

**File No. SR-Amex-2004-50
Amendment No. 2**

EXHIBIT D

Amended and Restated By-Laws (“By-Laws”) of The Amex Membership Corporation (the “Corporation”)

A New York Not-for-Profit Corporation.

ARTICLE I

Members

Section 1.01 Membership. The classes of membership in the Corporation shall include regular memberships (the “Regular Members”), options principal memberships (the “Options Principal Members”) and such additional classes of memberships as may be authorized from time to time by amendment of the Second Restated Certificate of Incorporation of the Corporation (collectively, the “Members”). There shall be up to 834 regular memberships and up to 30 options principal memberships.

Adopted.

October 30, 1998

Amendments.

July 18, 2000

[_____, 2004]

Section 1.02 Trading Rights. The Corporation is a party to the Limited Liability Company Agreement of American Stock Exchange LLC (“Amex”), dated as of _____, ____ (the “Operating Agreement”), between AMC Acquisition Sub, Inc., a Delaware corporation and a wholly-owned subsidiary of the Corporation (“MC Sub”), and the Corporation, whereby MC Sub and the Corporation are the members of Amex. The Corporation owns all rights to trade equity securities, options and other derivative securities that are appurtenant to the regular memberships and the options principal memberships on the securities exchange operated by Amex (the “Exchange”) and all other rights to trade through the facilities of the Exchange (collectively, the “Trading Rights”). The Corporation will make such Trading Rights available in accordance with and subject to the requirements of the Constitution of Amex (the “Amex Constitution”).

Adopted.

October 30, 1998

Amendments.

[_____, 2004]

Section 1.03 Place and Time of Meetings. All meetings of the Members shall be held at the time and place (which may be within or outside the State of New York) specified in the notice of the meeting or in the waiver of notice thereof.

Adopted.

October 30, 1998

Amendments.

[_____, 2004]

Section 1.04 Annual Meetings. The annual meeting of the Members for the election of Directors, Governors, Council Members and Trustees (as such terms are defined below) and for the transaction of such other business as may properly come before the meeting shall be held annually at such place as may be determined by the Board of Directors and specified in the notice of the meeting or in the waiver of notice thereof. For purposes of these By-Laws, “Directors” shall mean the Directors serving on the Board of Directors of the Corporation and “Governors” shall mean the Governors serving on the Board of Governors of Amex (the “Board of Amex”).

Adopted.

October 30, 1998

Amendments.

[_____, 2004]

Section 1.05 Report at Annual Meeting. There shall be presented at each annual meeting of the Members such report as at the time may be required by Section 519 of the New York Not-for-Profit Corporation Law or other applicable statute.

Adopted.

October 30, 1998

Section 1.06 Special Meetings. Special meetings of the Members may be called at any time by the Chairman or by resolution of the Board of Directors, at such time and place as may be specified in the notice of the meeting or in the waiver of notice thereof. The Secretary shall call a special meeting of the Members entitled to vote thereat promptly upon receipt of a written request, in proper form, for the consent of the Corporation to any action to be taken by Amex described in Sections 7(a), 7(b), 8 or 9 of the Second Restated Certificate of Incorporation of the Corporation and any other action that requires the consent of the Corporation only after an affirmative vote of the Members.

Adopted.

October 30, 1998

Amendments.

[_____, 2004]

Section 1.07 Adjourned Meetings. A majority of the Members present in person or by proxy at a meeting and entitled to vote thereat may from time to time adjourn the meeting, whether or not a quorum was present at the meeting. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called.

Adopted.

October 30, 1998

Section 1.08 Notice of Meetings. Except as provided in Section 5.02, written notice of the place, date and hour of each meeting of Members shall be given as provided in Section 5.01 to each Member entitled to vote thereat, or otherwise entitled by law to notice thereof. The notice shall be given personally or by first-class mail not less than 10 nor more than 50 days before the date of the meeting. When a meeting is adjourned to another time or place, no notice need be given to the Members who were present at the time of the adjournment if such time or place is announced at the meeting at which the adjournment is taken. Notice of any adjourned meeting shall be given to the Members who were not present at the time of the adjournment. Notice of a special meeting shall also state the purposes for which the meeting is called and indicate by whom or at whose direction the notice is being sent.

Adopted.

October 30, 1998

Section 1.09 Quorum. Except as may otherwise be expressly required by statute, at all meetings of the Members the presence in person or by proxy of a majority of Members entitled to vote thereat shall constitute a quorum for the transaction of business.

Adopted.

October 30, 1998

Amendments.

[_____, 2004]

Section 1.10 Voting. Each Regular Member and Options Principal Member shall be entitled to one vote on each matter submitted to a vote of Members. Members shall be entitled (in accordance with the procedures set forth in 1.13(b)) to submit nominees for Directors to the MC Nominating Committee for its consideration and shall be entitled (in accordance with the procedures set forth in Section 1.13(d)) to sign petitions for nominations for Directors. Members shall be entitled (in accordance with the procedures set forth in Section 1.14(b)) to submit nominees for Governors, Council Members and Trustees to the Amex Nominating and Corporate Governance Committee (as such term is defined in the Amex Constitution) for its consideration and shall be entitled (in accordance with the procedures set forth in Section 1.14(d)) to sign petitions for nominations for such positions. For purposes of this Section 1.10, the term "Member" shall mean the owner of a membership in the Corporation; provided that in the case of a membership subject to a special transfer agreement, it shall mean the lessor or lessee as

specified in the special transfer agreement, and if no specification is made therein, shall mean the lessee. Except as at the time otherwise expressly required by statute, by the Second Restated Certificate of Incorporation or by Section 1.11, all matters submitted to a vote of the Members shall be decided by the vote of a majority of the Members entitled to vote and present in person or by proxy at the meeting.

Adopted.

October 30, 1998

Amendments.

[_____, 2004]

Section 1.11 Elections. At each meeting of the Members for the election of Directors, Governors, Trustees of the Gratuity Fund (“Trustees”), and members of the Amex Adjudicatory Council (“Council Members”), such persons shall be elected by a plurality of votes cast, in person or by proxy, at such meeting by the Regular and Options Principal Members voting together as a single class and the Corporation, as the holder of the Class A Interest of Amex, shall vote such Class A Interest so as to cause the election of the Governors, Trustees and Council Members who have been so elected by the Regular and Options Principal Members.

Adopted.

October 30, 1998

Amendments.

[_____, 2004]

Section 1.12 Proxies. A Member may elect to relinquish the right to vote his or her regular membership or options principal membership by appointing an agent. Such appointment must be made in a signed irrevocable proxy filed with the Secretary. Irrevocable proxies may be revoked upon termination of a special transfer agreement or a-b-c agreement, or by mutual consent of the parties.

Each Member or his or her duly authorized agent entitled to vote at a meeting of Members or to express consent or dissent without a meeting may authorize a proxy solicitation firm, proxy support service organization or like agent duly authorized by the Member, or his or her duly authorized agent, to receive the transmission of a telegram, cablegram or other means of electronic transmission designating how the votes should be cast, provided that any such telegram, cablegram or other means of electronic transmission shall either set forth or be submitted with information from which it can be reasonably determined that the telegram, cablegram or other electronic transmission was authorized by the Member or his or her duly authorized agent. If it is determined that such telegrams, cablegrams or other electronic transmissions are valid, the inspectors or, if there are no inspectors, such other persons making that determination shall specify the nature of the information upon which they relied. Each Member, or his or her duly authorized agent, may also vote in person or by submission of their written proxy to the Secretary.

The Secretary shall furnish a form of proxy with each notice of a meeting which shall list the items to be voted upon at the meeting and shall provide, by boxes or otherwise, means by which the Member, his or her duly authorized agent, or any duly authorized proxy solicitation firm, proxy support service or like agent, may designate how the votes should be cast under the proxy. Each proxy will be valid only for a specified meeting and any adjournment thereof, and shall be revocable at the pleasure of the Member, or his or her duly authorized agent, executing it.

Adopted.

October 30, 1998

Amendments.

June 17, 2003

[_____, 2004]

Section 1.13 Nomination Procedures – Directors of MC. (a) All candidates to be submitted to the Members for election to the Board of Directors shall be selected by the MC Nominating Committee or by petition as provided in Subsection (d) of this Section 1.13.

(b) The MC Nominating Committee shall report to the Members at least eight weeks prior to the annual meeting of Members the names of candidates nominated as Directors. Such report shall be promptly disseminated or made available to the Members by posting or other appropriate means and the Secretary shall, within three days thereafter, mail to each Member a statement of the names of the candidates nominated by the MC Nominating Committee.

(c) Any Member may propose nominees for Directors to the MC Nominating Committee for consideration by written submission filed with the Secretary for delivery to the MC Nominating Committee not less than 12 weeks prior to the annual meeting of the Members. No proposed nomination shall be valid unless (1) it is timely filed with the Secretary, (2) it specifies the proposed nominee and (3) the proposed nominee is eligible for the position of Director. In the event that any question is raised as to the validity of any proposal or the eligibility of any candidate (pursuant to the criteria set forth in Section 2.02 or otherwise adopted by the MC Nominating Committee), such matter shall be determined by the MC Nominating Committee in its sole discretion and without the right of appeal.

(d) Any Member may nominate candidates for Directors by written petition filed with the Secretary for delivery to the MC Nominating Committee within three weeks after the dissemination of the report of the MC Nominating Committee in accordance with Section 1.13(c). No Member shall nominate or endorse (pursuant to this Section 1.13(d)) more than one candidate for each position. No nomination by petition shall be valid unless (1) it is timely filed with the Secretary, (2) it is signed by not less than 40 Members, (3) it specifies the candidate nominated and (4) the candidate named therein is eligible for the position of Director. The Secretary shall report to the Board of Directors and to the MC Nominating Committee, the names of all persons nominated by timely

petition. In the event that any question is raised as to the validity of any petition or the eligibility of any candidate, such matter shall be determined by the MC Nominating Committee in its sole discretion and without the right of appeal. The persons nominated by valid petition shall be deemed nominees for Directors. The Secretary shall promptly disseminate or make available to the Members by posting or other appropriate means and shall, within three days thereafter, mail to each Member a statement of the names of the candidates nominated by petition.

(e) The nominees submitted to the Members for election as Directors upon the nomination of the MC Nominating Committee shall consist of at least five persons.

(f) The names of all nominees, whether nominated by the MC Nominating Committee or by petition, shall be arranged on the ballot in alphabetical order for each position. The nominees nominated by the MC Nominating Committee shall be identified by an appropriate legend or symbol.

(g) The time periods set forth in paragraphs (b), (c) and (d) of this Section 1.13 may be equitably adjusted by the MC Nominating Committee with respect to the first election of Directors occurring following April 1, 2004, to facilitate a prompt initial election; provided, however, in no event shall the petition period described in Section 1.13(d) hereof be less than 10 business days.

Adopted.

October 30, 1998

Amendments.

[_____, 2004]

Section 1.14 Nomination Procedures – Governors, Council Members and Trustees. (a) All candidates to be submitted to the Members for election to the positions described in Section 1.04 shall be selected by the Amex Nominating and Corporate Governance Committee or by petition as provided in Subsection (d) of this Section 1.14.

(b) The Amex Constitution requires the Amex Nominating and Corporate Governance Committee to report to the Corporation at least eight weeks prior to the annual meeting of Members the names of candidates nominated as Governors, Council Members and Trustees. Upon receipt from Amex, such report shall be promptly disseminated or otherwise made available to the Members by posting or other appropriate means and the Secretary shall, within three days thereafter, mail to each Member a statement of the names of the candidates nominated by the Amex Nominating and Corporate Governance Committee.

(c) Any Member may propose to the Amex Nominating and Corporate Governance Committee nominees for Governors, Council Members and Trustees in accordance with the procedures set forth in Article III, Section 2 of the Amex Constitution.

(d) Any Member may nominate candidates for Governors, Council Members and Trustees by written petition in accordance with the procedures set forth in Article III, Section 4 of the Amex Constitution. Upon receipt from Amex, the Secretary shall promptly disseminate or make available to the Members by posting or other appropriate means and shall, within three days thereafter, mail to each Member a statement of the names of the candidates nominated by petition.

(e) The nominees submitted to the Members for election as Governors upon the nomination of the Amex Nominating and Corporate Governance Committee shall reflect the applicable terms of office set forth in Section 1(d) of Article II of the Amex Constitution and following classifications of Governors set forth in Section 1(a) of Article II of the Amex Constitution: nine Independent Governors (defined below), two persons who spend a substantial portion of their time on the floor of the Exchange (the “Floor Governors”), one person who shall be the owner of a regular membership or options principal membership in the Corporation (the “Membership Governor”), one person who shall be affiliated with regular or associate member organizations that engage in a business having substantial direct contact with public securities customers (the “Upstairs Governor”), one person who shall be a director, officer, employee or representative of an issuer of securities that are listed on Amex (the “Listed Company Governor”), and one person who shall be the chief executive officer of Amex (the “Management Governor,” and together with the Floor Governors, the Membership Governor, the Upstairs Governor, and the Listed Company Governor, the “Industry Governors”). For purposes of these By-Laws, the term “Independent Governor” shall mean a person who is not an officer or employee of, and who has no material business relationship with Amex or the holders of Class A Interest or Class B Interest of Amex and who (a) is not a Member, lessor or lessee Member, (b) is not employed by, or affiliated or associated with, an entity that (i) is a Member, (ii) otherwise has Trading Rights or privileges on the Exchange or (iii) is a broker or dealer, (c) is not a director, officer or employee of an issuer of securities that are listed on the Exchange and (d) meets such additional criteria for independence or otherwise, as are not inconsistent with Article II of the Amex Constitution, as shall have been established by the Amex Nominating and Corporate Governance Committee from time to time.

(f) The nominees submitted to the Members for election as Trustees upon the nomination of the Amex Nominating and Corporate Governance Committee shall consist of at least six persons, all of whom shall be both (a) Regular or Options Principal Members and (b) Participants as defined in Article IX of the Amex Constitution.

(g) The nominees submitted to the Members for election as Council Members upon the nomination of the Amex Nominating and Corporate Governance Committee shall consist of six persons, three of whom shall be Independent Governors and three of whom shall be Industry Governors.

(h) The names of all nominees, whether nominated by the Amex Nominating and Corporate Governance Committee or by petition, shall be arranged on the ballot in alphabetical order for each office, position or class of Governor, Council Member or

Trustee. The nominees nominated by the Amex Nominating and Corporate Governance Committee shall be identified by an appropriate legend or symbol.

(i) The time periods set forth in Article III Sections 3 and 4 of the Amex Constitution may be equitably adjusted by the Amex Nominating and Corporate Governance Committee with respect to first election of Governors occurring following April 1, 2004, to facilitate a prompt initial election as described in Article III Section 5 of the Amex Constitution; provided, however, in no event shall the petition period described in Article III Section 4 of the Amex Constitution be less than 10 business days.

Adopted.

[_____, 2004]

Section 1.15 Fixing a Record Date. For the purpose of determining the Members entitled to notice of, or to vote at, any meeting of Members or any adjournment thereof, or to receive payment of any distribution or allotment of any rights, or any other lawful action, the Board of Directors may fix, in advance, a record date. Such record date shall not be more than 50 nor less than 10 days before the date of such meeting, nor more than 50 days prior to any other action. If no such record date is fixed by the Board of Directors, the record date for determining Members entitled to notice of, or to vote at, a meeting of Members shall be at the close of business on the day next preceding the day on which notice is given, or, if no notice is given, the day on which the meeting is held. If no record date is fixed by the Board of Directors, the record date for any purpose other than determining the entitlement to notice of, or the right to vote at, a meeting of Members shall be the close of business on the day on which the Board of Directors adopts the resolution relating such other purpose. When a determination of Members entitled to notice of, or to vote at any meeting of Members, has been made as provided in this Section 1.15, such determination shall apply to any adjournment thereof unless the Board of Directors fixes a new record date for the adjourned meeting.

Adopted.

[_____, 2004]

ARTICLE II

Board Of Directors

Section 2.01 Powers; Regulations. The Corporation shall be managed by the Board of Directors. The Board of Directors shall have the power to take all actions necessary to carry out the purposes of the Corporation as set forth in the Second Restated Certificate of Incorporation.

Adopted.

October 30, 1998

Amendments.

[_____, 2004]

Section 2.02 Qualification of Directors. The Board of Directors shall be such persons who are elected by the Members in accordance with these By-Laws and applicable law.

Adopted.

October 30, 1998

Amendments.

[_____, 2004]

Section 2.03 Term of Office. The Board of Directors shall be elected for one-year terms and shall hold office until their successors are elected. No Director who has served eight consecutive elected terms as Director shall be eligible for election as a Director except after an interval of two years; provided, however, that service on the Board of Directors prior to January 1, 1999 shall not be taken into account for these purposes.

Adopted.

[_____, 2004]

Section 2.04 Resignations. Any Director may resign at any time by delivering a written resignation to the Chairman or the Secretary. The acceptance of any such resignation, unless required by the terms hereof, shall not be necessary to make the same effective.

Adopted.

October 30, 1998

Section 2.05 Removal. Any Director may be removed at any time for cause by a majority vote of the other Directors then in office.

Adopted.

[_____, 2004]

Section 2.06 Vacancies. Any vacancy on the Board of Directors may be filled for the unexpired portion of the term of such vacated Director by a majority vote of all remaining Directors.

Adopted.

[_____, 2004]

Section 2.07 Annual Meetings. The annual meeting of the Board of Directors for the election of officers of the Corporation and for receiving such report as may be required at the time by Section 519 of the New York Not-for-Profit Corporation Law or other applicable statute at that time in effect and for the transaction of such other business as may properly come before the meeting shall be held following the Annual Meeting of Members, at a time and place to be specified in the notice or waiver of notice of the meeting.

Adopted.

October 30, 1998

Section 2.08 Other Regular Meetings. The Board of Directors may from time to time provide by resolution for the holding of such regular meetings as it may determine.

Adopted.

October 30, 1998

Section 2.09 Special Meetings. Special Meetings of the Board of Directors may be called any time by the Chairman or by any Director upon written demand of a majority of the Board of Directors.

Adopted.

October 30, 1998

Section 2.10 Place of Meetings. Meetings of the Board of Directors shall be held at the principal office of the Corporation in the City of New York or at such other place as may from time to time be designated by the Chairman and specified in the notice of meeting or in the waiver of notice thereof.

Adopted.

October 30, 1998

Section 2.11 Notice of Meetings; Waiver. Notice of each special meeting of the Board of Directors shall be mailed to each Director by first-class mail, postage prepaid, addressed to such Director at his or her address as it appears on the records of the Corporation, not less than two days before the day when such meeting is to be held, and shall specify the purposes for which the meeting is called and the place, date and hour thereof, provided that notice of special meetings to discuss matters requiring prompt action may be sent to the Directors at such address by facsimile or e-mail or given to such Director personally or by telephone no less than 24 hours before the time at which such meeting is to be held. However, notice of any meeting need not be given to any Director who submits a signed waiver of notice whether before or after such meeting. The attendance of any Director at a meeting without protesting prior to the conclusion of the meeting the lack of notice of such meeting shall constitute a waiver of notice by such Director. No notice need be given of any adjourned meeting.

Adopted.

October 30, 1998

Section 2.12 Quorum and Adjournments. Except as any time otherwise required by law, the presence at any meeting of the Board of Directors of a majority of the Directors shall constitute a quorum for the transaction of business. Whether or not a quorum is present, the Directors present at the appointed time and place of the meeting may adjourn the meeting to another time or place or both. At any duly adjourned meeting at which a quorum is obtained, any business may be transacted at the meeting as originally called.

Adopted.

October 30, 1998

Section 2.13 Voting. Except as at any time otherwise required by law or by these By-Laws, each matter shall be decided by a vote of a majority of the Directors present at the time of the vote, provided a quorum is present.

Adopted.

October 30, 1998

Section 2.14 Presence at Meeting by Telephone. Any one or more Directors may participate in any meeting of the Board of Directors, and any one or more committee members may participate in any committee meeting, by means of a conference telephone or similar equipment allowing all persons participating in such meeting to hear each other at the same time. Participation by such means shall constitute presence in person at the meeting.

Adopted.

October 30, 1998

Section 2.15 Action by Written Consent. Except as at the time otherwise required or permitted by law, any action required or permitted to be taken at any meeting of the Board of Directors, or any committee meeting, may be taken without a meeting if all members of the Board of Directors, or of such committee, consent in writing to the adoption of a resolution authorizing the action. The resolution and written consents hereto shall be filed with the minutes of the proceedings of the Board of Directors, or of such committee.

Adopted.

October 30, 1998

ARTICLE III

Committees

Section 3.01 Committees. The Board of Directors may designate one or more committees, including an executive committee, each consisting of three or more Directors. Each such committee shall serve at the pleasure of the Board of Directors.

Adopted.

October 30, 1998

Section 3.02 Powers of Committees. To the extent provided by a resolution adopted by a majority of the Board of Directors, any committee may have and may exercise all the powers of the Board of Directors, except that such committee shall not have authority as to the following matters:

(a) The filling of vacancies in the Board of Directors or in any committee thereof (other than the MC Nominating Committee);

(b) The amendment or the repeal of these By-Laws or the adoption of new By-Laws;

(c) The amendment or repeal of any resolution of the Board of Directors which by its term shall not be so amendable or repealable;

(d) The submission to the Members of any action as to which Members' approval is required by law; or

(e) The fixing of compensation of Directors for serving on the Board of Directors or on any committee.

At any meeting of such committee, the presence of a majority of its members then in office shall constitute a quorum for the transaction of business.

Adopted.

October 30, 1998

Amendments.

[_____, 2004]

Section 3.03 MC Nominating Committee. (a) The MC Nominating Committee shall be appointed by the Board of Directors and shall consist of two or three Directors, as established by resolution of the Board of Directors. The MC Nominating Committee shall: (i) establish criteria and procedures for the nomination of Directors; (ii) search for qualified nominees for submission to the Members for election; (iii) review the qualifications of and, when necessary and appropriate, interview candidates who may be proposed for nomination or who are nominated by petition as Directors; (iv) submit to the Members a slate of nominees for the election of Directors; (v) perform any and all duties in connection with the selection, election, or termination of the Directors as the Board of Directors may request; and (vi) make periodic reports to the entire Board of Directors on such matters within the committee's powers and responsibilities as the Board of Directors may specify.

(b) Any vacancy in the MC Nominating Committee should be filled by the remaining members thereof, who shall elect a person qualified to fill the vacancy.

Adopted.

[_____, 2004]

ARTICLE IV

Officers

Section 4.01 Number of Officers and Qualifications. The officers of the Corporation shall be a Chairman, a Secretary and such other officers as may be elected by the Board of Directors. The officers of the Corporation may, but need not, be Directors. Any person may hold any two or more offices of the Corporation, except the offices of Chairman and Secretary.

Adopted.

October 30, 1998

Section 4.02 Election and Term of Office. The officers of the Corporation shall be elected by the Board of Directors at each annual meeting of the Board of Directors. If for any reason such a meeting is not held in any year, such officers shall be elected at the next meeting of the Board of Directors. Vacancies may be filled or new offices created and filled at any meeting of the Board of Directors. Each officer shall hold office until the next annual meeting of the Board of Directors following his or her election, or until a successor shall have been elected and shall have qualified, or until his or her earlier death, resignation or removal.

Adopted.

October 30, 1998

Section 4.03 Chairman. The Chairman shall preside at all meetings of the Board of Directors. The Chairman shall have all the powers and perform all the duties incident to the office of Chairman or which may be assigned to him from time to time by the Board of Directors.

Adopted.

October 30, 1998

Section 4.04 Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and shall give or cause to be given all notices required by law or these By-Laws. The Secretary shall be custodian of the corporate records and shall keep or cause to be kept a record which shall contain the names and addresses of the Directors and officers of the Corporation and the dates upon which such persons became Directors or officers. The Secretary shall be the custodian of the seal of the Corporation, shall affix the seal on all contracts and other documents which shall require the seal, and shall attest the same, and in general, shall perform all other duties which are incident to the office of Secretary or which may be assigned to him from time to time by the Board of Directors.

Adopted.

October 30, 1998

Section 4.05 Other Officers. Each other officer elected by the Board of Directors shall have such powers and shall perform such duties as prescribed by the Board of **Directors.**

Adopted.

October 30, 1998

Section 4.06 Delegation. In the case of the absence of any officer or agent of the Corporation, the Board of Directors, without removal, may delegate the powers and duties of such officer or agent to any other officer, agent or suitable person selected by the Board of Directors for such period as the Board of Directors may deem proper, subject, however, to any limitations herein contained and only to the extent permitted by law.

Adopted.

October 30, 1998

Section 4.07 Resignations. Any officer may resign at any time by delivering a written resignation to the Chairman or the Secretary. The acceptance of any such resignation unless required by the terms thereof shall not be necessary to make the same effective.

Adopted.

October 30, 1998

Section 4.08 Removal. Any officer of the Corporation may be removed at any time, either for cause or without cause by a vote of the Board of Directors.

Adopted.

October 30, 1998

Section 4.09 Vacancies. Any vacancy in any office may be filled for the unexpired portion of the term of such office by a vote of the Board of Directors.

Adopted.

October 30, 1998

ARTICLE V

Notices

Section 5.01 Form and Delivery. Except as otherwise expressly provided by law or by these By-Laws, any written notice required to be given by law, the Second Restated Certificate of Incorporation or these By-Laws to any Member, Director or other person may be delivered personally or by mail or, in the case of notices to Directors, by telephone, facsimile or other electronic transmission. Notice by mail shall be deemed to have been given at the time when such notice is deposited, postage prepaid, in a post office or post office depository under the exclusive care and custody of the United States

Postal Service, addressed to such Member, Director or other person at his last known address as the same appears on the records of the Corporation or, if a Member or Director shall have filed with the Secretary a written request that notices to him be mailed to some other address, then directed to him at such other address. Such mailing shall be by first-class mail except as provided in Section 2.08 or as otherwise required by law.

Adopted.

October 30, 1998

Amendments.

[_____, 2004]

Section 5.02 Waiver. No notice required to be given by any statute, by the Second Restated Certificate of Incorporation or by these By-Laws need be given to any person otherwise entitled to notice who, in person or by proxy, signs a waiver of notice, whether signed before or after the time of the action to which the notice relates. In addition, the attendance by any Member at any meeting of members in person or by proxy without protesting prior to the conclusion of such meeting the absence of notice thereof to him, and the attendance by any Director at any meeting of the Board of Directors without protesting prior to such meeting or at its commencement such absence of notice, shall, in each such case, constitute a waiver of notice of such meeting by such Member or Director.

Adopted.

October 30, 1998

Amendments.

[_____, 2004]

ARTICLE VI

Office And Books And Records

Section 6.01 Office. The principal office of the Corporation shall be located at such place in the City and County of New York as the Board of Directors may from time to time determine.

Adopted.

October 30, 1998

Amendments.

[_____, 2004]

Section 6.02 Books and Records. The Corporation shall keep at the office of the Corporation or such other locations within the United States as may from time to time be designated by the Board of Directors correct and complete books and records of account and minutes of the proceedings of its Members, Board of Directors and committees, if any, and a list of the names, addresses and classes of membership of the Members. Any

of the foregoing books, minutes and records may be in written form or in any other form capable of being converted into written form within a reasonable time. To the extent that the foregoing books, minutes and records are related to the activities of Amex, such books, minutes and records shall be deemed to be the books, minutes and records of Amex for the purposes of Section 17(b) of the Securities Exchange Act of 1934, as amended, and shall be subject at all times to inspection and copying by the United States Securities and Exchange Commission and Amex.

Adopted.

October 30, 1998

Amendments.

[_____, 2004]

ARTICLE VII

Miscellaneous

Section 7.01 Deposit of Funds. All funds of the Corporation not otherwise employed shall be deposited in such banks or trust companies or with such bankers or other depositories as the Board of Directors from time to time may determine. The securities of the Corporation shall be deposited in such deposit vaults or kept in the custody of such banks or trust companies as the Board of Directors it may designate.

Adopted.

October 30, 1998

Section 7.02 Checks, etc. All checks, drafts, endorsements, notes and evidences of indebtedness of the Corporation shall be signed by such officer or officers or agent or agents of the Corporation and in such manner as the Board of Directors from time to time may determine.

Adopted.

October 30, 1998

Section 7.03 Corporate Seal. The corporate seal of the Corporation shall be circular in form and shall bear the words and figures: "The Amex Membership Corporation" or words and figures of similar import. The form of such seal shall be subject to alteration by the Board of Directors.

Adopted.

October 30, 1998

Amendments.

January 25, 1999

Section 7.04 Fiscal Year. The fiscal year of the Corporation shall begin on January 1 of each calendar year and end on December 31 of the same calendar year or as otherwise determined by resolution of the Board of Directors.

Adopted.

October 30, 1998

Section 7.05 Officers and Directors. With respect to conduct by the officers and Directors of the Corporation that relates to the activities of Amex, such officers and Directors shall be deemed to be the officers and Directors of Amex solely for the purposes of the removal and censure authority of the United States Securities and Exchange Commission pursuant to Section 19(h)(4) of the Securities Exchange Act of 1934, as amended.

For so long as the Corporation shall control, directly or indirectly, Amex, each officer, Director and employee of the Corporation shall give due regard to the preservation of the independence of the self-regulatory function of Amex and to Amex's obligations under the Securities Exchange Act of 1934, as amended, and the rules thereunder, including, without limitation, Section 6(b) of such Act and shall not take any actions which he or she knows or reasonably should have known would interfere with the effectuation of any decisions by the Board of Governors of Amex relating to its regulatory functions (including disciplinary matters) or which would adversely affect the ability of Amex to carry out its responsibilities under the Securities Exchange Act of 1934, as amended.

Adopted.

[_____, 2004]

Section 7.06 Consent to Jurisdiction. For so long as the Corporation shall control, directly or indirectly, Amex, the Corporation shall, and its officers, Directors and employees by virtue of their acceptance of such position shall be deemed to, irrevocably submit to the exclusive jurisdiction of the United States federal courts, United States Securities and Exchange Commission, and Amex, for the purposes of any suit, action or proceeding pursuant to the United States federal securities laws, and the rules or regulations thereunder, arising out of, or relating to the activities of Amex and the Corporation shall, and by virtue of their acceptance of any such position, the officers, Directors and employees of the Corporation shall be deemed to, waive and agree not to assert by way of motion, as a defense or otherwise in any such suit, action or proceeding, any claims that it or they are not personally subject to the jurisdiction of the United States Securities and Exchange Commission as to such matters, that the suit, action or proceeding is an inconvenient forum or that the venue of the suit, action or proceeding is improper, or that the subject matter thereof may not be enforced in or by such courts or agency.

Adopted.

[_____, 2004]

Section 7.07 Cooperation with the Securities and Exchange Commission. For so long as the Corporation shall control, directly or indirectly, Amex, the Corporation shall, and the officers, Directors and employees of the Corporation by virtue of their acceptance of such position shall be deemed to, agree to cooperate with the United States Securities and Exchange Commission and Amex, in respect of said Commission's oversight responsibilities regarding Amex and the self-regulatory functions and responsibilities of Amex. The Corporation shall take reasonable steps to ensure that its agents similarly cooperate with such Commission.

Adopted.

[_____, 2004]

Section 7.08 Confidential Information. All confidential information of Amex pertaining to the self-regulatory function of Amex, including books, minutes and records of Amex reflecting such confidential information (including but not limited to regulatory investigations, examinations, disciplinary matters, and to the extent designated by Amex as confidential, trading data and practices) which shall come into the possession of the Corporation, the officers, Directors, employees or agents of the Corporation, shall be retained in confidence by the Corporation and the officers, Directors, employees and agents of the Corporation and shall not be used for any non-regulatory purposes. The Corporation shall take reasonable steps to ensure that its agents will comply with this section. Nothing in the By-laws shall be interpreted as to limit or impede the rights of the United States Securities Exchange Commission or Amex to access and examine such confidential information pursuant to the U.S. federal securities laws and the rules thereunder, or to limit or impede the ability of the Corporation, officers, Directors, employees or agents of the Corporation to disclose such confidential information to said Commission or Amex.

Adopted.

[_____, 2004]

Section 7.09 Further Compliance. The Corporation shall take reasonable steps to ensure that its officers, Directors and employees comply with Sections 6.02, 7.05, 7.06, 7.07 and 7.08 hereof, which shall include obtaining a written agreement from such individuals, as a condition to their initial or continued employment or service as a Director, that they will comply with or consent to, as the case may be, such provisions.

Adopted.

[_____, 2004]

ARTICLE VIII

Indemnification

Section 8.01 Indemnity Undertaking. The Corporation shall, to the fullest extent permitted by law, indemnify any person who is or was made, or threatened to be made, a party to any threatened, pending or completed, action, suit or proceeding, whether civil,

criminal, administrative or investigative, including, without limitation, an action by or in the right of the Corporation to procure a judgment in its favor (hereinafter a “Proceeding”), by reason of the fact that such person, or a person of whom such person is the legal representative, is or was a Director or officer of the Corporation, or is or was serving in any capacity at the request of the Corporation for any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against judgments, fines, penalties, excise taxes, amounts paid in settlement (with the written consent of the Corporation, which shall not be unreasonably withheld) and costs, charges and expenses (including attorneys’ fees and disbursements). Notwithstanding the foregoing, no indemnification shall be provided to or on behalf of any Director or officer if a judgment or other final adjudication adverse to such Director or officer establishes that (i) his or her acts were committed in bad faith or were the result of active and deliberate dishonesty and, in either case, were material to the cause of action so adjudicated, (ii) he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled or (iii) his or her acts violated Section 719 of the New York Not-for-Profit Corporation Law (“Section 719”). Persons who are not Directors or officers of the Corporation may be similarly indemnified in respect of service to the Corporation or to another such entity at the request of the Corporation to the extent the Board of Directors at any time denominates such person as entitled to the benefits of this Article VIII.

Section 8.02 Advancement of Expenses. The Corporation shall, from time to time, reimburse or advance to any Director or officer or other person entitled to indemnification hereunder the funds necessary for payment of expenses, including attorneys’ fees and disbursements, incurred in connection with any Proceeding, in advance of the final disposition of such Proceeding; provided, however, that such expenses incurred by or on behalf of any Director or officer or other person may be paid in advance of the final disposition of a Proceeding only upon receipt by the Corporation of an undertaking, by or on behalf of such Director or officer (or other person indemnified hereunder), to repay any such amount so advanced if a judgment or other final adjudication adverse to the Director or officer establishes that (i) his or her acts were committed in bad faith or were the result of active and deliberate dishonesty and, in either case, were material to the cause of action so adjudicated, (ii) he or she personally gained in fact a financial advantage to which he or she was not legally entitled, or (iii) his or her acts violated Section 719.

Section 8.03 Rights Not Exclusive. The right to indemnification and advancement of expenses provided by, or granted pursuant to, this Article VIII shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may have or hereafter be entitled under any law, By-Law, or agreement, vote of Members, if any, or of disinterested Directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office.

Section 8.04 Continuation of Benefits. The indemnification and advancement of expenses provided by, or granted pursuant to, this Article VIII shall continue as to a

person who has ceased to be a Director or officer and shall inure to the benefit of the heirs, executors and administrators of such person.

Section 8.05 Insurance. The Corporation shall have the power to purchase and maintain insurance to indemnify (i) itself for any obligation which it incurs as a result of the indemnification of Directors and officers under the provisions of this Article VIII, (ii) any Director or officer in instances in which they may be indemnified under the provisions of this Article VIII or (iii) any Director or officer in instances in which they may not otherwise be indemnified by the Corporation under the provisions of Article VIII, subject to the limitations imposed under Section 726 of the Not-for-Profit Corporation Law (or any successor section).

Section 8.06 Security. To secure payment of any obligation of indemnification or advancement of expenses provided by, or granted pursuant to, this Article VIII, the Corporation may create a trust fund, grant a security interest or use other means (including, without limitation, a letter of credit) to insure the payment of such sums as may become necessary to effect indemnification or advancement of expenses as provided herein.

Section 8.07 Binding Effect. The provisions of this Article VIII shall be a contract between the Corporation, on the one hand, and each Director and officer who serves in such capacity at any time while this Article VIII is in effect and any other person indemnified hereunder, on the other hand, pursuant to which the Corporation and each such Director, officer or other person intend to be legally bound. No repeal or modification of this Article VIII shall affect any rights or obligations with respect to any state of facts then or theretofore existing or thereafter arising or any Proceeding theretofore or thereafter brought or threatened based in whole or in part upon any such state of facts.

Section 8.08 Procedural Rights. The right to indemnification and reimbursement and advancement of expenses provided in this Article VIII shall be enforceable by any person entitled to indemnification or advancement of expenses hereunder in any court of competent jurisdiction. The burden of proving that indemnification or reimbursement and advancement of expenses are not appropriate shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel or its Members) to have made a determination prior to the commencement of such action that indemnification or advances are proper in the circumstances nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel or its Members) that such person is not entitled to indemnification or to the reimbursement or advancement of expenses, shall constitute a defense to the action or create a presumption that such person is not so entitled. Such person shall also be indemnified for any expenses incurred in connection with successfully establishing his or her right to indemnification or advances, in whole or in part, in any such Proceeding.

Section 8.09 Election of Applicable Law. Any person entitled to be indemnified or to the reimbursement or advancement of expenses as a matter of right pursuant to this Article VIII may elect to have the right to indemnification (or advancement of expenses)

interpreted on the basis of the applicable law (including, without limitation, Section 722 or any successor section thereto) in effect at the time of the occurrence of the event or events giving rise to the applicable Proceeding, to the extent permitted by law, or on the basis of the applicable law (including, without limitation, Section 722 or any successor section thereto) in effect at the time indemnification is sought. Such election shall be made, by a notice in writing to the Corporation, at the time indemnification is sought; provided, that if no such notice is given, the right to indemnification shall be determined by the law in effect at the time indemnification is sought.

Adopted.

October 30, 1998

Amendments.

[_____, 2004]

ARTICLE IX

Amendments

Section 9.01 Amendments. Except as set forth in the Second Restated Certificate of Incorporation or these By-Laws or provided by statute, these By-Laws may be altered, amended or repealed by the Board of Directors of the Corporation at any annual, regular or special meeting. For so long as the Corporation shall control, directly or indirectly, Amex, before any change or addition to the By-laws of the Corporation shall be effective, the same shall be submitted to the Board of Governors of Amex and if said Board shall determine that the same constitutes a “rule of an exchange” as such term is defined in the Securities Exchange Act of 1934, as amended, and the rules promulgated thereunder and must be filed with or filed with and approved by the United States Securities and Exchange Commission before the same may be effective, under Section 19 of the Securities Exchange Act of 1934, as amended, and the rules promulgated thereunder, then the same shall not be effective until filed with or filed with and approved by said Commission, as the case may be.

Adopted.

October 30, 1998

Amendments.

[_____, 2004]

Section 9.02 Amendments Relating to Elections of Directors. If any By-Law regulating an impending election of Directors is adopted, amended or repealed by the Board of Directors, there shall be set forth in the notice of the next meeting of Members for the election of Directors the By-Law so adopted, amended or repealed, together with a concise statement of the changes made.

Adopted.

October 30, 1998