

EXHIBIT 5

(additions are underlined; deletions are [bracketed])

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**SECOND AMENDED AND RESTATED**  
**CERTIFICATE OF INCORPORATION**  
**of**  
**CBOE HOLDINGS, INC.**

CBOE Holdings, Inc., a corporation organized under the laws of the State of Delaware (the “*Corporation*”), hereby certifies as follows:

1. The name of the Corporation is CBOE Holdings, Inc. The Corporation was incorporated on August 15, 2006.
2. This Second Amended and Restated Certificate of Incorporation has been duly adopted in accordance with Section 242 and Section 245 of the General Corporation Law of the State of Delaware (the “*GCL*”)[and by the written consent of its sole stockholder in accordance with Section 228 of the *GCL*]. This Second Amended and Restated Certificate of Incorporation restates, integrates and further amends the provisions of the Amended and Restated Certificate of Incorporation of the Corporation.
3. The text of the Second Amended and Restated Certificate of Incorporation as amended and restated shall read in full as follows:

FIRST: The name of the corporation is CBOE Holdings, Inc.

SECOND: The address of the registered office of the Corporation in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle, Delaware 19801[-1297]. The name of the Corporation’s registered agent at such address shall be The Corporation Trust Company.

THIRD: The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any other lawful act or activity for which corporations may be organized under the *GCL*.

FOURTH: (a) *Authorized Stock*. The total number of shares of all classes of capital stock that the Corporation is authorized to issue is three hundred [fifty-nine] forty-five million [seventy-one thousand nine hundred forty-six] ([359,071,946]345,000,000) shares, of which:

- (i) 325,000,000 shares shall be shares of Voting Common Stock, par value \$.01 per share (the “[*Unrestricted*] *Common Stock*”)[.]; and
- [(ii) 7,026,600 shares shall be shares of Class A-1 Common Stock, par value \$.01 per share (the “*Class A-1 Common Stock*”).
- (iii) 7,045,346 shares shall be shares of Class A-2 Common Stock, par value \$.01 per share (the “*Class A-2 Common Stock*”).]

([iv]ii) 20,000,000 shares shall be shares of preferred stock, par value \$.01 per share (the “*Preferred Stock*”).

(b) *Common Stock*. [The term “Common Stock” shall mean, collectively, the Class A-1 Common Stock, the Class A-2 Common Stock, and the Unrestricted Common Stock. ] All shares of Common Stock shall have the same rights, powers and preferences.

[(i) Unrestricted Common Stock, Class A-1 Common Stock and Class A-2 Common Stock.

(A) The term “Voting Common Stock” shall mean, collectively, the Class A-1 Common Stock, the Class A-2 Common Stock and the Unrestricted Common Stock.

(B) Except for the restrictions set forth in Article Fifth of this Certificate of Incorporation, all shares of Voting Common Stock, regardless of class, shall have the same rights, powers and preferences.

(C) All shares of Class A-1 Common Stock and Class A-2 Common Stock shall automatically convert into Unrestricted Common Stock pursuant to Section (i) of Article Fifth of this Certificate of Incorporation, and thereafter all such shares of Class A-1 Common Stock and Class A-2 Common Stock shall be retired and shall not be reissued.]

(c) *Preferred Stock*. The Board of Directors of the Corporation (the “Board”) is authorized, by resolution or resolutions, subject to any limitations prescribed by law, to provide for the issuance of shares of Preferred Stock in one or more series, and by filing a certificate of designations pursuant to the applicable law of the State of Delaware, to establish from time to time the number of shares to be included in each such series, and to fix the designation, powers, preferences, and rights of the shares of each such series and any qualifications, limitations or restrictions thereof, including without limitation the following:

(i) the distinctive serial designation of such series that shall distinguish it from other series;

(ii) the number of shares of such series, which number the Board may thereafter (except where otherwise provided in the certificate of designations) increase or decrease (but not below the number of shares of such series then outstanding);

(iii) whether dividends shall be payable to the holders of the shares of such series and, if so, the basis on which such holders shall be entitled to receive dividends (which may include, without limitation, a right to receive such dividends or distributions as may be declared on the shares of such series by the Board, a right to receive such dividends or distributions, or any portion or multiple thereof, as may be declared on the Common Stock or any other class of stock or, in addition to or in lieu of any other right to receive dividends, a right to receive dividends at a particular rate or at a rate determined by a particular method, in which case such rate or method of determining such rate may be set forth), the form of such dividend, any conditions on which such dividends shall be payable and the date or dates, if any, on which such dividends shall be payable;

(iv) whether dividends on the shares of such series shall be cumulative and, if so, the date or dates or method of determining the date or dates from which dividends on the shares of such series shall be cumulative;

(v) the amount or amounts, if any, which shall be payable out of the assets of the Corporation to the holders of the shares of such series upon the voluntary or involuntary liquidation, dissolution or winding-up of the Corporation, and the relative rights of priority, if any, of payment of the shares of such series;

(vi) the price or prices (in cash, securities or other property or a combination thereof) at which, the period or periods within which and the terms and conditions upon which the shares of such series may be redeemed, in whole or in part, at the option of the Corporation or at the option of the holder or holders thereof or upon the happening of a specified event or events;

(vii) the obligation, if any, of the Corporation to purchase or redeem shares of such series pursuant to a sinking fund or otherwise and the price or prices (in cash, securities or other property or a combination thereof) at which, the period or periods within which and the terms and conditions upon which the shares of such series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;

(viii) whether or not the shares of such series shall be convertible or exchangeable, at any time or times at the option of the holder or holders thereof or at the option of the Corporation or upon the happening of a specified event or events, into shares of any other class or classes or any other series of the same or any other class or classes of stock of the Corporation or any other securities or property of the Corporation or any other entity, and the price or prices (in cash, securities or other property or a combination thereof) or rate or rates of conversion or exchange and any adjustments applicable thereto;

(ix) whether or not the holders of the shares of such series shall have voting rights, in addition to the voting rights [provided] required by law, and if so the terms of such voting rights, which may provide, among other things and subject to the other provisions of this Certificate of Incorporation, that each share of such series shall carry one vote or more or less than one vote per share, that the holders of such series shall be entitled to vote on certain matters as a separate class (which for such purpose may be comprised solely of such series or of such series and one or more other series or classes of stock of the Corporation); and

(x) any other relative rights, powers, preferences and limitations of this series.

For all purposes, this Certificate of Incorporation shall include each certificate of designations (if any) setting forth the terms of a series of Preferred Stock. Subject to the rights, if any, of the holders of any series of Preferred Stock set forth in a certificate of designations, an amendment of this Certificate of Incorporation to increase or decrease the number of authorized shares of Preferred Stock (but not below the number of shares thereof then outstanding) may be adopted by resolution adopted by the Board and approved by the affirmative vote of the holders of a majority of the votes entitled to be cast by the holders of the then-outstanding shares of [Voting Common Stock]stock of the Corporation entitled to vote thereon, and no vote of the holders of any series of Preferred Stock, voting as a separate class, shall be required therefor, unless a vote of any such holders is required pursuant to the terms of any Preferred Stock designation.

Except as otherwise required by law, holders of [Voting] Common Stock, as such, shall not be entitled to vote on any amendment of this Certificate of Incorporation that alters or changes the powers, preferences, rights or other terms of one or more outstanding series of Preferred

Stock if the holders of any such series are entitled, either separately or together with the holders of one or more other series of Preferred Stock, to vote thereon pursuant to this Certificate of Incorporation or the certificate of designations relating to such series of Preferred Stock, or pursuant to the GCL as then in effect.

FIFTH: (a) *Definitions*. As used in this Certificate of Incorporation:

- (i) the term “*Act*” shall mean the Securities Exchange Act of 1934, as amended;
- (ii) the term “*beneficially owned*” shall have the meaning set forth in Rule 13d-3 and 13d-5 under the Act, as amended;
- (iii) the term “*CBOE*” shall mean the Chicago Board Options Exchange, Incorporated;
- [(iv) the term “*Family Member*” shall mean, with respect to any owner of a Restructuring Share, such owner’s spouse, domestic partner, children, stepchildren, grandchildren, parents, stepparents, grandparents, brothers, stepbrothers, sisters and stepsisters;
- (v) the term “*Initial Public Offering*” shall mean an underwritten public offering of Unrestricted Common Stock of the Corporation;
- (vi) [Deleted.]
- (vii) the term “*IPO Lock-Up Period*” shall mean:
  - (x) with respect to the Class A-1 Common Stock the period beginning at 12:01 p.m. central time on the date such Class A-1 Common Stock is issued upon conversion of the Class A Common Stock and Class B Non-Voting Common Stock into Class A-1 Common Stock pursuant to Section (h) of this Article Fifth until the A-1 Conversion Date (as defined in Section (i)(i) of this Article Fifth) occurs and the shares of Class A-1 Common Stock have converted to Unrestricted Common Stock pursuant to Section (i)(i) of this Article Fifth (at such time all Transfer restrictions applicable to the Class A-1 Common Stock shall expire) and
  - (y) with respect to the Class A-2 Common Stock the period beginning at 12:01 p.m. central time on the date such Class A-2 Common Stock is issued to convert the Class A Common Stock and Class B Non-Voting Common Stock into Class A-2 Common Stock pursuant to Section (h) of this Article Fifth until the A-2 Conversion Date (as defined in Section (i)(ii) of this Article Fifth) occurs and the shares of Class A-2 Common Stock have converted to Unrestricted Common Stock pursuant to Section (i)(ii) of this Article Fifth (at such time all Transfer restrictions applicable to the Class A-2 Common Stock shall expire)
- (viii) the term “*Lock-Up Trigger Date*” shall mean the date established by the Board and publicly announced by the Corporation on which the Interim Lock-Up Period shall commence; provided that such date shall not be less than 10 calendar days following the date of such announcement.]
- [(ix)iv] the term “*Person*” shall mean an individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust or unincorporated organization, or any governmental entity or agency or political subdivision thereof;

[(x) the term “*Qualified Change of Control*” shall mean, with respect to any record or beneficial owner of a Restructuring Share, any transaction involving (a) any purchase or acquisition (whether by way of merger, share exchange, business combination or consolidation) of more than fifty percent (50%) of the total outstanding voting securities of such owner or any tender offer or exchange offer that results in another Person (or the shareholders of such other Person) beneficially owning more than fifty percent (50%) of the total outstanding voting securities of such owner; or (b) any sale, exchange, Transfer or other disposition of more than fifty percent (50%) of the assets of such owner and its subsidiaries, taken together as whole; provided, however, that the fair market value of all of the shares of Common Stock held or beneficially owned by such owner and its subsidiaries, taken together as a whole, represents less than ten percent (10%) of the fair market value of all of the assets of such owner and its subsidiaries, taken together as a whole, at the time of such transaction, and provided further, that any such owner must, upon the Corporation’s request, provide information to the Corporation that any such transaction qualifies as a Qualified Change of Control, and any good-faith determination of the Corporation that a particular transaction qualifies or does not qualify as a Qualified Change of Control shall be conclusive and binding;]

[(xi)y)the term “*Regulated Securities Exchange Subsidiary*” shall mean any national securities exchange controlled, directly or indirectly, by the Corporation, including, but not limited to CBOE; and

[(xii)vi) the term “*Related Persons*” shall mean (A) with respect to any Person, all “affiliates” (as such term is defined in Rule 12b-2 under the Act) of such Person; (B) any Person associated with a member (as the phrase “Person associated with a member” is defined under Section 3(a)(21) of the Act); (C) any two or more Persons that have any agreement, arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, voting, holding or disposing of shares of the capital stock of the Corporation; (D) in the case of a Person that is a company, corporation or similar entity, any executive officer (as defined under Rule 3b-7 of the Act) or director of such Person and, in the case of a Person that is a partnership or a limited liability company, any general partner, managing member or manager of such Person, as applicable; (E) in the case of a Person that is a natural person, any relative or spouse of such natural person, or any relative of such spouse who has the same home as such natural person or who is a director or officer of the Corporation or any of the Corporation’s parents or subsidiaries; (F) in the case of a Person that is an executive officer (as defined under Rule 3b-7 under the Act), or a director of a company, corporation or similar entity, such company, corporation or entity, as applicable; and (G) in the case of a Person that is a general partner, managing member or manager of a partnership or limited liability company, such partnership or limited liability, as applicable[;].

[(xiii) the term “*Release*” shall mean, with respect to any Transfer restriction on any Restructuring Share imposed pursuant to this Article Fifth, any action or circumstance resulting in such Transfer restriction being removed or lapsing;

(xiv) the term “*Restructuring*” shall mean the restructuring of CBOE from a non-stock corporation to a stock corporation and wholly-owned subsidiary of the Corporation;

(xv) the term “*Restructuring Share*” shall mean any of the shares of Class A-1 Common Stock and Class A-2 Common Stock, and, in any such case, any of the shares

issued with respect to such shares by way of any stock dividend, stock split or other recapitalization;

(xvi) the term “*Scheduled Conversion Date*” shall mean, with respect to each of the Class A-1 Common Stock and the Class A-2 Common Stock, the date provided in Section (i) of Article Fifth of this Certificate of Incorporation on which the class of Common Stock would automatically convert into Unrestricted Common Stock; and

(xvii) the term “*Transfer*” shall mean, with respect to any Restructuring Share, any direct or indirect assignment, sale, exchange, transfer, tender or other disposition of such Restructuring Share or any interest therein, whether voluntary or involuntary, by operation of law or otherwise (including any sale or other disposition of any Restructuring Share in any one transaction or series of transactions relating to any option or other derivative security or transaction), and any agreement, arrangement or understanding, whether or not in writing, to effect any of the foregoing; provided, however, that a Transfer shall not occur simply as a result of (x) a “*Qualified Change of Control*” of the record or beneficial owner of such Restructuring Share or (y) the grant of a proxy in connection with a solicitation of proxies subject to the provisions of Section 14 of the Act, as amended, and the rules and regulations promulgated thereunder.

(b) *Transfer Restrictions Between Restructuring and Initial Public Offering.* Until the Corporation completes an Initial Public Offering, no Transfers of any Restructuring Share may take place unless such Transfer is made through an agent of the Corporation that has been designated by the Corporation to manage such Transfers or through an agent or broker who utilizes the market or other trading service designated by the Corporation. In addition to the foregoing sentence, until the Corporation completes an Initial Public Offering, all agents designated by the Corporation to manage Transfers and the market or other trading service designated by the Corporation shall prohibit (i) the Transfer of any Restructuring Share unless the proposed transferor of such Restructuring Share is the record owner of such Restructuring Share at the time of the proposed Transfer, or in the event of any agreement, arrangement or understanding, whether or not in writing, to effect any such Transfer, such transferor is the record owner of such Restructuring Share at the time such agreement, arrangement or understanding is entered into and (ii) any Transfer of any Restructuring Share not executed through the market or other trading service designated by the Corporation and pursuant to the procedures established for such market or trading service. Any Transfers or attempted Transfers covered by clauses (i) and (ii) of the foregoing sentence will be void. The Transfer restrictions provided in this Section (b) will apply until the date on which an Initial Public Offering has been completed.

(c) *Transfer Restrictions in the Event of Initial Public Offering.* In the event that the Corporation completes an Initial Public Offering, neither any record owner nor any beneficial owner of any Restructuring Share may Transfer such Restructuring Share during the IPO Lock-Up Period applicable to such Restructuring Share except as otherwise set forth in Section (d) of this Article Fifth.

(d) *Exemptions from Transfer Restrictions and Conversion of Shares.* Notwithstanding Sections (b) and (c) of this Article Fifth:

(i) the Board may, from time to time in its sole discretion, (A) Release any Transfer restriction set forth in this Article Fifth for any number of Restructuring Shares, on terms and

conditions and in amounts to be determined by the Board in its sole discretion, including in connection with the Release of Restrictions with respect to Restructuring Shares sold to the Corporation as part of any corporate repurchase or tender offer, as part of any sale by stockholders in an Initial Public Offering or other registered offering or as part of an Organized Sale pursuant to Section (g) of this Article Fifth and (B) in connection with the Release of Transfer restrictions pursuant to this Section (d)(i), convert each such Restructuring Share into one share of Unrestricted Common Stock, and such converted Restructuring Shares shall be retired and shall not be reissued;

(ii) this Article Fifth shall not prohibit a record or beneficial owner of a Restructuring Share from Transferring such Restructuring Share to:

(A) if such owner is an entity (including a corporation, partnership, limited liability company or limited liability partnership), (1) any Person of which such owner directly or indirectly owns all of the common voting and equity interest, (2) any Person that directly or indirectly owns all of the common voting and equity interest of such owner, (3) any other entity if a Person directly or indirectly owns all of the common voting and equity interest of both such owner and such other entity, (4) the equity holders of such owner (including stockholders, partners or members of such holder) upon a *bona fide* liquidation or dissolution of such owner, and (5) a trustee of the bankrupt estate of such owner if such owner has become bankrupt or insolvent; and

(B) if such owner is a natural person, (1) any Family Member of such owner, (2) any trust or foundation solely for the benefit of such owner and/or such owner's Family Members (such trust or foundation, a "*Qualified Trust*"), and (3) a trustee of the bankrupt estate of such owner if such owner has become bankrupt or insolvent;

(iii) this Article Fifth shall not prohibit the trustee of a Qualified Trust which is the record owner of a Restructuring Share from Transferring such Restructuring Share to any beneficiary of such Qualified Trust (including a trust for the benefit of such beneficiary) or Transferring such Restructuring Share in exchange for cash necessary to pay taxes, debts or other obligations payable by reason of the death of the grantor of such Qualified Trust or any one or more of such beneficiaries, in each case in accordance with the terms of the trust instrument;

(iv) Section (c) of this Article Fifth shall not prohibit a record or beneficial owner of a Restructuring Share from pledging or hypothecating, or granting a security interest in, such Restructuring Share, or Transferring such Restructuring Share as a result of any bona fide foreclosure resulting therefrom; and

(v) this Article Fifth shall not prohibit a fiduciary of a deceased stockholder of CBOE from Transferring a Restructuring Share to one or more beneficiaries of such estate (including a trust for the benefit of such beneficiaries) or Transferring such Restructuring Share in exchange for cash necessary to pay taxes, debts or other obligations payable by reason of the death of the deceased stockholder;

provided that, if a record or beneficial owner of a Restructuring Share makes any Transfer permitted under subsections (ii), (iii), (iv), or (v) of this Section (d), each Restructuring Share so Transferred shall continue to be bound by the terms of this Certificate of Incorporation, including the restrictions on Transfer set forth in this Certificate of Incorporation.

Any record or beneficial owner of a Restructuring Share that seeks to Transfer a Restructuring Share pursuant to this Section (d) must, upon the Corporation's request, provide information to the Corporation that any such Transfer qualifies as a permitted Transfer under this Section (d) and any good-faith determination of the Board that a particular Transfer so qualifies or does not so qualify shall be conclusive and binding.

(e) *Transfers in Violation of this Article.* The Corporation shall not register any purported Transfer of any Restructuring Share in violation of the restrictions imposed by this Article Fifth. Any purported Transfer in violation of this Article will be void.

(f) *Legends and Requirement to Hold Stock in Owner's Name.*

(i) The restrictions on Transfer set forth in Section (b) shall be referred to as the "Interim Transfer Restriction" and restrictions on Transfer set forth in Section (c) of this Article Fifth shall be referred to as the "IPO Lock-Up." For Restructuring Shares represented by stock certificates, such certificate shall bear a legend to the effect that such Restructuring Shares are subject to the Interim Transfer Restriction and the IPO Lock-Up, which legend shall be removed upon the expiration of the Interim Transfer Restriction and the applicable IPO Lock-Up Period with respect to all of the Restructuring Shares represented by such certificate. For Restructuring Shares not represented by certificates, the Corporation reserves the right to require that an analogous notification or restriction be used in respect of such Restructuring Shares or securities that are subject to the Interim Transfer Restriction and the IPO Lock-Up. Upon the Release of any Transfer restriction from any of the Restructuring Shares, if the Board shall have designated prior to such Release a particular broker or brokers and/or the particular manner of the Transfer of such shares to be Released, such shares shall be Transferred only through such broker and in such manner as designated by the Board.

(ii) Shares of Class A-1 Common Stock and Class A-2 Common Stock may only be recorded on the books and records of the Corporation in the name of the owner of the shares and may not be registered for any owner in the name of any broker or other nominee. This requirement shall not apply to any Unrestricted Common Stock into which any Common Stock of the Corporation may convert pursuant to this Certificate of Incorporation.

(g) *Organized Sales.*

(i) After completion of an Initial Public Offering, in connection with any Scheduled Conversion Date, the Corporation will have the right to organize secondary sales of Class A-1 and/or Class A-2 Common Stock, which may include: an underwritten offering, including an underwritten offering that also involves primary sales of Unrestricted Common Stock by the Corporation; a sale of Class A-1 or Class A-2 Common Stock or Unrestricted Common Stock to one or more purchasers in a limited offering or sales process; or such other sales process as the Board may reasonably determine (each an "Organized Sale").

(ii) In order to exercise its right to conduct an Organized Sale in connection with a Scheduled Conversion Date, the Corporation shall deliver to each holder of Class A-1 and Class A-2 Common Stock, not later than sixty (60) days prior to the applicable Scheduled Conversion Date, written notice of the Corporation's intent to conduct an Organized Sale (the "Organized Sale Notification"). The Organized Sale Notification shall state with reasonable specificity the nature of and the then anticipated timing of such proposed Organized Sale. For purposes of this Section (g)(ii) of Article Fifth, the Organized Sale



Notification shall be deemed to be delivered if deposited into the United States mail and sent first class mail to the holders' addresses as they appear on the books and records of the Corporation.

(iii) In order to exercise the election to participate in any Organized Sale, a holder of Class A-1 or Class A-2 Common Stock must provide the Corporation, no later than twenty (20) days following the date of mailing of the Organized Sale Notification, written notice of intent to participate in such Organized Sale as directed in the Organized Sale Notification (the "*Participation Election*"). In addition to any information identified in the Organized Sale Notification as being required to be set forth in the Participation Election, the Participation Election shall specify the class of Class A-1 and/or Class A-2 Common Stock (either shares of the class scheduled to convert into Unrestricted Common Stock in connection with such Organized Sale or shares of Class A-1 or Class A-2 Common Stock for which the applicable Transfer restriction is not yet scheduled to expire in connection with such Organized Sale) and the number of shares thereof and the number of shares of Unrestricted Common Stock that the holder thereof has elected to include in the applicable Organized Sale and shall include a commitment by the holder to enter into agreements and provide such information as is customary for the type of Organized Sale proposed to be conducted, provided such agreements contain commercially reasonable terms. In the event that holders of Class A-1 or Class A-2 Common Stock elect to include more shares in any Organized Sale than the Board determines in its sole and absolute discretion should be included in such Organized Sale, the Board shall develop in its sole and absolute discretion a mechanism for determining the number of shares of Class A-1 and Class A-2 Common Stock and Unrestricted Common Stock that may be included in such Organized Sale; provided that, with regard to shares held by such Persons (i.e., shares to be offered in secondary sales), preference shall be given first to the Class A-1 Common Stock, second to Class A-2 Common Stock and third to Unrestricted Common Stock. Each Participation Election shall be irrevocable unless waived by the Corporation.

(iv) The Corporation shall have no obligation to complete any Organized Sale or, if the Corporation completes an Organized Sale, to include any or all of the shares of Common Stock identified in the Participation Elections related to such Organized Sale. The actual number of shares that may be sold in an Organized Sale may be fewer than the aggregate number requested by stockholders to be included in the Organized Sale, including less than all of the shares of the class scheduled for release at the expiration of the related Transfer restriction period. In addition, the Corporation shall have no obligation to include any or all of the shares of Common Stock identified in any Participation Election related to such Organized Sale to the extent the holder thereof has not provided such agreements and information as are required in order to complete such Organized Sale.

(v) If the Corporation elects to exercise its right to conduct an Organized Sale in connection with a Scheduled Conversion Date, the Class A-1 and Class A-2 Common Stock shall not convert pursuant to Section (i) of this Article Fifth until the applicable Scheduled Conversion Date, as extended as provided in this subsection (v) and subsection (vi) of Section (g) of this Article Fifth, has occurred. If the Corporation elects to exercise its right to conduct an Organized Sale in connection with the Scheduled Conversion Date applicable to the Class A-1 Common Stock and does not complete such Organized Sale before sixty (60) days following the Scheduled Conversion Date applicable to the Class A-1 Common Stock,

all issued and outstanding shares of the Class A-1 Common Stock shall automatically convert into the same number of shares of Unrestricted Common Stock (without any action by the holder) on the sixty-first (61st) day following the Scheduled Conversion Date applicable to the Class A-1 Common Stock. If the Corporation elects to exercise its right to conduct an Organized Sale in connection with the Scheduled Conversion Date applicable to the Class A-2 Common Stock and does not complete such Organized Sale before three hundred sixty (360) days following the Initial Public Offering, all issued and outstanding shares of Class A-2 Common Stock shall automatically convert into the same number of shares of Unrestricted Common Stock (without any action by the holder) on the three hundred sixty-first (361st) day following the Initial Public Offering.

(vi) Notwithstanding anything else in Section (g) of Article Fifth to the contrary, if the Corporation elects to exercise its right to conduct an Organized Sale pursuant to this Section (g) and completes an Organized Sale prior to the date the Class A-1 or Class A-2 Common Stock (whichever is then scheduled to occur) would automatically convert into shares of Unrestricted Common Stock (after taking into consideration the extension of such conversion date as provided for in subsection (v) above), the Scheduled Conversion Date shall be delayed (the “Delayed Conversion Date”) for all shares of the Class A-1 or Class A-2 Common Stock that are subject to such Scheduled Conversion Date, including shares of such class not identified in Participation Elections with respect to such Organized Sale, until the ninety-first (91st) day following the later of the (a) applicable Scheduled Conversion Date set forth in Section (i) of Article Fifth of this Certificate of Incorporation, without taking into consideration any extension provided for in this Section (g), and (b) date of completion of the applicable Organized Sale, at which time, all issued and outstanding shares of the Class A-1 or Class A-2 Common Stock subject to such Scheduled Conversion Date shall automatically convert (without any action by the holder) into the same number of shares of Unrestricted Common Stock on such Delayed Conversion Date. If the Corporation does not elect to conduct an Organized Sale in connection with any Scheduled Conversion Date, the applicable Scheduled Conversion Date will occur at the time set forth in Section (i) of Article Fifth of this Certificate of Incorporation, and all issued and outstanding shares of the Class A-1 or Class A-2 Common Stock subject to such Scheduled Conversion Date shall automatically convert (without any action by the holder) into the same number of shares of Unrestricted Common Stock on such Scheduled Conversion Date.

(h) [Deleted.]

(i) *Conversion of Restricted Shares to Unrestricted Shares.* After Completion of an Initial Public Offering, the Class A-1 Common Stock and Class A-2 Common Stock will convert to Unrestricted Common Stock, subject in each case to the Corporation’s right to conduct an Organized Sale (as such term is defined in Section (g) of this Article Fifth) and to thereby delay the Scheduled Conversion Dates set forth below and extend the IPO Lock-Up Periods in accordance with subsections (v) and (vi) of Section (g) of this Article Fifth, as follows:

(i) on the date that is one hundred eighty (180) days following the date the Corporation’s shares are issued in the Initial Public Offering (the “*A-1 Conversion Date*”), all Transfer restrictions applicable to the Class A-1 Common Stock and set forth in Section (a)(vii) of this Article Fifth shall expire and each issued and outstanding share of Class A-1 Common Stock shall automatically convert (without any action by the holder) into one share of Unrestricted Common Stock; and

(ii) on the date that is three hundred sixty (360) days following the date the Corporation's shares are issued in the Initial Public Offering (the "A-2 Conversion Date"), all Transfer restrictions applicable to the Class A-2 Common Stock and set forth in Section (a)(vii) of this Article Fifth shall expire and each issued and outstanding share of Class A-2 Common Stock shall automatically convert (without any action by the holder) into one share of Unrestricted Common Stock.]

SIXTH: (a) *Voting Limitations*. Notwithstanding any other provision of this Certificate of Incorporation, (x) no Person, either alone or together with its Related Persons, as of any record date for the determination of stockholders entitled to vote on any matter, shall be entitled to vote or cause the voting of shares of stock of the Corporation, beneficially owned directly or indirectly by such Person or its Related Persons, in person or by proxy or through any voting agreement or other arrangement, to the extent that such shares represent in the aggregate more than [10%]20% of the then outstanding votes entitled to be cast on such matter, without giving effect to this Article Sixth, and the Corporation shall disregard any such votes purported to be cast in excess of such limitation; and (y) if any Person, either alone or together with its Related Persons, is party to any agreement, plan or other arrangement relating to shares of stock of the Corporation entitled to vote on any matter with any other Person, either alone or together with its Related Persons, under circumstances that would result in shares of stock of the Corporation that would be subject to such agreement, plan or other arrangement not being voted on any matter, or the withholding of any proxy relating thereto, where the effect of such agreement, plan or other arrangement would be to enable any Person with the right to vote any shares of stock of the Corporation, but for this Article Sixth, either alone or together with its Related Persons, to vote, possess the right to vote or cause the voting of shares of stock of the Corporation that would exceed [10%]20% of the then outstanding votes entitled to be cast on such matter (assuming that all shares of stock of the Corporation that are subject to such agreement, plan or arrangement are not outstanding votes entitled to be cast on such matter) (the "Recalculated Voting Limitation"), then the Person with such right to vote shares of stock of the Corporation, either alone or together with its Related Persons, shall not be entitled to vote or cause the voting of shares of stock of the Corporation beneficially owned by such Person, either alone or together with its Related Persons, in person or by proxy or through any voting agreement or other arrangement, to the extent that such shares represent in the aggregate more than the Recalculated Voting Limitation, and the Corporation shall disregard any such votes purported to be cast in excess of the Recalculated Voting Limitation. [In the event the Corporation completes an Initial Public Offering, the voting limitation provided in this Section (a) of Article Sixth shall continue to apply on the same terms as stated herein, provided, however, the voting percentages stated herein shall increase from 10% to 20%.]

(i) The limitations set forth in this Section (a), as applicable, shall apply to each Person unless and until:

(A) such Person shall have delivered to the Corporation, not less than 45 days (or such shorter period as the Board shall expressly consent to) prior to any vote, a notice in writing, of such Person's intention, either alone or together with its Related Persons, to vote or cause the voting of shares of stock of the Corporation beneficially owned by such Person or its Related Persons, in person or by proxy or through any voting agreement or other arrangement, in excess of the such limitations, as applicable;

(B) the Board shall have resolved to expressly permit such voting; and

(C) such resolution shall have been filed with, and approved by, the Securities and Exchange Commission ("SEC") under Section 19(b) of the Act, and shall have become effective thereunder.

(ii) Subject to its fiduciary obligations under applicable law, the Board shall not adopt any resolution pursuant to clause (B) of Section (a)(i) of this Article Sixth unless the Board shall have determined that:

(A) the exercise of such voting rights or the entering into of such agreement, plan or other arrangement, as applicable, by such Person, either alone or together with its Related Persons, will not impair the ability of either the Corporation or any Regulated Securities Exchange Subsidiary to discharge its respective responsibilities under the Act and the rules and regulations thereunder and is otherwise in the best interests of the Corporation, its stockholders and the Regulated Securities Exchange Subsidiaries;

(B) the exercise of such voting rights or the entering into of such agreement, plan or other arrangement, as applicable, by such Person, either alone or together with its Related Persons, will not impair the SEC's ability to enforce the Act;

(C) in the case of a resolution to approve the exercise of voting rights in excess of [10% or ]20% [(as applicable at such time)] of the then outstanding votes entitled to be cast on such matter, (x) neither such Person nor any of its Related Persons is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Act) and (y) for so long as the Corporation directly or indirectly controls any Regulated Securities Exchange Subsidiary, neither such Person nor any of its Related Persons is a "Trading Permit Holder" (as defined in the Bylaws of any Regulated Securities Exchange Subsidiary as they may be amended from time to time) (any such Person that is a Related Person of such Trading Permit Holder shall hereinafter also be deemed to be a Trading Permit Holder for purposes of this Certificate of Incorporation, as the context may require); and

(D) in the case of a resolution to approve the entering into of an agreement, plan or other arrangement under circumstances that would result in shares of stock of the Corporation that would be subject to such agreement, plan or other arrangement not being voted on any matter, or the withholding of any proxy relating thereto, where the effect of such agreement, plan or other arrangement would be to enable any Person, but for this Article Sixth, either alone or together with its Related Persons, to vote, possess the right to vote or cause the voting of shares of stock of the Corporation that would exceed [10% or ]20% [(as applicable at such time)] of the then outstanding votes entitled to be cast on such matter (assuming that all shares of stock of the Corporation that are subject to such agreement, plan or other arrangement are not outstanding votes entitled to be cast on such matter), (x) neither such Person nor any of its Related Persons is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Act) and (y) for so long as the Corporation directly or indirectly controls any Regulated Securities Exchange Subsidiary, neither such Person nor any of its Related Persons is a Trading Permit Holder.

In making such determinations, the Board may impose such conditions and restrictions on such Person and its Related Persons owning any shares of stock of the Corporation entitled to vote on

any matter as the Board may in its sole discretion deem necessary, appropriate or desirable in furtherance of the objectives of the Act and the governance of the Corporation.

(iii) If and to the extent that shares of stock of the Corporation beneficially owned by any Person or its Related Persons are held of record by any other Person, this Section (a) shall be enforced against such record owner by limiting the votes entitled to be cast by such record owner in a manner that will accomplish the limitations contained in this Section (a) applicable to such Person and its Related Persons.

(iv) The limitations set forth in the first paragraph of this Section (a) shall not apply to (x) any solicitation of any revocable proxy from any stockholder of the Corporation by or on behalf of the Corporation or by any officer or director of the Corporation acting on behalf of the Corporation or (y) any solicitation of any revocable proxy from any stockholder of the Corporation by any other stockholder that is conducted pursuant to, and in accordance with, Regulation 14A promulgated pursuant to the Act (other than a solicitation pursuant to Rule 14a-2(b)(2) promulgated under the Act, with respect to which this Section (a) of this Article Sixth shall apply).

(v) For purposes of this Section (a), no Person shall be deemed to have any agreement, arrangement or understanding to act together with respect to voting shares of stock of the Corporation solely because such Person or any of such Person's Related Persons has or shares the power to vote or direct the voting of such shares of stock as a result of (x) any solicitation of any revocable proxy from any stockholder of the Corporation by or on behalf of the Corporation or by any officer or director of the Corporation acting on behalf of the Corporation or (y) any solicitation of any revocable proxy from any stockholder of the Corporation by any other stockholder that is conducted pursuant to, and in accordance with, Regulation 14A promulgated pursuant to the Act (other than a solicitation pursuant to Rule 14a-2(b)(2) promulgated under the Act, with respect to which this Section (a) of this Article Sixth shall apply), except if such power (or the arrangements relating thereto) is then reportable under Item 6 of Schedule 13D under the Act (or any similar provision of a comparable or successor report).

(b) *Ownership Concentration Limitation.* Except as otherwise provided in this Section (b), no Person, either alone or together with its Related Persons, shall be permitted at any time to beneficially own directly or indirectly shares of stock of the Corporation representing in the aggregate more than [10%]20% of the then outstanding shares of stock of the Corporation (the "*Ownership Limitation*"). [In the event the Corporation completes an Initial Public Offering, the Ownership Limitation provided in this Section (b) of Article Sixth shall increase from 10% to 20%.]

(i) The Ownership Limitation shall apply to each Person unless and until: (x) such Person shall have delivered to the Corporation not less than 45 days (or such shorter period as the Board shall expressly consent to) prior to the acquisition of any shares that would cause such Person (either alone or together with its Related Persons) to exceed the Ownership Limitation, a notice in writing, of such Person's intention to acquire such ownership; (y) the Board shall have resolved to expressly permit such ownership; and (z) such resolution shall have been filed with, and approved by, the SEC under Section 19(b) of the Act and shall have become effective thereunder.

(ii) Subject to its fiduciary obligations under applicable law, the Board shall not adopt any resolution permitting ownership in excess of the Ownership Limitation unless the Board shall have determined that:

(A) such acquisition of beneficial ownership by such Person, either alone or together with its Related Persons, will not impair the ability of any Regulated Securities Exchange Subsidiary to discharge its responsibilities under the Act and the rules and regulations thereunder and is otherwise in the best interests of the Corporation, its stockholders and the Regulated Securities Exchange Subsidiaries;

(B) such acquisition of beneficial ownership by such Person, either alone or together with its Related Persons, will not impair the SEC's ability to enforce the Act. In making such determinations under clauses (A) and (B) of this Section (b)(ii), the Board may impose such conditions and restrictions on such Person and its Related Persons owning any shares of stock of the Corporation entitled to vote on any matter as the Board may in its sole discretion deem necessary, appropriate or desirable in furtherance of the objectives of the Act and the governance of the Corporation;

(C) neither such Person nor any of its Related Persons is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Act); and

(D) for so long as the Corporation directly or indirectly controls any Regulated Securities Exchange Subsidiary, neither such Person nor any of its Related Persons is a Trading Permit Holder.

(iii) Unless the conditions specified in Section (b)(i) of this Article Sixth are met, if any Person, either alone or together with its Related Persons, at any time beneficially owns shares of stock of the Corporation in excess of the Ownership Limitation, the Corporation shall be obligated to redeem promptly, at a price equal to the par value of such shares of stock and to the extent funds are legally available therefor, that number of shares of stock of the Corporation necessary so that such Person, together with its Related Persons, shall beneficially own directly or indirectly shares of stock of the Corporation representing in the aggregate no more than [10% or 20% (as applicable at such time) ]of the then outstanding shares of the Corporation, after taking into account that such redeemed shares shall become treasury shares and shall no longer be deemed to be outstanding.

(c) *Redemptions.*

(i) In the event the Corporation shall redeem shares of stock (the "*Redeemed Stock*") of the Corporation pursuant to any provision of this Article Sixth, notice of such redemption shall be given by first class mail, postage prepaid, mailed not less than five business nor more than 60 calendar days prior to the redemption date, to the holder of the Redeemed Stock, at such holder's address as the same appears on the stock register of the Corporation. Each such notice shall state: (w) the redemption date; (x) the number of shares of Redeemed Stock to be redeemed; (y) the aggregate redemption price, which shall equal the aggregate par value of such shares; and (z) the place or places where such Redeemed Stock is to be surrendered for payment of the aggregate redemption price. Failure to give notice as aforesaid, or any defect therein, shall not affect the validity of the redemption of Redeemed Stock. From and after the redemption date (unless the Corporation shall default in providing funds for the payment of the redemption price), the shares of Redeemed Stock which have been redeemed as aforesaid shall become treasury shares and

shall no longer be deemed to be outstanding, and all rights of the holder of such Redeemed Stock as a stockholder of the Corporation (except the right to receive from the Corporation the redemption price against delivery to the Corporation of evidence of ownership of such shares) shall cease.

(ii) If and to the extent that shares of stock of the Corporation beneficially owned by any Person or its Related Persons are held of record by any other Person, this Article Sixth shall be enforced against such record owner by requiring the redemption of shares of stock of the Corporation held by such record owner in accordance with this Article Sixth, in a manner that will accomplish the Ownership Limitation applicable to such Person and its Related Persons.

(d) *Right to Information.* The Corporation shall have the right to require any Person and its Related Persons that the Board reasonably believes (x) to be subject to the limitations contained in Section (a) of this Article Sixth, (y) to beneficially own shares of stock of the Corporation entitled to vote on any matter in excess of the Ownership Limitation, or (z) to beneficially own an aggregate of 5% or more of the then outstanding shares of stock of the Corporation entitled to vote on any matter, which ownership such Person, either alone or together with its Related Persons, has not reported to the Corporation, to provide to the Corporation, upon the Corporation's request, complete information as to all shares of stock of the Corporation beneficially owned by such Person and its Related Persons and any other factual matter relating to the applicability or effect of this Article Sixth as may reasonably be requested of such Person and its Related Persons. Any constructions, applications or determinations made by the Board pursuant to this Article Sixth in good faith and on the basis of such information and assistance as was then reasonably available for such purpose shall be conclusive and binding upon the Corporation and its directors, officers and stockholders.

\* \* \* \* \*

TWELFTH: The Bylaws of the Corporation may be altered, amended or repealed, and new Bylaws may be adopted at any time, by the Board[ of Directors]. Stockholders of the Corporation may alter, amend or repeal any Bylaw; provided that, in addition to any other vote which may be required by law, the affirmative vote of the holders of a majority of the votes entitled to be cast by the holders of the then-outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required for the stockholders of the Corporation to adopt, alter, amend or repeal any provision of the Corporation's Bylaws. For so long as this Corporation shall control, directly or indirectly, any Regulated Securities Exchange Subsidiary, before any amendment to or repeal of any provision of the Corporation's Bylaws shall be effective, such amendment or repeal shall be submitted to the board of directors of each Regulated Securities Exchange Subsidiary and if such amendment or repeal must be filed with or filed with and approved by the SEC, then such amendment or repeal shall not become effective until filed with or filed with and approved by the SEC, as the case may be.

IN WITNESS WHEREOF, CBOE Holdings, Inc. has caused this certificate to be signed as of this [18<sup>th</sup>] day of [June, 2010].

CBOE HOLDINGS, INC.

By: [/s/ Edward Joyce]

Nam [Edward Joyce]

Its: [President and Chief Operating Officer]

\* \* \* \* \*

**[~~SECOND~~]THIRD AMENDED AND RESTATED**

**BYLAWS**

**of**

**CBOE HOLDINGS, INC.**

**ARTICLE 1—OFFICES**

1.1 *Registered Offices.* The registered office of CBOE Holdings, Inc. (the “Corporation”) in the State of Delaware shall be located at Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle, Delaware 19805[-1297]. The name of the Corporation’s registered agent at such address shall be The Corporation Trust Company. The registered office and/or registered agent of the Corporation may be changed from time to time by action of the Board of Directors of the Corporation (the “Board of Directors”).

1.2 *Other Offices.* The Corporation may also have offices at such other places both within and without the State of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require.

1.3 *Books.* The books of the Corporation may be kept within or without the State of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require, provided such books and records are kept within the United States.

**ARTICLE 2—STOCKHOLDERS**

\* \* \* \* \*

2.2 *Annual Meeting.* The annual meeting of stockholders for the election of directors and for the transaction of such other business as may properly be brought before the meeting shall be held on [the third Tuesday in May of each year or] such [other] date and at such time and at such place, if any, [beginning with the year immediately following the year in which the restructuring of Chicago Board Options Exchange, Incorporated (“CBOE”) from a non-stock corporation to a stock corporation and wholly-owned subsidiary of the Corporation is consummated,] within or without the State of Delaware as shall be fixed by the Board of Directors, pursuant to a resolution adopted by the affirmative vote of a majority of the total number of directors then in office, or the Chairman of the Board (or, if there is no Chairman of the Board, the Chief Executive Officer) and stated in the notice of the meeting. If no annual meeting is held in accordance with the foregoing provisions, the Board of Directors shall cause the meeting to be held as soon thereafter as convenient. If no annual meeting is held in accordance with the



foregoing provisions, a special meeting may be held in lieu of the annual meeting, and any action taken at that special meeting shall have the same effect as if it had been taken at the annual meeting, and in such case all references in these Bylaws to the annual meeting of stockholders shall be deemed to refer to such special meeting.

\* \* \* \* \*

2.4 *Notice of Meetings.* Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, notice of each meeting of stockholders, whether annual or special, shall be given in any manner permitted by law not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder as of the record date for determining the stockholders entitled to notice of the meeting. The notices of all meetings shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, and the record date for determining the stockholders entitled to vote at the meeting (if such date is different from the record date for stockholders entitled to notice of the meeting). The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called.

\* \* \* \* \*

2.7 *Adjournments.* Any meeting of stockholders may be adjourned to any other time and to any other place at which a meeting of stockholders may be held under these Bylaws by the holders of a majority in voting power of the stockholders present or represented at the meeting and entitled to vote, although less than a quorum, or by any officer entitled to preside at or to act as secretary of such meeting. Notice need not be given of any such adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. If the adjournment is for more than thirty (30) days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for determination of stockholders entitled to vote is fixed for the adjourned meeting, the Board of Directors shall fix as the record date for determining stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote at the adjourned meeting, and shall give notice of the adjourned meeting to each stockholder of record as of the record date so fixed for notice of such adjourned meeting. [It shall not be necessary to notify any stockholder of any adjournment of less than thirty (30) days if the time and place of the adjourned meeting are announced at the meeting at which adjournment is taken, unless after the adjournment a new record date for stockholders entitled to vote at the adjourned meeting is fixed by the Board of Directors. At the adjourned meeting, the Corporation may transact any business that might have been transacted at the original meeting.]

\* \* \* \* \*

2.10 *Action at Meeting.* When a quorum is present at any meeting, (a) a majority of the votes properly cast upon any question other than an election of directors shall decide the question, except when a [larger]different vote is required [by law,] by the Certificate of Incorporation, [or by] these Bylaws, the rules or regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation or its securities, and (b) each nominee for director shall be elected to the Board of Directors if a majority of the votes

properly cast are in favor of such nominee's election (i.e., if the number of votes properly cast "for" a nominee's election exceeds the number of votes properly cast "against" that nominee's election (with "abstentions" and "broker nonvotes" not counted as a vote cast either "for" or "against" that director's election)); *provided, however*, that, if, as of the last date by which stockholders of the Corporation may submit notice to nominate a person for election as a director pursuant to *Section 2.11* of these Bylaws or pursuant to any rule or regulation of the Securities and Exchange Commission, the number of nominees for director exceeds the number of directors to be elected at any such meeting (a "Contested Election"), a plurality of the votes properly cast for the election of directors shall be sufficient to elect directors. No ballot shall be required for any election unless requested by a stockholder present or represented at the meeting and entitled to vote in the election.

*2.11 Nomination of Directors.* [Except with respect to the Corporation's initial Board of Directors, o] Only persons who are nominated in accordance with the following procedures shall be eligible for election as directors. The nomination for election to the Board of Directors at an annual meeting of stockholders may be made only (A) pursuant to the Corporation's notice of meeting (or any supplement thereto), ([A]B) by the Board of Directors, any committee thereof or ([B]C) by any stockholder (i) who is a stockholder of record on the date of the notice given pursuant to this *Section 2.11* [and on the record date for the determination of stockholders entitled to vote at the Corporation's] and who is entitled to vote at the annual meeting and (ii) who complies with the notice procedures set forth in this *Section 2.11*. Such nominations, other than those made by or on behalf of the Board of Directors or any committee thereof, shall be made by notice in writing [delivered or mailed by first class United States mail, postage prepaid,] to the Secretary and received at the principal executive offices of the Corporation not less than ninety (90) days nor more than one hundred twenty (120) days prior to the anniversary date of the immediately preceding annual meeting of stockholders; *provided, however*, [that for purposes of the first annual meeting following the adoption of these Bylaws, the date of the immediately preceding annual meeting shall be deemed to be May 8<sup>th</sup> of the year prior thereto, unless another date is otherwise publicly announced by the Board of Directors; *provided further*] that if the annual meeting is not held within thirty (30) days before or more than seventy (70) days after such anniversary date, then such nomination shall have been delivered to or mailed and received by the Secretary not later than the close of business on the 10th day following the date on which public announcement of the annual meeting date was made. In no event shall the public announcement of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. Such notice shall set forth (a) as to each proposed nominee (i) the name, age, business address and[, if known,] residence address of such nominee, (ii) the principal occupation or employment of such nominee, (iii) the number of shares of stock of the Corporation which are owned beneficially and the number of shares of stock of the Corporation which are held of record by such nominee, and (iv) any other information concerning the nominee that must be disclosed as to nominees in proxy solicitations pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Act"), and the rules and regulations promulgated thereunder, including such person's written consent to be named in the proxy statement as a nominee and to serve as a director if elected ; and (b) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination is made (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (ii) the class and number of shares of capital stock of the Corporation which are owned beneficially

and of record by such stockholder and such beneficial owner, (iii) a description of any agreement, arrangement or understanding with respect to the nomination between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any others acting in concert with any of the foregoing, including any nominee, (iv) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into as of the date of the stockholder's notice by, or on behalf of, such stockholder and such beneficial owners, whether or not such instrument or right shall be subject to settlement in underlying shares of capital stock of the Corporation, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner, with respect to shares of capital stock of the Corporation, (v) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such nomination, [and] (vi) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (a) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to elect the nominee and/or (b) otherwise to solicit proxies or votes from stockholders in support of such nomination, and (vii) any other information relating to such stockholder and beneficial owner, if any, required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in an election contest pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder. The Corporation may require any proposed nominee to furnish such other information as the Corporation may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation.

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

*2.12 Notice of Business at Annual Meetings.* At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (a) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (b) otherwise properly brought before the meeting by or at the direction of the Board of Directors (or any committee thereof), or (c) otherwise properly brought before an annual meeting by a stockholder (i) who is a stockholder of record on the date of the giving of notice provided for in this *Section 2.12* and [on the record date for the determination of stockholders] entitled to [notice of and to] vote at such annual meeting, and (ii) who complies with the notice procedures set forth in this *Section 2.12*. For business to be properly brought before an annual meeting by a stockholder, if such business relates to the election of directors of the Corporation, the procedures in *Section 2.11* must be complied with. If such business relates to any other matter, the stockholder must have given timely notice thereof in writing to the Secretary. To be timely, a stockholder's notice must be delivered to or mailed to the Secretary and received at the principal executive offices of the Corporation not less than ninety (90) days nor more than one hundred twenty (120) days prior to the anniversary date of the immediately preceding annual meeting of stockholders; *provided, however*, [that for purposes of the first annual meeting following the adoption of these Bylaws, the date of the immediately preceding annual meeting

shall be deemed to be May 8<sup>th</sup> of the year prior thereto, unless another date is otherwise publicly announced by the Board of Directors; *provided further*] that if the annual meeting is not held within thirty (30) days before or seventy (70) days after such anniversary date, then for the notice by the stockholder to be timely it must be so received not later than the close of business on the 10th day following the date on which public announcement of the annual meeting date was made. In no event shall the public announcement of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. To be in proper written form, a stockholder's notice to the Secretary shall set forth (a) as to any business (other than nominations for the election of directors) that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and, in the event that such business includes a proposal to amend the Bylaws of the Corporation, the language of the proposed amendment), the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (b) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the proposal is made (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (ii) the class and number of shares of capital stock of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner, (iii) a description of any agreement, arrangement or understanding with respect to the proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any others acting in concert with any of the foregoing, (iv) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into as of the date of the stockholder's notice by, or on behalf of, such stockholder and such beneficial owners, whether or not such instrument or right shall be subject to settlement in underlying shares of capital stock of the Corporation, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner, with respect to shares of capital stock of the Corporation, (v) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business, and (vi) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (a) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal and/or (b) otherwise to solicit proxies or votes from stockholders in support of such proposal. Notwithstanding anything in these Bylaws to the contrary, no business shall be conducted at any annual meeting except in accordance with the procedures set forth in *Section 2.11* or this *Section 2.12*, except that any stockholder proposal which complies with Rule 14a-8 of the proxy rules, or any successor provision, promulgated under the Act, and is to be included in the Corporation's proxy statement for an annual meeting of stockholders shall be deemed to comply with the requirements of this *Section 2.12*. Notwithstanding the foregoing provisions of this *Section 2.12* or *Section 2.11*, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the Corporation to present a nomination or proposed business, such nomination may be disregarded and such

proposed business need not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of this *Section 2.12* and *Section 2.11*, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

For purposes of *Section 2.11* and *Section 2.12*, “public announcement” shall include disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Act. Notwithstanding the foregoing provisions in *Section 2.11* or *Section 2.12*, a stockholder shall also comply with all applicable requirements of the Act and the rules and regulations thereunder with respect to the matters set forth in this *Section 2.11* and *Section 2.12*. Nothing in either *Section 2.11* or *Section 2.12* shall be deemed to affect any rights (a) of stockholders to request inclusion of proposals or nominations in the Corporation’s proxy statement pursuant to applicable rules and regulations promulgated under the Act or (b) of the holders of any series of Preferred Stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation.

The chairman of the meeting shall, if the facts warrant, determine that business was not properly brought before the meeting in accordance with the provisions of this *Section 2.12*, and, if he or she should so determine, the chairman shall so declare to the meeting, and any such business not properly brought before the meeting shall not be transacted.

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### **ARTICLE 3—DIRECTORS**

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3.4 *Resignations.* A director may resign at any time by giving written or electronic notice of his resignation to the Chairman of the Board or the Secretary, and such resignation will be effective when delivered unless the resignation specifies a later effective date or an effective date determined upon the happening of an event or events.

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### **ARTICLE 4—COMMITTEES**

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4.2 *The Executive Committee.* The Executive Committee will include the Chairman of the Board, the Chief Executive Officer (if a director), the Lead Director, if any, and such other number of directors that the Board of Directors deems appropriate, provided that at all times the majority of the directors serving on the Executive Committee must be independent directors. Members of the Executive Committee (other than those specified in the immediately preceding

sentence) shall be recommended by the Nominating and Governance Committee for approval by the Board of Directors. Members of the Executive Committee shall not be subject to removal except by the Board of Directors. The Chairman of the Board shall be the Chairman of the Executive Committee. Each member of this Committee shall be a voting member. [The members of the Executive Committee shall serve for a term of one year expiring at the first regular meeting of the Board of Directors following the annual meeting of stockholders each year.] The Executive Committee shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, except it shall not have the power and authority of the Board of Directors to (i) approve or adopt or recommend to the stockholders, any action or matter (other than the election or removal of directors) expressly required by Delaware law to be submitted to stockholders for approval, including, without limitation, amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, approving a sale, lease or exchange of all or substantially all of the Corporation's property and assets, or approval of a dissolution of the Corporation or revocation of a dissolution, or (ii) adopt, alter, amend or repeal any Bylaw of the Corporation.

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## ARTICLE 9—GENERAL PROVISIONS

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9.3 *Voting of Securities.* Except as the Board of Directors may otherwise designate, the Chief Executive Officer, Chief Financial Officer or Treasurer may waive notice of, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact for the Corporation (with or without power of substitution) at, any meeting of stockholders or shareholders or equity owners of any other corporation, [or] organization or entity, the securities of which may be held by [this]the Corporation.

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## ARTICLE 10—AMENDMENTS

10.1 *Amendment.* These Bylaws may be amended, altered or repealed, and new Bylaws may be adopted at any time, by the Board of Directors. Stockholders of the Corporation may alter, amend or repeal any Bylaw; [provided that notice of the proposed change was given in the notice of the stockholders meeting at which such action is to be taken and,] provided, [further,] that in addition to any vote of the holders of any class or series of stock of the Corporation required by law or the Certificate of Incorporation, the affirmative vote of the holders of a majority of the votes entitled to be cast by the holders of the then-outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required for the stockholders to adopt, alter, amend or repeal any provision of these Bylaws.

10.2 *Submission to Boards of any Regulated Securities Exchange Subsidiary.* Notwithstanding *Section 10.1*, for so long as the Corporation shall control, directly or indirectly, any national securities exchange, including, but not limited to, [CBOE] Chicago Board Options Exchange, Incorporated (a "Regulated Securities Exchange Subsidiary"), before any amendment, alteration or repeal of any provision of these Bylaws shall be effective, such amendment, alteration or repeal shall be submitted to the board of directors of each Regulated Securities

Exchange Subsidiary, and if such amendment, alteration or repeal must be filed with or filed with and approved by the Securities and Exchange Commission, then such amendment, alteration or repeal shall not become effective until filed with or filed with and approved by the Securities and Exchange Commission, as the case may be.

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

Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer, other employee or stockholder of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim arising pursuant to any provision of the DGCL or as to which the DGCL confers jurisdiction on the Court of Chancery of the State of Delaware, or (iv) any action asserting a claim governed by the internal affairs doctrine.