

Exhibit 5

(additions are underlined; deletions are [bracketed])

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**[FIFTH]SIXTH AMENDED AND RESTATED  
BYLAWS  
OF  
CBOE GLOBAL MARKETS, INC.**

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**ARTICLE 2—STOCKHOLDERS**

*2.1 Place of Meetings.* All meetings of stockholders shall be held at such place, if any, within or without the State of Delaware as may be designated from time to time by the Board of Directors or the Chairman of the Board (or, if there is no Chairman of the Board, the Chief Executive Officer) [or, if not so designated, at the principal place of business of the Corporation in Chicago, Illinois].

*2.2 Annual Meeting.* The annual meeting of stockholders for the election of directors and for the transaction of such other business as may properly be brought before the meeting shall be held on such date and at such time and at such place, if any, within or without the State of Delaware as shall be fixed by the Board of Directors, pursuant to a resolution adopted by the affirmative vote of a majority of the total number of directors then in office, or the Chairman of the Board (or, if there is no Chairman of the Board, the Chief Executive Officer) and stated in the notice of the meeting. [If no annual meeting is held in accordance with the foregoing provisions, the Board of Directors shall cause the meeting to be held as soon thereafter as convenient.] If no annual meeting is held in accordance with the foregoing provisions, a special meeting may be held in lieu of the annual meeting, and any action taken at that special meeting shall have the same effect as if it had been taken at the annual meeting, and in such case all references in these Bylaws to the annual meeting of stockholders shall be deemed to refer to such special meeting. The Board of Directors may postpone, recess, reschedule or cancel any previously-scheduled annual meeting of stockholders for any reasonable reason.

*2.3 Special Meeting.* Special meetings of stockholders may be called at any time by only the Chairman of the Board, the Chief Executive Officer, the President or the Board of Directors pursuant to a resolution adopted by the affirmative vote of a majority of the total number of directors then in office. Special meetings may not be called by any other person or persons. Any business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of meeting. The Board of Directors may postpone, recess, reschedule or cancel any previously-scheduled special meeting of stockholders for any reasonable reason.

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*2.5 Voting List.* The [officer who has charge of the stock ledger]Corporation shall prepare [and make,] at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting (provided, however, if the record date for

determining the stockholders entitled to vote is less than ten (10) days before the date of the meeting, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date), arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, at least ten (10) days prior to the meeting ([i]a) on a reasonably accessible, electronic network, provided that the information required to gain access to such list is provided with the notice of meeting or ([ii]b) during ordinary business hours, at the principal place of business of the Corporation. The list of stockholders must also be open to examination at the meeting as required by applicable law. Except as otherwise provided by law, the stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list of stockholders required by this *Section 2.5* or to vote in person or by proxy at any meeting of stockholders.

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*2.7 Adjournments.* Any meeting of stockholders may be adjourned to any other time and to any other place at which a meeting of stockholders may be held under these Bylaws by (a) the holders of a majority in voting power of the stockholders present or represented at the meeting and entitled to vote, [although less than] provided that a quorum[, or] is present in person or by proxy at such meeting, or (b) by any officer entitled to preside at or to act as secretary of such meeting, regardless of whether a quorum is present in person or by proxy. Notice need not be given of any such adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. If the adjournment is for more than thirty (30) days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for determination of stockholders entitled to vote is fixed for the adjourned meeting, the Board of Directors shall fix as the record date for determining stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote at the adjourned meeting, and shall give notice of the adjourned meeting to each stockholder of record as of the record date so fixed for notice of such adjourned meeting. If a quorum is present at a meeting that is later adjourned, then a quorum shall also be deemed present at the adjourned session of such meeting, unless a new record date is, or is required to be, set for the adjourned session.

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*2.10 Action at Meeting.* When a quorum is present at any meeting, (a) a majority of the votes properly cast upon any question other than an election of directors shall decide the question, except when a different vote is required by the Certificate of Incorporation, these Bylaws, the rules or regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation or its securities, and (b) each nominee for director shall be elected to the Board of Directors if a majority of the votes properly cast are in favor of such nominee's election (i.e., if the number of votes properly cast "for" a nominee's election exceeds the number of votes properly cast "against" that nominee's election (with "abstentions" and "broker nonvotes" not counted as a vote cast either "for" or "against" that director's election)); *provided, however,* that, if[, as of the last date by which stockholders of the Corporation may submit notice to nominate a person for election as a director pursuant to *Section 2.11* of these Bylaws or pursuant to any rule or regulation of the Securities and Exchange Commission, the number of nominees for director exceeds the number of directors to be elected at any such meeting] (x) the Secretary receives a notice that a stockholder has nominated one or

more persons for election to the Board of Directors in compliance with the requirements set forth in these Bylaws and (y) such nomination has not been withdrawn by such stockholder on or prior to the tenth (10th) day preceding the date that the Corporation first mails its notice of meeting for such election (a “Contested Election”), a plurality of the votes properly cast for the election of directors shall be sufficient to elect directors. No ballot shall be required for any election unless requested by a stockholder present or represented at the meeting and entitled to vote in the election.

2.11 Notice of Business and Nomination of Directors at Meetings of Stockholders.

(a) Annual Meetings of Stockholders.

(i) At an annual meeting of stockholders, only such business shall be conducted as shall have been properly brought before the meeting, and [O]only such persons who are nominated in accordance with the following procedures shall be eligible for election as directors. [The nomination]Business and nominations of persons for election to the Board of Directors at an annual meeting of stockholders may be made only (A) pursuant to the Corporation’s notice of meeting (or any supplement thereto), [(B)]given by or at the direction of the Board of Directors[,] (or any duly authorized committee thereof, (B) otherwise properly brought before the meeting by or at the direction of the Board of Directors (or any duly authorized committee thereof), or (C) by any stockholder [(i)]of the Corporation (I) who is a stockholder of record on the date of the notice given pursuant to this Section 2.11 through the date of such annual meeting, (II) and who is entitled to vote at the annual meeting and [(ii)]III who complies with the notice procedures set forth in this Section 2.11. [Such]Clause (C) of the preceding sentence shall be the exclusive means for a stockholder to propose business or director nominations before an annual meeting of stockholders, other than [those made by or on behalf of the Board of Directors or any committee thereof, shall be made by] business properly brought under Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the “Exchange Act”) (or any successor provision of law) and included in the Corporation’s notice [in writing]of meeting in accordance therewith.

(ii) In order for proposals of business or director nominations pursuant to Section 2.11(a)(i)(C) to be properly brought before an annual meeting by a stockholder, such stockholder must have given timely notice thereof in proper written form to the Secretary of the Corporation. In order for such notice to be timely, such notice must be delivered to or mailed and received by the Secretary at the principal executive offices of the Corporation not [less]later than [ninety (90) days] 5:00 p.m. Eastern Time on the ninetieth (90th) day nor [more]earlier than 5:00 p.m. Eastern Time on the one hundred [twenty]twentieth (120th) day[s] prior to the anniversary date of the immediately preceding annual meeting of stockholders; provided, however, that if the annual meeting is not held within thirty (30) days before or more than seventy (70) days after such anniversary date, then such nomination shall have been delivered to or mailed and received by the Secretary not later than [the close of business]5:00 p.m. Eastern Time on the tenth (10<sup>th</sup>) day following the date on which public announcement of the annual meeting date was made. In no event shall the [public announcement of an] adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the [giving]providing of a stockholder’s notice as described above. [Such]The number of nominees a stockholder may nominate for election at the annual meeting (or in the case of a stockholder giving the notice on behalf of a Stockholder Associated Person (as defined below), the number of nominees a

stockholder may nominate for election at the annual meeting on behalf of such Stockholder Associated Person) shall not exceed the number of directors to be elected at such annual meeting.

(iii) In order for such notice to be in proper written form, such notice shall set forth [(a)]and include the following information:

(A) as to any business (other than director nominations) that the stockholder proposes to bring before the meeting: (I) a reasonably brief description of the business desired to be brought before the meeting; (II) the text of the proposal or business (including the text of any resolutions proposed for consideration and, in the event that such business includes a proposal to amend the Certificate of Incorporation or the Bylaws of the Corporation, the language of the proposed amendment); (III) the reasons for conducting such business at the meeting; (IV) a complete and accurate description of any material interest in such business of such stockholder and any Stockholder Associated Person, individually or in the aggregate, including any anticipated benefit to the stockholder and any Stockholder Associated Person therefrom; and (V) all other information relating to such proposed business that would be required to be disclosed in a proxy statement or other filing required to be made by the stockholder or any Stockholder Associated Person in connection with the solicitation of proxies in support of such proposed business pursuant to Regulation 14A under the Exchange Act;

(B) as to each proposed director nominee [(i)] that the stockholder proposes to bring before the meeting (each a "Proposed Nominee"): (I) ( the name, age, business address and residence address of such [nominee]Proposed Nominee[.]; [(ii)II] the principal occupation or employment of such [nominee]Proposed Nominee[.]; [(iii)III] a completed written questionnaire with respect to the background and qualifications of such Proposed Nominee, completed by such Proposed Nominee in the form required by the Corporation (which form the stockholder must request in writing from the Secretary prior to submitting notice and which the Secretary shall provide to such stockholder within ten (10) days of receiving such request); (IV) such Proposed Nominee's executed written consent to being named in the proxy statement for the meeting as a director nominee; (V) such Proposed Nominee's completed written representation and agreement in the form required by the Corporation (which form the stockholder must request in writing from the Secretary prior to submitting notice and which the Secretary shall provide to such stockholder within ten (10) days of receiving such request) that such Proposed Nominee: (1) is not and will not become party to any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such Proposed Nominee, if elected as a director of the Corporation, will act or vote on any issue or question (a "Voting Commitment") that has not been disclosed to the Corporation or any Voting Commitment that could limit or interfere with such Proposed Nominee's ability to comply, if elected as a director of the Corporation, with such Proposed Nominee's fiduciary duties under applicable law; (2) is not and will not become a party to any agreement, arrangement, or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement, or indemnification in connection with service or action as a director that has not been disclosed to the Corporation; (3) would, if elected as a director, comply with applicable rules of the exchange upon which the Corporation's [the number of] shares of common stock [of the Corporation which are owned beneficially and the number of shares of] trade, the Certificate of Incorporation, all of the Corporation's corporate governance, ethics, conflict of interest, confidentiality and stock [of the Corporation which]

ownership and trading policies and guidelines generally applicable to the Corporation's directors, and applicable fiduciary duties under state law and, if elected as a director of the Corporation, currently would be in compliance with any such policies and guidelines that have been publicly disclosed; (4) consents to the applicability to them of Article Fourteenth, Article Fifteenth and Sections (c) and (d) of Article Sixteenth of the Certificate of Incorporation, as applicable, with respect to their activities related to any of the Regulated Securities Exchange Subsidiaries (as defined in the Certificate of Incorporation); (5) intends to serve a full term if elected as a director of the Corporation and (6) will provide facts, statements and other information in all communications with the Corporation and its stockholders that are or will be true and correct in all material respects, and that do not and will not omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are [held of record by such nominee, and (iv)]made, not misleading; (VI) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among such Proposed Nominee being nominated, on the one hand, and the stockholder providing notice and any Stockholder Associated Person, on the other hand, including, without limitation, all information that would be required to be disclosed pursuant to Item 404 promulgated under Regulation S-K (or any successor provision of law) if the stockholder making the nomination and any Stockholder Associated Person were the "registrant" for purposes of such rule and the Proposed Nominee was a director or executive officer of such registrant; and (VII) any other information concerning the [nominee]Proposed Nominee that [must]would be required to be disclosed [as to nominees] in a proxy statement or other filing required to be made in connection with solicitations of proxies for election of directors in a contested election pursuant to [Regulation 14A]Section 14 [under the Securities]of the Exchange Act [of 1934, as amended (the "Act")] (or pursuant to any law or statute replacing such section), and the rules and regulations promulgated thereunder[, including such person's written consent to be named in the proxy statement as a nominee and to serve as a director if elected]; and [(b)]

(C) as to the stockholder [giving the]providing notice [and the beneficial owner, if], any[, on whose behalf the nomination is made (i)] Stockholder Associated Person and any Proposed Nominee: (I) the name and address of such [stockholder]person (if applicable, as they appear on the Corporation's books[, and of such beneficial owner, (ii)]; (II) the class or series and number of shares of capital stock of the Corporation which are, directly or indirectly, owned beneficially and/or of record by such person, the dates such shares were acquired and the investment intent of such acquisition; (III) the name of each nominee holder for, and any pledge by such person or any number of, securities of the Corporation owned beneficially [and]but not of record by such [stockholder and] person; (IV) short interest of such [beneficial owner, (iii) a description of] person in any [agreement]security of the Corporation (for purposes of these Bylaws, a person shall be deemed to have a short interest in a security if such person, directly or indirectly, through any contract, arrangement [or], understanding [with respect to the nomination between], relationship or [among such stockholder and/]otherwise, has the opportunity to profit or [such beneficial owner, any of their respective affiliates or associates, and]share in any [others acting in concert with]profit derived from any decrease in the value of the [foregoing, including any nominee, (iv)]subject security); (V) a description of any agreement, arrangement or understanding, whether written or oral, (including any derivative or short positions, profit interests, options, warrants, convertible securities, stock appreciation or similar

rights, hedging transactions, [and ]borrowed or loaned shares or similar rights with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of capital stock of the Corporation or with a value derived in whole or in part from the value of any class or series of capital stock of the Corporation (a “Derivative Instrument”), that has been entered into as of the date of the stockholder’s notice [by, or on behalf of, such stockholder and such beneficial owners], whether or not such instrument or right shall be subject to settlement in underlying shares of capital stock of the Corporation, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner, with respect to shares of capital stock of the Corporation, (IV) a representation that the stockholderVI) any rights to dividends on the shares of the capital stock of the Corporation owned beneficially by such person; (VII) any proportionate interest in shares of capital stock of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership or similar entity in which such person (1) is a general partner or, directly or indirectly, beneficially owns an interest in a general partner, or (2) is the manager, managing member or, directly or indirectly, beneficially owns an interest in the manager or managing member of a limited liability company or similar entity; (VIII) any substantial interest, direct or indirect (including, without limitation, any existing or prospective commercial, business or contractual relationship with the Corporation), by security holdings or otherwise, of such person, in the Corporation or any affiliate thereof, other than an interest arising from the ownership of securities of the Corporation where such person receives no extra or special benefit not shared on a pro rata basis by all other holders of the same class or series; (IX) a complete and accurate description of all agreements, arrangements or understandings, written or oral, and formal or informal, (1) between or among the stockholder providing notice and any of the Stockholder Associated Persons or (2) between or among the stockholder providing notice or any of the Stockholder Associated Persons and any other person or entity (naming each such person or entity) in connection with or related to the foregoing or any Proposed Nominee, including, without limitation, (x) any proxy, contract, arrangement, understanding or relationship pursuant to which such proposing stockholder or Stockholder Associated Person has the right to vote any shares of capital stock of the Corporation, (y) that the stockholder providing notice or any of the Stockholder Associated Persons may have reached with any stockholder of the Corporation (including the name of such stockholder) with respect to how such stockholder will vote its shares in the Corporation at any meeting of the Corporation’s stockholders or take other action in support of any Proposed Nominee, or other action to be taken, by the stockholder providing notice or any of the Stockholder Associated Persons, and (z) any other agreements that would be required to be disclosed by the stockholder providing notice or any Stockholder Associated Person or any other person or entity pursuant to Item 5 or Item 6 of a Schedule 13D (or any successor provision of law) that would be filed pursuant to the Exchange Act and the rules and regulations promulgated thereunder (regardless of whether the requirement to file a Schedule 13D (or any successor provision of law) is applicable to the stockholder providing notice, any Proposed Nominee, any Stockholder Associated Person or any other person or entity); (X) a complete and accurate description of any performance-related fees (other than an asset-based fee) to which such person may be entitled as a result of any increase or decrease in the value of shares of the capital stock of the Corporation or any Derivative Instruments; (XI) the investment strategy or objective, if any, of such stockholder providing notice and each such Stockholder Associated Person who is not an individual and a copy of the prospectus, offering memorandum or similar document, if

any, provided to investors or potential investors in such stockholder and each such Stockholder Associated Person; (XII) a complete and accurate description of any pending or, to such person's knowledge, threatened, legal proceeding in which such person is a party or participant involving the Corporation or any publicly-disclosed officer, affiliate or associate of the Corporation; (XIII) whether and the extent to which any agreement, arrangement or understanding has been made, the effect or intent of which is to increase or decrease the voting power of such person with respect to any shares of the capital stock of the Corporation, without regard to whether such transaction is required to be reported on a Schedule 13D in accordance with the Exchange Act; and (XIV) any other information relating to such person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies for such business or the election of any Proposed Nominee, or is otherwise required, pursuant to Section 14 of the Exchange Act (or pursuant to any law or statute amending, restating or replacing such section), and the rules and regulations promulgated thereunder;

(D) a representation whether the stockholder providing notice and the Stockholder Associated Person, if applicable, intends or is part of a group which intends to (I) deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposed business or elect the Proposed Nominee and/or (II) otherwise solicit proxies or votes from stockholders in support of such proposed business or Proposed Nominee;

(E) a representation that the stockholder providing notice is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person [or by proxy at the meeting to propose such nomination, (vi) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (a) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to elect the nominee and/or (b) otherwise to solicit proxies or votes from stockholders in support of such nomination, and (vii) any other information relating to such stockholder and beneficial owner, if any, required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in an election contest pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder. The Corporation may require any proposed nominee](including virtually, in the case of a meeting held solely by means of remote communication) or by proxy at the meeting to bring such proposed business and/or nominate one or more Proposed Nominee; and

(F) an acknowledgment that, if the stockholder providing notice (or a qualified representative of such stockholder) does not appear to present such proposed business or Proposed Nominee at the meeting, the Corporation need not present such proposed business or Proposed Nominee for a vote at such meeting, notwithstanding that proxies in respect of such vote may have been received by the Corporation.

In addition to the information required above, the Corporation may require any Proposed Nominee to furnish such other information as the Corporation may reasonably require to determine the eligibility of [such proposed nominee to serve as a director of the Corporation] a Proposed Nominee to serve as a director of the Corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such nominee, under the listing standards of each securities exchange upon which the shares of the Corporation are listed, any applicable rules of the Securities and Exchange Commission, any publicly disclosed standards used by the Board of Directors in determining and disclosing the independence of the Corporation's directors, including those applicable to a director's service on any of the committees of the Board of Directors, or the requirements of any other laws or regulations applicable to the Corporation.

[The chairman of the meeting may, if the facts warrant, determine that a nomination was not made in accordance with the foregoing procedure, and, if he or she should so determine, he or she shall so declare to the meeting, and the defective nomination shall be disregarded.]



[2.12 *Notice of Business at Annual Meetings*](b) Special Meetings of Stockholders. [At an annual meeting of the stockholders, o]Only such business [shall be conducted] as shall have been [properly] brought before [the]a special meeting[. To be properly brought before an annual meeting, business must be (a) specified in]of the stockholders pursuant to the Corporation's notice of meeting [(or any supplement thereto) given by or]shall be conducted at [the direction] such meeting. Nominations for persons elected to the Board of Directors[(b) otherwise properly brought before the meeting] may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (i) by or at the direction of the Board of Directors (or a[ny]duly authorized committee thereof), or [(c) otherwise properly brought before an annual (ii) provided that the Board of Directors has determined that directors shall be elected at such meeting, by any stockholder of the Corporation ([i]A) who is a stockholder of record on the date of the [giving of] notice given pursuant to [provided for in] this Section 2.11[2] and through the date of such special meeting, (B) who is entitled to vote at [such annual]the special meeting, and ([ii]C) who complies with the notice procedures set forth in this Section 2.11[2]. [For business] In order for nominations pursuant to the foregoing clause (ii) to be properly brought before [an annual]such special meeting by a stockholder, [if such business relates to the election of directors of the Corporation, the procedures in Section 2.11 must be complied with. If such business relates to any other matter, the]such stockholder must have given timely notice [thereof]therefore in [writing]proper written form to the Secretary of the Corporation. In order for such notice [T]to be timely, [a stockholder's notice]it must be delivered to or mailed [to]and received by the Secretary [and received] at the principal executive offices of the Corporation [not less than ninety (90) days nor more than one hundred twenty (120) days prior to the anniversary date of the immediately preceding annual meeting of stockholders; provided, however, that if the annual meeting is not held within thirty (30) days before or seventy (70) days after such anniversary date, then for the notice by the stockholder to be timely it must be so received not later than the close of business] on the [10]ninetieth (90th) day [following the date] nor earlier than 5:00 p.m. Eastern Time on [which]the one-hundred twentieth (120th) day prior to such special meeting or, if public announcement of the [annual meeting] date [was made. In no event shall the public announcement] of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting is first made less than ninety (90) days prior to the date of the special meeting, the tenth (10th) day following the day on which such public announcement is first made. In no event shall the [an] adjournment or postponement of a[n annual]special meeting commence a new time period (or extend any time period) for the [giving]providing of a stockholder's notice as described above. [To be in proper written form, a stockholder's notice to the Secretary shall set forth (a) as to any business (other than nominations for the election of directors) that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and, in the event that such business includes a proposal to amend the Bylaws of the Corporation, the language of the proposed amendment), the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (b) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the proposal is made (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (ii) the class and]The number of [shares of capital stock of the Corporation which are owned beneficially and of record by such stockholder and] nominees a stockholder may nominate for

election at the special meeting (or in the case of a stockholder giving the notice on behalf of a Stockholder Associated Person, the number of nominees a stockholder may nominate for election at the special meeting on behalf of such Stockholder Associated Person) shall not exceed the number of directors to be elected at such special meeting. In order for such [beneficial owner, (iii) a description of any agreement, arrangement or understanding with respect to the proposal between or among]notice to be in proper written form, [such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any others acting in concert with any of the foregoing, (iv) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into as of the date of the stockholder's notice by, or on behalf of, such stockholder and such beneficial owners, whether or not such instrument or right shall be subject to settlement in underlying shares of capital stock of the Corporation, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner, with respect to shares of capital stock of the Corporation, (v) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business, and (vi) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (a) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal and/or (b) otherwise to solicit proxies or votes from stockholders in support of such proposal. Notwithstanding anything in these Bylaws to the contrary, no business shall be conducted at any annual meeting except in accordance with the procedures]such notice shall set forth and include all information required to be set forth and included in a notice for the nomination of a director under this Section 2.11, including the information set forth in Section 2.11(a)(iii)

(c) General.

(i) A stockholder providing notice of any proposed business or Proposed Nominee to be considered at a meeting of stockholders shall further update in writing any notice provided pursuant to this Section 2.11[2], [except] if necessary, so that [any stockholder proposal which complies with Rule 14a-8 of] the [proxy rules,]information provided or [any successor provision, promulgated under the Act,] required to be provided in such notice shall be true and [is to be included in the Corporation's proxy statement]correct (A) as of the record date for [an annual meeting of]determining the stockholders entitled to receive notice of the meeting and (B) as of the date that is ten (10) business days prior to the meeting (or any postponement, adjournment or recess thereof), and such update shall be [deemed to comply with the requirements of this Section 2.12. Notwithstanding the foregoing]received by the Secretary at the principal executive offices of the Corporation (I) not later than five (5) business days after the record date for determining the stockholders entitled to receive notice of such meeting (in the case of an update required to be made under clause (A)) and (II) not later than seven (7) business days prior to the date for the meeting, if practicable, or, if not practicable, on the first practicable date prior to the meeting or any adjournment, recess or postponement thereof (in the case of an update required to be made pursuant to clause (B)).

(ii) If any information submitted pursuant to this Section 2.11 is inaccurate in any respect, such information may be deemed not to have been provided in accordance with these Bylaws. The stockholder providing the notice shall notify the Secretary in writing at the principal executive offices of the Corporation of any inaccuracy or change in any such information within two (2) business days of becoming aware of such inaccuracy or change. Upon written request by the Secretary, the Board of Directors (or a duly authorized committee thereof), any such stockholder shall provide, within seven (7) business days of delivery of such request (or such other period as may be specified in such request), (A) written verification, reasonably satisfactory to the Board of Directors, any committee thereof or any authorized officer of the Corporation, to demonstrate the accuracy of any information submitted by the stockholder pursuant to this Section 2.11, and (B) a written update of any information (including written confirmation by such stockholder that it continues to intend to bring such proposed business or Proposed Nominee before the meeting) submitted by the stockholder pursuant to this Section 2.11 as of an earlier date. If the stockholder fails to provide such written verification within such period, the information as to which written verification was requested may be deemed not to have been provided in accordance with this Section 2.11.

(iii) Notwithstanding the provisions of this [Section 2.12 or] Section 2.11, a stockholder providing notice shall also comply with all applicable requirements of state law and all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to matters set forth herein, provided, however, that any references in these Bylaws to the Exchange Act or the rules and regulations promulgated thereunder are not intended to and shall not limit the requirements applicable to stockholder proposals or director nominations to be considered pursuant to this Section 2.11.

(iv) Notwithstanding the provisions of this Section 2.11, unless otherwise required by law or expressly waived in writing by the Corporation, if the stockholder providing notice (or a qualified representative of the stockholder) does not appear [at the annual or special meeting of stockholders of the Corporation] in person (including virtually, in the case of a meeting held solely by means of remote communication) at the stockholder meeting to present [a nomination or proposed business, such nomination may be disregarded and] such proposed business [need] or nomination, as applicable, such proposed business or nomination shall not be presented by the Corporation and shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of this [Section 2.12 and] Section 2.11, to be considered a qualified representative of the stockholder providing notice, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting [of stockholders and such person must produce] and such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, must be provided to the Corporation at least twenty-four (24) hours prior to the meeting [of stockholders].

[For purposes of Section 2.11 and Section 2.12,] (v) For purposes of this Section 2.11, (A) an “affiliate” and “associate” each have the respective meanings set forth in Rule 12b-2 under the Exchange Act (or any successor provision at law); (B) “Stockholder Associated Person” shall mean (I) any person who is a member of a “group” (as such term is used in Rule 13d-5 under the Exchange Act (or any successor provision at law)) with or otherwise acting in concert with such stockholder providing notice, (II) any beneficial owner of shares of stock of

the Corporation owned of record or beneficially by such stockholder (other than a stockholder that is a depository), (III) any person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such stockholder or such Stockholder Associated Person and beneficially owns, directly or indirectly, shares of stock of the Corporation, (IV) any person that directly, or indirectly through one or more intermediaries, controls such stockholder or any Stockholder Associated Person and (V) any participant (as defined in paragraphs (a)(ii) (vi) of Instruction 3 to Item 4 of Schedule 14A, or any successor instructions) with such stockholder or other Stockholder Associated Person in respect of any proposals or nominations, as applicable; and (C) “public announcement” shall include disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act. [Notwithstanding the foregoing provisions in Section 2.11 or Section 2.12, a stockholder shall also comply with all applicable requirements of the Act and the rules and regulations thereunder with respect to the matters set forth in this Section 2.11 and Section 2.12.]

(vi) Nothing in [either]this Section 2.11 [or Section 2.12] shall be deemed to affect any rights (a) of stockholders to request inclusion of proposals or nominations in the Corporation’s proxy statement pursuant to applicable rules and regulations promulgated under the Exchange Act or (b) of the holders of any series of Preferred Stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation.

(vii) The chairman of the meeting shall, if the facts warrant, determine and declare to the meeting that business [was]or director nominations were not properly brought before the meeting in accordance with the provisions of this Section 2.11[2, and, if he or she should so determine, the chairman shall so declare to the meeting], and any such business not properly brought before the meeting shall be disregarded and shall not be transacted or considered.

2.12[3] *Action without Meeting.* Stockholders may not take any action by written consent in lieu of a meeting.

2.13[4] *Organization.* The Chairman of the Board, or in the Chairman of the Board’s absence, the Chief Executive Officer or President, shall call meetings of the stockholders to order and act as chairman of such meeting; provided, however, that the Board of Directors may appoint any [stockholder]director of the Corporation to act as chairman of any meeting in the absence of the Chairman of the Board. The Secretary of the Corporation shall act as secretary at all meetings of the stockholders; provided, however, that in the absence of the Secretary at any meeting of the stockholders, the chairman of such meeting may appoint any person to act as secretary of the meeting.

2.14[5] *Inspectors of Election.* The Corporation may, and shall if required by law, in advance of any meeting of stockholders, appoint one or more inspectors of election, who may be employees of the Corporation, to act at the meeting or any adjournment thereof and to make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. In the event that no inspector so appointed or designated is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the

discharge of his or her duties, shall take and sign an oath to execute faithfully the duties of inspector with strict impartiality and according to the best of his or her ability. The inspector or inspectors so appointed or designated shall ([i]a) ascertain the number of shares of capital stock of the Corporation outstanding and the voting power of each such share, ([ii]b) determine the shares of capital stock of the Corporation represented at the meeting and the validity of proxies and ballots, ([iii]c) count all votes and ballots, ([iv]d) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and ([v]e) certify their determination of the number of shares of capital stock of the Corporation represented at the meeting and such inspectors' count of all votes and ballots. Such certification and report shall specify such other information as may be required by law. In determining the validity and counting of proxies and ballots cast at any meeting of stockholders of the Corporation, the inspectors may consider such information as is permitted by applicable law. No person who is a candidate for an office at an election may serve as an inspector at such election.

2.15[6] *Conduct of Meetings.* The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the person presiding over the meeting. The Board of Directors may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board of Directors, the person presiding over any meeting of stockholders shall have the right and authority to convene and (for any or no reason) to recess and/or to adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such presiding person, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the presiding person of the meeting, may include or address, without limitation, the following: ([i]a) the establishment of an agenda or order of business for the meeting; ([ii]b) [rules and procedures for maintaining]the maintenance of order at the meeting and the safety of those present[; (iii)](c), including the compliance with state and local laws and regulations concerning safety and security; limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as the presiding person of the meeting shall determine; ([iv]d) restrictions on entry to the meeting after the time fixed for the commencement thereof; [and (v)] (e) limitations on the time allotted to questions or comments by participants[. The presiding person at]; (f) the determination of when the polls shall open and close for any given matter to be voted on at the meeting [of stockholders, in addition to making]; (g) removal of any stockholder or other [determinations that may be appropriate]individual who refuses to [the conduct of the]comply with meeting[, shall, if the facts warrant, determine] procedures, rules or guidelines; and [declare to](h) restrictions on the [meeting that a matter or business was not properly brought before the meeting]use of audio and [if such presiding person should so determine, such presiding person shall so declare to the meeting]/or video recording devices and [any such matter or business not properly brought before the meeting shall not be transacted or considered]cell phones. Unless and to the extent determined by the Board of Directors or the person presiding over the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

### ARTICLE 3—DIRECTOR

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*3.2 Number; Election; Qualification and Term of Office.* The Board of Directors of the Corporation shall consist of not less than 11 and not more than 23 directors, the exact number to be fixed by the Board of Directors from time to time pursuant to resolution adopted by the Board of Directors.

Directors shall be elected annually and shall hold office until the next annual meeting and until such time as their successors are elected or appointed and qualified, except in the event of earlier death, resignation or removal.

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*3.5 Vacancies.* Any vacancy in the Board of Directors, however occurring, including a vacancy resulting from an increase in the number of the directors, may be filled exclusively by vote of a majority of the directors then in office, although less than a quorum, or by a sole remaining director. A director elected to fill a vacancy shall hold office until the next annual meeting of stockholders, subject to the election and qualification of his successor and to his earlier death, resignation or removal.

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*3.8 Acting Chairman and Vacancy in Chairman of the Board Position.*

(a) In the absence or inability to act of the Chairman of the Board, the Board of Directors may designate an Acting Chairman of the Board. The Acting Chairman of the Board, in the absence or inability to act of the Chairman, shall be presiding officer at all meetings of the Board of Directors and shall exercise such other powers and perform such other duties as are delegated to the Acting Chairman by the Board of Directors. The Acting Chairman of the Board may be, but need not be, the same person as the Lead Director.

(b) If a vacancy occurs in the office of Chairman, the Board of Directors may fill such vacancy by the affirmative vote of at least a majority of the directors then in office.

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*3.10 Special Meetings.* Special meetings of the Board of Directors may be called by the Chairman of the Board or the Chief Executive Officer and shall be called by the Secretary upon the written request of any four directors. The Secretary shall give at least 24 hours notice, or on such shorter notice as the person or persons calling such meeting may deem necessary or appropriate under the circumstances, of such meeting to each director, either in person, by mail, messenger, overnight courier, facsimile machine, electronic mail or telephone. Every such notice shall state the time and place of the meeting which shall be fixed by the person calling the meeting, but need not state the purpose thereof except as otherwise required by statute.

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*3.13 Action by Consent.* Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee of the Board of Directors may be taken without a meeting, if all members of the Board of Directors or committee, as the case may be, consent to the action in writing or by electronic transmission[, and]. After an action is taken, the [writing]consent or [writings or electronic transmissions are]consents relating thereto shall be filed with the minutes of proceedings of the Board of Directors or committee [of]in the [Board of Directors,]same paper or electronic form as [applicable]the minutes are maintained.

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3.15 Emergency Bylaws. Notwithstanding anything to the contrary in the Certificate of Incorporation or these Bylaws, in the event there is any emergency, disaster or catastrophe, as referred to in Section 110 of the DGCL, or other similar emergency condition (each, an “emergency”), and a quorum of the Board of Directors cannot readily be convened for action, this Section 3.15 shall apply.

(a) Any director or Chief Executive Officer, President, Chief Operating Officer, Chief Financial Officer, Treasurer or Secretary of the Corporation may call a meeting of the Board of Directors by any feasible means and with such advance notice as circumstances permit in the judgment of the person calling the meeting. Neither the business to be transacted nor the purpose of any such meeting need be specified in the notice thereof.

(b) One-third (1/3) of the directors shall constitute a quorum, which may in all cases act by majority vote.

(c) Directors may take action to appoint one or more of the director or directors to membership on any standing or temporary committees of the Board of Directors as they deem advisable. Directors may also take action to designate one or more of the officers of the Corporation to serve as directors of the Corporation while this Section 3.15 applies.

(d) To the extent that it considers it practical to do so, the Board of Directors shall manage the business of the Corporation during an emergency in a manner that is consistent with the Certificate of Incorporation and Bylaws. It is recognized, however, that in an emergency it may not always be practical to act in this manner and this Section 3.15 is intended to and does hereby empower the Board of Directors with the maximum authority possible under the DGCL, and all other applicable law, to conduct the interim management of the affairs of the Corporation in an emergency in what it considers to be in the best interests of the Corporation.

(e) No director, officer or employee acting in good faith in accordance with this Section 3.15 or otherwise pursuant to Section 110 of the DGCL shall be liable except for willful misconduct.

(f) This Section 3.15 shall continue to apply until such time following the emergency when it is feasible for at least a majority of the directors of the Corporation immediately prior to the emergency to resume management of the business of the Corporation.

(g) The Board of Directors may modify, amend or add to the provisions of this Section 3.15 in order to make any provision that may be practical or necessary given the circumstances of the emergency.

(h) The provisions of this Section 3.15 shall be subject to repeal or change by further action of the Board of Directors or by action of the stockholders, but no such repeal or change shall modify the provisions of paragraph (e) of this Section 3.15 with regard to action taken prior to the time of such repeal or change.

## ARTICLE 4—COMMITTEES

4.1 *Designation of Committees.* The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of the committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in place of any such absent or disqualified member. Any such committee, to the extent permitted by law and to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation, if any, to be affixed to all papers which may require it. The committees of the Board of Directors shall consist of an Executive Committee, an Audit Committee, a Compensation Committee, a Nominating and Governance Committee and such other standing and special committees as may be approved by the Board of Directors. The Corporation shall have such other committees as may be provided in these Bylaws or as may be from time to time appointed by the Board of Directors. The Board of Directors shall designate the members of these other committees and may designate a Chairman and a Vice-Chairman thereof.

4.2 *The Executive Committee.* The Executive Committee will include the Chairman of the Board, the Chief Executive Officer (if a director), the Lead Director, if any, and such other number of directors that the Board of Directors deems appropriate, provided that at all times the majority of the directors serving on the Executive Committee must be independent directors. Members of the Executive Committee (other than those specified in the immediately preceding sentence) shall be recommended by the Nominating and Governance Committee for approval by the Board of Directors. Members of the Executive Committee shall not be subject to removal except by the Board of Directors. The Chairman of the Board shall be the Chairman of the Executive Committee. Each member of this Committee shall be a voting member. The Executive Committee shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, except it shall not have the power and authority of the Board of Directors to ((i) a) approve or adopt or recommend to the stockholders, any action or matter (other than the election or removal of directors) expressly required by [Delaware law to be submitted to stockholders for approval, including, without limitation, amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, approving a sale, lease or exchange of all or substantially all of the Corporation's property and assets, or approval of a dissolution of the Corporation or revocation of a dissolution, or (ii] the DGCL to be submitted to stockholders for approval, or (b) adopt, alter, amend or repeal any Bylaw of the Corporation.

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4.5. *The Nominating and Governance Committee.* The Nominating and Governance Committee shall consist of at least [five]three directors, all of whom must be independent directors and all of whom shall be recommended by the Nominating and Governance Committee for approval by the Board of Directors. The exact number of Nominating and Governance Committee members shall be determined from time to time by the Board of Directors. Members of the Nominating and Governance Committee shall not be subject to removal except by the Board of Directors. The Chairman of the Nominating and Governance Committee shall be recommended by the Nominating and Governance Committee for approval by the Board of Directors. The Nominating and Governance Committee shall have such duties and may exercise such authority as may be prescribed by resolution of the Board of Directors and the Nominating and Governance Committee Charter as adopted by resolution of the Board of Directors.

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## ARTICLE 8—NOTICES

8.1 *Notices.* Except as provided in *Section 8.2* and to the extent permitted by law, any notice required to be given by these Bylaws or otherwise shall be deemed to have been given:

(a) in person upon delivery of the notice in person to the person to whom such notice is addressed;

(b) by mail upon deposit of the notice in the United States mail, enclosed in a postage prepaid envelope;

(c) by messenger or overnight courier service [upon provision of the notice to the messenger or courier service, provided that the delivery method does not require payment of the messenger or courier service fee to deliver the notice by the person to whom the notice is addressed], the earlier of when the notice is received or left at the stockholder's or director's address;

(d) by facsimile machine upon acknowledgment by the facsimile machine used to transmit the notice of the successful transmission of the notice;

(e) by electronic mail [upon], when directed to the stockholder's or director's electronic [transmission]mail address unless, in the case of [the] a stockholder, the stockholder has notified the Corporation of an objection to receiving notice by electronic mail or if such notice is prohibited by the DGCL; and

(f) by telephone when received.

Any such notice must be addressed to its intended recipient at the intended recipient's address (including the intended recipient's business or residence address, facsimile number, electronic address, or telephone number, as applicable) as it appears on the books and records of the Corporation, or if no address appears on such books and records, then at such address as shall be otherwise known to the Secretary. In the event that a notice is not provided in conformity with the provisions of this *Section 8.1*, the notice will be deemed to have been given to its intended recipient upon any receipt of the notice by its intended recipient.

8.2 *Electronic Notice.* Whenever any notice whatsoever is required to be given in writing to any stockholder by law, by the Certificate of Incorporation or by these Bylaws, such notice may be given by a form of electronic transmission [if]to the stockholder [to whom such notice is given has previously consented to]in accordance with the [receipt of notice by electronic transmission]DGCL.

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## **ARTICLE 11—FORUM FOR ADJUDICATION OF DISPUTES**

Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by law, be the sole and exclusive forum for ([i]a) any derivative action or proceeding brought on behalf of the Corporation, ([ii]b) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer, other employee, agent or stockholder of the Corporation to the Corporation or the Corporation's stockholders, ([iii]c) any action asserting a claim against the Corporation or any current or former director, officer, other employee, agent or stockholder of the Corporation arising pursuant to any provision of the DGCL, the Certificate of Incorporation or these Bylaws or as to which the DGCL confers jurisdiction on the Court of Chancery of the State of Delaware, [or] ([iv]d) any action asserting a claim against the Corporation or any current or former director, officer, other employee, agent or stockholder of the Corporation governed by the internal affairs doctrine, or (e) any action asserting an "internal corporate claim" as that term is defined in Section 115 of the DGCL; provided, however, that, in the event that the Delaware Court of Chancery lacks subject matter jurisdiction over any such action or proceeding, the sole and exclusive forum for such action or proceeding shall be another state or federal court located within the State of Delaware. Any person or entity purchasing or otherwise acquiring any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article 11. If any action the subject matter of which is within the scope of this Article 11 is filed in a court other than the Delaware Court of Chancery (or any other state or federal court located within the State of Delaware, as applicable) (a "Foreign Action") by or in the name of any stockholder, such stockholder shall be deemed to have notice of and consented to (x) the exclusive personal jurisdiction of the Delaware Court of Chancery (or such other state or federal court located within the State of Delaware, as applicable) in connection with any action brought in any such court to enforce this Article 11 and (y) having service of process made upon such stockholder in any such action by service upon such stockholder's counsel in the Foreign Action as agent for such stockholder. The existence of any prior consent to, or selection of, an alternative forum by the Corporation shall not act as a waiver of the Corporation's ongoing consent right as set forth in this Article 11 with respect to any current or future actions or claims. Failure to enforce the foregoing provisions would cause the Corporation irreparable harm and the Corporation shall be entitled to equitable relief, including injunctive relief and specific performance, to enforce the foregoing provisions.

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