Sunshine, who, based on the CBOE 2015 Annual Report, were members of the Board at the time of the Exchange's filing of its appeal in this matter on January 15, 2016, appear to have any practical experience dealing in clearing, the trading of listed options, or the rules at the heart of the litigation that led up to the Commission's issuance of the Order, see http://www.cboe.com/framed/pdfframed?content=/aboutcboe/annualreportarchive/annual-report-2015.pdf&section=SEC_ABOUT_CBOE&title=CBOE+Annual+Report+2015. Although Board Members James R. Boris and Frank E. English appear to have experience in the financial services industry, their experience similarly appears unrelated to options trading in general, as well as the specific underlying regulations at issue in the appeal. That leaves Edward T. Tilly, who was the CEO of CBOE Holdings at the time, as the only person with practical options trading experience, and William Brodsky, Chairman of the Board at the time, who also appeared to have extensive options industry experience. However, Mr. Tilly and Mr. Brodsky were not members of the Board panel assigned to review the BCC decision.

[6] Eugene Sunshine (Panel Chairperson), Frank English, and Jill Goodman were the Board Members that considered the Exchange's appeal.

[7] Contrast the experience of the Board Members to the members of the BCC hearing panel who heard the case initially—Bruce Andrews, Richard Bruder, and Edward Kelly—and it should be noted that they had decades of experience among them as Exchange members and options traders on the Exchange.

evidence and consideration of the fairness of the original decision. The adjudicators of the appeal—in this case, the Board members—are at an inherent disadvantage because they lack the benefit of attending the original proceeding in-person and are unable to assess the credibility of the witnesses and the import of the evidence as presented during the proceeding. Prior to demutualization, these disadvantages were offset by the extensive CBOE experience of the Board members, who used their considerable CBOE expertise in assessing the evidence. In light of the current make-up of the Board, however, the CBOE's process of directing BCC appeals to Board members who lack such expertise only compounds the intrinsic limitations of the appellate process.

In light of these considerations, it is important to consider the following questions: (i) does the Board, whose members generally lack expertise or practical experience in CBOE trading, CBOE order flow technology and CBOE floor and back office procedures, possess the necessary qualifications to conduct a knowledgeable review of the factual record and the related regulatory and technology issues; (ii) is the Board the appropriate body to interpret and enforce, via the appeals process, Rule 15c3-5, the Commission's "Market Access Rule" that was adopted by the Commission in 2010 in an effort to address the risks associated with accessing the market; and (iii) can the Board, whose members are, for the most part, committed to full-time jobs entirely unconnected to the CBOE, be expected to devote the substantial time and energy necessary to conduct a personal and rigorous review of the entire record of a disciplinary hearing spanning multiple days, as they are required to do under any standard of review? In the view of ABN AMRO, the Board cannot be expected to perform the type of rigorous and knowledgeable appellate review that would have been reasonably expected 40 years ago when the Board members were also Exchange members with extensive CBOE trading experience and expertise.

This case presents prime examples of these procedural problems, which are specific to CBOE.[8] The Exchange alleged that ABN AMRO should have blocked its customer, Simplex, from responding to complex order auction messages ("COAs") for CBOE proprietary index products. The legal issues revolved around the proper application of the Market Access Rule to this complex trading and technological environment. The 2,445-page record on appeal focuses on highly complex technological issues involving the CBOE FIX protocol interface and relevant auction tags, RFQ messaging technology and the capability of clearing firms to observe, identify, block or surveil for improper COA messaging. The Board appointed a three-member panel (the "Panel") to conduct the review of the disciplinary hearing, but none of these individuals possessed any relevant experience or expertise. The Panel's failure to review the entire record, or its inability to understand it, is evident from its decision because a variety of dispositive, undisputed factual findings favorable to ABN AMRO were simply ignored, sidestepped or rejected.

For example, the BCC made a specific finding, based upon undisputed evidence, that no commercially available order entry system allowed, or would allow, ABN AMRO—or any other clearing or sponsoring firm, for that matter—to observe Exchange or customer auction messaging of any kind. (FINRA 1908-10) This finding was ignored by the Board. The BCC also found that it is impossible to identify a COA message because there is no COA-specific FIX tag. (FINRA 1909-10) This finding was also ignored by the Board. The BCC also found that it is impossible to block COA auction messages without blocking all auction messages in all classes, even for permissible auctions and products. (FINRA 1909-11) The Board side stepped

[8] We are aware that the Commission has not asked the parties to address the question of whether the Board properly applied the "clearly erroneous" standard of review in this case. At this stage, ABN AMRO is merely highlighting some of the basic failings of the Board's appellate review in order to demonstrate the Board's misunderstanding of the standard of review, or its inability to conduct an adequate appellate review in the first instance.

this fact finding as well. The Committee also found that no Exchange system would have permitted ABN AMRO to ascertain whether a customer has any market maker appointments which may, or may not, allow that customer to utilize COAs. (FINRA 1912) This was also undisputed, and also ignored by the Board. The Committee also found that OCC and Exchange systems made it impossible for ABN AMRO to surveil for improper COA responses. (FINRA 1910) Again, this undisputed factual finding was ignored by the Board. In short, the Board improperly ignored or side stepped every undisputed and unrebutted fact finding which established that it is technologically impossible for ABN AMRO (or any other clearing firm or sponsoring member) to observe, monitor, block or surveil improper COA activity.

Despite undisputed evidence of the technological impossibility of the risk control in question (*i.e.*, a "COA block"), the Board ruled that ABN AMRO's risk controls were not reasonably designed because they lacked the COA block. (FINRA 2246) In arriving at this ruling, the Board disagreed with the BCC's undisputed fact findings, stating that "it was not impossible to implement a control and comply with the Market Access Rule." (FINRA 2246) In doing so, the Board violated two fundamental precepts of the "clearly erroneous" standard of review. First, the Board impermissibly ignored or rejected the undisputed fact findings. *See, Crockett v. Cumberland Coll.*, 316 F.3d 571, 578 (6th Cir. 2003) ("we must accept the undisputed facts"); *Rogers Corp. v. E.P.A.*, 275 F.3d 1096, 1105 (D.C. Cir. 2002) (must credit undisputed facts). Second, the Board improperly substituted its own judgment for that of the trier of fact. *See Nav-Aids, Ltd. v. Nav-Aids USA, Inc.,* No. 01 C 0051, 2002 WL 1359399, at *2 (N.D. Ill. June 20, 2002) (appellate tribunal should not substitute its own judgement for the judgment of the trier of fact on issues that could go either way).

Worse yet, while the Board purported to reject the BCC's findings that a COA block was impossible to implement (FINRA 2246), in reality the Board actually sidestepped the question of technological feasibility of a COA block.[9] Rather, the Board stated that ABN AMRO could have implemented a so-called "control" in one of three ways. Specifically, the Board stated that ABN AMRO "could have prohibited all auction activity by Simplex, thereby preventing improper COA responses," or that ABN AMRO "could have discontinued the Sponsored User Business."[10] (FINRA 2246) In so ruling, the Board apparently failed to comprehend that, according to the undisputed evidence, these technological limitations which rendered a COA block impossible were universal in scope and applied to all market participants. In effect, therefore, the Board was ruling that *no clearing or sponsoring firm* can allow CBOE market or auction access to customers who are not CBOE market makers—since no clearing or sponsoring firm could observe, identify, block or surveil for improper COA messaging, however theoretical or unlikely such COA messaging might be. This precedent would have a devastating effect on CBOE market depth, liquidity and volume. It is apparent that the Board either failed to review the entire record, failed to grasp the technology issues, failed to understand the standard of review, or all three.

Finally, in a baffling comment, the Board ruled that one of the legally permissible "options" available to ABN AMRO was to "reach out to the Exchange to determine a way to prevent Simplex from responding to COAs." (FINRA 2246) But this makes no sense: the

[9] ABN AMRO notes the careful wordsmithing of this portion of the Board's decision. The Board did not actually rule that a risk control in the form of a COA block, was technologically possible. The Board sidestepped the issue by ruling that it was "not impossible to implement *a control*." (emphasis added) But as the Board described it, the so-called "control" is not a control at all, but merely (a) a block of all auction activity for all non-CBOE market maker customers by all clearing or sponsoring firms or (b) a cessation of the Sponsored User business on the part of ABN AMRO and all other firms, as explained *infra*.

[10] In other words, the Board ruled that, in light of these technological limitations, ABN AMRO should not be allowing CBOE market access to customers who are not CBOE market-makers because it is possible that they might theoretically attempt to place complex orders in CBOE index proprietary products.

undisputed evidence—unrebutted by the Exchange—is that it is technologically impossible for ABN AMRO (or any other sponsoring or clearing firm) to prevent Simplex (or any other customer) from responding to COA messages. (FINRA 1908-12) The Board never explains how the Exchange staff could have rendered the disputed risk control possible when the undisputed evidence is that it is impossible. This aspect of the Board's decision reflects a profound misunderstanding of the role of the Board in the appellate process. The Board cannot ignore undisputed evidence of technological impossibility but nevertheless require ABN AMRO (and other sponsoring firms) to "reach out" to the Exchange for a non-existent technological solution. In this respect, the Board's ruling is nothing more than wishful thinking that is utterly contrary to the undisputed evidence.

In light of these considerations, ABN AMRO believes that the Board should a) be removed from the appeal process entirely, or b) be provided with Commission guidance as to what is required of Board members in the appeal process, whichever standard of review is ruled appropriate by the Commission. ABN AMRO believes that, unless these defects in the Board's appeal process are addressed, the application of one standard of review or the other is, in practical application, a distinction without a difference due the shortcomings of the Board and will contribute to the perception that the Board is unable to provide the type of "fair procedure" required by the Exchange Act. At the very least, ABN AMRO urges that the Commission formally impose, by means of rule-making, express standards and requirements that the Board must follow in conducting an appellate review. In the meantime, the Board decision should be reversed without further proceedings.

V. Conclusion

It shocks the conscience—as it shocked the BCC—that the Exchange staff would prosecute charges against ABN AMRO without bothering to make any effort to determine the technological feasibility of the risk control in question. It further shocks the conscience that the Board ignored or sidestepped the BCC's multiple findings of investigative ineptitude and technological impossibility.

ABN AMRO has already incurred substantial time and expense in defending these charges, which should never have been brought in the first place. This matter should now be concluded in favor of ABN AMRO.

Dated: August 11, 2017

Respectfully submitted,

ABN AMRO CLEARING CHICAGO, LLC

By: _____

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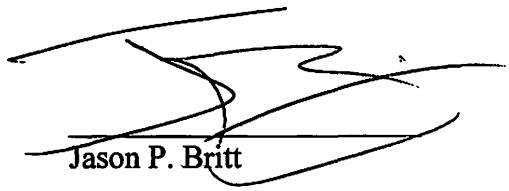
CERTIFICATE OF COMPLIANCE

I certify that the accompanying Brief Addressing Standard of Review to Be Applied by CBOE Board of Directors in Reviewing Initial Determinations by Business Conduct Committee by ABN AMRO Clearing Chicago LLC contains 4,912 words, exclusive of pages containing the table of contents and table of authorities.



Jason P. Britt

CERTIFICATE OF SERVICE

On August 11, 2017, I caused to be served the accompanying Brief Addressing Standard of Review to Be Applied by CBOE Board of Directors in Reviewing Initial Determinations by Business Conduct Committee by ABN AMRO Clearing Chicago LLC on the following persons, through electronic mail, facsimile transmission, and U.S. Mail:

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I further caused to be filed the accompanying Brief Addressing Standard of Review to Be Applied by CBOE Board of Directors in Reviewing Initial Determinations by Business Conduct Committee by ABN AMRO Clearing Chicago LLC by sending it to the following by facsimile and overnight delivery:

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Assistant Secretary
Office of the Secretary, United States Securities and Exchange Commission
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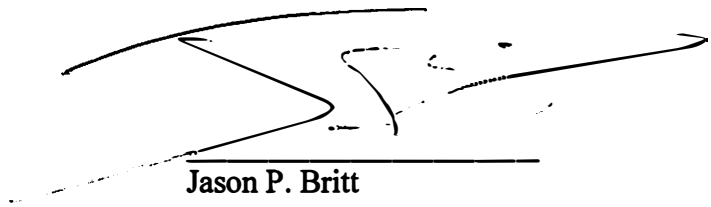
Washington, DC 20549
(703) 813-9793 (fax)



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August 11, 2017

ADMINISTRATIVE PROCEEDING
FILE NO. 3-17906

Via Facsimile and Overnight Delivery

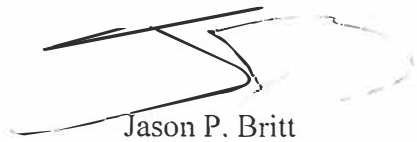
Eduardo Aleman
Assistant Secretary
Office of the Secretary
United States Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549
(703) 813-9793 (fax)

Re: *In the Matter of the Application of ABN AMRO Clearing Chicago LLC*; Administrative Proceeding No. 3-17906

Dear Mr. Aleman:

Attached please find a copy of ABN AMRO Clearing Chicago, LLC's Brief Addressing Standard of Review to Be Applied by CBOE Board of Directors in Reviewing Initial Determinations by Business Conduct Committee. Please contact me at (312) 832-4390, or Steve Bedell at (312) 832-4374, if you have any questions about or need any assistance with this filing.

Sincerely yours,



Jason P. Britt
Counsel for ABN AMRO Clearing Chicago, LLC

JPB
cc: Gary Dernelle (Via Facsimile, Email, and U.S. Mail)
Joanne Moffic-Silver (Via Facsimile, Email, and U.S. Mail)