

**EXHIBIT 5B**



**OCC Rules**

Underlined text indicates new text

~~Strikethrough~~ text indicates deleted text

### *Chapter III – Financial Requirements*

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#### **RULE 305 - Restrictions on Certain Transactions, Positions and Activities**

**RULE 305.** (a) If the ~~Executive Chairman~~Chief Executive Officer or, Chief Operating Officer ~~or the Chief Administrative Officer, or, if it is not feasible for the Chief Executive Officer or Chief Operating Officer to take such action, then a Designated Officer~~ of the Corporation shall at any time determine that the financial or operational condition of a Clearing Member makes it necessary or advisable, for the protection of the Corporation, other Clearing Members, or the general public, to impose restrictions on such Clearing Member's positions and stock loan and borrow positions with the Corporation, such officer shall have the authority (i) to prohibit or to impose limitations on the clearance of opening purchase transactions or opening writing transactions by such Clearing Member, (ii) to require such Clearing Member to reduce or eliminate existing unsegregated long positions or short positions in such Clearing Member's accounts with the Corporation, (iii) to require such Clearing Member to hedge existing unsegregated long positions or existing short positions for which a deposit in lieu of margin has not been made in accordance with the Rules in such Clearing Member's accounts with the Corporation, (iv) to prohibit or to impose limitations on the acceptance by the Corporation of Stock Loans entered into by such Clearing Member, (v) to require such Clearing Member to reduce or eliminate existing stock loan positions or stock borrow positions in such Clearing Member's accounts with the Corporation, (vi) to require such Clearing Member to hedge existing stock loan positions or stock borrow positions, and/or (vii) to require such Clearing Member to transfer any account maintained by such Clearing Member with the Corporation, any position or stock loan or borrow position maintained in any such account, or any account carried by such Clearing Member, to another Clearing Member.

(b) If the ~~Executive Chairman~~Chief Executive Officer or, Chief Operating Officer, ~~or, if it is not feasible for the Chief Executive Officer or Chief Operating Officer to take such action, then a Designated Officer or the Chief Administrative Officer~~ of the Corporation shall at any time determine that the financial or operational condition of a Clearing Member makes it necessary or advisable, for the protection of the Corporation, other Clearing Members, or the general public, to impose restrictions on such Clearing Member's facilities management activities or activities as an Appointed Clearing Member, such officer shall have the authority to prohibit such Clearing Member from engaging in such activities or to impose such limitations on such activities as such officer deems necessary or appropriate in the circumstances.

(c) Any action taken by the ~~Executive Chairman~~Chief Executive Officer or, Chief Operating Officer, ~~or Designated Officer or the Chief Administrative Officer~~ with respect to a Clearing Member pursuant to paragraph (a) or (b) shall be subject to review by the Risk Committee of the Corporation upon submission by the Clearing Member of a request for review to the Secretary of the Corporation within five business days of the date such action is taken. The Risk Committee shall schedule an early hearing. The Clearing Member shall be given not less than one day's notice of the place and time of such hearing. At the hearing, the Clearing Member shall be afforded an opportunity to be heard and to present evidence in its behalf and may be represented by counsel. A verbatim record of the hearing shall be prepared and the cost of the transcript may,

in the discretion of the Risk Committee, be charged in whole or in part to the Clearing Member if the Risk Committee does not modify the action of the ~~Executive Chairman~~Chief Executive Officer or, Chief Operating Officer, or Designated Officer~~or the Chief Administrative Officer~~. The Clearing Member shall be notified in writing of the outcome of the Risk Committee's review.

(d) [No Change.]

*...Interpretations and Policies:*

.01 through .06 [No Change.]

.07 The Clearing Member is experiencing such operational difficulties that the ~~Executive Chairman~~Chief Executive Officer or, Chief Operating Officer, or, if it is not feasible for the Chief Executive Officer or Chief Operating Officer to take such action, then a Designated Officer ~~or the Chief Administrative Officer~~ determines that action under Rule 305 is necessary or advisable in the circumstances.

.08 through .09 [No Change.]

.10 The Clearing Member, the Appointed Clearing Member of the Clearing Member or CDS (if the Clearing Member is a Canadian Clearing Member described in Rule 901) is experiencing such difficulty in meeting its obligations to the correspondent clearing corporation that the ~~Executive Chairman~~Chief Executive Officer or, Chief Operating Officer, or, if it is not feasible for the Chief Executive Officer or Chief Operating Officer to take such action, then a Designated Officer ~~or the Chief Administrative Officer~~ determines that action under Rule 305 is necessary or advisable in the circumstances.

.11 through .12 [No Change.]

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**Rule 309 – Managing Clearing Members and Managed Clearing Members**

(a) through (c) [No Change.]

(d) At any time when the net capital of a Managing Clearing Member shall be less than the minimum amount prescribed by paragraph (b) of this Rule 309, the Managing Clearing Member shall be subject to the restrictions on distributions set forth in Rules 304(a) and 304(b), and the ~~Executive Chairman~~Chief Executive Officer or, Chief Operating Officer, or, if it is not feasible for the Chief Executive Officer or Chief Operating Officer to take such action, then a Designated Officer ~~or the Chief Administrative Officer~~ shall have the authority to impose any or all of the limitations or restrictions set forth in Rule 305(a) on the positions, stock loan and borrow positions and transactions of the Managing Clearing Member and every Managed Clearing Member for which the Managing Clearing Member provides facilities management services.

(e) through (f) [No Change.]

*...Interpretations and Policies:*

**.01** A Clearing Member that proposes to become a Managed Clearing Member may request an expedited review of its proposed facilities management agreement. If the Corporation in its sole discretion consents to perform such a review, then the ~~Executive Chairman~~Chief Executive Officer, Chief Operating Officer, ~~Chief Administrative Officer~~, or any delegate of such officer shall have the authority to determine whether the submitted agreement meets the requirements of paragraph (f) of this Rule and to approve or disapprove the agreement. Any delegate shall be an officer of the rank of Senior Vice President or higher. Thereafter, at the next scheduled meeting of the Risk Committee, the Risk Committee shall independently review the agreement and determine de novo whether such requirements have been met and approve or disapprove the agreement. Should the Risk Committee's determination result in the modification or reversal of the action taken by the ~~Executive Chairman~~Chief Executive Officer, Chief Operating Officer, ~~Chief Administrative Officer~~, or any delegate of such officer, any acts taken by the Corporation or the Clearing Member prior to such modification or reversal shall not be invalidated nor shall any rights of any person arising out of such acts be affected. If the Risk Committee disapproves a facilities management agreement that was previously approved by the Corporation's management, the Clearing Member shall be given a reasonable period of time in which to enter into an appropriately revised agreement or cease to be a Managed Clearing Member.

**.02** A Managed Clearing Member that proposes to operate without a facilities management agreement may request an expedited review of its proposal. If the Corporation in its sole discretion consents to perform such a review, then the ~~Executive Chairman~~Chief Executive Officer, Chief Operating Officer, ~~Chief Administrative Officer~~ or any delegate of such officer who is a Designated Officer shall have the authority to determine whether the Managed Clearing Member has the operational capability, experience and competency to perform the managed services as specified in paragraph (e) of this Rule and to approve or disapprove termination of its facilities management agreement. Thereafter, at the next scheduled meeting of the Risk Committee, the Risk Committee shall independently review the Managed Clearing Member's operational capability, experience and competency to determine de novo whether the requirements of paragraph (e) have been met and approve or disapprove such termination. Should the Risk Committee's determination result in the modification or reversal of the action taken by the ~~Executive Chairman~~Chief Executive Officer, Chief Operating Officer, ~~Chief Administrative Officer~~, or any delegate of such officer who is a Designated Officer, any acts taken by the Corporation or the Clearing Member prior to such modification or reversal shall not be invalidated nor shall any rights of any person arising out of such acts be affected. If the Risk Committee disapproves the termination of a facilities management agreement that was previously approved by the Corporation's management, the Clearing Member shall be given a reasonable period of time in which to enter into a new facilities management arrangement or terminate its clearing membership.

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**Rule 309A – Appointed Clearing Members and Appointing Clearing Members**

(a) through (b) [No Change.]

(c) At any time when the net capital of an Appointed Clearing Member shall be less than the minimum amount prescribed by paragraph (a) of this Rule 309A, the Appointed Clearing Member shall be subject to the restrictions on distributions set forth in Rules 304(a) and 304(b), and the ~~Executive Chairman~~Chief Executive Officer or, Chief Operating Officer, or, if it is not feasible for the Chief Executive Officer or Chief Operating Officer to take such action, then a Designated Officer ~~or the Chief Administrative Officer~~ of the Corporation shall have the authority to impose any or all of the limitations or restrictions set forth in Rule 305(a) on the positions, stock loan and borrow positions and transactions of the Appointed Clearing Member and each of its Appointing Clearing Members.

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### ***Chapter V – Daily Cash Settlement***

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### **Rule 505 – Extension of Settlements**

The Board of Directors, Executive Chairman, Chief Executive Officer, or Chief Operating Officer ~~or Chief Administrative Officer~~ of the Corporation shall be authorized to extend, to the close of the Federal Reserve Banks' Fedwire Funds Service on a settlement day, any or all times at which the Corporation is obligated to pay a settlement amount to Clearing Members as set forth in the By-Laws, Rules or procedures of the Corporation upon a determination that an emergency or force majeure condition exists which would make such extension necessary or advisable for the protection of the Corporation or is otherwise in the public interest. Such determination and the reasons therefor shall be promptly reported to the SEC, the CFTC and any other regulatory or supervisory agencies having jurisdiction over the Corporation, but the effectiveness of the settlement extension shall not be conditioned upon such report. As soon as practicable after such determination has been made, the Corporation shall notify Clearing Members thereof and, in general terms, what procedures shall be taken by the Corporation in connection therewith. Any determination made under this Rule shall be in the sole discretion of the Board of Directors, Executive Chairman, Chief Executive Officer, or Chief Operating Officer ~~or Chief Administrative Officer~~ of the Corporation, as applicable, and not subject to review. In the event a determination is made by the Executive Chairman, Chief Executive Officer, or Chief Operating Officer ~~or Chief Administrative Officer~~ of the Corporation, the Board of Directors shall be notified as soon as practicable of the determination. A report detailing any extension of time for settlement shall be prepared and maintained with the records of the Corporation.

### ***Chapter VI – Margins***

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## Rule 604 – Form of Margin Assets

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(a) through (b) [No Change.]

(c) *Letters of Credit.* Clearing Members may deposit with the Corporation letters of credit denominated in U.S. dollars issued by banks or trust companies approved by the Corporation for this purpose. Such letters of credit shall be in a form prescribed by the Corporation and shall meet the following criteria:

(1) through (2) [No Change.]

(3) All letters of credit shall be irrevocable.

Under unusual circumstances, the ~~Executive Chairman of the Corporation~~Chief Executive Officer or Chief Operating Officer or, if it is not feasible for the Chief Executive Officer or Chief Operating Officer to take such action, then a Designated Officer, following consultation with the staff of the Securities and Exchange Commission, may accept, on a temporary basis, a letter of credit which varies from the preceding requirements

If a Clearing Member shall deposit with the Corporation a letter of credit which indicates on its face that it is being deposited to serve as margin for the Clearing Member's customers' account or for a segregated futures account, such letter of credit shall not constitute margin for any other account maintained by the Clearing Member until such time as the issuing bank shall instruct the Corporation by amendment to the letter of credit stating that such letter of credit is not so restricted.

Notwithstanding the provisions of any other Rule, the Corporation may draw upon a letter of credit at any time, whether or not the Clearing Member which deposited such letter of credit has been suspended by the Corporation or is in default with respect to any obligation to the Corporation, if the Corporation determines that such draw is advisable to protect the Corporation, other Clearing Members or the general public. If such a draw is made without suspending the Clearing Member, funds received pursuant to the draw will be subject to the By-Laws and Rules applicable to deposits of cash margin.

(d) through (f) [No Change.]

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## Rule 609A – Waiver of Margin

The Executive Chairman, Chief Executive Officer, or Chief Operating Officer ~~or the Chief Administrative Officer~~ of the Corporation shall be authorized to waive, in whole or in part,

conditionally or unconditionally, any deposit of margin that would otherwise be required to be made by any Clearing Member in any account at any time during any business day upon a determination that such waiver (i) is advisable in the interest of maintaining fair and orderly markets or is otherwise advisable in the public interest and for the protection of investors, and (ii) is consistent with maintaining the financial integrity of the Corporation. Such officer shall use his best efforts to attempt to consult with officials of the Securities and Exchange Commission prior to granting any such waiver; provided, however, that the authority contained herein shall not be conditioned by such consultation. The Corporation shall advise its Board of Directors and the Securities and Exchange Commission as soon as practicable in writing of the granting of any such waiver and the reasons therefor, and a record of any such waiver shall be prepared and maintained with the records of the Corporation.

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## *Chapter VIII – Exercise and Assignment*

### **Rule 801 – Exercise of Options**

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(a) through (c) [No change.]

(d) Notwithstanding the foregoing provisions of this Rule, and except as otherwise provided in this paragraph (d), the ~~Executive Chairman~~ Chief Executive Officer, Chief Operating Officer ~~or the Chief Administrative Officer~~, or any delegate of such officer, may in the sole discretion of such person permit a Clearing Member to file any exercise notice after an applicable deadline prescribed pursuant to paragraph (a) of this Rule, solely for the purpose of correcting a bona fide error on the part of the Clearing Member or a customer, subject to the following conditions:

(1) through (2) [No Change.]

(3) The Clearing Member shall deliver to the Corporation, within two business days after submitting a filing pursuant to this paragraph (d), a memorandum describing in reasonable detail the error that gave rise to such action. Every memorandum shall be reviewed by the Chief Executive Officer, Chief Operating Officer, ~~Chief Administrative Officer~~, or any other officer of the Corporation designated by the Chief Executive Officer or Chief Operating Officer ~~or Chief Administrative Officer~~, as applicable, and, in his or her sole discretion such officer shall make a submission for remission of any late filing fee pursuant to subparagraph (d)(5).

(4) [No Change.]

(5) The Corporation may remit, in whole or in part, any late filing fee imposed pursuant to subparagraph (d)(2), if the ~~Executive Chairman~~ Chief Executive Officer or, Chief Operating Officer, or, if it is not feasible for the Chief Executive Officer or Chief Operating Officer to take such action, then a Designated Officer or the Chief Administrative Officer finds that the filing

giving rise to the fee was necessitated by circumstances beyond the reasonable control of the Clearing Member and its customer, or that remission is otherwise equitable in the circumstances.

(6) [No Change.]

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#### **Rule 804 – Allocation of Exercises**

Except as provided in the last sentence of this Rule 804, each Clearing Member shall establish fixed procedures for the allocation of exercises assigned in respect of short positions in the Clearing Member's accounts to specific option contracts included in such short positions. The allocation shall be made in accordance with the requirements set forth in Exchange Rules and any applicable rules of any self-regulatory organization of which the Clearing Member is a member. During the term of any restriction imposed on a Clearing Member pursuant to Rule 305, the ~~Executive Chairman~~Chief Executive Officer or; Chief Operating Officer, or, if it is not feasible for the Chief Executive Officer or Chief Operating Officer to take such action, then a Designated Officer ~~or the Chief Administrative Officer~~ may require the Clearing Member to report to the Corporation, not later than 8:00 A.M. Central Time (9:00 A.M. Eastern Time) on each business day, the name and address of each writer to whom the Clearing Member allocated an exercise assigned to the Clearing Member on the preceding business day. Such reports shall indicate, for each writer, the series of options for which an exercise was allocated and the number of contracts included in the allocation, and shall state whether any specific deposit or escrow deposit has been made in respect of such writer's short position in such series of options. The foregoing provisions of this Rule 804 shall not apply to the allocation of exercises of OTC options; and in the case of short positions in OTC options in respect of which the Corporation has assigned exercises to a particular customer ID, the Clearing Member shall allocate the exercise only to the customer associated with such customer ID.

#### ***...Interpretations and Policies:***

.01 [No Change.]

#### **Rule 805 – Expiration Exercise Procedure**

(a) through (h) [No Change.]

(i) The Corporation may remit, in whole or in part, any filing fee imposed pursuant to subparagraph (g), if the ~~Executive Chairman~~Chief Executive Officer or; Chief Operating Officer, or, if it is not feasible for the Chief Executive Officer or Chief Operating Officer to take such action, then a Designated Officer ~~or Chief Administrative Officer~~ finds that the tendering of the supplementary exercise notice giving rise to the fee was necessitated by circumstances beyond the reasonable control of the Clearing Member or its customer, or that remission is otherwise equitable under the circumstances.

(j) through (m) [No Change.]



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## *Chapter IX – Delivery of Underlying Securities and Payment*

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### **Rule 901 – Settlement Through Correspondent Clearing Corporations**

(a) through (d) [No Change.]

(e) A specification in any Delivery Advice that settlement is to be made through the facilities of the correspondent clearing corporation pursuant to this Rule 901 may be revoked by the Corporation at any time prior to the obligation time by an appropriate notice to the Receiving and Delivering Clearing Members. In the event of such revocation, delivery and payment shall be made in accordance with Rules 903 through 912; provided, however, that the ~~Executive Chairman~~Chief Executive Officer or, or, if it is not feasible for the Chief Executive Officer or Chief Operating Officer to take such action, then a Designated Officer ~~or the Chief Administrative Officer~~ of the Corporation may, upon the application of the Receiving or the Delivering Clearing Member, extend or postpone the time for delivery to a date not more than two business days after the date of such revocation.

(f) through (i) [No Change.]

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### **Rule 903 – Obligation to Deliver**

When a Delivery Advice or the Corporation directs that settlement be made on a broker-to-broker basis, the Delivering Clearing Member shall deliver each underlying security specified in the Delivery Advice against payment of the aggregate purchase price therefor on the delivery date specified therein, which, in the case of options, shall be the second business day following the day on which the exercise notice was, or is deemed to have been, properly tendered to the Corporation pursuant to Chapter VIII of the Rules, and, in the case of security futures, shall be the second business day following the maturity date, except for series that are designated by the Exchange on which such series are traded for settlement on the first business day following the maturity date of the applicable series, provided that:

(a) the Corporation may designate a different delivery date for property that is deliverable as a result of an adjustment of a contract pursuant to the By-Laws and Rules; and

(b) the ~~Executive Chairman~~Chief Executive Officer, Chief Operating Officer ~~or the Chief Administrative Officer~~ or delegate of such officer may extend or postpone the time for delivery whenever, in such person's opinion, such action is required in the public interest or to meet unusual conditions.

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## ***Chapter X – Clearing Fund Contributions***

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### **Rule 1001 – Size of Clearing Fund**

(a) through (c) [No Change.]

(d) *Temporary Increase to Clearing Fund Size.* The Risk Committee, or the Executive Chairman, ~~Chief Executive Officer, Chief Administrative Officer,~~ or Chief Operating Officer, upon notice to the Risk Committee, shall have the authority to increase the size of the Clearing Fund at any time for the protection of the Corporation, Clearing Members or the general public. Any determination by the Executive Chairman, ~~Chief Executive Officer, Chief Administrative Officer,~~ or Chief Operating Officer to implement a temporary increase in Clearing Fund size would (i) be based upon then-existing facts and circumstances, (ii) be in furtherance of the integrity of OCC and the stability of the financial system, and (iii) take into consideration the legitimate interests of Clearing Members and market participants. Any temporary increase in the Clearing Fund shall be reviewed by the Risk Committee as soon as practical and, if such temporary increase is still in effect, the Risk Committee shall determine whether (A) the increase in the cash Clearing Fund requirement is no longer required, or (B) OCC’s rules should be modified to ensure that OCC continues to maintain sufficient prefunded financial resources.

#### ***...Interpretations and Policies:***

.01 [No Change.]

### **Rule 1002 – Clearing Fund Contributions**

(a) *Form and Method of Contributions.* Contributions to the Clearing Fund shall be in cash or in Government securities.

(i) *Cash Clearing Fund Requirement.* Clearing Members shall collectively contribute \$3 billion in cash to the Clearing Fund (“Cash Clearing Fund Requirement”). Each Clearing Member’s proportionate share of the Cash Clearing Fund Requirement shall be equal in percentage to its proportionate share of the Clearing Fund as determined by Rule 1003(a)(y). The Executive Chairman, ~~Chief Executive Officer Chief Administrative Officer,~~ or Chief Operating Officer, upon providing notice to the Risk Committee, shall have the authority to temporarily increase the amount of cash required to be maintained in the Clearing Fund, up to an amount that includes the size of the Clearing Fund as determined in accordance with Rule 1001, for the protection of OCC, Clearing Members or the general public in accordance with the Corporation’s policies and procedures. Any determination by the Executive Chairman, ~~Chief Executive Officer Chief Administrative Officer,~~ or Chief Operating Officer to implement a temporary increase in the Cash Clearing Fund Requirement would (i) be based upon then-existing facts and circumstances, (ii) be in furtherance of the integrity of OCC and the stability of the financial system, and (iii) take into consideration the legitimate interests of Clearing Members and market participants. Any temporary increase in the Cash Clearing Fund Requirement shall be reviewed by the Risk Committee as soon as practical (but in any event, such review must occur within 20 calendar days of such increase) and, if such temporary increase is still in effect, the Risk Committee shall

determine whether (A) the increase in the Cash Clearing Fund Requirement is no longer required, or (B) OCC's rules should be modified to ensure that OCC continues to maintain sufficient liquidity resources.

(ii) through (iii) [No Change.]

(b) through (f) [No Change.]

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### **Rule 1006 – Purpose and Use of Clearing Fund**

(a) through (e) [No Change.]

(f) *Borrowings.* If (i) the Corporation deems it necessary or advisable to borrow or otherwise obtain funds from third parties in order to meet obligations arising out of the default or suspension, or in anticipation of the potential default or suspension, of a Clearing Member or any action taken by the Corporation in connection therewith pursuant to Chapter XI of the Rules or otherwise; or (ii) the Corporation sustains a loss reimbursable out of the Clearing Fund pursuant to paragraph (c) but elects to borrow or otherwise obtain funds from third parties in lieu of immediately charging such loss to the Clearing Fund; or (iii) the Corporation reasonably believes it necessary to borrow to meet its liquidity needs for same-day settlement as a result of the failure of any bank or securities or commodities clearing organization to achieve daily settlement, and in any case the Corporation determines that it will be unable to borrow or otherwise obtain such funds on acceptable terms on an unsecured basis; then the Corporation may take possession of cash or securities deposited by Clearing Members as contributions to the Clearing Fund and securities in which cash contributions to the Clearing Fund have been invested by the Corporation and use such assets to borrow or otherwise obtain funds through any means determined to be reasonable by the Executive Chairman, Chief Executive Officer, or Chief Operating Officer ~~or the Chief Administrative Officer~~ of the Corporation in his discretion (including, without limitation, pledging such assets as security for loans and/or using such assets to effect repurchase, securities lending or other transactions); provided, in the case of any transaction effected under the circumstances specified in clause (i) or clause (iii) above, that the funds obtained through such transaction will be used solely for the purposes described in clause (i) or clause (iii), as applicable. The funds obtained by the Corporation pursuant to this paragraph (f)), irrespective of how such funds are applied, shall not be deemed to be charges against the Clearing Fund for a period not to exceed thirty days, and, during said period, shall not affect the amount or timing of any charges otherwise required to be made against the Clearing Fund pursuant to this Chapter X. If all or a part of any transaction effected by the Corporation pursuant to this paragraph (f) remains outstanding after thirty days, the Corporation, at the close of business of the thirtieth day (or on the first Business Day thereafter), shall consider the amount of Clearing Fund assets used to support the Corporation's obligations under the outstanding transaction as an actual loss to the Clearing Fund and immediately allocate such loss in accordance with this Chapter X.

(g) through (j) [No Change.]

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## *Chapter XI – Suspension of a Clearing Member*

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### **Rule 1104 – Creation of Liquidating Settlement Account**

(a) [No Change.]

(b) Notwithstanding the provisions of Rule 1104(a), if the Executive Chairman, Chief Executive Officer, or Chief Operating Officer ~~or the Chief Administrative Officer~~ shall determine in his discretion, taking into account the size and nature of a suspended Clearing Member's margin deposits and/or contributions to the Clearing Fund, the market conditions prevailing at the time, the potential market effects of liquidating transactions that might be directed by the Corporation, and such other circumstances as such officer deems relevant, that the immediate liquidation of some or all of the suspended Clearing Member's margin deposits and/or contributions to the Clearing Fund would not be in the best interests of the Corporation, other Clearing Members, or the general public, such assets need not be immediately liquidated. In such case, pending the ultimate disposition of the suspended Clearing Member's margin deposits and contributions to the Clearing Fund, the Executive Chairman, Chief Executive Officer, or Chief Operating Officer ~~or the Chief Administrative Officer~~ of the Corporation may, for purposes of satisfying such Clearing Member's obligations under the By-Laws and Rules, cause the Corporation to use such Clearing Member's margin deposits and/or contributions to the Clearing Fund to borrow or otherwise obtain funds from third parties through any means determined to be reasonable by such officer in his discretion (including, without limitation, pledging such assets as security for loans and/or using such assets to effect repurchase, securities lending or other transactions). Any determination made pursuant to this paragraph shall be reported to the Board of Directors within 24 hours.

(c) through (f) [No Change.]

#### ***...Interpretations and Policies:***

**.01** [No Change.]

**.02** (a) For purposes of this Rule 1104 and Rules 1106, 1107, 2210 and 2210A, in order to minimize the execution and liquidity risks associated with (i) liquidating a suspended Clearing Member's margins deposited with the Corporation and Clearing Fund contributions (collectively referred to in this Interpretation and Policy as "Collateral"), (ii) closing out such Clearing Member's open positions in cleared contracts and stock loans (collectively referred to in this Interpretation and Policy as "Open Positions") and (iii) closing out exercised or matured cleared contracts to which such Clearing Member was a party either as the exercising Clearing Member or as the assigned Clearing Member (collectively referred to in this Interpretation and Policy as "Exercised/Matured Contracts"), the Corporation may elect to use one or more private auctions to liquidate all or any part of such Collateral, Open Positions and/or Exercised/Matured Contracts, as determined by the Board of Directors, the Executive Chairman, Chief Executive Officer, or Chief Operating Officer ~~or Chief Administrative Officer~~ of the Corporation. As used in this interpretation, the term "private auction" means an auction open to bidders invited by the Corporation pursuant to this interpretation and with respect to which bidders submit confidential

bids. If such determination is made by the Executive Chairman, Chief Executive Officer, or Chief Operating Officer of the Corporation, the Board of Directors shall be notified as soon as practicable of the determination. The option to elect a private auction process is discretionary; the Corporation may use other procedures as provided for or permitted in the By-Laws and Rules to liquidate a suspended Clearing Member's Collateral, Open Positions and/or Exercised/Matured Contracts if the Corporation decides that circumstances warrant. The Corporation shall provide prompt notice to the Risk Committee (or other committee of the Board of Directors to which the auction oversight function is delegated) whenever a private auction is expected to be conducted.

(b) through (g) [No Change.]

.03 through .04 [No Change.]

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### **Rule 1106 – Open Positions**

(a) through (d) [No Change.]

(e) Exceptions.

(1) Notwithstanding the preceding provisions of this Rule, if the Executive Chairman, Chief Executive Officer, or Chief Operating Officer ~~or Chief Administrative Officer~~ shall determine in his discretion, taking into account the size and nature of a suspended Clearing Member's positions, the market conditions prevailing at the time, the potential market effects of liquidating transactions that might be directed by the Corporation, and such other circumstances as such officer deems relevant, that the closing out of some or all of the suspended Clearing Member's unsegregated long positions or short positions in options or BOUNDS, or long or short positions in futures, would not be in the best interests of the Corporation, other Clearing Members, or the general public, such positions need not be closed out, provided that any determination made pursuant to this paragraph shall be reported to the Board of Directors within 24 hours. This paragraph shall not apply to positions of any suspended Clearing Member as to which an application for a protective decree may be filed under Section 5(a)(3) of the Securities Investor Protection Act of 1970, as amended, except upon a determination by the Executive Chairman, Chief Executive Officer, or Chief Operating Officer ~~or Chief Administrative Officer~~ in his discretion, taking into account the circumstances enumerated in the preceding sentence, that the closing out of the suspended Clearing Member's open positions in accordance with the other provisions of this Rule would likely result in a loss to the Corporation (after application of such Clearing Member's margin and Clearing Fund deposits but before any proportionate charge to the Clearing Fund deposits of other Clearing Members).

(2) [No Change.]

(f) Protective Action.

If the Executive Chairman, Chief Executive Officer, or Chief Operating Officer ~~or Chief Administrative Officer~~ shall (i) determine that the Corporation is unable, for any reason, to close

out in a prompt and orderly fashion any unsegregated long positions or short positions in options or BOUNDS, or long or short positions in futures, or to liquidate any margin deposits of a suspended Clearing Member, or (ii) elect pursuant to Rule 1106(e) not to close out any such positions or pursuant to Rule 1104(b) not to liquidate any such margin deposits, such officer may authorize the execution from time to time for the account of the Corporation, solely for the purpose of reducing the risk to the Corporation resulting from the continued maintenance of such positions or the continued holding of such margin deposits, of hedging transactions, including, without limitation, the purchase or sale of underlying interests or interests deemed similar thereto or option contracts or futures contracts on any such underlying or similar interests. Such officer may delegate to specified officers or agents of the Corporation the authority to determine, within such guidelines, if any, as such officer shall prescribe, the nature and timing of such hedging transactions. Any authorization of hedging transactions shall be reported to the Board of Directors within 24 hours, and any such transactions that are executed shall be reported to the Risk Committee on a daily basis. Any costs or expenses, including losses, sustained by the Corporation in connection with transactions effected for its account pursuant to this paragraph shall be charged to the Liquidating Settlement Account of the suspended Clearing Member, and any gains realized on such transactions shall be credited to such Liquidating Settlement Account; provided, however, that (i) costs, expenses, and gains allocable to the hedging of positions in a Market-Maker's account or a customers' lien account shall be charged or credited, as the case may be, to that account, and only the excess, if any, of such costs and expenses over the funds available in that account shall be charged to the Liquidating Settlement Account; (ii) costs, expenses, and gains allocable to the hedging of positions in a segregated futures account shall be charged or credited, as the case may be, to the Segregated Liquidating Settlement Account, and only the excess, if any, of such costs and expenses over the funds available in that account shall be charged to the Liquidating Settlement Account, and (iii) costs, expenses and gains allocable to the hedging of positions in an internal non-proprietary cross-margining account shall be charged or credited, as the case may be, to the Internal Non-Proprietary Cross-Margining Liquidating Settlement Account, and only the excess, if any, of such costs and expenses over the funds available in that account shall be charged to the Liquidating Settlement Account. Reasonable allocations of costs, expenses, and gains among accounts made by the Corporation for the purpose of implementing the proviso to the preceding sentence shall be binding on the Clearing Member and any persons claiming through the Clearing Member and their respective successors and assigns.

(g) [No Change.]

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### **Rule 1110 – Right of Appeal**

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(a) [No Change.]

(b) *Consideration of Appeals.* Appeals shall be considered and decided by an appeals panel appointed by the Executive Chairman ~~of the Board~~, composed of two officers or employees of the ~~Clearing~~ Corporation and one director. Appeals shall be heard as promptly as possible, and in

no event more than fourteen days after the filing of the notice of appeal. The appellant shall be notified of the time, place and date of the hearing not less than three days in advance of such date. At the hearing, the appellant shall be afforded an opportunity to be heard and to present evidence in its own behalf, and may, if it so desires, be represented by counsel. As promptly as possible after the hearing, the panel shall, by the vote of a majority of its members, affirm or reverse the suspension. The appellant shall be notified in writing of the panel's decision; and if the decision shall have been to affirm the suspension, the appellant shall be given a written statement of the grounds therefor.

(c) through (e) [No Change.]

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### ***Chapter XIII – Futures, Futures Options and Commodity Options***

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#### **Rule 1309 – Disciplinary Action for Failure to Deliver or Receive**

If, without good cause, a Delivering Clearing Member fails to discharge its delivery obligations under Rule 1308A or 1308B, or a Receiving Clearing Member refuses to accept or fails to pay the settlement amount for an underlying interest tendered to it pursuant to Rule 1308A or 1308B, such failure or refusal may be deemed to constitute a delay embarrassing the operations of the Corporation, and may be subject to discipline under Chapter XII of the Rules. The ~~Executive Chairman~~ Chief Executive Officer, or Chief Operating Officer, or, if it is not feasible for the Chief Executive Officer or Chief Operating Officer to take such action, then a Designated Officer or Chief Administrative Officer of the Corporation shall have the authority to determine, subject to review as provided in Chapter XII of the Rules, whether good cause existed for any such failure to deliver or receive.

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### ***Chapter XIV – Treasury Securities Options***

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#### **Rule 1402 – Exercise Settlement Date for Treasury Securities Options**

(a) [No Change.]

(b) The ~~Executive Chairman~~ Chief Executive Officer, Chief Operating Officer ~~or Chief Administrative Officer~~, or the delegate of any such officer, may extend or postpone any exercise settlement date for Treasury securities options whenever, in its opinion, such action is required in the public interest or to meet unusual conditions.

\* \* \* \* \*

#### **Rule 1405 – Disciplinary Action for Failure to Match**

If a Delivering Clearing Member or a Receiving Clearing Member fails, without good cause, to timely submit accurate trade information to the real time trade matching system of FICC under Rule 1403, and the Corporation receives notice pursuant to Rule 1404(a) that the failure has not been resolved and the trade has not been successfully matched, such failure shall be deemed to constitute a delay embarrassing the operations of the Corporation, and shall be subject to discipline under Chapter XII of the Rules. The ~~Executive Chairman~~ Chief Executive Officer, Chief Operating Officer, or, if it is not feasible for the Chief Executive Officer or Chief Operating Officer to take such action, then a Designated Officer or Chief Administrative Officer shall have the authority to determine, subject to review as provided in Chapter XII of the Rules, whether good cause existed for any such failure to deliver or receive.

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### ***Chapter XVI – Foreign Currency Options***

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#### **Rule 1604 – Exercise Settlement Date for Foreign Currency Options**

(a) [No Change.]

(b) The ~~Executive Chairman or President~~ Chief Executive Officer, Chief Operating Officer, or delegate of such officer may advance or postpone any exercise settlement date for foreign currency options whenever, in its opinion, such action is required in the public interest or to meet unusual conditions.

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#### **Rule 1610 – Disciplinary Action for Failure to Deliver or Pay**

If, without good cause, a Delivering Clearing Member fails to discharge its guarantee or delivery obligations under Rule 1606, or a Paying Clearing Member fails to pay the settlement amount due pursuant to Rule 1606, such failure shall be deemed to constitute a delay embarrassing the operations of the Corporation, and shall subject the Clearing Member to discipline under Chapter XII of the Rules. The ~~Executive Chairman~~ Chief Executive Officer, Chief Operating Officer, or, if it is not feasible for the Chief Executive Officer or Chief Operating Officer to take such action, then a Designated Officer or Chief Administrative Officer shall have the authority to determine, subject to review as provided in Chapter XII of the Rules, whether good cause existed for any such failure to deliver or pay.

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