

Deletions [bracketed]  
Additions underscored

**[SIXTH]SEVENTH AMENDED AND RESTATED  
BYLAWS  
OF  
INTERCONTINENTAL EXCHANGE, INC.**

**Adopted effective [May 6]9, 201[6]7**

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**[SIXTH]~~SEVENTH~~ AMENDED AND RESTATED BYLAWS  
OF  
INTERCONTINENTAL EXCHANGE, INC.**

**ARTICLE I - OFFICES**

1.1 The registered office of the Corporation shall be in the City of Wilmington, County of New Castle, State of Delaware.

1.2 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.

**ARTICLE II - MEETINGS OF STOCKHOLDERS**

2.1 All meetings of the stockholders for the election of directors shall be held in the City of Atlanta, State of Georgia, at such place as may be fixed from time to time by the Board of Directors, or at such other place either within or without the State of Delaware as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting. Meetings of stockholders for any other purpose may be held at such time and place, within or without the State of Delaware, as shall be stated in the notice of the meeting or in a duly executed waiver of notice thereof. The Board of Directors may, in its sole discretion, determine that any meeting of stockholders shall not be held at any place, but may instead be held by means of remote communication as authorized by law.

2.2 Annual meetings of stockholders shall be held at such date and time as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting, at which they shall elect the Board of Directors in the manner provided for in Section 2.10 of these bylaws and transact such other business as may properly be brought before the meeting.

2.3 Notice of the annual meeting stating the place, if any, date and hour of the meeting, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, shall be given to each stockholder entitled to vote at such meeting not fewer than ten (10) nor more than sixty (60) days before the date of the meeting, unless otherwise provided by applicable law or the certificate of incorporation. If mailed, such notice shall be deemed to be given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation.

2.4 The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, at the option of the Corporation, (i) on a reasonably accessible

electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the Corporation. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

2.5 Special meetings of the stockholders, for any purpose or purposes, unless otherwise prescribed by statute or by the certificate of incorporation, may be called at any time by the Board of Directors, the Chairman of the Board, if any, or the Chief Executive Officer, or at the request of holders of Common Stock representing in the aggregate at least 50% of the shares of Common Stock outstanding at such time that would be entitled to vote at the meeting as determined under Section A.1 of Article V of the certificate of incorporation. Such request shall state the purpose or purposes of the proposed meeting.

2.6 Notice of a special meeting stating the place, if any, date and hour of the meeting and the purpose or purposes for which the meeting is called, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, shall be given not fewer than ten (10) nor more than sixty (60) days before the date of the meeting, unless otherwise provided by applicable law or the certificate of incorporation, to each stockholder entitled to vote at such meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation.

2.7 The holders of a majority of the stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business except as otherwise provided by statute or by the certificate of incorporation or these bylaws. For purposes of the foregoing, where a separate vote by class or classes is required for any matter, the holders of a majority of the outstanding shares of such class or classes, present in person or represented by proxy, shall constitute a quorum to take action with respect to that vote on that matter. Two or more classes or series of stock shall be considered a single class if the holders thereof are entitled to vote together as a single class at the meeting. In the absence of a quorum of the holders of any class of stock entitled to vote on a matter, the meeting of such class may be adjourned from time to time in the manner provided by Sections 2.8 and 2.9 of these bylaws until a quorum of such class shall be so present or represented.

2.8 Any meeting of stockholders, annual or special, may be adjourned from time to time as provided in Section 2.9 of these bylaws, to reconvene at the same or some other place, if any, and notice need not be given of any such adjourned meeting if the time and

place thereof, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, are announced at the meeting at which the adjournment is taken. At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting in conformity with the requirements of these bylaws.

2.9 Meetings of stockholders shall be presided over by the Chairman of the Board, if any, or in the absence of the Chairman of the Board by the Vice Chairman of the Board, if any, or in the absence of the Vice Chairman of the Board by the Chief Executive Officer, or in the absence of the Chief Executive Officer by a Vice President, or in the absence of the foregoing persons by a Chairman designated by the Board of Directors, or in the absence of such designation by a Chairman chosen at the meeting. The Secretary, or in the absence of the Secretary an Assistant Secretary, shall act as Secretary of the meeting, but in the absence of the Secretary and any Assistant Secretary the Chairman of the meeting may appoint any person to act as Secretary of the meeting.

The order of business at each such meeting shall be as determined by the Chairman of the meeting. The Chairman of the meeting shall have the right, power and authority to adjourn a meeting of stockholders for a reasonable period of time to another place, if any, date and time, and to prescribe such rules, regulations and procedures and to do all such acts and things as are necessary or desirable for the proper conduct of the meeting and are not inconsistent with any rules, regulations or procedures adopted by the Board of Directors pursuant to the provisions of the certificate of incorporation, including, without limitation, the establishment of procedures for the maintenance of order and safety, limitations on the time allotted to questions or comments on the affairs of the Corporation, restrictions on entry to such meeting after the time prescribed for the commencement thereof and the opening and closing of the voting polls for each item upon which a vote is to be taken.

2.10 When a quorum is present at any meeting of stockholders:

(a) A nominee for director shall be elected to the Board of Directors if the votes cast "for" such nominee's election exceed the votes cast "against" such nominee's election; provided, however, that directors shall be elected by a plurality of the votes cast at any meeting of stockholders for which either (i) (x) the Secretary of the Corporation receives a notice that a stockholder has nominated a person for election to the Board of Directors in compliance with the advance notice requirements for stockholder nominees for director set forth in Section 2.13(b) of these bylaws or otherwise becomes aware that a stockholder has nominated a person for election to the Board of Directors and (y) such nomination has not been withdrawn by such stockholder on or prior to the third business day next preceding the date the Corporation first mails its notice of meeting for such meeting to the stockholders or (ii) the number of nominees for election to the Board of Directors at such meeting exceeds the number of directors to be elected. Abstentions and broker non-votes shall not be counted as votes cast either "for" or "against" a director's election. If directors are to be elected by a plurality of the votes cast, stockholders shall not be permitted to vote "against" a nominee.

(b) Any other business other than the election of directors brought before the meeting shall be decided by the vote of the holders of a majority of the votes cast affirmatively and negatively on the question, unless the question is one upon which by express provision of the statutes, of the certificate of incorporation or these bylaws, a different vote is required, in which case such express provision shall govern and control the decision of such question. Abstentions and broker non-votes shall not be counted as votes cast either affirmatively or negatively on any question. Where a separate vote by class or classes is required, the vote of the holders of a majority of votes cast affirmatively and negatively on the question (or, in the case of an election of directors, the vote required in accordance with Section 2.10(a) of these bylaws) shall be the act of such class or classes, except as otherwise provided by law or by the certificate of incorporation or these bylaws.

2.11 Unless otherwise provided in the certificate of incorporation or applicable law, each stockholder shall at any meeting of the stockholders be entitled to one vote in person or by proxy for each share of the capital stock having voting power upon the matter in question held by such stockholder. Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder in writing or by transmission permitted by law and filed in accordance with the procedures established for the meeting, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. Voting at meetings of stockholders need not be by written ballot unless so directed by the Chairman of the meeting or the Board of Directors.

2.12 Prior to any meeting of stockholders, the Board of Directors or the Chief Executive Officer or any other officer designated by the Board shall appoint one or more inspectors to act at such meeting and make a written report thereof and may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at the meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall ascertain the number of shares outstanding and the voting power of each, determine the shares represented at the meeting and the validity of proxies and ballots, count all votes and ballots, determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors and certify their determination of the number of shares represented at the meeting and their count of all votes and ballots. The inspectors may appoint or retain other persons to assist them in the performance of their duties. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting. No ballot, proxy or vote, nor any revocation thereof or change thereto, shall be accepted by the inspectors after the closing of the polls. In determining the validity and counting of proxies and ballots, the inspectors shall be limited to an examination of the proxies, any envelopes submitted therewith, any information provided by a stockholder who submits a proxy by telegram, cablegram or other electronic transmission from which it can be determined that the proxy was authorized by the stockholder, ballots and the regular books and records of the Corporation; and they may also consider other reliable information for the limited purpose of reconciling proxies and ballots submitted by or on behalf of banks, brokers, their nominees or

similar persons that represent more votes than the holder of a proxy is authorized by the record owner to cast or more votes than the stockholder holds of record. If the inspectors consider other reliable information for such purpose, they shall, at the time they make their certification, specify the precise information considered by them, including the person or persons from whom they obtained the information, when the information was obtained, the means by which the information was obtained and the basis for the inspectors' belief that such information is accurate and reliable.

2.13 (a) The matters to be considered and brought before any annual or special meeting of stockholders of the Corporation shall be limited to only such matters, including the nomination and election of directors, as shall be brought properly before such meeting in compliance with the procedures set forth in this Section 2.13.

(b) For any matter to be properly brought before any annual meeting of stockholders, the matter must be (i) specified in the notice of annual meeting given by or at the direction of the Board of Directors, including nominations made pursuant to Section 2.15, (ii) otherwise brought before the annual meeting by or at the direction of the Board of Directors or (iii) brought before the annual meeting in the manner specified in this Section 2.13(b) by a person who either (x) is a stockholder that holds of record stock of the Corporation entitled to vote at the annual meeting on such matter (including any election of a director) or (y) is a person (a "Nominee Holder") that holds such stock through a nominee or "street name" holder of record of such stock and can demonstrate to the Corporation such indirect ownership of, and such Nominee Holder's entitlement to vote, such stock on such matter. In addition to any other requirements under applicable law, the certificate of incorporation and these bylaws, and other than nominations pursuant to Section 2.15, which shall comply with the requirements of such Section, including the timing requirements for delivery of notice, persons nominated by stockholders for election as directors of the Corporation and any other proposals by stockholders shall be properly brought before an annual meeting of stockholders only if notice of any such matter to be presented by a stockholder at such meeting (a "Stockholder Notice") shall be delivered to the Secretary at the principal executive office of the Corporation not less than ninety (90) nor more than one hundred and twenty (120) days prior to the first anniversary date of the annual meeting for the preceding year; provided, however, that if and only if the annual meeting is not scheduled to be held within a period that commences thirty (30) days before and ends thirty (30) days after such anniversary date (an annual meeting date outside such period being referred to herein as an "Other Meeting Date"), such Stockholder Notice shall be given in the manner provided herein by the later of (i) the close of business on the date ninety (90) days prior to such Other Meeting Date or (ii) the close of business on the tenth day following the date on which such Other Meeting Date is first publicly announced or disclosed. Any stockholder desiring to nominate any person or persons (as the case may be) for election as a director or directors of the Corporation at an annual meeting of stockholders shall deliver, as part of such Stockholder Notice, a statement in writing setting forth the name of the person or persons to be nominated, the number and class of all shares of each class of stock of the Corporation owned of record and beneficially by each such person, as reported to such stockholder by such person, the information regarding each such person required by paragraphs (a), (e) and (f) of Item 401 of Regulation S-K adopted by the Securities and Exchange Commission, as amended from time to time, each such person's signed consent to

serve as a director of the Corporation if elected, a statement whether such person, if elected, intends to tender, promptly following such person's election or re-election, an irrevocable resignation effective upon such person's failure to receive the required vote for re-election at the next meeting at which such person would stand for re-election and upon acceptance of such resignation by the Board of Directors, in accordance with the Corporation's Governance Principles, such stockholder's name and address, the number and class of all shares of each class of stock of the Corporation owned of record and beneficially by such stockholder and, in the case of a Nominee Holder, evidence establishing such Nominee Holder's indirect ownership of stock and entitlement to vote such stock for the election of directors at the annual meeting. Any stockholder who gives a Stockholder Notice of any matter (other than a nomination for director) proposed to be brought before an annual meeting of stockholders shall deliver, as part of such Stockholder Notice, the text of the proposal to be presented and a brief written statement of the reasons why such stockholder favors the proposal and setting forth such stockholder's name and address, the number and class of all shares of each class of stock of the Corporation owned of record and beneficially by such stockholder, any material interest of such stockholder in the matter proposed (other than as a stockholder), if applicable, and, in the case of a Nominee Holder, evidence establishing such Nominee Holder's indirect ownership of stock and entitlement to vote such stock on the matter proposed at the annual meeting. In addition to any other requirements under applicable law, the certificate of incorporation and these bylaws, any Stockholder Notice delivered under this Section 2.13(b), whether such Stockholder Notice is delivered in connection with a nomination for election as director of the Corporation or any other matter (other than a nomination for director) proposed to be brought before a meeting of stockholders, must set forth (i) the number and class of all shares of each class of stock of the Corporation that are, directly or indirectly, owned of record and beneficially by any Associated Person of such stockholder or beneficial owner, (ii) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class of stock of the Corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of stock of the Corporation or otherwise (a "Derivative Instrument") directly or indirectly beneficially owned by such stockholder, by such beneficial owner, or by any such Associated Person, (iii) any other direct or indirect opportunity held or beneficially owned by such stockholder, by such beneficial owner, or by any such Associated Person, to profit or share in any profit derived from any increase or decrease in the value of shares of any class of stock of the Corporation, (iv) any proxy, contract, arrangement, understanding, or relationship pursuant to which such stockholder, such beneficial owner, or any such Associated Person has a right to vote any shares of any security of the Corporation, (v) any short interest in any security of the Corporation held or beneficially owned by such stockholder, by such beneficial owner, or by any such Associated Person, (vi) any right to dividends on the shares of any class of stock of the Corporation beneficially owned by such stockholder, by such beneficial owner, or by any such Associated Person, which right is separated or separable from the underlying shares, (vii) any proportionate interest in shares of any class of stock of the Corporation or Derivative Instrument held, directly or indirectly, by a general or limited partnership in which such stockholder, such beneficial owner, or such Associated Person is a general partner or with respect to which such stockholder, such beneficial owner, or such Associated Person, directly or indirectly, beneficially owns an interest in a general partner,



and (viii) any performance-related fees (other than an asset-based fee) to which such stockholder, such beneficial owner, or such Associated Person is entitled based on any increase or decrease in the value of shares of any class of stock of the Corporation or Derivative Instruments, if any, in each case with respect to the information required to be included in the notice pursuant to (i) through (viii) above, as of the date of such Stockholder Notice (which information shall be supplemented by such stockholder and by such beneficial owner, if any, not later than 10 days after the record date for the meeting to disclose such beneficial ownership, interest, or arrangement as of the record date). As used in these bylaws, (i) an “Associated Person” with respect to any stockholder or any beneficial owner on whose behalf a nomination or nominations are being made or business or matter is being proposed, shall mean (w) any person controlling, directly or indirectly, or acting in concert with, such stockholder or beneficial owner, (x) any beneficial owner of shares of stock of the Corporation owned of record or beneficially by such stockholder or by such beneficial owner, (y) any member of such stockholder’s or such beneficial owner’s immediate family sharing the same household, and (z) any person controlling, controlled by, or under common control with any person described in the foregoing subsections (w), (x), or (y) of this sentence, and (ii) a person shall be deemed to have a “short interest” in a security if such person, directly or indirectly, through a contract, arrangement, understanding, relationship, or otherwise, has the opportunity to profit or share in any profit derived from any decrease in the value of the subject security. As used in these bylaws, shares “beneficially owned” shall mean all shares that such person is deemed to beneficially own pursuant to Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, as amended from time to time (the “Exchange Act”). If a stockholder is entitled to vote only for a specific class or category of directors at a meeting (annual or special), such stockholder’s right to nominate one or more individuals for election as a director at the meeting shall be limited to such class or category of directors.

Notwithstanding any provision of this Section 2.13 to the contrary, in the event that the number of directors to be elected to the Board of Directors of the Corporation at the next annual meeting of stockholders is increased by virtue of an increase in the size of the Board of Directors and either all of the nominees for director at the next annual meeting of stockholders or the size of the increased Board of Directors is not publicly announced or disclosed by the Corporation at least one hundred (100) days prior to the first anniversary of the preceding year’s annual meeting, a Stockholder Notice shall also be considered timely hereunder, but only with respect to nominees to stand for election at the next annual meeting as the result of any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive office of the Corporation not later than the close of business on the tenth day following the first day on which all such nominees or the size of the increased Board of Directors shall have been publicly announced or disclosed.

(c) Except as provided in the immediately following sentence, no matter shall be properly brought before a special meeting of stockholders unless such matter shall have been brought before the meeting pursuant to the Corporation’s notice of such meeting. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any stockholder entitled to vote for the election of such director(s) at such meeting may nominate a person or persons (as the case may be) for election to such position(s) as are specified in the Corporation’s notice of such meeting, but

only if the Stockholder Notice required by Section 2.13(b) hereof shall be delivered to the Secretary at the principal executive office of the Corporation not later than the close of business on the tenth day following the first day on which the date of the special meeting and either the names of all nominees proposed by the Board of Directors to be elected at such meeting or the number of directors to be elected shall have been publicly announced or disclosed.

(d) For purposes of this Section 2.13 and Section 2.15, a matter shall be deemed to have been “publicly announced or disclosed” if such matter is disclosed in a press release reported by the Dow Jones News Service, the Associated Press or a comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission.

(e) In no event shall the adjournment of an annual meeting or a special meeting, or any announcement thereof, commence a new period for the giving of notice as provided in this Section 2.13. This Section 2.13 shall not apply to (i) any stockholder proposal that is made pursuant to Rule 14a-8 under the Exchange Act or (ii) any nomination of a director in an election in which only the holders of one or more series of Preferred Stock of the Corporation issued pursuant to Article IV of the certificate of incorporation (“Preferred Stock”) are entitled to vote (unless otherwise provided in the terms of such stock).

(f) The Chairman of any meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall have the power and duty to determine whether notice of nominees and other matters proposed to be brought before a meeting has been duly given in the manner provided in this Section 2.13 and, if not so given, shall direct and declare at the meeting that such nominees and other matters shall not be considered.

2.14 In order that the Corporation may determine the stockholders entitled to notice of, or to vote at, any meeting of stockholders or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date on which the resolution fixing the record date is adopted and which record date shall not be more than sixty (60) nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to the time for such other action as described above. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of, or to vote at, a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of, or to vote at, a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

2.15 (a) Subject to the provisions of this Section 2.15, if expressly requested in the relevant Nomination Notice (as defined below), the Corporation shall include in its proxy statement for any annual meeting of stockholders:

(i) the names of any person or persons nominated for election (each, a “Nominee”), which shall also be included on the Corporation’s form of proxy and ballot, by any Eligible Holder (as defined below) or group of up to 20 Eligible Holders that has (individually and collectively, in the case of a group) satisfied, as determined by the Board of Directors, all applicable conditions and complied with all applicable procedures set forth in this Section 2.15 (such Eligible Holder or group of Eligible Holders being a “Nominating Stockholder”);

(ii) disclosure about each Nominee and the Nominating Stockholder required under the rules of the Securities and Exchange Commission or other applicable law to be included in the proxy statement;

(iii) any statement in support of the Nominee’s (or Nominees’, as applicable) election to the Board of Directors included by the Nominating Stockholder in the Nomination Notice for inclusion in the proxy statement (subject, without limitation, to Section 2.15(e)(ii)), provided that such statement does not exceed 500 words and fully complies with Section 14 of the Exchange Act and the rules and regulations thereunder, including Rule 14a-9 (the “Statement”); and

(iv) any other information that the Corporation or the Board of Directors determines, in their discretion, to include in the proxy statement relating to the nomination of the Nominee(s), including, without limitation, any statement in opposition to the nomination and any of the information provided pursuant to this Section.

For purposes of this Section 2.15, any determination to be made by the Board of Directors may be made by the Board of Directors, a committee of the Board of Directors or any officer of the Corporation designated by the Board of Directors or a committee of the Board of Directors and any such determination shall be final and binding on the Corporation, any Eligible Holder, any Nominating Stockholder, any Nominee and any other person so long as made in good faith (without any further requirements). The chairman of any annual meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the annual meeting, shall have the power and duty to determine whether a Nominee has been nominated in accordance with the requirements of this Section 2.15 and, if not so nominated, shall direct and declare at the annual meeting that such Nominee shall not be considered.

(b) Maximum Number of Nominees.

(i) The Corporation shall not be required to include in the proxy statement for an annual meeting of stockholders more Nominees than that number of directors constituting 20% of the total number of directors of the Corporation on the last day on which a Nomination Notice may be submitted pursuant to this Section 2.15 (rounded down to the nearest whole number, but not less than two) (the “Maximum Number”).

The Maximum Number for a particular annual meeting shall be reduced by: (1) the number of Nominees that are subsequently withdrawn or that the Board of Directors itself decides to nominate for election at such annual meeting and (2) the number of incumbent directors who had been Nominees with respect to the preceding annual meeting of stockholders and whose reelection at the upcoming annual meeting is being recommended by the Board of Directors. In the event that one or more vacancies for any reason occurs on the Board of Directors after the deadline for submitting a Nomination Notice as set forth in Section 2.15(d) below but before the date of the annual meeting, and the Board of Directors resolves to reduce the size of the Board of Directors in connection therewith, the Maximum Number shall be calculated based on the number of directors in office as so reduced.

(ii) If the number of Nominees pursuant to this Section 2.15 for any annual meeting of stockholders exceeds the Maximum Number then, promptly upon notice from the Corporation, each Nominating Stockholder will select one Nominee for inclusion in the proxy statement until the Maximum Number is reached, going in order of the amount (largest to smallest) of the ownership position as disclosed in each Nominating Stockholder's Nomination Notice, with the process repeated if the Maximum Number is not reached after each Nominating Stockholder has selected one Nominee. If, after the deadline for submitting a Nomination Notice as set forth in Section 2.15(d), a Nominating Stockholder ceases to satisfy the eligibility requirements in this Section 2.15 as determined by the Board of Directors, or withdraws its nomination or a Nominee ceases to satisfy the eligibility requirements in this Section 2.15, as determined by the Board of Directors, or becomes unwilling or unable to serve on the Board of Directors, whether before or after the mailing of the definitive proxy statement, then the nomination shall be disregarded, and the Corporation: (1) shall not be required to include in its proxy statement or on any ballot or form of proxy the disregarded Nominee or any successor or replacement nominee proposed by the Nominating Stockholder or by any other Nominating Stockholder and (2) may otherwise communicate to its stockholders, including without limitation by amending or supplementing its proxy statement or ballot or form of proxy, that the Nominee will not be included as a Nominee in the proxy statement or on any ballot or form of proxy and will not be voted on at the annual meeting.

(c) Eligibility of Nominating Stockholder.

(i) An "Eligible Holder" is a person who has either (1) been a record holder of the shares of the Corporation's common stock used to satisfy the eligibility requirements in this Section 2.15(c) continuously for the three-year period specified in subsection (ii) below or (2) provides to the Secretary of the Corporation, within the time period referred to in Section 2.15(d), evidence of continuous ownership of such shares for such three-year period from one or more securities intermediaries in a form that the Board of Directors determines would be deemed acceptable for purposes of a shareholder proposal under Rule 14a-8(b)(2) under the Exchange Act (or any successor rule). Notwithstanding the foregoing, any otherwise Eligible Holder

(including each fund and/or beneficial owner whose stock ownership has been counted for the purposes of qualifying as an Eligible Holder) whose Nominee has been elected as a director at an annual meeting will not be eligible to nominate or participate in the nomination of a Nominee for the following two annual meetings other than the nomination of such previously elected Nominee.

(ii) An Eligible Holder or group of up to 20 Eligible Holders may submit a nomination in accordance with this Section 2.15 only if the person or group (in the aggregate) has continuously owned at least the Minimum Number (as defined below) of shares of the Corporation's common stock throughout the three-year period preceding and including the date of submission of the Nomination Notice, and continues to own at least the Minimum Number of such shares through the date of the annual meeting. For purposes of qualifying as an Eligible Holder and satisfying the "ownership" requirements of this Section 2.15, two or more funds that are (A) under common management and investment control, (B) under common management and funded primarily by the same employer, or (C) a "group of investment companies," as such term is defined in Section 12(d)(1)(G)(ii) of the Investment Company Act of 1940, as amended, shall be treated as one stockholder or beneficial owner. For the avoidance of doubt, in the event of a nomination by a group of Eligible Holders, any and all requirements and obligations for an individual Eligible Holder that are set forth in this Section 2.15, including the minimum holding period, shall apply to each member of such group; provided, however, that the Minimum Number shall apply to the ownership of the group in the aggregate. Should any stockholder withdraw from a group of Eligible Holders at any time prior to the annual meeting of stockholders, the group of Eligible Stockholders shall only be deemed to own the shares held by the remaining members of the group.

(iii) The "Minimum Number" means 3% calculated as of the most recent date for which the total number of outstanding shares of common stock of the Corporation is given in any filing by the Corporation with the Securities and Exchange Commission prior to the submission of the Nomination Notice.

(iv) For purposes of this Section 2.15, an Eligible Holder "owns" only those outstanding shares of the Corporation as to which the Eligible Holder possesses both:

(A) the full voting and investment rights pertaining to the shares;  
and

(B) the full economic interest in (including the opportunity for profit and risk of loss on) such shares;

provided that the number of shares calculated in accordance with clauses (A) and (B) shall not include any shares: (1) sold by such Eligible Holder or any of its affiliates in any transaction that has not been settled or closed, (2) borrowed by such Eligible Holder or any of its affiliates for any purpose or purchased by such Eligible Holder or

any of its affiliates pursuant to an agreement to resell, or (3) subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar agreement entered into by such Eligible Holder or any of its affiliates, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of outstanding shares of the Corporation, in any such case which instrument or agreement has, or is intended to have, the purpose or effect of: (x) reducing in any manner, to any extent or at any time in the future, such Eligible Holder's or any of its affiliates' full right to vote or direct the voting of any such shares, and/or (y) hedging, offsetting, or altering to any degree, gain or loss arising from the full economic ownership of such shares by such Eligible Holder or any of its affiliates.

An Eligible Holder "owns" shares held in the name of a nominee or other intermediary so long as the Eligible Holder retains the right to instruct how the shares are voted with respect to the election of directors and possesses the full economic interest in the shares. An Eligible Holder's ownership of shares shall be deemed to continue during any period in which the Eligible Holder has delegated any voting power by means of a proxy, power of attorney, or other similar instrument or arrangement that is revocable at any time by the Eligible Holder. An Eligible Holder's ownership of shares shall be deemed to continue during any period in which the Eligible Holder has loaned such shares provided that the Eligible Holder has the power to recall such loaned shares on five business days' notice and has recalled such shares as of the record date with respect to such annual meeting. The terms "owned," "owning," "ownership" and other variations of the word "own" shall have correlative meanings. Whether outstanding shares of the Corporation are "owned" for these purposes shall be determined by the Board of Directors.

(v) No person shall be permitted to be in more than one group constituting a Nominating Stockholder, and if any person appears as a member of more than one group, it shall be deemed to be a member of the group that has the largest ownership position as reflected in the Nomination Notice.

(d) Nomination Notice. To nominate a Nominee, the Nominating Stockholder must, no earlier than the close of business 150 calendar days and no later than the close of business 120 calendar days before the anniversary of the date that the Corporation mailed its proxy statement for the prior year's annual meeting of stockholders, submit to the Secretary of the Corporation at the principal executive office of the Corporation all of the following information and documents (collectively, the "Nomination Notice"); provided, however, that if (and only if) the annual meeting occurs on an Other Meeting Date (as defined in Section 2.13), the Nomination Notice shall be given in the manner provided in this Section 2.15(d) by the later of the close of business on the date that is 120 days prior to such Other Meeting Date or the tenth day following the date such Other Meeting Date is first publicly announced or disclosed:

(i) A Schedule 14N (or any successor form) relating to the Nominee, completed and filed with the Securities and Exchange Commission by the

Nominating Stockholder as applicable, in accordance with the applicable rules;

(ii) A written notice, in a form deemed satisfactory by the Board of Directors, of the nomination of such Nominee that includes the following additional information, agreements, representations and warranties by the Nominating Stockholder (including, in the case of a group, each group member):

(A) the information required with respect to the nomination of directors pursuant to Section 2.13 of these Bylaws;

(B) the details of any relationship that existed within the past three years and that would have been described pursuant to Item 6(e) of Schedule 14N (or any successor item) if it existed on the date of submission of the Schedule 14N;

(C) a representation and warranty that the Nominating Stockholder did not acquire, and is not holding, securities of the Corporation for the purpose or with the effect of influencing or changing control of the Corporation;

(D) a representation and warranty that the Nominee's candidacy or, if elected, membership on the Board of Directors would not violate applicable state or federal law or the rules of the principal national securities exchange on which the Corporation's securities are traded;

(E) a representation and warranty that the Nominee:

(1) does not have any direct or indirect relationship with the Corporation that will cause the Nominee to be deemed not independent pursuant to the Corporation's Independence Policy of the Board of Directors as most recently published on its website and otherwise qualifies as independent under the rules of the principal national securities exchange on which the Corporation's shares of common stock are traded;

(2) meets the audit committee independence requirements under the rules of the principal national securities exchange on which the Corporation's shares of common stock are traded;

(3) is a "non-employee director" for the purposes of Rule 16b-3 under the Exchange Act (or any successor rule);

(4) is an "outside director" for the purposes of Section 162(m) of the Internal Revenue Code (or any successor provision); and

(5) is not and has not been subject to any event specified in Rule 506(d)(1) of Regulation D (or any successor rule) under the Securities Act of 1933 or Item 401(f) of Regulation S-K (or any successor rule) under the Exchange Act, without reference to whether the event is material to an evaluation of the ability or integrity of the Nominee;

(F) a representation and warranty that the Nominating Stockholder satisfies the eligibility requirements set forth in Section 2.15(c) and has provided evidence of ownership to the extent required by Section 2.15(c)(i);

(G) a representation and warranty that the Nominating Stockholder intends to continue to satisfy the eligibility requirements described in Section 2.15(c) through the date of the annual meeting;

(H) a representation and warranty that the Nominating Stockholder will not engage in a “solicitation” within the meaning of Rule 14a-1(l) (without reference to the exception in Rule 14a-1(l)(2)(iv)) (or any successor rules) under the Exchange Act in support of the election of any individual as a director at the applicable annual meeting, other than its Nominee(s) or any nominee of the Board of Directors;

(I) a representation and warranty that the Nominating Stockholder will not use any proxy card other than the Corporation’s proxy card in soliciting stockholders in connection with the election of a Nominee at the annual meeting;

(J) if desired, the Statement; and

(K) in the case of a nomination by a group, the designation by all group members of one group member that is authorized to act on behalf of all group members with respect to matters relating to the nomination, including withdrawal of the nomination;

(iii) An executed agreement, in a form deemed satisfactory by the Board of Directors, pursuant to which the Nominating Stockholder (including each group member) agrees:

(A) to comply with all applicable laws, rules and regulations in connection with the nomination, solicitation and election of a Nominee;

(B) to file any written solicitation or other communication with the Corporation’s stockholders relating to one or more of the Corporation’s directors or director nominees or any Nominee with the Securities and Exchange Commission, regardless of whether any such filing is required under any rule or regulation or whether any exemption from filing is available



for such materials under any rule or regulation;

(C) to assume all liability stemming from an action, suit or proceeding concerning any actual or alleged legal or regulatory violation arising out of any communication by the Nominating Stockholder or any of its Nominees with the Corporation, its stockholders or any other person in connection with the nomination or election of directors, including, without limitation, the Nomination Notice;

(D) to indemnify and hold harmless (jointly with all other group members, in the case of a group member) the Corporation and each of its directors, officers and employees individually against any liability, loss, damages, expenses or other costs (including attorneys' fees) incurred in connection with any threatened or pending action, suit or proceeding, whether legal, administrative or investigative, against the Corporation or any of its directors, officers or employees arising out of or relating to a failure or alleged failure of the Nominating Stockholder or any of its Nominees to comply with, or any breach or alleged breach of, its respective obligations, agreements or representations under this Section 2.15; and

(E) in the event that (1) any information included in the Nomination Notice or any other communication by the Nominating Stockholder (including with respect to any group member) with the Corporation, its stockholders or any other person in connection with the nomination or election of a Nominee ceases to be true and accurate in all material respects (or omits a material fact necessary to make the statements made not misleading) or (2) the Nominating Stockholder (including any group member) has failed to continue to satisfy the eligibility requirements described in Section 2.15(c), to promptly (and in any event within 48 hours of discovering such misstatement, omission or failure) notify the Corporation and any other recipient of such communication of (1) the misstatement or omission in such previously provided information and of the information that is required to correct the misstatement or omission or (2) of such failure; and

(iv) An executed agreement, in a form deemed satisfactory by the Board of Directors, by the Nominee:

(A) to provide to the Corporation such other information and certifications, including completion of the Corporation's director questionnaire, as it may reasonably request;

(B) that the Nominee has read and agrees, if elected, to serve as a member of the Board of Directors, to adhere to the Corporation's Corporate Governance Guidelines and Global Code of Business Conduct and any other Corporation policies and guidelines applicable to directors; and

(C) that the Nominee is not and will not become a party to (i) any compensatory, payment or other financial agreement, arrangement or understanding with any person or entity other than the Corporation in connection with service or action as a director of the Corporation that has not been disclosed to the Corporation, (ii) any agreement, arrangement or understanding with any person or entity as to how the Nominee would vote or act on any issue or question as a director (a “Voting Commitment”) that has not been disclosed to the Corporation or (iii) any Voting Commitment that could reasonably be expected to limit or interfere with the Nominee’s ability to comply, if elected as a director of the Corporation, with its fiduciary duties under applicable law.

The information and documents required by this Section 2.15(d) to be provided by the Nominating Stockholder shall be: (i) provided with respect to and executed by each group member, in the case of information applicable to group members; and (ii) provided with respect to the persons specified in Instruction 1 to Items 6(c) and (d) of Schedule 14N (or any successor item) in the case of a Nominating Stockholder or group member that is an entity. The Nomination Notice shall be deemed submitted on the date on which all of the information and documents referred to in this Section 2.15(d) (other than such information and documents contemplated to be provided after the date the Nomination Notice is provided) have been delivered to or, if sent by mail, received by the Secretary of the Corporation.

(e) Exceptions.

(i) Notwithstanding anything to the contrary contained in this Section 2.15, the Corporation may omit from its proxy statement any Nominee and any information concerning such Nominee (including the Statement) and no vote on such Nominee will occur (notwithstanding that proxies in respect of such vote may have been received by the Corporation), and the Nominating Stockholder may not, after the last day on which a Nomination Notice would be timely, cure in any way any defect preventing the nomination of the Nominee, if:

(A) the Corporation receives a notice, whether or not subsequently withdrawn, pursuant to Section 2.13 of these Bylaws that a stockholder intends to nominate a candidate for director at the annual meeting;

(B) the Nominating Stockholder or the designated lead group member, as applicable, or any qualified representative thereof, does not appear at the meeting of stockholders to present the nomination submitted pursuant to this Section 2.15 or the Nominating Stockholder withdraws its nomination;

(C) the Board of Directors determines that such Nominee’s nomination or election to the Board of Directors would result in the Corporation violating or failing to be in compliance with the Corporation’s

bylaws or certificate of incorporation or any applicable law, rule or regulation to which the Corporation is subject, including any rules or regulations of the principal national securities exchange on which the Corporation's securities are traded;

(D) the Nominee was nominated for election to the Board of Directors pursuant to this Section 2.15 at one of the Corporation's two preceding annual meetings of stockholders and either withdrew or became ineligible or received a vote of less than 20% of the shares of common stock entitled to vote for such Nominee;

(E) the Nominee (1) has been, within the past three years, an officer or director of a competitor, as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914, as amended, or (2) is a U.S. Disqualified Person, as defined in the certificate of incorporation; or

(F) the Corporation is notified, or the Board of Directors determines, that a Nominating Stockholder has failed to continue to satisfy the eligibility requirements described in Section 2.15(c), any of the representations and warranties made in the Nomination Notice ceases to be true and accurate in all material respects (or omits a material fact necessary to make the statements made not misleading), the Nominee becomes unwilling or unable to serve on the Board of Directors or any material violation or breach occurs of the obligations, agreements, representations or warranties of the Nominating Stockholder or the Nominee under this Section 2.15;

(ii) Notwithstanding anything to the contrary contained in this Section 2.15, the Corporation may omit from its proxy statement, or may supplement or correct, any information, including all or any portion of the statement in support of the Nominee(s) included in the Nomination Notice, if the Board of Directors determines that:

(A) such information is not true in all material respects or omits a material statement necessary to make the statements made not misleading;

(B) such information directly or indirectly impugns the character, integrity or personal reputation of, or directly or indirectly makes charges concerning improper, illegal or immoral conduct or associations, without factual foundation, with respect to, any person; or

(C) the inclusion of such information in the proxy statement would otherwise violate the federal proxy rules or any other applicable law, rule or regulation.

The Corporation may solicit against, and include in the proxy statement its own statement relating to, any Nominee.

### **ARTICLE III - DIRECTORS**

3.1 Subject to the immediately following sentence, the number of directors shall be determined exclusively by the Board of Directors from time to time pursuant to a resolution adopted by a majority of the directors then in office. If the holders of any class or classes of stock or series thereof are entitled as such by the certificate of incorporation to elect one or more directors, the preceding sentence shall not apply to such directors and the number of such directors shall be as provided in the terms of such stock and pursuant to the resolution or resolutions authorizing or fixing the terms of such stock. Each director shall be elected by the stockholders at their annual meeting. Each director shall hold office until the next election, and until his or her successor is elected and qualified or until his or her earlier death, resignation or removal. Any director may resign at any time upon written notice or by electronic transmission given to the Board of Directors or to the Chief Executive Officer or the Secretary of the Corporation. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein, no acceptance of such resignation shall be necessary to make it effective. Directors need not be stockholders.

3.2 Any vacancies resulting from death, resignation, disqualification, removal or other cause, and newly created directorships resulting from any increase in the authorized number of directors or from any other cause, may be filled by, and only by, directors then in office, even if less than a quorum, or by the sole remaining director. Whenever the holders of any class or classes of stock or series thereof are entitled, by the certificate of incorporation, to elect one or more directors, vacancies and newly created directorships of such class or classes or series may be filled by, and only by, a majority of the directors elected by such class or classes or series then in office, although less than a quorum, or by the sole remaining director so elected. Any director elected or appointed to fill a vacancy or a newly created directorship shall hold office until his or her successor is duly elected and shall qualify, or until his or her earlier resignation or removal.

3.3 The business of the Corporation shall be managed by or under the direction of its Board of Directors, which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the certificate of incorporation or by these bylaws directed or required to be exercised or done by the stockholders.

### **INDEPENDENCE REQUIREMENTS**

3.4 At least a majority of the members of the Board of Directors shall satisfy the independence requirements for directors of the Corporation, as modified and amended by the Board of Directors from time to time. The Chief Executive Officer of the Corporation may be a member of the Board of Directors. The Chief Executive Officer and any other directors who do not satisfy the independence requirements shall be recused from acts of the Board of Directors, whether it is acting as the Board of Directors or as a committee of the Board of Directors, with respect to acts of any committee of the Board of Directors that is required to

be comprised solely of directors that satisfy the independence requirements of the Corporation, as modified and amended by the Board of Directors from time to time.

## **MEETINGS OF THE BOARD OF DIRECTORS**

3.5 The Board of Directors of the Corporation may hold meetings, both regular and special, either within or without the State of Delaware.

3.6

(a) Regular meetings of the Board of Directors may be held at such time and at such place as shall from time to time be determined by the Board of Directors and publicized among all directors, and if so determined and publicized, notice thereof need not be given.

(b) Special meetings of the Board of Directors may be called by the Chairman of the Board, if any, by the Vice Chairman of the Board, if any, by the Chief Executive Officer or by any two directors on notice to each director given either personally or by mail, e-mail or facsimile at least twenty-four hours prior to such meeting, or by mail at least three (3) calendar days prior to such meeting, which notice, with respect to each director, may be waived in writing by such director.

3.7 At each meeting of the Board of Directors, one-half of the total number of directors fixed by resolution of the Board of Directors in accordance with Section 3.1 (including any vacancies) shall constitute a quorum for the transaction of business. The vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board unless the certificate of incorporation or these bylaws shall require a vote of a greater number. In case at any meeting of the Board a quorum shall not be present, the members of the Board present may adjourn the meeting from time to time until a quorum shall be present.

3.8 Meetings of the Board of Directors shall be presided over by the Chairman of the Board, if any, or in the absence of the Chairman of the Board by the Vice Chairman of the Board, if any, or in the absence of the Vice Chairman of the Board by the Chief Executive Officer, or in their absence by a Chairman chosen at the meeting. The Secretary, or in the absence of the Secretary an Assistant Secretary, shall act as Secretary of the meeting, but in the absence of the Secretary and any Assistant Secretary the Chairman of the meeting may appoint any person to act as Secretary of the meeting.

3.9 Any action required or permitted to be taken at any meeting of the Board of Directors or any committee thereof may be taken without a meeting if all of the members of the Board or of such committee, as the case may be, consent thereto in writing or by electronic transmission and the writing or writings or transmission or transmissions are filed with the minutes of the Corporation. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

3.10 Members of the Board of Directors, or of any committee designated by the Board, may participate in a meeting of the Board or of such committee, as the case may be, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

### **COMMITTEES OF DIRECTORS**

3.11 The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member.

Any such committee, to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers that require it; but no such committee shall have such power or authority in reference to the following matters: (i) approving or adopting, or recommending to the stockholders, any action or matter expressly required by the Delaware General Corporation Law to be submitted to stockholders for approval; or (ii) adopting, amending or repealing any provision of these bylaws.

3.12 Unless the Board of Directors otherwise provides, each committee designated by the Board may adopt, amend and repeal rules for the conduct of its business. In the absence of a provision by the Board or a provision in the rules of such committee to the contrary, a majority of the entire authorized number of members of such committee shall constitute a quorum for the transaction of business, the vote of a majority of the members present at a meeting at the time of such vote if a quorum is then present shall be the act of such committee, and in other respects each committee shall conduct its business in the same manner as the Board conducts its business pursuant to Article II of these bylaws.

### **COMPENSATION OF DIRECTORS**

3.13 Unless otherwise restricted by the certificate of incorporation or these bylaws, the Board of Directors or any committee thereof shall have the authority to fix the compensation of directors. The directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors or a stated salary as director (which amounts may be paid in cash or such other form as the Board or any committee may authorize). No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Stockholders of special or standing committees may be allowed like compensation for attending committee meetings.

## CONSIDERATIONS OF THE BOARD OF DIRECTORS

### 3.14

(a) In discharging his or her responsibilities as a member of the Board, each director also must, to the fullest extent permitted by applicable law, take into consideration the effect that the Corporation's actions would have on the ability of:

(1) the U.S. Regulated Subsidiaries to carry out their responsibilities under the Exchange Act; and

(2) the U.S. Regulated Subsidiaries, NYSE Group, Inc. ("NYSE Group") (if and to the extent that NYSE Group continues to exist as a separate entity), NYSE Holdings LLC ("NYSE Holdings"), Intercontinental Exchange Holdings, Inc. ("ICE Holdings") and the Corporation (a) to engage in conduct that fosters and does not interfere with the ability of the U.S. Regulated Subsidiaries, NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity), NYSE Holdings, ICE Holdings and the Corporation to prevent fraudulent and manipulative acts and practices in the securities markets; (b) to promote just and equitable principles of trade in the securities markets; (c) to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; (d) to remove impediments to and perfect the mechanisms of a free and open market in securities and a U.S. national securities market system; and (e) in general, to protect investors and the public interest.

(b) In discharging his or her responsibilities as a member of the Board or as an officer or employee of the Corporation, each such director, officer or employee shall (1) comply with the U.S. federal securities laws and the rules and regulations thereunder, (2) cooperate with the SEC and (3) cooperate with the U.S. Regulated Subsidiaries pursuant to and, to the extent of, their regulatory authority.

(c) Nothing in this Section 3.14 shall create any duty owed by any director, officer or employee of the Corporation to any Person to consider, or afford any particular weight to, any of the foregoing matters or to limit his or her consideration to the foregoing matters, or by implication be read to apply more broadly than as defined in this Section 3.14. No employee, former employee, beneficiary, customer, creditor, community or regulatory authority or member thereof shall have any rights against any director, officer or employee of the Corporation or the Corporation under this Section 3.14.

3.15 "U.S. Regulated Subsidiaries" shall mean New York Stock Exchange LLC, [NYSE Market (DE), Inc., NYSE Regulation, Inc.,] NYSE Arca, LLC, NYSE Arca, Inc., NYSE Arca Equities, Inc., [and ]NYSE MKT LLC, and NYSE National, Inc. or their successors, in each case to the extent that such entities continue to be controlled, directly or indirectly, by the Corporation (and each, a "U.S. Regulated Subsidiary").

## **ARTICLE IV - NOTICES**

4.1 Whenever any notice is required by law, the certificate of incorporation or these bylaws to be given, a waiver thereof in writing, signed by the person or persons entitled to said notice, or a waiver thereof by electronic transmission by such person, whether given before or after the time stated therein, shall be deemed equivalent thereto. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors or members of a committee of directors need be specified in any written waiver of notice unless so required by the certificate of incorporation or these bylaws. If mailed, notice to stockholders shall be deemed given when deposited in the mail, postage prepaid, directed to the stockholder at the stockholder's address as it appears on the records of the Corporation. Without limiting the manner by which notices otherwise may be given effectively to stockholders, any notice to stockholders may be given by electronic transmission in the manner provided in Section 232 of the Delaware General Corporation Law.

## **ARTICLE V - OFFICERS**

5.1 The Board of Directors may elect from among its members a Chairman of the Board. The Board of Directors may also choose officers of the Corporation, which may include a Chief Executive Officer, a President, a Chief Financial Officer, a Chief Strategic Officer, a Chief Technology Officer, a General Counsel, a Secretary and one or more Senior Vice Presidents and may also choose one or more Vice Presidents, Assistant Secretaries, Treasurers and Assistant Treasurers and such other officers as the Board may deem desirable or appropriate and may give any of them such further designations or alternate titles as it considers desirable. In addition, the Board at any time and from time to time may authorize any officer of the Corporation to appoint one or more officers of the kind described in the immediately preceding sentence (other than any Senior Officers). Any number of offices may be held by the same person and directors may hold any office, unless the certificate of incorporation or these bylaws otherwise provide. For purposes of these bylaws, "Senior Officers" shall mean the Corporation's Chief Executive Officer, the President, the Chief Financial Officer, the Chief Strategic Officer, the Chief Technology Officer, the General Counsel, the Secretary, any Senior Vice Presidents, and any other officer designated a "Senior Officer" by the Board or the Compensation Committee of the Board from time to time in its sole discretion. For the avoidance of doubt, any employee deemed an officer of the Corporation under Section 16 of the Exchange Act shall be deemed a Senior Officer for purposes of these bylaws.

5.2 The Board of Directors shall choose a Chief Executive Officer and a Secretary. The Secretary shall have the duty to record the proceedings of the meetings of the stockholders, the Board of Directors and any committees in a book to be kept for that purpose.



5.3 The Board of Directors may appoint such other officers and agents as it shall deem necessary who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be stated in these bylaws or as shall be determined from time to time by resolution of the Board of Directors and which are not inconsistent with these bylaws and, to the extent not so stated, as generally pertain to their respective offices, subject to the control of the Board.

5.4 Unless otherwise provided in the resolution of the Board of Directors electing or authorizing the appointment of any officer, each officer of the Corporation shall hold office until his or her successor is chosen and qualifies or until his or her earlier resignation or removal. Any officer may resign at any time upon written notice to the Board or to the Chief Executive Officer or the Secretary of the Corporation. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein no acceptance of such resignation shall be necessary to make it effective. Any officer may be removed with or without cause at any time by the affirmative vote of a majority of the Board of Directors. Any officer authorized by the Board to appoint a person to hold an office of the Corporation may also remove such person from such office with or without cause at any time, unless otherwise provided in the resolution of the Board providing such authorization. Any such removal shall be without prejudice to the contractual rights of such officer, if any, with the Corporation, but the election of an officer shall not of itself create contractual rights. Any vacancy occurring in any office of the Corporation shall be filled by the Board of Directors.

#### **ARTICLE VI - CERTIFICATE OF STOCK**

6.1 The shares of stock in the Corporation shall be represented by certificates, *provided* that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of the Corporation's stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate theretofore issued until such certificate is surrendered to the Corporation. Notwithstanding the adoption of such a resolution by the Board, to the extent, if any, required by applicable law, every holder of stock in the Corporation shall be entitled to have a certificate, signed by, or in the name of the Corporation by the Chief Executive Officer or a Vice President and the Chief Financial Officer or an Assistant Treasurer, the Secretary or an Assistant Secretary of the Corporation, certifying the number of shares of stock registered in certificate form owned by him or her in the Corporation.

If the Corporation shall be authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualification, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock, *provided* that, except as otherwise provided in Section 202 of the Delaware General Corporation Law, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock, a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof

and the qualifications, limitations or restrictions of such preferences and/or rights. Within a reasonable time after the issuance or transfer of uncertificated shares, the Corporation shall send to the registered owner thereof a written notice containing the information required by law to be set forth or stated on certificates or a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated shares and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

6.2 Any of or all the signatures on the certificate may be facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue.

### **LOST CERTIFICATES**

6.3 The Board of Directors may direct a new certificate or certificates or uncertificated shares to be issued in place of any certificate or certificates theretofore issued by the Corporation alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed or such person's legal representative. When authorizing such issue of a new certificate or certificates or uncertificated shares, the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or certificates, or his legal representative, to advertise the same in such manner as it shall require and/or to give the Corporation a bond in such sum as it may direct as indemnity against any claim that may be made against the Corporation with respect to the certificate alleged to have been lost, stolen or destroyed.

### **TRANSFER OF STOCK**

6.4 Subject to any applicable restrictions on transfer, upon surrender to the Corporation or the transfer agent of the Corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer, it shall be the duty of the Corporation to issue a new certificate or uncertificated shares to the person entitled thereto, cancel the old certificate and record the transaction upon its books.

### **REGISTERED STOCKHOLDERS**

6.5 The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the State of Delaware.

## **ARTICLE VII - JURISDICTION**

The Corporation, its directors and officers, and those of its employees whose principal place of business and residence is outside of the United States shall be deemed to irrevocably submit to the jurisdiction of the U.S. federal courts and the SEC for the purposes of any suit, action or proceeding pursuant to the U.S. federal securities laws and the rules and regulations thereunder, commenced or initiated by the SEC arising out of, or relating to, the activities of the U.S. Regulated Subsidiaries (and shall be deemed to agree that the Corporation may serve as the U.S. agent for purposes of service of process in such suit, action or proceeding), and the Corporation and each such director, officer or employee, in the case of any such director, officer or employee by virtue of his acceptance of any such position, 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 SEC, that such suit, action or proceeding is an inconvenient forum or that the venue of such suit, action or proceeding is improper, or that the subject matter thereof may not be enforced in or by such courts or agency.

## **ARTICLE VIII - CONFIDENTIAL INFORMATION**

8.1 To the fullest extent permitted by applicable law, all confidential information that shall come into the possession of the Corporation pertaining to the self-regulatory function of New York Stock Exchange LLC, [NYSE Market (DE), Inc., NYSE Regulation, Inc., ]NYSE Arca, Inc., NYSE Arca Equities, Inc., [and ]NYSE MKT LLC and NYSE National, Inc. or their successors, in each case to the extent that such entities continue to be controlled, directly or indirectly, by the Corporation (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of any of the U.S. Regulated Subsidiaries (the “U.S. Subsidiaries’ Confidential Information”) shall (x) not be made available to any Persons (other than as provided in Sections 8.2 and 8.3 of these bylaws) other than to those officers, directors, employees and agents of the Corporation that have a reasonable need to know the contents thereof; (y) be retained in confidence by the Corporation and the officers, directors, employees and agents of the Corporation; and (z) not be used for any commercial purposes.

8.2 Notwithstanding Section 8.1 of these bylaws, nothing in these bylaws shall be interpreted so as to limit or impede:

- (a) the rights of the SEC or any of the U.S. Regulated Subsidiaries to have access to and examine such U.S. Subsidiaries’ Confidential Information pursuant to the U.S. federal securities laws and the rules and regulations thereunder; or
- (b) the ability of any officers, directors, employees or agents of the Corporation to disclose the U.S. Subsidiaries’ Confidential Information to the SEC or the U.S. Regulated Subsidiaries.

8.3 The Corporation’s books and records shall be subject at all times to inspection and copying by:

- (a) the SEC; and

(b) any U.S. Regulated Subsidiary; provided that such books and records are related to the operation or administration of such U.S. Regulated Subsidiary or any other U.S. Regulated Subsidiary over which such U.S. Regulated Subsidiary has regulatory authority or oversight.

8.4 The Corporation's books and records related to U.S. Regulated Subsidiaries shall be maintained within the United States. For so long as the Corporation directly or indirectly controls any U.S. Regulated Subsidiary, the books, records, premises, officers, directors and employees of the Corporation shall be deemed to be the books, records, premises, officers, directors and employees of such U.S. Regulated Subsidiaries for purposes of and subject to oversight pursuant to the Exchange Act.

## **ARTICLE IX - COMPLIANCE WITH SECURITIES LAWS**

9.1 The Corporation shall comply with the U.S. federal securities laws and the rules and regulations thereunder and shall cooperate with the SEC and the U.S. Regulated Subsidiaries pursuant to and to the extent of their respective regulatory authority, and shall take reasonable steps necessary to cause its agents to cooperate, with the SEC and, where applicable, the U.S. Regulated Subsidiaries pursuant to and to the extent of their regulatory authority.

9.2 The Corporation shall take reasonable steps necessary to cause its officers, directors and employees, prior to accepting a position as an officer, director or employee, as applicable, of the Corporation to consent in writing to the applicability to them of Articles VII and VIII and Sections 3.14 and 9.3 of these bylaws, as applicable, with respect to their activities related to any U.S. Regulated Subsidiary.

9.3 The Corporation, its directors, officers and employees shall give due regard to the preservation of the independence of the self-regulatory function of the U.S. Regulated Subsidiaries (to the extent of each U.S. Regulated Subsidiary's self-regulatory function) and to its obligations to investors and the general public, and shall not take any actions that would interfere with the effectuation of any decisions by the board of directors or managers of the U.S. Regulated Subsidiaries relating to their regulatory responsibilities (including enforcement and disciplinary matters) or that would interfere with the ability of the U.S. Regulated Subsidiaries to carry out their respective responsibilities under the Exchange Act.

9.4 No stockholder, employee, former employee, beneficiary, customer, creditor, community, regulatory authority or member thereof shall have any rights against the Corporation or any director, officer or employee of the Corporation under this Article IX.

## **ARTICLE X - GENERAL PROVISIONS**

### **DIVIDENDS**

10.1 Dividends upon the capital stock of the Corporation, subject to the provisions of the certificate of incorporation, if any, and applicable law may be declared by the Board of Directors at any regular or special meeting, pursuant to law. Dividends may be paid in cash,

in property or in shares of capital stock, subject to the provisions of the certificate of incorporation.

10.2 Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the directors from time to time, in their absolute discretion, think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or for such other purposes as the directors shall think conducive to the interest of the Corporation, and the directors may modify or abolish any such reserve in the manner in which it was created.

### **FISCAL YEAR**

10.3 The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

### **SEAL**

10.4 The Board of Directors may adopt a corporate seal having inscribed thereon the name of the Corporation, the year of its organization and the words "Corporate Seal, Delaware." The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

### **TIME PERIODS**

10.5 In applying any provision of these bylaws that requires that an act be done or not be done a specified number of days prior to any event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of the doing of the act shall be excluded, and the day of the event shall be included.

### **INDEMNIFICATION**

10.6 The Corporation shall, to the fullest extent permitted by law, as those laws may be amended and supplemented from time to time, indemnify any director or Senior Officer made, or threatened to be made, a party to any action, suit or proceeding, whether criminal, civil, administrative or investigative, by reason of being a director or Senior Officer of the Corporation or a predecessor corporation or, at the Corporation's request, a director, officer, partner, member, employee or agent of another corporation or other entity; *provided, however,* that the Corporation shall indemnify any director or Senior Officer in connection with a proceeding initiated by such person only if such proceeding was authorized in advance by the Board of Directors of the Corporation. The indemnification provided for in this Section 10.6 shall: (i) not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement or vote of stockholders or disinterested directors or otherwise, both as to action in their official capacities and as to action in another capacity while holding such office; (ii) continue as to a person who has ceased to be a director or Senior Officer; and (iii) inure to the benefit of the heirs, executors and administrators of an indemnified person.

Expenses incurred by any such person in defending a civil or criminal action, suit or proceeding by reason of the fact that he is or was a director or Senior Officer of the Corporation (or was serving at the Corporation's request as a director, officer, partner, member, employee or agent of another corporation or other entity) shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or Senior Officer to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Corporation as authorized by law. Notwithstanding the foregoing, the Corporation shall not be required to advance such expenses to a person who is a party to an action, suit or proceeding brought by the Corporation and approved by a majority of the Board of Directors of the Corporation that alleges willful misappropriation of corporate assets by such person, disclosure of confidential information in violation of such person's fiduciary or contractual obligations to the Corporation or any other willful and deliberate breach in bad faith of such person's duty to the Corporation or its stockholders.

The foregoing provisions of this Section 10.6 shall be deemed to be a contract between the Corporation and each director or Senior Officer who serves in such capacity at any time while this bylaw is in effect, and any repeal or modification thereof shall not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought based in whole or in part upon any such state of facts. The rights provided to any person by this bylaw shall be enforceable against the Corporation by such person, who shall be presumed to have relied upon it in serving or continuing to serve as a director or officer or in such other capacity as provided above.

The Board of Directors in its discretion shall have power on behalf of the Corporation to indemnify any person, other than a director or Senior Officer, made or threatened to be made a party to any action, suit or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that such person, or his or her testator or intestate, is or was an officer, employee or agent of the Corporation or, at the Corporation's request, is or was serving as a director, officer, partner, member, employee or agent of another corporation or other entity.

To assure indemnification under this Section 10.6 of all directors, officers, employees and agents who are determined by the Corporation or otherwise to be or to have been "fiduciaries" of any employee benefit plan of the Corporation that may exist from time to time, Section 145 of the Delaware General Corporation Law shall, for the purposes of this Section 10.6, be interpreted as follows: an "other enterprise" shall be deemed to include such an employee benefit plan, including without limitation, any plan of the Corporation that is governed by the Act of Congress entitled "Employee Retirement Income Security Act of 1974," as amended from time to time; the Corporation shall be deemed to have requested a person to serve an employee benefit plan where the performance by such person of his duties to the Corporation also imposes duties on, or otherwise involves services by, such person to the plan or participants or beneficiaries of the plan; excise taxes assessed on a person with respect to an employee benefit plan pursuant to such Act of Congress shall be deemed "fines."

## FORM OF RECORDS

10.7 Any records maintained by the Corporation in the regular course of its business, including its stock ledger, books of account and minute books, may be kept on, or be in the form of, electronic data storage, media punch cards, magnetic tape, photographs, microphotographs or any other information storage device, provided that the records so kept can be converted into clearly legible form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect the same.

## INTERPRETATION

10.8 Any reference in these bylaws to the Delaware General Corporation Law shall be to the Delaware General Corporation Law as it now exists or as it may hereafter be amended.

## ARTICLE XI - AMENDMENTS TO THE BYLAWS

11.1 The Board of Directors may adopt additional bylaws, and may amend or repeal any bylaws, whether or not adopted by them, at any time.

11.2 Stockholders of the Corporation may adopt additional bylaws and may amend or repeal any bylaws; *provided* that notice of the proposed change was given in the notice of the stockholders meeting at which such action is to be taken, subject to any vote of the holders of any class or series of stock of the Corporation required by law or the Certificate of Incorporation.

11.3 Notwithstanding Sections 11.1 and 11.2, for so long as the Corporation shall control, directly or indirectly, any of the U.S. Regulated Subsidiaries before any amendment or repeal of any provision of these bylaws shall be effective, such amendment or repeal shall either be (i) filed with or filed with and approved by the SEC under Section 19 of the Exchange Act and the rules promulgated thereunder or (ii) submitted to the boards of directors of New York Stock Exchange LLC, [ NYSE Market (DE), Inc., NYSE Regulation, Inc.,] NYSE Arca, Inc., NYSE Arca Equities, Inc., [and ]NYSE MKT LLC and NYSE National, Inc. or the boards of directors of their successors, in each case only to the extent that such entity continues to be controlled directly or indirectly by the Corporation, and if any or all of such boards of directors shall determine that such amendment or repeal must be filed with or filed with and approved by the SEC under Section 19 of the Exchange Act and the rules promulgated thereunder before such amendment or repeal may be effectuated, then such amendment or repeal shall not be effectuated until filed with or filed with and approved by the SEC, as the case may be.

## ARTICLE XII - VOTING AND OWNERSHIP LIMITATIONS

12.1

(a) Subject to its fiduciary obligations under applicable law, for so long as the Corporation directly or indirectly controls NYSE National, Inc. (or its successor), the Board of Directors shall not adopt any resolution pursuant to clause (b) of Section A.2 of Article V

of the Corporation's Certificate of Incorporation unless the Board of Directors shall have determined that:

(1) in the case of a resolution to approve the exercise of voting rights in excess of 20% of the then outstanding votes entitled to be cast on such matter, neither such Person nor any of its Related Persons is an ETP Holder (as defined in the bylaws of NYSE National, Inc., as such bylaws may be in effect from time to time) of NYSE National, Inc. (any such Person that is a Related Person of an ETP Holder shall hereinafter also be deemed to be an "ETP Holder" for purposes of the Amended and Restated Certificate of Incorporation of the Corporation, as the context may require);

(2) 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 Article V of the Certificate of Incorporation of the Corporation, 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 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 other arrangement are not outstanding votes entitled to be cast on such matter), neither such Person nor any of its Related Persons is, with respect to NYSE National, Inc., an ETP Holder.

(b) Subject to its fiduciary obligations under applicable law, for so long as the Corporation directly or indirectly controls NYSE National, Inc. (or its successor), the Board of Directors shall not adopt any resolution pursuant to clause (b) of Section B(2) of Article V of the Corporation's Certificate of Incorporation, unless the Board of Directors shall have determined that neither such Person nor any of its Related Persons is an ETP Holder with respect to NYSE National, Inc. (or its successor).

(c) For the purpose of this Section 12.1, "Person" shall have the meaning assigned in the Certificate of Incorporation of the Corporation, as it shall be in effect from time to time.

(d) "Related Person" shall have the meaning assigned by the Certificate of Incorporation of the Corporation, as it shall be in effect from time to time.

12.2 For so long as the Corporation shall control, directly or indirectly, NYSE National, Inc. (or its successor), the Board of Directors shall not adopt any resolution to repeal or amend any provision of the certificate of incorporation of the Corporation unless such amendment or repeal shall either be (A) filed with or filed with and approved by the SEC under Section 19 of the Exchange Act and the rules promulgated thereunder or (B) submitted to the board of directors of NYSE National, Inc. (or the board of directors of its successor), and if such board of directors determines that such amendment or repeal must be filed with or filed with and approved by the SEC under Section 19 of the Exchange Act and the rules promulgated thereunder before such amendment or repeal may be effectuated, then



such amendment or repeal shall not be effectuated until filed with or filed with and approved by the SEC, as the case may be.

Deletions [bracketed]  
 Additions underscored

**[SEVENTH]EIGHTH AMENDED AND RESTATED  
 CERTIFICATE OF INCORPORATION  
 OF INTERCONTINENTAL EXCHANGE HOLDINGS, INC.**

Intercontinental Exchange Holdings, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

(1) The present name of the Corporation is Intercontinental Exchange Holdings, Inc. The original Certificate of Incorporation of the Corporation was filed on June 16, 2000.

(2) This [Seventh]Eighth Amended and Restated Certificate of Incorporation of the Corporation restates, integrates, and further amends the provisions of the [Sixth]Seventh Amended and Restated Certificate of Incorporation of the Corporation.

(3) This [Seventh]Eighth Amended and Restated Certificate of Incorporation of the Corporation has been duly adopted in accordance with Sections 242 and 245 of the General Corporation Law of the State of Delaware (the "DGCL"). Stockholder approval of this [Sixth]Eighth Amended and Restated Certificate of Incorporation was effected by written consent in accordance with Section 228 of the DGCL.

(4) Pursuant to Sections 242 and 245 of the DGCL, the text of the [Sixth]Seventh Amended and Restated Certificate of Incorporation is hereby amended and restated so to read in its entirety as set forth on Exhibit A.

(5) This [Seventh]Eighth Amended and Restated Certificate of Incorporation of the Corporation shall become effective at [9:00 A.M.]  Eastern Time, on [May 22] , 201[5] 7.

**IN WITNESS WHEREOF**, the undersigned, a duly authorized officer of the Corporation, has executed this [Seventh]Eighth Amended and Restated Certificate of Incorporation of the Corporation on this [22<sup>nd</sup>]  day of [May] , 201[5] 7.

**INTERCONTINENTAL EXCHANGE  
 HOLDINGS, INC.**

By: \_\_\_\_\_

Name:

Title:

**Exhibit A**

**[SEVENTH]EIGHTH AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF INTERCONTINENTAL EXCHANGE HOLDINGS, INC.**

**ARTICLE I**

**Name of Corporation**

The name of the Corporation is Intercontinental Exchange Holdings, Inc.

**ARTICLE II**

**Registered Office**

The address of the Corporation's registered office in the State of Delaware, County of New Castle, is 1209 Orange Street, Wilmington, Delaware 19801. The name of its registered agent at such address is: The Corporation Trust Company.

**ARTICLE III**

**Purpose**

The nature or purposes to be conducted or promoted by the Corporation are to engage in any lawful act or activity for which Corporations may be organized under the Delaware General Corporation Law.

**ARTICLE IV**

**Stock**

A. Classes and Series of Stock. The Corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares of stock that the Corporation is authorized to issue is one thousand, one hundred (1,100) shares, consisting of one thousand (1,000) shares of Common Stock, par value \$0.01 per share, and one hundred (100) shares of Preferred Stock, par value \$0.01 per share.

B. Preferred Stock. Shares of Preferred Stock may be issued in one or more series from time to time by the Board of Directors, and the Board of Directors is expressly authorized, to the fullest extent permitted by law, to fix by resolution or resolutions the designations and the powers, preferences and rights, and the qualifications, limitations and restrictions thereof, of the shares of each series of Preferred Stock, including without limitation the following:

1. the distinctive serial designation of such series, which shall distinguish it from other series;

2. the number of shares included in such series;
3. 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 of Directors of the Corporation, 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 dividends, any conditions on which such dividends shall be payable and the date or dates, if any, on which such dividends shall be payable;
4. whether dividends on the shares of such series shall be cumulative and, in the case of shares of any series having cumulative dividend rights, the date or dates or method of determining the date or dates from which dividends on the shares of such series shall be cumulative;
5. the amount or amounts that shall be payable out of the assets of the Corporation to the holders of the shares of such series upon 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;
6. the price or prices 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;
7. 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 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;
8. 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, and the price or prices or rate or rates of exchange or conversion and any adjustments applicable thereto; and
9. whether or not the holders of the shares of such series shall have voting rights or powers, in addition to the voting rights and powers provided by law, and if so the terms of such voting rights or powers, which may provide,

among other things and subject to the other provisions of this Amended and Restated 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 together with one or more other series or classes of stock of the Corporation) and that all of the shares of such series entitled to vote on a particular matter shall be deemed to be voted on such matter in the manner that a specified portion of the voting power of the shares of such series or separate class are voted on such matter.

For all purposes, this Amended and Restated 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 Amended and Restated Certificate of Incorporation to increase or decrease the number of authorized shares of any series of Preferred Stock (but not below the number of shares thereof then outstanding) may be adopted by resolution adopted by the Board of Directors of the Corporation and approved by the affirmative vote of the holders of a majority of the voting power of all outstanding shares of Common Stock entitled to vote thereon and all other outstanding shares of stock of the Corporation entitled to vote thereon irrespective of the provisions of Section 242(b)(2) of the Delaware General Corporation Law as it now exists or as it may hereafter be amended, with such outstanding shares of Common Stock and other stock considered for this purpose as a single class, and no vote of the holders of any series of Preferred Stock, voting as a separate class, shall be required therefor.

Except as otherwise required by law or provided in the certificate of designations for the relevant series of Preferred Stock, holders of Common Stock shall not be entitled to vote on any amendment of this Amended and Restated 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 such affected series are entitled, either separately or together with the holders of one or more other series of Preferred Stock, to vote thereon as a separate class pursuant to this Amended and Restated Certificate of Incorporation or pursuant to the Delaware General Corporation Law as then in effect.

C. Transfer Restrictions on Stock. All of the issued and outstanding shares of stock of the Corporation shall be held by Intercontinental Exchange, Inc. (“ICE”). ICE may not transfer or assign any shares of stock of the Corporation, in whole or in part, to any person or entity, unless such transfer or assignment shall be filed with and approved by the U.S. Securities and Exchange commission (the “SEC”) under Section 19 of the U.S. Securities Exchange Act of 1934, as amended and the rules promulgated thereunder (the “Exchange Act”).

**ARTICLE V****Limitations on Voting and Ownership**

In the event that ICE does not own all of the issued and outstanding shares of stock of the Corporation, the following provisions of this Article V shall apply:

A. Voting Limitation.

1. Notwithstanding any other provision of this Amended and Restated Certificate of Incorporation, for so long as the Corporation shall directly or indirectly control any U.S. Regulated Subsidiary (as defined below), (a) 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 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% of the then outstanding votes entitled to be cast on such matter, without giving effect to this ARTICLE V (such threshold being hereinafter referred to as the "Voting Limitation"), and the Corporation shall disregard any such votes purported to be cast in excess of the Voting Limitation; and (b) 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, but for this ARTICLE V, 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% 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) (the "Recalculated Voting Limitation"), then the Person, 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.

2. The Voting Limitation and the Recalculated Voting Limitation, as applicable, shall apply to each Person unless and until: (a) such Person shall have delivered to the Board of Directors a notice in writing, not less than 45 days (or such shorter period as the Board of Directors shall expressly

consent to) prior to any vote, 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 Voting Limitation or the Recalculated Voting Limitation, as applicable; (b) the Board of Directors shall have resolved to expressly permit such voting; and (c) such resolution shall have been filed with, and approved by, the SEC under Section 19(b) of the Exchange Act and shall have become effective thereunder.

3. Subject to its fiduciary obligations under applicable law, the Board of Directors shall not adopt any resolution pursuant to clause (b) of Section A.2 of this ARTICLE V unless the Board of Directors 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, (i) will not impair the ability of any U.S. Regulated Subsidiary, the Corporation, NYSE Holdings LLC or NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity) to discharge their respective responsibilities under the Exchange Act and the rules and regulations thereunder and (ii) is otherwise in the best interests of (w) the Corporation, (x) its stockholders, and (y) the U.S. Regulated 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 Exchange Act;

(c) in the case of a resolution to approve the exercise of voting rights in excess of 20% of the then outstanding votes entitled to be cast on such matter, (i) neither such Person nor any of its Related Persons is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Exchange Act) (any such person subject to statutory disqualification being referred to in this Amended and Restated Certificate of Incorporation as a "U.S. Disqualified Person"); (ii) for so long as the Corporation directly or indirectly controls NYSE Arca, Inc. ("NYSE Arca") or NYSE Arca Equities, Inc. ("NYSE Arca Equities") or any facility of NYSE Arca, neither such Person nor any of its Related Persons is an ETP Holder (as defined in the NYSE Arca Equities rules of NYSE Arca, as such rules may be in effect from time to time) of NYSE Arca Equities ("NYSE Arca ETP Holder") (any such Person that is a Related Person of an NYSE Arca ETP Holder shall hereinafter also be deemed to be an "NYSE Arca ETP Holder" for purposes of this Amended and Restated Certificate of Incorporation, as the context may require) or an OTP Holder or OTP Firm (each as defined in the rules of NYSE Arca, as such rules may be in effect from time to time) of NYSE Arca (any such

Person that is a Related Person of an OTP Holder or OTP Firm shall hereinafter also be deemed to be an “OTP Holder” or “OTP Firm”, as appropriate, for purposes of this Amended and Restated Certificate of Incorporation, as the context may require); [and ](iii) for so long as the Corporation directly or indirectly controls New York Stock Exchange LLC (“New York Stock Exchange”)[ or NYSE Market (DE), Inc. (“NYSE Market”)], neither such Person nor any of its Related Persons is a “member” or “member organization” (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time) (a “NYSE Member”, and any such Person that is a Related Person of such member or member organization shall hereinafter also be deemed to be a “NYSE Member” for purposes of this Amended and Restated Certificate of Incorporation, as the context may require); [and ](iv) for so long as the Corporation directly or indirectly controls NYSE MKT LLC (“NYSE MKT”), neither such Person nor any of its Related Persons is a “member” (as defined in Sections 3(a)(3)(A)(i), 3(a)(3)(A)(ii), 3(a)(3)(A)(iii) and 3(a)(3)(A)(iv) of the Exchange Act) of NYSE MKT (an “MKT Member,” and any such Person that is a Related Person of such member or member organization shall hereinafter also be deemed to be an “MKT Member” for purposes of this Amended and Restated Certificate of Incorporation, as the context may require); and (v) for so long for so long as the Corporation directly or indirectly controls NYSE National, Inc. (or its successor) (“NYSE National”), neither such Person nor any of its Related Persons is an ETP Holder (as defined in the bylaws of NYSE National, as such bylaws may be in effect from time to time) of NYSE National (“NYSE National ETP Holder”) (any such Person that is a Related Person of an NYSE National ETP Holder shall hereinafter also be deemed to be an “NYSE National ETP Holder” for purposes of the Amended and Restated Certificate of Incorporation of the Corporation, as the context may require);

(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 V, 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 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 other arrangement are not outstanding votes entitled to be cast on such matter), (i) neither such Person nor any of its Related Persons is a U.S. Disqualified Person; (ii) for so long as the Corporation directly or indirectly controls NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca, neither such Person nor any of its Related Persons is an NYSE Arca ETP Holder, OTP



Holder or an OTP Firm; (iii) for so long as the Corporation directly or indirectly controls New York Stock Exchange [or NYSE Market], neither such Person nor any of its Related Persons is a NYSE Member; [and] (iv) for so long as the Corporation directly or indirectly controls NYSE MKT, neither such Person nor any of its Related Persons is a MKT Member; and (v) for so long as the Corporation directly or indirectly controls NYSE National, neither such person nor any of its Related Persons is an NYSE National ETP Holder.

4. In making such determinations, the Board of Directors 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 of Directors may in its sole discretion deem necessary, appropriate or desirable in furtherance of the objectives of the Exchange Act and the governance of the Corporation.

5. 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 (the “Record Owner”), this Section A of ARTICLE V 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 Voting Limitation and the Recalculated Voting Limitation applicable to such Person and its Related Persons.

6. This Section A of ARTICLE V shall not apply to (1) 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 (2) 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 Exchange Act (other than a solicitation pursuant to Rule 14a-2(b)(2) promulgated under the Exchange Act, with respect to which this Section A of ARTICLE V shall apply).

7. For purposes of this Section A of ARTICLE V, 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 (1) 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 (2) 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 Exchange Act (other than a solicitation pursuant to Rule 14a-2(b)(2) promulgated under the Exchange Act, with respect to which this Section A of ARTICLE V shall apply), except if such power (or the arrangements relating thereto) is then

reportable under Item 6 of Schedule 13D under the Exchange Act (or any similar provision of a comparable or successor report).

8. “Person” shall mean any natural person, company, corporation or similar entity, government, or political subdivision, agency, or instrumentality of a government.

9. “Related Persons” shall mean with respect to any Person:

(a) any “affiliate” of such Person (as such term is defined in Rule 12b-2 under the Exchange Act);

(b) any other Person(s) with which such first Person has 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 stock of the Corporation;

(c) in the case of a Person that is a company, corporation or similar entity, any executive officer (as defined under Rule 3b-7 under the Exchange 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;

(d) in the case of a Person that is a “member organization” (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time), any “member” (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time) that is associated with such Person (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act);

(e) in the case of a Person that is an OTP Firm, any OTP Holder that is associated with such Person (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act);

(f) 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 its parents or subsidiaries;

(g) in the case of a Person that is an executive officer (as defined under Rule 3b-7 under the Exchange Act), or a director of a company, corporation or similar entity, such company, corporation or entity, as applicable;

(h) 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 company, as applicable;

(i) in the case of a Person that is a “member” (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time), the “member organization” (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time) with which such Person is associated (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act);

(j) in the case of a Person that is an OTP Holder, the OTP Firm with which such Person is associated (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act);

(k) in the case of a Person that is a “member” (as defined in Section 3(a)(3)(A)(i) of the Exchange Act) of NYSE MKT, the “member” (as defined in Sections 3(a)(3)(A)(ii), 3(a)(3)(A)(iii) and 3(a)(3)(A)(iv) of the Exchange Act) with which such Person is associated (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act); and

(l) in the case of a Person that is a “member” (as defined in Sections 3(a)(3)(A)(ii), 3(a)(3)(A)(iii) and 3(a)(3)(A)(iv) of the Exchange Act) of NYSE MKT, any “member” (as defined in Section 3(a)(3)(A)(i) of the Exchange Act) that is associated with such Person (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act).

10. “U.S. Regulated Subsidiary” and “U.S. Regulated Subsidiaries” shall have the meanings set forth in the Bylaws of the Corporation, as amended from time to time.

B. Ownership Concentration Limitation.

1. Except as otherwise provided in this Section B of ARTICLE V, for so long as the Corporation shall directly or indirectly control any U.S. Regulated Subsidiary, no Person, either alone or together with its Related Persons, shall be permitted at any time to own beneficially shares of stock of the Corporation representing in the aggregate more than 20% of the then outstanding votes entitled to be cast on any matter (the “Concentration Limitation”).

2. The Concentration Limitation shall apply to each Person unless and until: (a) such Person shall have delivered to the Board of Directors a

notice in writing, not less than 45 days (or such shorter period as the Board of Directors 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 Concentration Limitation, of such Person's intention to acquire such ownership; (b) the Board of Directors shall have resolved to expressly permit such ownership; and (c) such resolution shall have been filed with, and approved by, the SEC under Section 19(b) of the Exchange Act and shall have become effective thereunder.

3. Subject to its fiduciary obligations under applicable law, the Board of Directors shall not adopt any resolution pursuant to clause (b) of Section B.2 of this ARTICLE V unless the Board of Directors shall have determined that:

(a) such acquisition of beneficial ownership by such Person, either alone or together with its Related Persons, (i) will not impair the ability of any U.S. Regulated Subsidiaries, the Corporation, NYSE Holdings LLC, or NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity) to discharge their respective responsibilities under the Exchange Act and the rules and regulations thereunder and (ii) is otherwise in the best interests of (w) the Corporation, (x) its stockholders and (y) the U.S. Regulated 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 Exchange Act. In making such determinations, the Board of Directors 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 of Directors may in its sole discretion deem necessary, appropriate or desirable in furtherance of the objectives of the Exchange Act and the governance of the Corporation;

(c) neither such Person nor any of its Related Persons is a U.S. Disqualified Person;

(d) for so long as the Corporation directly or indirectly controls NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca, neither such Person nor any of its Related Persons is an NYSE Arca ETP Holder or an OTP Holder or OTP Firm;

(e) for so long as the Corporation directly or indirectly controls New York Stock Exchange [or NYSE Market], neither such Person nor any of its Related Persons is a Member; [and]

(f) for so long as the Corporation directly or indirectly controls NYSE MKT, neither such Person nor any of its Related Persons is a MKT Member; and[.]

(g) for so long as the Corporation directly or indirectly controls NYSE National, neither such Person nor any of its Related Persons is an NYSE National ETP Holder.

4. Unless the conditions specified in Section B.2 of this ARTICLE V 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 Concentration Limitation, such Person and its Related Persons shall be obligated to sell promptly, and the Corporation shall be obligated to purchase 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 shares of stock of the Corporation representing in the aggregate no more than 20% of the then outstanding votes entitled to be cast on any matter, after taking into account that such repurchased shares shall become treasury shares and shall no longer be deemed to be outstanding.

5. Nothing in this Section B of ARTICLE V shall preclude the settlement of transactions entered into through the facilities of New York Stock Exchange; provided, however, that, if any Transfer of any shares of stock of the Corporation shall cause any Person, either alone or together with its Related Persons, at any time to beneficially own shares of stock of the Corporation in excess of the Concentration Limitation, such Person and its Related Persons shall be obligated to sell promptly, and the Corporation shall be obligated to purchase promptly, shares of stock of the Corporation as specified in Section B.4 of this ARTICLE V.

6. If any share of Common Stock shall be represented by a certificate, a legend shall be placed on such certificate to the effect that such share of Common Stock is subject to the Concentration Limitations as set in Section B of this Article V. If the shares of Common Stock shall be uncertificated, a notice of such restrictions and limitations shall be included in the statement of ownership provided to the holder of record of such shares of Common Stock.

C. Procedure for Repurchasing Stock.

1. In the event the Corporation shall repurchase shares of stock (the "Repurchased Stock") of the Corporation pursuant to ARTICLE V, notice of such repurchase shall be given by first class mail, postage prepaid, mailed not less than 5 business nor more than 60 calendar days prior to the repurchase date, to the holder of the Repurchased Stock, at such holder's address as the same appears on the stock register of the Corporation. Each such notice shall state: (a) the repurchase date; (b) the number of shares of Repurchased

Stock to be repurchased; (c) the aggregate repurchase price, which shall equal the aggregate par value of such shares; and (d) the place or places where such Repurchased Stock is to be surrendered for payment of the aggregate repurchase price. Failure to give notice as aforesaid, or any defect therein, shall not affect the validity of the repurchase of Repurchased Stock. From and after the repurchase date (unless default shall be made by the Corporation in providing funds for the payment of the repurchase price), shares of Repurchased Stock which have been repurchased as aforesaid shall become treasury shares and shall no longer be deemed to be outstanding, and all rights of the holder of such Repurchased Stock as a stockholder of the Corporation (except the right to receive from the Corporation the repurchase price against delivery to the Corporation of evidence of ownership of such shares) shall cease. Upon surrender in accordance with said notice of evidence of ownership of Repurchased Stock so repurchased (properly assigned for transfer, if the Board of Directors shall so require and the notice shall so state), such shares shall be repurchased by the Corporation at par value.

2. 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 V shall be enforced against such Record Owner by requiring the sale of shares of stock of the Corporation held by such Record Owner in accordance with this ARTICLE V, in a manner that will accomplish the Concentration Limitation applicable to such Person and its Related Persons.

**D. Right to Information; Determinations by the Board of Directors.**

The Board of Directors shall have the right to require any Person and its Related Persons that the Board of Directors reasonably believes (i) to be subject to the Voting Limitation or the Recalculated Voting Limitation, (ii) to own beneficially (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act) shares of stock of the Corporation entitled to vote on any matter in excess of the Concentration Limitation, or (iii) to own beneficially (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act) 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 Board of Directors' 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 V as may reasonably be requested of such Person and its Related Persons. Any constructions, applications or determinations made by the Board of Directors pursuant to ARTICLE V 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.

**ARTICLE VI**

**Board of Directors**

A. Powers of the Board of Directors—General. All corporate powers shall be exercised by the Board of Directors of the Corporation, except as otherwise specifically required by law or as otherwise provided in this Amended and Restated Certificate of Incorporation.

B. Number of Directors. The number of directors of the Corporation shall be fixed only by resolution of the Board of Directors of the Corporation from time to time in the manner set forth in the bylaws.

C. Vacancies. Vacancies and newly created directorships resulting from any increase in the authorized number of directors or from any other cause (other than vacancies and newly created directorships that the holders of any class or classes of stock or series thereof are expressly entitled by this Amended and Restated Certificate of Incorporation to fill) may be filled by (1) a majority of the directors then in office, although less than a quorum, or the sole remaining director, or (2) the holder or holders of a majority of the votes of the then-outstanding shares of the Corporation's capital stock entitled to vote in an election of directors, voting together as a single class. Any director appointed to fill a vacancy or a newly created directorship shall hold office until his or her successor is elected and qualified or until his or her earlier resignation or removal.

D. Directors representing holders of Preferred Stock. Notwithstanding Section C of this ARTICLE VI, in the event that the holders of any class or series of Preferred Stock of the Corporation shall be entitled, voting separately as a class, to elect any directors of the Corporation, then any vacancies and newly created directorships that are reserved to such holders voting separately as a class shall be filled only by such holders voting separately as a class, provided always that the total number of directors of the Corporation shall not exceed the number fixed pursuant to Section B of this ARTICLE VI. Except as otherwise provided in the terms of such class or series, (i) the terms of the directors elected by such holders voting separately as a class shall expire at the annual meeting of stockholders next succeeding their election and (ii) any director or directors elected by such holders voting separately as a class may be removed, with or without cause, by the holders of a majority of the voting power of all outstanding shares of stock of the Corporation entitled to vote separately as a class in an election of such directors.

E. Power to Call Stockholder Meetings. Special meetings of stockholders of the Corporation may be called at any time by, but only by, (1) the Board of Directors acting pursuant to a resolution adopted by a majority of the Board of Directors then in office, (2) the Chairman of the Board of Directors, (3) the Chief Executive Officer of the Corporation or (4) request of holders of Common Stock representing in the aggregate at least 50% of the shares of Common Stock outstanding at such time that would be entitled to vote at the meeting as determined under Section A.1 of ARTICLE V, in each case, to be held at such date, time and place, if any, either within or without the State of Delaware as may be stated in the notice of the meeting.

F. Bylaws. Except as otherwise provided in this Amended and Restated Certificate of Incorporation, in furtherance and not in limitation of the powers

conferred by statute, the Board of Directors is expressly authorized to adopt, amend or repeal any or all of the bylaws of the Corporation.

G. Considerations of the Board of Directors. In taking any action, including action that may involve or relate to a change or potential change in the control of the Corporation, a director of the Corporation may consider, among other things, both the long-term and short-term interests of the Corporation and its stockholders and the effects that the Corporation's actions may have in the short term or long term upon any one or more of the following matters:

1. the prospects for potential growth, development, productivity and profitability of the Corporation and its subsidiaries;
2. the current employees of the Corporation or its subsidiaries;
3. the employees of the Corporation or its subsidiaries and other beneficiaries receiving or entitled to receive retirement, welfare or similar benefits from or pursuant to any plan sponsored, or agreement entered into, by the Corporation or its subsidiaries;
4. the customers and creditors of the Corporation or its subsidiaries;
5. the ability of the Corporation and its subsidiaries to provide, as a going concern, goods, services, employment opportunities and employment benefits and otherwise to contribute to the communities in which they do business;
6. the potential impact on the relationships of the Corporation or its subsidiaries with regulatory authorities and the regulatory impact generally; and
7. such other additional factors as a director may consider appropriate in such circumstances.

Nothing in this Section G of ARTICLE VI shall create any duty owed by any director, officer or employee of the Corporation to any Person to consider, or afford any particular weight to, any of the foregoing matters or to limit his or her consideration to the foregoing matters. No employee, former employee, beneficiary, customer, creditor, community or regulatory authority or member thereof shall have any rights against any director, officer or employee of the Corporation or the Corporation under this Section G of ARTICLE VI.

## **ARTICLE VII**

### **Officer and Director Disqualification**



No person that is a U.S. Disqualified Person may be a director or officer of the Corporation.

## **ARTICLE VIII**

### **Elections of Directors**

Elections of directors need not be by written ballot unless the bylaws of the Corporation shall so provide.

## **ARTICLE IX**

### **Stockholder Action**

A. Action by Written Consent. Any action of stockholders of the Corporation required or permitted to be taken at any annual or special meeting of stockholders of the Corporation may be effected by the written consent of stockholders possessing the required vote to approve such action, with or without a meeting.

B. Quorum. At each meeting of stockholders of the Corporation, except where otherwise required by law or this Amended and Restated Certificate of Incorporation, the holders of a majority of the voting power of the outstanding shares of stock of the Corporation entitled to vote on a matter at the meeting, present in person or represented by proxy, shall constitute a quorum (it being understood that any shares in excess of the Voting Limitation or the Recalculated Voting Limitation shall not be counted as present at the meeting and shall not be counted as outstanding shares of stock of the Corporation for purposes of determining whether there is a quorum, unless and only to the extent that the Voting Limitation or the Recalculated Voting Limitation, as applicable, shall have been duly waived pursuant to Section A or Section B of ARTICLE V). For purposes of the foregoing, where a separate vote by class or classes is required for any matter, the holders of a majority of the voting power of the outstanding shares of such class or classes entitled to vote, present in person or represented by proxy, shall constitute a quorum to take action with respect to that vote on that matter. In the absence of a quorum of the holders of any class of stock of the Corporation entitled to vote on a matter, the meeting of such class may be adjourned from time to time until a quorum of such class shall be so present or represented. Shares of its own capital stock belonging to the Corporation or to another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the Corporation, shall neither be entitled to vote nor be counted for quorum purposes; provided, however, that the foregoing shall not limit the right of the Corporation to vote stock, including but not limited to its own stock, held by it in a fiduciary capacity, provided, further, that any such shares of the Corporation's own capital stock held by it in a fiduciary capacity shall be voted by the person presiding over any vote in the same proportions as the shares of capital stock held by the other stockholders are voted (including any abstentions from voting).

If this Amended and Restated Certificate of Incorporation provides for more or less than one vote for any share of stock of the Corporation on any matter or to

the extent a stockholder is prohibited pursuant to this Amended and Restated Certificate of Incorporation from casting votes with respect to any shares of stock of the Corporation, every reference in the bylaws of the Corporation to a majority or other proportion of shares of stock of the Corporation shall refer to such majority or other proportion of the aggregate votes of such shares of stock, taking into account any greater or lesser number of votes as a result of the foregoing.

C. Bylaws. No adoption, amendment or repeal of a bylaw by action of stockholders shall be effective unless approved by the affirmative vote of the holders of at least a majority of the voting power of all outstanding shares of Common Stock and all other outstanding shares of stock of the Corporation entitled to vote on such matter, with such outstanding shares of Common Stock and other stock considered for this purpose as a single class. Any vote of stockholders required by this ARTICLE IX shall be in addition to any other vote of stockholders that may be required by law, this Amended and Restated Certificate of Incorporation, the bylaws of the Corporation, any agreement with a national securities exchange or otherwise.

D. Location of Stockholder Meetings and Records. Meetings of stockholders may be held within or without the State of Delaware, as the bylaws may provide. The books of the Corporation may be kept (subject to any provision contained in the Delaware General Corporation Law as it now exists or as it may hereafter be amended) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the bylaws of the Corporation.

## **ARTICLE X**

### **Amendments**

The Corporation reserves the right to amend or repeal any provision contained in this Amended and Restated Certificate of Incorporation in any manner now or hereafter permitted by law, and all rights conferred upon stockholders herein are granted subject to this reservation. Notwithstanding any other provision of this Amended and Restated Certificate of Incorporation, (A) no provision of ARTICLE V, Section B or G of ARTICLE VI, ARTICLE IX or this clause (A) of ARTICLE X shall be amended, modified or repealed, and no provision inconsistent with any such provision shall become part of this Amended and Restated Certificate of Incorporation, unless such matter is approved by the affirmative vote of the holders of a majority of the voting power of all outstanding shares of Common Stock of the Corporation and all other outstanding shares of stock of the Corporation entitled to vote on such matter, with such outstanding shares of Common Stock and other stock considered for this purpose as a single class; and (B) for so long as this Corporation shall control, directly or indirectly, any of the U.S. Regulated Subsidiaries, before any amendment or repeal of any provision of the Certificate of Incorporation of this Corporation shall be effective, such amendment or repeal shall be submitted to the boards of directors of New York Stock Exchange, [NYSE Market, NYSE Regulation, Inc.,] NYSE Arca, NYSE Arca Equities, NYSE National and NYSE MKT (or the boards of directors of their successors), and if any or all of such boards of directors shall determine that such amendment or repeal must be filed with or

filed with and approved by the SEC under Section 19 of the Exchange Act and the rules promulgated thereunder before such amendment or repeal may be effectuated, then such amendment or repeal shall not be effectuated until filed with or filed with and approved by the SEC, as the case may be. Any vote of stockholders required by this ARTICLE X shall be in addition to any other vote of the stockholders that may be required by law, this Amended and Restated Certificate of Incorporation, the bylaws of the Corporation, any agreement with a national securities exchange or otherwise.

## **ARTICLE XI**

### **Exculpation**

A director of the Corporation shall, to the fullest extent permitted by the Delaware General Corporation Law as it now exists or as it may hereafter be amended, not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law as it now exists or as it may hereafter be amended, or (iv) for any transaction from which the director derived any improper personal benefit. If the Delaware General Corporation Law is amended, after approval by the stockholders of this ARTICLE XI, to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law as so amended.

An amendment, repeal or modification of the foregoing provisions of this ARTICLE XI, or the adoption of any provision in an amended or restated Certificate of Incorporation inconsistent with this ARTICLE XI, by the stockholders of the Corporation shall not apply to or adversely affect any right or protection of a director of the Corporation existing at the time of such amendment, repeal, modification or adoption.

## **ARTICLE XII**

### **Indemnification**

To the fullest extent permitted by applicable law, the Corporation is authorized to provide indemnification of (and advancement of expenses to) such directors, officers or agents of the Corporation (and any other persons to which Delaware law permits the Corporation to provide indemnification) through bylaw provisions, agreements with such persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the Delaware General Corporation Law as it now exists or as it may hereafter be amended, subject only to limits created by applicable Delaware law (statutory or non-statutory), with respect to actions for breach of duty to the Corporation, its stockholders and others.

Any amendment, repeal or modification of any of the foregoing provisions of this ARTICLE XII shall not adversely affect any right or protection of a director, officer, agent or other person existing at the time of, or increase the liability of any person with respect to any acts or omissions of such person occurring prior to, such amendment, repeal or modification.

Deletions [bracketed]  
Additions underscored

**[FOURTH]FIFTH AMENDED AND RESTATED  
BYLAWS  
OF  
INTERCONTINENTAL EXCHANGE HOLDINGS, INC.**

**Adopted effective [May 22]o, 201[5]7**

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**[FOURTH]~~FIFTH~~ AMENDED AND RESTATED BYLAWS**  
**OF**  
**INTERCONTINENTAL EXCHANGE HOLDINGS, INC.**

**ARTICLE I - OFFICES**

1.1 The registered office of the Corporation shall be in the City of Wilmington, County of New Castle, State of Delaware.

1.2 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.

**ARTICLE II - MEETINGS OF STOCKHOLDERS**

2.1 All meetings of the stockholders for the election of directors shall be held in the City of Atlanta, State of Georgia, at such place as may be fixed from time to time by the Board of Directors, or at such other place either within or without the State of Delaware as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting. Meetings of stockholders for any other purpose may be held at such time and place, within or without the State of Delaware, as shall be stated in the notice of the meeting or in a duly executed waiver of notice thereof. The Board of Directors may, in its sole discretion, determine that any meeting of stockholders shall not be held at any place, but may instead be held by means of remote communication as authorized by law.

2.2 Annual meetings of stockholders shall be held at such date and time as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting, at which they shall elect the Board of Directors in the manner provided for in Section 2.10 of these bylaws and transact such other business as may properly be brought before the meeting.

2.3 Notice of the annual meeting stating the place, if any, date and hour of the meeting, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, shall be given to each stockholder entitled to vote at such meeting not fewer than ten (10) nor more than sixty (60) days before the date of the meeting, unless otherwise provided by applicable law or the certificate of incorporation. If mailed, such notice shall be deemed to be given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation.

2.4 The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name

of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, at the option of the Corporation, (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the Corporation. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

2.5 Special meetings of the stockholders, for any purpose or purposes, unless otherwise prescribed by statute or by the certificate of incorporation, may be called at any time by the Board of Directors, the Chairman of the Board, if any, or the Chief Executive Officer, or at the request of holders of Common Stock representing in the aggregate at least 50% of the shares of Common Stock outstanding at such time that would be entitled to vote at the meeting as determined under Section A.1 of Article V of the certificate of incorporation. Such request shall state the purpose or purposes of the proposed meeting.

2.6 Notice of a special meeting stating the place, if any, date and hour of the meeting and the purpose or purposes for which the meeting is called, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, shall be given not fewer than ten (10) nor more than sixty (60) days before the date of the meeting, unless otherwise provided by applicable law or the certificate of incorporation, to each stockholder entitled to vote at such meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation.

2.7 The holders of a majority of the stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business except as otherwise provided by statute or by the certificate of incorporation or these bylaws. For purposes of the foregoing, where a separate vote by class or classes is required for any matter, the holders of a majority of the outstanding shares of such class or classes, present in person or represented by proxy, shall constitute a quorum to take action with respect to that vote on that matter. Two or more classes or series of stock shall be considered a single class if the holders thereof are entitled to vote together as a single class at the meeting. In the absence of a quorum of the holders of any class of stock entitled to vote on a matter, the meeting of such class may be adjourned from time to time in the manner provided by Sections 2.8 and 2.9 of these bylaws until a quorum of such class shall be so present or represented.



2.8 Any meeting of stockholders, annual or special, may be adjourned from time to time as provided in Section 2.9 of these bylaws, to reconvene at the same or some other place, if any, and notice need not be given of any such adjourned meeting if the time and place thereof, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, are announced at the meeting at which the adjournment is taken. At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting in conformity with the requirements of these bylaws.

2.9 Meetings of stockholders shall be presided over by the Chairman of the Board, if any, or in the absence of the Chairman of the Board by the Vice Chairman of the Board, if any, or in the absence of the Vice Chairman of the Board by the Chief Executive Officer, or in the absence of the Chief Executive Officer by a Vice President, or in the absence of the foregoing persons by a Chairman designated by the Board of Directors, or in the absence of such designation by a Chairman chosen at the meeting. The Secretary, or in the absence of the Secretary an Assistant Secretary, shall act as Secretary of the meeting, but in the absence of the Secretary and any Assistant Secretary the Chairman of the meeting may appoint any person to act as Secretary of the meeting.

The order of business at each such meeting shall be as determined by the Chairman of the meeting. The Chairman of the meeting shall have the right, power and authority to adjourn a meeting of stockholders for a reasonable period of time to another place, if any, date and time, and to prescribe such rules, regulations and procedures and to do all such acts and things as are necessary or desirable for the proper conduct of the meeting and are not inconsistent with any rules, regulations or procedures adopted by the Board of Directors pursuant to the provisions of the certificate of incorporation, including, without limitation, the establishment of procedures for the maintenance of order and safety, limitations on the time allotted to questions or comments on the affairs of the Corporation, restrictions on entry to such meeting after the time prescribed for the commencement thereof and the opening and closing of the voting polls for each item upon which a vote is to be taken.

2.10 When a quorum is present at any meeting of stockholders:

(a) A nominee for director shall be elected to the Board of Directors if the votes cast “for” such nominee’s election exceed the votes cast “against” such nominee’s election; provided, however, that directors shall be elected by a plurality of the votes cast at any meeting of stockholders for which either (i) (x) the Secretary of the Corporation receives a notice that a stockholder has nominated a person for election to the Board of Directors in compliance with the advance notice requirements for stockholder nominees for director set forth in Section 2.13(b) of these bylaws or otherwise becomes aware that a stockholder has nominated a person for election to the Board of Directors and (y) such nomination has not been withdrawn by such stockholder on or prior to the third business day next preceding the date the Corporation first mails its notice of meeting for such

meeting to the stockholders or (ii) the number of nominees for election to the Board of Directors at such meeting exceeds the number of directors to be elected. Abstentions and broker non-votes shall not be counted as votes cast either “for” or “against” a director’s election. If directors are to be elected by a plurality of the votes cast, stockholders shall not be permitted to vote “against” a nominee.

(b) Any other business other than the election of directors brought before the meeting shall be decided by the vote of the holders of a majority of the votes cast affirmatively and negatively on the question, unless the question is one upon which by express provision of the statutes, of the certificate of incorporation or these bylaws, a different vote is required, in which case such express provision shall govern and control the decision of such question. Abstentions and broker non-votes shall not be counted as votes cast either affirmatively or negatively on any question. Where a separate vote by class or classes is required, the vote of the holders of a majority of votes cast affirmatively and negatively on the question (or, in the case of an election of directors, the vote required in accordance with Section 2.10(a) of these bylaws) shall be the act of such class or classes, except as otherwise provided by law or by the certificate of incorporation or these bylaws.

2.11 Unless otherwise provided in the certificate of incorporation or applicable law, each stockholder shall at any meeting of the stockholders be entitled to one vote in person or by proxy for each share of the capital stock having voting power upon the matter in question held by such stockholder. Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder in writing or by transmission permitted by law and filed in accordance with the procedures established for the meeting, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. Voting at meetings of stockholders need not be by written ballot unless so directed by the Chairman of the meeting or the Board of Directors.

2.12 [Reserved]

2.13 (a) The matters to be considered and brought before any annual or special meeting of stockholders of the Corporation shall be limited to only such matters, including the nomination and election of directors, as shall be brought properly before such meeting in compliance with the procedures set forth in this Section 2.13.

(b) For any matter to be properly brought before any annual meeting of stockholders, the matter must be (i) specified in the notice of annual meeting given by or at the direction of the Board of Directors, (ii) otherwise brought before the annual meeting by or at the direction of the Board of Directors or (iii) brought before the annual meeting in the manner specified in this Section 2.13(b) by a person who either (x) is a stockholder that holds of record stock of the Corporation entitled to vote at the annual meeting on such matter (including any election of a director) or (y) is a person (a “Nominee Holder”) that holds such stock through a nominee or “street name” holder of record of such stock and can demonstrate to the Corporation such indirect ownership of, and such Nominee Holder’s entitlement to vote, such stock on such matter. In addition to

any other requirements under applicable law, the certificate of incorporation and these bylaws, persons nominated by stockholders for election as directors of the Corporation and any other proposals by stockholders shall be properly brought before an annual meeting of stockholders only if notice of any such matter to be presented by a stockholder at such meeting (a “Stockholder Notice”) shall be delivered to the Secretary at the principal executive office of the Corporation not less than ninety (90) nor more than one hundred and twenty (120) days prior to the first anniversary date of the annual meeting for the preceding year; provided, however, that if and only if the annual meeting is not scheduled to be held within a period that commences thirty (30) days before and ends thirty (30) days after such anniversary date (an annual meeting date outside such period being referred to herein as an “Other Meeting Date”), such Stockholder Notice shall be given in the manner provided herein by the later of (i) the close of business on the date ninety (90) days prior to such Other Meeting Date or (ii) the close of business on the tenth day following the date on which such Other Meeting Date is first publicly announced or disclosed. Any stockholder desiring to nominate any person or persons (as the case may be) for election as a director or directors of the Corporation at an annual meeting of stockholders shall deliver, as part of such Stockholder Notice, a statement in writing setting forth the name of the person or persons to be nominated, the number and class of all shares of each class of stock of the Corporation owned of record and beneficially by each such person, as reported to such stockholder by such person, the information regarding each such person required by paragraphs(a), (e) and (f) of Item 401 of Regulation S-K adopted by the Securities and Exchange Commission, as amended from time to time, each such person’s signed consent to serve as a director of the Corporation if elected, a statement whether such person, if elected, intends to tender, promptly following such person’s election or re-election, an irrevocable resignation effective upon such person’s failure to receive the required vote for re-election at the next meeting at which such person would stand for re-election and upon acceptance of such resignation by the Board of Directors, in accordance with the Corporation’s Governance Principles, such stockholder’s name and address, the number and class of all shares of each class of stock of the Corporation owned of record and beneficially by such stockholder and, in the case of a Nominee Holder, evidence establishing such Nominee Holder’s indirect ownership of stock and entitlement to vote such stock for the election of directors at the annual meeting. Any stockholder who gives a Stockholder Notice of any matter (other than a nomination for director) proposed to be brought before an annual meeting of stockholders shall deliver, as part of such Stockholder Notice, the text of the proposal to be presented and a brief written statement of the reasons why such stockholder favors the proposal and setting forth such stockholder’s name and address, the number and class of all shares of each class of stock of the Corporation owned of record and beneficially by such stockholder, any material interest of such stockholder in the matter proposed (other than as a stockholder), if applicable, and, in the case of a Nominee Holder, evidence establishing such Nominee Holder’s indirect ownership of stock and entitlement to vote such stock on the matter proposed at the annual meeting. In addition to any other requirements under applicable law, the certificate of incorporation and these bylaws, any Stockholder Notice delivered under this Section 2.13(b), whether such Stockholder Notice is delivered in connection with a nomination for election as director of the Corporation or any other matter (other than a nomination for director)

proposed to be brought before a meeting of stockholders, must set forth (i) the number and class of all shares of each class of stock of the Corporation that are, directly or indirectly, owned of record and beneficially by any Associated Person of such stockholder or beneficial owner, (ii) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class of stock of the Corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of stock of the Corporation or otherwise (a “Derivative Instrument”) directly or indirectly beneficially owned by such stockholder, by such beneficial owner, or by any such Associated Person, (iii) any other direct or indirect opportunity held or beneficially owned by such stockholder, by such beneficial owner, or by any such Associated Person, to profit or share in any profit derived from any increase or decrease in the value of shares of any class of stock of the Corporation, (iv) any proxy, contract, arrangement, understanding, or relationship pursuant to which such stockholder, such beneficial owner, or any such Associated Person has a right to vote any shares of any security of the Corporation, (v) any short interest in any security of the Corporation held or beneficially owned by such stockholder, by such beneficial owner, or by any such Associated Person, (vi) any right to dividends on the shares of any class of stock of the Corporation beneficially owned by such stockholder, by such beneficial owner, or by any such Associated Person, which right is separated or separable from the underlying shares, (vii) any proportionate interest in shares of any class of stock of the Corporation or Derivative Instrument held, directly or indirectly, by a general or limited partnership in which such stockholder, such beneficial owner, or such Associated Person is a general partner or with respect to which such stockholder, such beneficial owner, or such Associated Person, directly or indirectly, beneficially owns an interest in a general partner, and (viii) any performance-related fees (other than an asset-based fee) to which such stockholder, such beneficial owner, or such Associated Person is entitled based on any increase or decrease in the value of shares of any class of stock of the Corporation or Derivative Instruments, if any, in each case with respect to the information required to be included in the notice pursuant to (i) through (viii) above, as of the date of such Stockholder Notice (which information shall be supplemented by such stockholder and by such beneficial owner, if any, not later than 10 days after the record date for the meeting to disclose such beneficial ownership, interest, or arrangement as of the record date). As used in these bylaws, (i) an “Associated Person” with respect to any stockholder or any beneficial owner on whose behalf a nomination or nominations are being made or business or matter is being proposed, shall mean (w) any person controlling, directly or indirectly, or acting in concert with, such stockholder or beneficial owner, (x) any beneficial owner of shares of stock of the Corporation owned of record or beneficially by such stockholder or by such beneficial owner, (y) any member of such stockholder’s or such beneficial owner’s immediate family sharing the same household, and (z) any person controlling, controlled by, or under common control with any person described in the foregoing subsections (w), (x), or (y) of this sentence, and (ii) a person shall be deemed to have a “short interest” in a security if such person, directly or indirectly, through a contract, arrangement, understanding, relationship, or otherwise, has the opportunity to profit or share in any profit derived from any decrease in the value of the subject security. As used in these bylaws, shares “beneficially owned” shall mean all shares that such person is deemed to

beneficially own pursuant to Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, as amended from time to time (the “Exchange Act”). If a stockholder is entitled to vote only for a specific class or category of directors at a meeting (annual or special), such stockholder’s right to nominate one or more individuals for election as a director at the meeting shall be limited to such class or category of directors.

Notwithstanding any provision of this Section 2.13 to the contrary, in the event that the number of directors to be elected to the Board of Directors of the Corporation at the next annual meeting of stockholders is increased by virtue of an increase in the size of the Board of Directors and either all of the nominees for director at the next annual meeting of stockholders or the size of the increased Board of Directors is not publicly announced or disclosed by the Corporation at least one hundred (100) days prior to the first anniversary of the preceding year’s annual meeting, a Stockholder Notice shall also be considered timely hereunder, but only with respect to nominees to stand for election at the next annual meeting as the result of any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive office of the Corporation not later than the close of business on the tenth day following the first day on which all such nominees or the size of the increased Board of Directors shall have been publicly announced or disclosed.

(c) Except as provided in the immediately following sentence, no matter shall be properly brought before a special meeting of stockholders unless such matter shall have been brought before the meeting pursuant to the Corporation’s notice of such meeting. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any stockholder entitled to vote for the election of such director(s) at such meeting may nominate a person or persons (as the case may be) for election to such position(s) as are specified in the Corporation’s notice of such meeting, but only if the Stockholder Notice required by Section 2.13(b) hereof shall be delivered to the Secretary at the principal executive office of the Corporation not later than the close of business on the tenth day following the first day on which the date of the special meeting and either the names of all nominees proposed by the Board of Directors to be elected at such meeting or the number of directors to be elected shall have been publicly announced or disclosed.

(d) For purposes of this Section 2.13, a matter shall be deemed to have been “publicly announced or disclosed” if such matter is disclosed in a press release reported by the Dow Jones News Service, the Associated Press or a comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission.

(e) In no event shall the adjournment of an annual meeting or a special meeting, or any announcement thereof, commence a new period for the giving of notice as provided in this Section 2.13. This Section 2.13 shall not apply to (i) any stockholder proposal that is made pursuant to Rule 14a-8 under the Exchange Act or (ii) any nomination of a director in an election in which only the holders of one or more series of Preferred Stock of the Corporation issued pursuant to Article IV of the certificate of

incorporation (“Preferred Stock”) are entitled to vote (unless otherwise provided in the terms of such stock).

(f) The Chairman of any meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall have the power and duty to determine whether notice of nominees and other matters proposed to be brought before a meeting has been duly given in the manner provided in this Section 2.13 and, if not so given, shall direct and declare at the meeting that such nominees and other matters shall not be considered.

2.14 In order that the Corporation may determine the stockholders entitled to notice of, or to vote at, any meeting of stockholders or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date on which the resolution fixing the record date is adopted and which record date shall not be more than sixty (60) nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to the time for such other action as described above. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of, or to vote at, a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of, or to vote at, a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

2.15 Stockholder Action by Written Consent. Subject to the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, Unless otherwise provided by the Certificate of Incorporation of the Corporation, any action required or permitted to be taken at any annual or special meeting of stockholders may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

### **ARTICLE III - DIRECTORS**

3.1 Subject to the immediately following sentence, the number of directors shall be determined exclusively by resolution of the Board of Directors from time to time. If the holders of any class or classes of stock or series thereof are entitled as such by the certificate of incorporation to elect one or more directors, the preceding sentence shall not apply to such directors and the number of such directors shall be as provided in the terms

of such stock and pursuant to the resolution or resolutions authorizing or fixing the terms of such stock. Each director shall be elected by the stockholders at their annual meeting. Each director shall hold office until the next election, and until his or her successor is elected and qualified or until his or her earlier death, resignation or removal. Any director may resign at any time upon written notice or by electronic transmission given to the Board of Directors or to the Chief Executive Officer or the Secretary of the Corporation. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein, no acceptance of such resignation shall be necessary to make it effective. Directors need not be stockholders.

3.2 Any vacancies resulting from death, resignation, disqualification, removal or other cause, and newly created directorships resulting from any increase in the authorized number of directors or from any other cause, may be filled by, and only by, directors then in office, even if less than a quorum, or by the sole remaining director. Whenever the holders of any class or classes of stock or series thereof are entitled, by the certificate of incorporation, to elect one or more directors, vacancies and newly created directorships of such class or classes or series may be filled by, and only by, a majority of the directors elected by such class or classes or series then in office, although less than a quorum, or by the sole remaining director so elected. Any director elected or appointed to fill a vacancy or a newly created directorship shall hold office until his or her successor is duly elected and shall qualify, or until his or her earlier resignation or removal.

3.3 The business of the Corporation shall be managed by or under the direction of its Board of Directors, which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the certificate of incorporation or by these bylaws directed or required to be exercised or done by the stockholders.

3.4 [Reserved]

## **MEETINGS OF THE BOARD OF DIRECTORS**

3.5 The Board of Directors of the Corporation may hold meetings, both regular and special, either within or without the State of Delaware.

3.6

(a) Regular meetings of the Board of Directors may be held at such time and at such place as shall from time to time be determined by the Board of Directors and publicized among all directors, and if so determined and publicized, notice thereof need not be given.

(b) Special meetings of the Board of Directors may be called by the Chairman of the Board, if any, by the Vice Chairman of the Board, if any, by the Chief Executive Officer or by any two directors on notice to each director given either personally or by mail, e-mail or facsimile at least twenty-four hours prior to such meeting, or by mail at least three (3) calendar days prior to such meeting,

which notice, with respect to each director, may be waived in writing by such director.

3.7 At each meeting of the Board of Directors, one-half of the total number of directors fixed by resolution of the Board of Directors in accordance with Section 3.1 (including any vacancies) shall constitute a quorum for the transaction of business. The vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board unless the certificate of incorporation or these bylaws shall require a vote of a greater number. In case at any meeting of the Board a quorum shall not be present, the members of the Board present may adjourn the meeting from time to time until a quorum shall be present.

3.8 Meetings of the Board of Directors shall be presided over by the Chairman of the Board, if any, or in the absence of the Chairman of the Board by the Vice Chairman of the Board, if any, or in the absence of the Vice Chairman of the Board by the Chief Executive Officer, or in their absence by a Chairman chosen at the meeting. The Secretary, or in the absence of the Secretary an Assistant Secretary, shall act as Secretary of the meeting, but in the absence of the Secretary and any Assistant Secretary the Chairman of the meeting may appoint any person to act as Secretary of the meeting.

3.9 Any action required or permitted to be taken at any meeting of the Board of Directors or any committee thereof may be taken without a meeting if all of the members of the Board or of such committee, as the case may be, consent thereto in writing or by electronic transmission and the writing or writings or transmission or transmissions are filed with the minutes of the Corporation. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

3.10 Members of the Board of Directors, or of any committee designated by the Board, may participate in a meeting of the Board or of such committee, as the case may be, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

## **COMMITTEES OF DIRECTORS**

3.11 The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member.

Any such committee, to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of



Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers that require it; but no such committee shall have such power or authority in reference to the following matters: (i) approving or adopting, or recommending to the stockholders, any action or matter expressly required by the Delaware General Corporation Law to be submitted to stockholders for approval; or (ii) adopting, amending or repealing any provision of these bylaws.

3.12 Unless the Board of Directors otherwise provides, each committee designated by the Board may adopt, amend and repeal rules for the conduct of its business. In the absence of a provision by the Board or a provision in the rules of such committee to the contrary, a majority of the entire authorized number of members of such committee shall constitute a quorum for the transaction of business, the vote of a majority of the members present at a meeting at the time of such vote if a quorum is then present shall be the act of such committee, and in other respects each committee shall conduct its business in the same manner as the Board conducts its business pursuant to Article II of these bylaws.

### **COMPENSATION OF DIRECTORS**

3.13 Unless otherwise restricted by the certificate of incorporation or these bylaws, the Board of Directors or any committee thereof shall have the authority to fix the compensation of directors. The directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors or a stated salary as director (which amounts may be paid in cash or such other form as the Board or any committee may authorize). No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Stockholders of special or standing committees may be allowed like compensation for attending committee meetings.

### **CONSIDERATIONS OF THE BOARD OF DIRECTORS**

3.14

(a) In discharging his or her responsibilities as a member of the Board, each director also must, to the fullest extent permitted by applicable law, take into consideration the effect that the Corporation's actions would have on the ability of:

(1) the U.S. Regulated Subsidiaries to carry out their responsibilities under the Exchange Act; and

(2) the U.S. Regulated Subsidiaries, NYSE Group, Inc. ("NYSE Group") (if and to the extent that NYSE Group continues to exist as a separate entity), NYSE Holdings LLC and the Corporation (a) to engage in conduct that fosters and does not interfere with the ability of the U.S. Regulated Subsidiaries, NYSE Group (if and to the extent that

NYSE Group continues to exist as a separate entity), NYSE Holdings LLC and the Corporation to prevent fraudulent and manipulative acts and practices in the securities markets; (b) to promote just and equitable principles of trade in the securities markets; (c) to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; (d) to remove impediments to and perfect the mechanisms of a free and open market in securities and a U.S. national securities market system; and (e) in general, to protect investors and the public interest.

(b) In discharging his or her responsibilities as a member of the Board or as an officer or employee of the Corporation, each such director, officer or employee shall (1) comply with the U.S. federal securities laws and the rules and regulations thereunder, (2) cooperate with the SEC, and (3) cooperate with the U.S. Regulated Subsidiaries pursuant to and, to the extent of, their regulatory authority.

(c) Nothing in this Section 3.14 shall create any duty owed by any director, officer or employee of the Corporation to any Person to consider, or afford any particular weight to, any of the foregoing matters or to limit his or her consideration to the foregoing matters, or by implication be read to apply more broadly than as defined in this Section 3.14. No employee, former employee, beneficiary, customer, creditor, community or regulatory authority or member thereof shall have any rights against any director, officer or employee of the Corporation or the Corporation under this Section 3.14.

3.15 “U.S. Regulated Subsidiaries” shall mean New York Stock Exchange LLC, [NYSE Market (DE), Inc., NYSE Regulation, Inc.,] NYSE Arca, LLC, NYSE Arca, Inc., NYSE Arca Equities, Inc., [and ]NYSE MKT LLC and NYSE National, Inc. or their successors, in each case to the extent that such entities continue to be controlled, directly or indirectly, by the Corporation (and each, a “U.S. Regulated Subsidiary”).

#### **ARTICLE IV - NOTICES**

4.1 Whenever any notice is required by law, the certificate of incorporation or these bylaws to be given, a waiver thereof in writing, signed by the person or persons entitled to said notice, or a waiver thereof by electronic transmission by such person, whether given before or after the time stated therein, shall be deemed equivalent thereto. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors or members of a committee of directors need be specified in any written waiver of notice unless so required by the certificate of incorporation or these bylaws. If mailed, notice to stockholders shall be

deemed given when deposited in the mail, postage prepaid, directed to the stockholder at the stockholder's address as it appears on the records of the Corporation. Without limiting the manner by which notices otherwise may be given effectively to stockholders, any notice to stockholders may be given by electronic transmission in the manner provided in Section 232 of the Delaware General Corporation Law.

#### **ARTICLE V - OFFICERS**

5.1 The Board of Directors may elect from among its members a Chairman of the Board. The Board of Directors may also choose officers of the Corporation, which may include a Chief Executive Officer, a President, one or more Senior Vice Presidents, a Chief Financial Officer and a Secretary (collectively, the "Senior Officers") and may also choose one or more Vice Presidents, Assistant Secretaries, Treasurers and Assistant Treasurers and such other officers as the Board may deem desirable or appropriate and may give any of them such further designations or alternate titles as it considers desirable. In addition, the Board at any time and from time to time may authorize any officer of the Corporation to appoint one or more officers of the kind described in the immediately preceding sentence (other than any Senior Officers). Any number of offices may be held by the same person and directors may hold any office, unless the certificate of incorporation or these bylaws otherwise provide.

5.2 The Board of Directors shall choose a Chief Executive Officer and a Secretary. The Secretary shall have the duty to record the proceedings of the meetings of the stockholders, the Board of Directors and any committees in a book to be kept for that purpose.

5.3 The Board of Directors may appoint such other officers and agents as it shall deem necessary who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be stated in these bylaws or as shall be determined from time to time by resolution of the Board of Directors and which are not inconsistent with these bylaws and, to the extent not so stated, as generally pertain to their respective offices, subject to the control of the Board.

5.4 Unless otherwise provided in the resolution of the Board of Directors electing or authorizing the appointment of any officer, each officer of the Corporation shall hold office until his or her successor is chosen and qualifies or until his or her earlier resignation or removal. Any officer may resign at any time upon written notice to the Board or to the Chief Executive Officer or the Secretary of the Corporation. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein no acceptance of such resignation shall be necessary to make it effective. Any officer may be removed with or without cause at any time by the affirmative vote of a majority of the Board of Directors. Any officer authorized by the Board to appoint a person to hold an office of the Corporation may also remove such person from such office with or without cause at any time, unless otherwise provided in the resolution of the Board providing such authorization. Any such removal shall be without prejudice to the contractual rights of such officer, if any, with the Corporation, but the election of an

officer shall not of itself create contractual rights. Any vacancy occurring in any office of the Corporation shall be filled by the Board of Directors.

## **ARTICLE VI - CERTIFICATE OF STOCK**

6.1 The shares of stock in the Corporation shall be represented by certificates, *provided* that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of the Corporation's stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate theretofore issued until such certificate is surrendered to the Corporation. Notwithstanding the adoption of such a resolution by the Board, to the extent, if any, required by applicable law, every holder of stock in the Corporation shall be entitled to have a certificate, signed by, or in the name of the Corporation by the Chief Executive Officer or a Vice President and the Chief Financial Officer or an Assistant Treasurer, the Secretary or an Assistant Secretary of the Corporation, certifying the number of shares of stock registered in certificate form owned by him or her in the Corporation.

If the Corporation shall be authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualification, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock, *provided* that, except as otherwise provided in Section 202 of the Delaware General Corporation Law, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock, a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Within a reasonable time after the issuance or transfer of uncertificated shares, the Corporation shall send to the registered owner thereof a written notice containing the information required by law to be set forth or stated on certificates or a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated shares and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

6.2 Any of or all the signatures on the certificate may be facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue.

## **LOST CERTIFICATES**

6.3 The Board of Directors may direct a new certificate or certificates or uncertificated shares to be issued in place of any certificate or certificates theretofore issued by the Corporation alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed or such person's legal representative. When authorizing such issue of a new certificate or certificates or uncertificated shares, the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or certificates, or his legal representative, to advertise the same in such manner as it shall require and/or to give the Corporation a bond in such sum as it may direct as indemnity against any claim that may be made against the Corporation with respect to the certificate alleged to have been lost, stolen or destroyed.

## **TRANSFER OF STOCK**

6.4 Subject to any applicable restrictions on transfer, upon surrender to the Corporation or the transfer agent of the Corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer, it shall be the duty of the Corporation to issue a new certificate or uncertificated shares to the person entitled thereto, cancel the old certificate and record the transaction upon its books.

## **REGISTERED STOCKHOLDERS**

6.5 The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the State of Delaware.

## **ARTICLE VII - JURISDICTION**

The Corporation, its directors and officers, and those of its employees whose principal place of business and residence is outside of the United States shall be deemed to irrevocably submit to the jurisdiction of the U.S. federal courts and the SEC for the purposes of any suit, action or proceeding pursuant to the U.S. federal securities laws and the rules and regulations thereunder, commenced or initiated by the SEC arising out of, or relating to, the activities of the U.S. Regulated Subsidiaries (and shall be deemed to agree that the Corporation may serve as the U.S. agent for purposes of service of process in such suit, action or proceeding), and the Corporation and each such director, officer or employee, in the case of any such director, officer or employee by virtue of his acceptance of any such position, 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 SEC, that such suit, action or proceeding is an inconvenient forum or that the venue of such suit, action or

proceeding is improper, or that the subject matter thereof may not be enforced in or by such courts or agency.

### **ARTICLE VIII - CONFIDENTIAL INFORMATION**

8.1 To the fullest extent permitted by applicable law, all confidential information that shall come into the possession of the Corporation pertaining to the self-regulatory function of New York Stock Exchange LLC, [NYSE Market (DE), Inc., NYSE Regulation, Inc.,] NYSE Arca, Inc., NYSE Arca Equities, Inc., [and ]NYSE MKT LLC, and NYSE National, Inc. or their successors, in each case to the extent that such entities continue to be controlled, directly or indirectly, by the Corporation (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of any of the U.S. Regulated Subsidiaries (the “U.S. Subsidiaries’ Confidential Information”) shall (x) not be made available to any Persons (other than as provided in Sections 8.2 and 8.3 of these bylaws) other than to those officers, directors, employees and agents of the Corporation that have a reasonable need to know the contents thereof; (y) be retained in confidence by the Corporation and the officers, directors, employees and agents of the Corporation; and (z) not be used for any commercial purposes.

8.2 Notwithstanding Section 8.1 of these bylaws, nothing in these bylaws shall be interpreted so as to limit or impede:

(a) the rights of the SEC or any of the U.S. Regulated Subsidiaries to have access to and examine such U.S. Subsidiaries’ Confidential Information pursuant to the U.S. federal securities laws and the rules and regulations thereunder;

(b) the ability of any officers, directors, employees or agents of the Corporation to disclose the U.S. Subsidiaries’ Confidential Information to the SEC or the U.S. Regulated Subsidiaries.

8.3 The Corporation’s books and records shall be subject at all times to inspection and copying by:

(a) the SEC; and

(b) any U.S. Regulated Subsidiary; provided that such books and records are related to the operation or administration of such U.S. Regulated Subsidiary or any other U.S. Regulated Subsidiary over which such U.S. Regulated Subsidiary has regulatory authority or oversight.

The Corporation’s books and records related to U.S. Regulated Subsidiaries shall be maintained within the United States. For so long as the Corporation directly or indirectly controls any U.S. Regulated Subsidiary, the books, records, premises, officers, directors and employees of the Corporation shall be deemed to be the books, records, premises, officers, directors and employees of such U.S. Regulated Subsidiaries for purposes of and subject to oversight pursuant to the Exchange Act.

## **ARTICLE IX - COMPLIANCE WITH SECURITIES LAWS**

9.1 The Corporation shall comply with the U.S. federal securities laws and the rules and regulations thereunder and shall cooperate with the SEC and the U.S. Regulated Subsidiaries pursuant to and to the extent of their respective regulatory authority, and shall take reasonable steps necessary to cause its agents to cooperate, with the SEC and, where applicable, the U.S. Regulated Subsidiaries pursuant to and to the extent of their regulatory authority.

9.2 The Corporation shall take reasonable steps necessary to cause its officers, directors and employees, prior to accepting a position as an officer, director or employee, as applicable, of the Corporation to consent in writing to the applicability to them of Articles VII and VIII and Sections 3.14 and 9.3 of these bylaws, as applicable, with respect to their activities related to any U.S. Regulated Subsidiary.

9.3 The Corporation, its directors, officers and employees shall give due regard to the preservation of the independence of the self-regulatory function of the U.S. Regulated Subsidiaries (to the extent of each U.S. Regulated Subsidiary's self-regulatory function) and to its obligations to investors and the general public, and shall not take any actions that would interfere with the effectuation of any decisions by the board of directors or managers of the U.S. Regulated Subsidiaries relating to their regulatory responsibilities (including enforcement and disciplinary matters) or that would interfere with the ability of the U.S. Regulated Subsidiaries to carry out their respective responsibilities under the Exchange Act.

9.4 No stockholder, employee, former employee, beneficiary, customer, creditor, community, regulatory authority or member thereof shall have any rights against the Corporation or any director, officer or employee of the Corporation under this Article IX.

## **ARTICLE X - GENERAL PROVISIONS**

### **DIVIDENDS**

10.1 Dividends upon the capital stock of the Corporation, subject to the provisions of the certificate of incorporation, if any, and applicable law may be declared by the Board of Directors at any regular or special meeting, pursuant to law. Dividends may be paid in cash, in property or in shares of capital stock, subject to the provisions of the certificate of incorporation.

10.2 Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the directors from time to time, in their absolute discretion, think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or for such other purposes as the directors shall think conducive to the interest of the Corporation, and the directors may modify or abolish any such reserve in the manner in which it was created.

**FISCAL YEAR**

10.3 The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

**SEAL**

10.4 The Board of Directors may adopt a corporate seal having inscribed thereon the name of the Corporation, the year of its organization and the words "Corporate Seal, Delaware." The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

**TIME PERIODS**

10.5 In applying any provision of these bylaws that requires that an act be done or not be done a specified number of days prior to any event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of the doing of the act shall be excluded, and the day of the event shall be included.

**INDEMNIFICATION**

10.6 The Corporation shall, to the fullest extent permitted by law, as those laws may be amended and supplemented from time to time, indemnify any director or Senior Officer made, or threatened to be made, a party to any action, suit or proceeding, whether criminal, civil, administrative or investigative, by reason of being a director or Senior Officer of the Corporation or a predecessor corporation or, at the Corporation's request, a director, officer, partner, member, employee or agent of another corporation or other entity; *provided, however*, that the Corporation shall indemnify any director or Senior Officer in connection with a proceeding initiated by such person only if such proceeding was authorized in advance by the Board of Directors of the Corporation. The indemnification provided for in this Section 10.6 shall: (i) not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement or vote of stockholders or disinterested directors or otherwise, both as to action in their official capacities and as to action in another capacity while holding such office; (ii) continue as to a person who has ceased to be a director or Senior Officer; and (iii) inure to the benefit of the heirs, executors and administrators of an indemnified person.

Expenses incurred by any such person in defending a civil or criminal action, suit or proceeding by reason of the fact that he is or was a director or Senior Officer of the Corporation (or was serving at the Corporation's request as a director, officer, partner, member, employee or agent of another corporation or other entity) shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or Senior Officer to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Corporation as authorized by law. Notwithstanding the foregoing, the Corporation shall not be required to advance such expenses to a person who is a party to an action, suit or proceeding brought by the Corporation and approved by a majority of the Board of



Directors of the Corporation that alleges willful misappropriation of corporate assets by such person, disclosure of confidential information in violation of such person's fiduciary or contractual obligations to the Corporation or any other willful and deliberate breach in bad faith of such person's duty to the Corporation or its stockholders.

The foregoing provisions of this Section 10.6 shall be deemed to be a contract between the Corporation and each director or Senior Officer who serves in such capacity at any time while this bylaw is in effect, and any repeal or modification thereof shall not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought based in whole or in part upon any such state of facts. The rights provided to any person by this bylaw shall be enforceable against the Corporation by such person, who shall be presumed to have relied upon it in serving or continuing to serve as a director or officer or in such other capacity as provided above.

The Board of Directors in its discretion shall have power on behalf of the Corporation to indemnify any person, other than a director or Senior Officer, made or threatened to be made a party to any action, suit or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that such person, or his or her testator or intestate, is or was an officer, employee or agent of the Corporation or, at the Corporation's request, is or was serving as a director, officer, partner, member, employee or agent of another corporation or other entity.

To assure indemnification under this Section 10.6 of all directors, officers, employees and agents who are determined by the Corporation or otherwise to be or to have been "fiduciaries" of any employee benefit plan of the Corporation that may exist from time to time, Section 145 of the Delaware General Corporation Law shall, for the purposes of this Section 10.6, be interpreted as follows: an "other enterprise" shall be deemed to include such an employee benefit plan, including without limitation, any plan of the Corporation that is governed by the Act of Congress entitled "Employee Retirement Income Security Act of 1974," as amended from time to time; the Corporation shall be deemed to have requested a person to serve an employee benefit plan where the performance by such person of his duties to the Corporation also imposes duties on, or otherwise involves services by, such person to the plan or participants or beneficiaries of the plan; excise taxes assessed on a person with respect to an employee benefit plan pursuant to such Act of Congress shall be deemed "fines."

## **FORM OF RECORDS**

10.7 Any records maintained by the Corporation in the regular course of its business, including its stock ledger, books of account and minute books, may be kept on, or be in the form of, electronic data storage, media punch cards, magnetic tape, photographs, microphotographs or any other information storage device, provided that the records so kept can be converted into clearly legible form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect the same.

## **INTERPRETATION**

10.8 Any reference in these bylaws to the Delaware General Corporation Law shall be to the Delaware General Corporation Law as it now exists or as it may hereafter be amended.

### **ARTICLE XI - AMENDMENTS TO THE BYLAWS**

11.1 The Board of Directors may adopt additional bylaws, and may amend or repeal any bylaws, whether or not adopted by them, at any time.

11.2 Stockholders of the Corporation may adopt additional bylaws and may amend or repeal any bylaws by the affirmative vote of a majority of the votes entitled to be cast by the holders of the then-outstanding shares of the Corporation's stock entitled to vote generally in the election of directors, voting together as a single class.

11.3 Notwithstanding Sections 11.1 and 11.2, for so long as the Corporation shall control, directly or indirectly, any of the U.S. Regulated Subsidiaries before any amendment or repeal of any provision of these bylaws shall be effective, such amendment or repeal shall either be (i) filed with or filed with and approved by the SEC under Section 19 of the Exchange Act and the rules promulgated thereunder or (ii) submitted to the boards of directors of New York Stock Exchange LLC,[ NYSE Market (DE), Inc., NYSE Regulation, Inc.,] NYSE Arca, Inc., NYSE Arca Equities, Inc.,[ and] NYSE MKT LLC, and NYSE National, Inc. or the boards of directors of their successors, in each case only to the extent that such entity continues to be controlled directly or indirectly by the Corporation, and if any or all of such boards of directors shall determine that such amendment or repeal must be filed with or filed with and approved by the SEC under Section 19 of the Exchange Act and the rules promulgated thereunder before such amendment or repeal may be effectuated, then such amendment or repeal shall not be effectuated until filed with or filed with and approved by the SEC, as the case may be.

Deletions [bracketed]  
Additions underscored

## **INDEPENDENCE POLICY OF THE BOARD OF DIRECTORS OF INTERCONTINENTAL EXCHANGE, INC.**

### **Purpose**

The purpose of this Policy is to set forth the independence requirements that shall apply to the members of the Board of Directors (the “Board”) of Intercontinental Exchange, Inc. (the “Company”).

### **Independence Requirements**

1. At least a majority of the Directors shall be independent within the meaning of this Policy. A list of the Directors shall be maintained on the Company’s web site.
2. A Director shall be independent only if the Board determines that the Director does not have any material relationships with the Company and its subsidiaries. When assessing a Director’s relationships and interests, the Board shall consider the issue not merely from the standpoint of the Director, but also from the standpoint of persons or organizations with which the Director is affiliated<sup>1</sup> or associated.
3. In making independence determinations, the Board shall consider the special responsibilities of a Director in light of the fact that the Company controls entities that are U.S. self-regulatory organizations and U.S. national securities exchanges subject to the supervision of the U.S. Securities and Exchange Commission.
4. The Board shall make an independence determination with respect to each Director required to be independent hereunder upon the Director’s nomination or appointment to the Board and thereafter at such times as the Board considers advisable in light of the Director’s circumstances and any changes to this Policy, but in any event not less frequently than annually.
5. It shall be the responsibility of each Director to inform the Chairman of the Board and the Chairman of the Nominating & Governance Committee promptly and otherwise as requested of the existence of such relationships and interests which might reasonably be considered to bear on the Director’s independence.

<sup>1</sup> An “affiliate” of, or a person “affiliated” with, a specific person is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

6. Any Director required to be independent hereunder whom the Board otherwise determines not to be independent under this Policy shall be deemed to have tendered his or her resignation for consideration by the Board, and such resignation shall not be effective unless and until accepted by the Board.

### **Independence Qualifications**

1. In making an independence determination with respect to any Director or Director candidate, the Board shall consider the standards below with respect to relationships or interests of the Director or Director candidate with or in:

a. the Company and its subsidiaries;

b. “members” (as defined in Section 3(a)(3)(A)(i) of the Securities Exchange Act of 1934, as amended) of New York Stock Exchange LLC, NYSE Arca, Inc., [and ]NYSE MKT LLC and NYSE National, Inc. (collectively, “Members”), “allied members” (as defined in paragraph (c) of Rule 2 of the New York Stock Exchange LLC and Rule 23 of NYSE MKT LLC), [and] “allied persons” (as defined in Rule 1.1(b) of NYSE Arca, Inc. and Rule 1.1(c) of NYSE Arca Equities, Inc.), and “Person Associated with an ETP Holder” (as defined in Rule 1.5 of NYSE National, Inc.); and

c. “members” (as defined in Section 3(a)(3)(A)(ii), 3(a)(3)(A)(iii) and 3(a)(3)(A)(iv) of the Securities Exchange Act of 1934, as amended) of New York Stock Exchange LLC, NYSE Arca, Inc., [and ]NYSE MKT LLC and NYSE National, Inc. (collectively, “Member Organizations”).

The standards relating to category (a) are the same as those that New York Stock Exchange LLC applies to its own listed companies. The standards relating to categories (b) and (c) stem from the differing regulatory responsibilities and roles that New York Stock Exchange LLC, [and ]NYSE Arca, Inc., [and ]NYSE MKT LLC and NYSE National, Inc. exercise in overseeing the organizations and companies included in those categories.

2. The term “approved person” used herein has the meanings set forth in the Rules of New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Arca Equities, Inc. and NYSE MKT LLC.

3. The term “immediate family member” with respect to any Director has the meaning set forth in the NYSE Listed Company Manual.

4. The term “U.S. Listed Company” means a company (other than a Member Organization) whose securities are listed on New York Stock Exchange LLC, on NYSE Arca, Inc., [or ]on NYSE MKT LLC or on NYSE National, Inc.

5. All references to New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Arca Equities, Inc., [and ]NYSE MKT LLC and NYSE National, Inc. shall mean each of those entities or its successors.

6. The following independence criteria shall apply:

### **Independence from the Company and its Subsidiaries**

A Director is not independent if the Director or an immediate family member of the Director has or had a relationship or interest with or in the Company or its subsidiaries that, if such relationship or interest existed with respect to a U.S. Listed Company on the New York Stock Exchange LLC, would preclude a Director of the U.S. Listed Company from being considered an independent Director of the U.S. Listed Company pursuant to Section 303A.02(a) or (b) of the NYSE Listed Company Manual.<sup>2</sup>

### **Members, Allied Members, Allied Persons and Approved Persons**

A Director is not independent if he or she is, or within the last year was, or has an immediate family member who is, or within the last year was a Member, allied member or allied person or approved person (in each case as defined above).

### **Member Organizations**

A Director is not independent if the Director (a) is, or within the last year was, employed by a Member Organization, (b) has an immediate family member who is, or within the last year was, an executive officer of a Member Organization, (c) has within the last year received from any Member Organization more than \$100,000 per year in direct compensation, or received from Member Organizations in the aggregate an amount of direct compensation which in any one year is more than 10 percent of the Director's annual gross income for such year, excluding in each case Director and committee fees and pension or other forms of deferred compensation for prior service (provided such compensation is not contingent in any way on continued service), or (d) is affiliated, directly or indirectly, with a Member Organization; provided, however, that a director of an affiliate of a Member Organization shall not per se fail to be independent. A director of an affiliate of a Member Organization, however, cannot qualify as an independent director of New York Stock Exchange LLC, [NYSE Market (DE), Inc., NYSE Regulation, Inc. ]or NYSE MKT LLC.

### **Disclosure of Charitable Relationships**

The Company shall make disclosure of any charitable relationship that a U.S. Listed Company would be required to disclose pursuant to NYSE Listed Company Manual Section 303A.02(b)(v) and commentary. Gifts by the Company shall not favor charities on which any Director serves as an executive officer or member of the board of trustees or directors or comparable governing body.

<sup>2</sup> The relevant sections of the NYSE Listed Company Manual and commentary are available on the website at [www.nyse.com/pdfs/finalcorpgovrules.pdf.] <http://nysemanual.nyse.com/LCM/Sections/>

Deletions [bracketed]  
 Additions underscored

**[SEVENTH]EIGHTH AMENDED AND RESTATED  
 LIMITED LIABILITY COMPANY AGREEMENT**

**OF**

**NYSE HOLDINGS LLC**

This [Seventh]Eighth Amended and Restated Limited Liability Company Agreement of NYSE Holdings LLC, a Delaware limited liability company (the “Company”) (as amended, modified or supplemented from time to time in accordance with its terms, this “Agreement”), dated as of [May 22]●, 201[5]7, is entered into by Intercontinental Exchange Holdings, Inc. (f/k/a IntercontinentalExchange, Inc.), a Delaware Corporation (the “Member”). This Agreement amends and restates in its entirety that certain Seventh Amended and Restated Limited Liability Company Agreement, dated as of May 22, 2015, which amended and restated in its entirety that certain Sixth Amended and Restated Limited Liability Company Agreement, dated as of December 29, 2014, which amended and restated in its entirety that certain Fifth Amended and Restated Limited Liability Company Agreement, dated as of June 2, 2014, which amended and restated in its entirety that certain Fourth Amended and Restated Limited Liability Company Agreement, dated as of March 7, 2014, which amended and restated in its entirety that certain Third Amended and Restated Limited Liability Company Agreement, dated as of November 11, 2013, which amended and restated in its entirety that certain Second Amended and Restated Limited Liability Company Agreement (the “Second Amended and Restated Agreement”), dated as of March 19, 2013 (the “Second Amendment Date”), which amended and restated in its entirety that certain Amended and Restated Limited Liability Company Agreement (the “First Amended and Restated Agreement”), dated as of December 20, 2012 (the “First Amendment Date”), which amended and restated in its entirety that certain Limited Liability Company Agreement (the “Original Agreement”), dated as of December 20, 2012, entered into by the Member (in such capacity, the “Initial Member”).

WHEREAS, the Company was formed as a limited liability company on December 12, 2012 by the filing of a certificate of formation with the Secretary of State of the State of Delaware pursuant to and in accordance with the Delaware Limited Liability Company Act, as amended from time to time (the “Act”);

WHEREAS, as of the First Amendment Date, the Initial Member made a capital contribution to the Company, pursuant to and evidenced by such First Amended and Restated Agreement and in respect of such capital contribution, the Company issued to the Initial Member a limited liability company membership interest in the Company (the “Interest”) representing all the Company’s then outstanding Interests;

WHEREAS, pursuant to that certain Transfer of Membership Interests, dated March 19, 2013 (the “Transfer”), for value received, the Initial Member assigned and transferred to Intercontinental Exchange, Inc. (f/k/a IntercontinentalExchange Group, Inc.), a Delaware corporation (“ICE”), as a contribution to the capital of ICE, the Interests of the Company, with full power of substitution in the premises;

WHEREAS, as a result of the Transfer, ICE was thereby admitted as a member of the Company and immediately following such admission the Initial Member withdrew as a member of the Company, with ICE remaining as the sole Member of the Company;

WHEREAS, ICE was a party to that certain Amended and Restated Agreement and Plan of Merger, dated as of March 19, 2013, by and among NYSE Euronext, a Delaware corporation, the Initial Member, ICE, Braves Merger Sub, Inc., a Delaware corporation, and the Company, as amended from time to time, pursuant to which, among other things, NYSE Euronext merged with and into the Company with the Company as the surviving company, whereupon the Second Amended and Restated Agreement was further amended and restated in its entirety;

WHEREAS, in March 2014 ICE contributed its interest in the Company to its wholly owned subsidiary, the Member, without otherwise modifying the rights and duties of the party that acts as the sole member of the Company hereunder;

WHEREAS, in June 2014 the Company changed its name to NYSE Holdings LLC;

WHEREAS, in December 2014 the Company amended and restated the Fifth Amended and Restated Agreement to reflect the dissolution of a certain trust established in 2007 in connection with the combination of NYSE Group, Inc. and Euronext N.V.;

WHEREAS, in May 2015 the Company amended and restated [now desires to amend and restate] the Sixth Amended and Restated Agreement to eliminate provisions that by their terms [have]had become void and [are]were of no further force and effect;

WHEREAS, the Company now desires to amend and restate the Seventh Amended and Restated Agreement to reflect the acquisition of NYSE National, Inc. by the Company’s wholly-owned subsidiary NYSE Group, Inc.; and

WHEREAS, the Member agrees that the membership in and management of the Company shall be governed by the terms set forth herein.

NOW, THEREFORE, in consideration of the premises, and of the covenants and agreements contained herein, the Member hereby agrees that, subject to the submission to the board of directors or managers of each U.S. Regulated Subsidiary (as the case may be), and filing with, or filing with and approval by the U.S. Securities and Exchange Commission (the “SEC”) of this Agreement, or any part hereof, to the extent such filing with, or filing with and approval by, the SEC shall be required pursuant

to Section 19 of the Securities Exchange Act of 1934 and the rules promulgated thereunder, as amended (the “Exchange Act”), the Sixth Amended and Restated Agreement is hereby amended and restated in its entirety as follows:

## ARTICLE I

### INTERPRETATION

Section 1.1 Definitions. For purposes of this Agreement unless the context clearly indicates otherwise, the following terms have the following meanings:

“Act” has the meaning set forth in the recitals to this Agreement.

“Affiliate” means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person as of the date on which, or at any time during the period for which, the determination of affiliation is being made. For purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person.

“Agreement” has the meaning set forth in the preamble to this Agreement.

“Board” has the meaning set forth in Section 3.1.

“Company” has the meaning set forth in preamble to this Agreement.

“Concentration Limitation” has the meaning set forth in Section 9.1(b)(1).

“Covered Person” means the Member, any Affiliate of the Member, any officer, director, shareholder, partner, member, employee, representative or agent of the Member, or its respective Affiliates, or any Manager, officer, employee or agent of the Company or its Affiliates.

“Electronic Transmission” means any form of communication not directly involving the physical transmission of paper that creates a record that may be retained, retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process.

[“ETP Holder” has the meaning set forth in Section 9.1(a)(3)(C)(ii).]

“Exchange Act” has the meaning set forth in the recitals to this Agreement.

“First Amended and Restated Agreement” has the meaning set forth in the recitals to this Agreement.

“First Amendment Date” has the meaning set forth in the recitals to this Agreement.



“ICE” has the meaning set forth in the recitals to this Agreement.

“Initial LLC Agreement” has the meaning set forth in the recitals to this Agreement.

“Initial Member” has the meaning set forth in the recitals to this Agreement.

“Interests” has the meaning set forth in the recitals to this Agreement.

“Investment Advisers Act” means the Investment Advisers Act of 1940 and the rules promulgated thereunder, as amended from time to time.

“Investment Company Act” means the Investment Company Act of 1940 and the rules promulgated thereunder, as amended from time to time.

“Law” means any federal, state, local law, statute, ordinance, rule, regulation, judgment, order, injunction, decree, arbitration award, agency requirement, writ, franchise, variance, exemption, approval, license or permit in the United States.

“Manager” has the meaning set forth in Section 3.2.

“Member” has the meaning set forth in the preamble to this Agreement.

“MKT Member” has the meaning set forth in Section 9.1(a)(3)(C)(iv).

“New York Stock Exchange” has the meaning set forth in Section 9.1(a)(3)(C)(iii).

“NYSE Arca” has the meaning set forth in Section 9.1(a)(3)(C)(ii).

“NYSE Arca ETP Holder” has the meaning set forth in Section 9.1(a)(3)(C)(ii).

“NYSE Arca Equities” has the meaning set forth in Section 9.1(a)(3)(C)(ii).

“NYSE Group” means NYSE Group, Inc.

[“NYSE Market” has the meaning set forth in Section 9.1(a)(3)(C)(iii).]

“NYSE Member” has the meaning set forth in Section 9.1(a)(3)(C)(iii).

“NYSE MKT” has the meaning set forth in Section 9.1(a)(3)(C)(iv).

“NYSE National” has the meaning set forth in Section 9.1(a)(3)(C)(v).

“NYSE National ETP Holder” has the meaning set forth in Section 9.1(a)(3)(C)(v).

“Original Agreement” has the meaning set forth in the recitals to this Agreement.

“OTP Firm” has the meaning set forth in Section 9.1(a)(3)(C)(ii).

“OTP Holder” has the meaning set forth in Section 9.1(a)(3)(C)(ii).

“Person” means any natural person, company, corporation or similar entity, government, or political subdivision, agency, or instrumentality of a government.

“Record Owner” has the meaning set forth in Section 9.1(a)(5).

“Related Persons” shall mean with respect to any Person:

- i. any “affiliate” of such Person (as such term is defined in Rule 12b-2 under the Exchange Act);
- ii. any other Person(s) with which such first Person has any agreement, arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, voting, holding or disposing of Interests of the Company;
- iii. in the case of a Person that is a company, corporation or similar entity, any executive officer (as defined under Rule 3b-7 under the Exchange 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;
- iv. in the case of a Person that is a “member organization” (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time), any “member” (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time) that is associated with such Person (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act);
- v. in the case of a Person that is an OTP Firm, any OTP Holder that is associated with such Person (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act);
- vi. 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 Company or any of its parents or subsidiaries;
- vii. in the case of a Person that is an executive officer (as defined under Rule 3b-7 under the Exchange Act), or a director of a

company, corporation or similar entity, such company, corporation or entity, as applicable;

viii. 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 company, as applicable;

ix. in the case of a Person that is a “member” (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time), the “member organization” (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time) with which such Person is associated (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act);

x. in the case of a Person that is an OTP Holder, the OTP Firm with which such Person is associated (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act);

xi. in the case of a Person that is a “member” (as defined in Section 3(a)(3)(A)(i) of the Exchange Act) of NYSE MKT, the “member” (as defined in Sections 3(a)(3)(A)(ii), 3(a)(3)(A)(iii) and 3(a)(3)(A)(iv) of the Exchange Act) of NYSE MKT with which such Person is associated (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act); and

xii. in the case of a Person that is a “member” (as defined in Sections 3(a)(3)(A)(ii), 3(a)(3)(A)(iii) and 3(a)(3)(A)(iv) of the Exchange Act) of NYSE MKT, any “member” (as defined in Section 3(a)(3)(A)(i) of the Exchange Act) of NYSE MKT that is associated with such Person (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act).

“Repurchased Interests” has the meaning set forth in Section 9.1(c)(1).

“SEC” has the meaning set forth in the recitals to this Agreement.

“Securities Act” means the Securities Act of 1933 and the rules promulgated thereunder, as amended from time to time.

“Transfer” has the meaning set forth in the recitals to this Agreement.

“U.S. Disqualified Person” has the meaning set forth in Section 9.1(a)(3)(C)(i).

“U.S. Subsidiaries’ Confidential Information” has the meaning set forth in Section 12.1.

“U.S. Regulated Subsidiaries” has the meaning set forth in the Bylaws of the Member, as amended from time to time.

“U.S. Federal Securities Laws” means the Securities Act, the Exchange Act, the Investment Advisers Act and the Investment Company Act.

“Voting Limitation” has the meaning set forth in Section 9.1(a)(1).

“Recalculated Voting Limitation” has the meaning set forth in Section 9.1(a)(1).

## ARTICLE II

### NAME; FORMATION; CONTINUATION; POWERS

Section 2.1 Name. The name of the limited liability company governed hereby is NYSE Holdings LLC.

Section 2.2 Articles of Organization and Continuation. The Company was formed as a limited liability company on December 12, 2012 by the filing of a certificate of formation with the Secretary of State of the State of Delaware pursuant to and in accordance with the Act. The Member hereby adopts, confirms and ratifies the filing of the original certificate of formation of the Company and all acts taken in connection therewith. The Member as an “authorized person” within the meaning of the Act has executed, delivered and filed the Certificate of Amendment and the Second Certificate of Amendment to the Certificate of Formation of the Company, such filings being hereby ratified and approved. The Member, as an “authorized person” within the meaning of the Act shall execute, deliver and file, or cause the execution, delivery and filing of, all certificates (and amendments and/or restatements thereof) required or permitted by the Act to be filed with the Secretary of State of the State of Delaware.

Section 2.3 Purpose and Scope of Activity. The purpose of the Company is to engage in any lawful act or activity for which limited liability companies may be formed under the Act and to engage in any and all activities necessary or incidental thereto.

Section 2.4 Registered Office. The address of the registered office of the LLC in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle, Delaware 19801.

Section 2.5 Registered Agent. The name and address of the registered agent of the Company for service of process on the Company in the State of Delaware is the Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle, Delaware 19801.

Section 2.6 Term. The term of the Company commenced on December 12, 2012, the date the original certificate of formation of the Company was filed in the office of the Secretary of State of the State of Delaware, and shall be perpetual unless the Company is dissolved or terminated in accordance with the provisions of this Agreement and the Act.

Section 2.7 Qualification in Other Jurisdictions. The Member, a Manager or an officer of the Company shall cause the Company to be qualified, formed or registered if necessary under assumed or fictitious name statutes or similar laws in any jurisdiction in which the Company transacts business. The Member, as an authorized person, within the meaning of the Act, shall execute, deliver and file any certificates (and any amendments and/or restatements thereof) necessary for the Company to qualify to do business in a jurisdiction in which the Company may wish to conduct business.

## ARTICLE III

### MANAGEMENT

Section 3.1 Management Generally. Except as otherwise expressly provided in this Agreement, the business and affairs of the Company shall be managed under the direction of the board of managers of the Company (the “Board”). In addition to the powers and authorities expressly conferred upon it by this Agreement, the Board may exercise all such powers of the Company and do all such lawful acts and things as are not by the Act or by this Agreement required to be exercised or done by the Member. Certain powers and authorities of the Board may be concurrently allocated to or executed by one or more officers of the Company, when and to the extent expressly delegated thereto by the Board in accordance with this Agreement; provided, that any such delegation may be revoked at any time and for any reason by the Board. Approval by or action taken by the Board in accordance with this Agreement shall constitute approval or action by the Company and shall be binding on the Member.

Section 3.2 Number of Managers. The number of managers (referred to herein as “Managers”) on the Board shall be determined exclusively by resolution of the Board from time to time pursuant to a resolution adopted by a majority of the Managers then in office. Managers of the Company shall be appointed by the affirmative vote of a plurality of the voting power of the then outstanding Interests of the Company. A Manager need not be a member.

Section 3.3 Term of Office; Resignation; Removal. Each Manager shall hold office until his or her successor is appointed and qualified or until his or her earlier death, retirement, resignation, disqualification or removal. Any Manager may resign at any time upon written notice to the Board or to such individual or individuals as the Board may designate. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein no acceptance of such resignation shall be necessary to make it effective. The Member may remove any Manager with or without cause at any time.

Section 3.4 Vacancies. Any vacancy on the Board resulting from death, retirement, resignation, disqualification or removal from office or other cause, as well as any vacancy resulting from an increase in the size of the Board, shall be filled by (1) a majority vote of the remaining Managers then in office, though less than a quorum, or the sole remaining Manager, upon the recommendation of the Nominating and Governance Committee of the Board (if any), or (2) the holder or holders of a majority of the votes of the then-outstanding Interests of the Company entitled to vote. No decrease in the number of Managers constituting the Board shall shorten or eliminate the term of any incumbent Manager.

Section 3.5 Compensation of Managers. Managers, in their capacity as such, may be paid such compensation for their services and such reimbursement for expenses as the Member may from time to time determine in its sole discretion. No such compensation or reimbursement for expenses shall preclude any Manager from serving

the Company or any of its parents or subsidiaries in any other capacity and receiving compensation reimbursement for expenses for such service.

Section 3.6 No Employment. This Agreement does not, and is not intended to, confer upon any Manager any rights with respect to continued employment by the Company, and nothing herein should be construed to have created any employment agreement with any Manager.

Section 3.7 Meetings of the Board. The Board of the Company may hold meetings, both regular and special, either within or without the State of Delaware. Meetings of the Board for any purpose or purposes may be called at any time by the Member or a majority of the Managers then in office.

Section 3.8 Notice of Meetings of the Board.

(a) Regular meetings of the Board may be held without notice at such places and times as shall be determined from time to time by resolution of the Board. Unless waived as provided in Section 3.8(b) of this Agreement, notice of any special meeting of Managers shall be given to each Manager at his business or residence in writing by hand delivery, first-class or overnight mail or courier service, facsimile transmission, email or other electronic transmission or orally by telephone not later than twenty-four (24) hours prior to such meeting. If mailed by first-class mail, such notice shall be deemed adequately delivered when deposited in the United States mails so addressed, with postage thereon prepaid, at least three (3) days before such meeting; provided, that any notice sent by U.S. mail to an address outside of the United States will also be sent by overnight mail or courier service to such Manager. If by overnight mail or courier service, such notice shall be deemed adequately delivered when the notice is delivered to the overnight mail or courier service company at least twenty-four (24) hours before such meeting; provided, that any notice sent by U.S. mail to an address outside of the United States will also be sent by overnight mail or courier service to such director. If by facsimile transmission, email or other electronic transmission, such notice shall be deemed adequately delivered when the notice is transmitted at least twenty-four (24) hours before such meeting. If by telephone or by hand delivery, the notice shall be given at least twenty-four (24) hours prior to the time set for the meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice of such meeting. A meeting may be held at any time without notice if all the directors are present or if those not present waive notice of the meeting in accordance with Section 3.8(b) of these Bylaws.

(b) Whenever notice is required to be given by law or under any provision of this Agreement, a written waiver thereof, signed by the Manager entitled to notice, or a waiver by electronic transmission by the Manager entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Attendance of a Manager at a meeting shall constitute a waiver of notice of such meeting, except when the Manager attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose

of, any regular or special meeting of the Board need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by this Agreement.

Section 3.9 Quorum; Manner of Acting.

(a) Quorum. One half of the total number of Managers (including any vacancies) shall constitute a quorum for the transaction of business of the Board. At all times when the Board is conducting business at a meeting of the Board, a quorum of the Board must be present at such meeting. If a quorum shall not be present at any meeting of the Board, then the Managers present at the meeting may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

(b) Participation. Any Manager may participate in a meeting of the Board by means of telephone, video conference or other communications device that permits all Managers participating in the meeting to hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting. A Manager may vote or be present at a meeting either in person or by proxy, and such proxy may be granted in writing (which, for avoidance of doubt, may include Electronic Transmission) or as otherwise permitted by applicable Law.

(c) Binding Act. Each Manager shall have one vote on all matters submitted to the Board or any committee thereof. With respect to any matter before the Board, the act of a majority of the Managers constituting a quorum shall be the act of the Board. Each Manager may bind the Company only to the extent that such action has been approved by the Board and/or the Member in accordance with this Agreement.

Section 3.10 Action by Written Consent. Notwithstanding anything to the contrary herein, any action of the Board (or any committee of the Board) may be taken without a meeting if a written consent constituting all of the Managers on the Board (or committee of the Board) shall approve such action. Such consent shall have the same force and effect as a vote at a meeting where a quorum was present and may be stated as such in any document or instrument filed with the Secretary of State of Delaware.

Section 3.11 Records. The Board shall cause to be kept a record containing the minutes of the proceedings of the meetings of the Board, appropriate books and registers and such books of records and accounts as may be necessary for the proper conduct of the business of the Company.

Section 3.12 Considerations of the Board.

(a) In taking any action, including action that may involve or relate to a change or potential change in the control of the Company, a Manager of the Company may consider, among other things, both the long-term and short-term interests of the Company and its members and the effects that the Company's actions may have in the short term or long term upon any one or more of the following matters:

1. the prospects for potential growth, development, productivity and profitability of the Company and its subsidiaries;



2. the current employees of the Company or its subsidiaries;
3. the employees of the Company or its subsidiaries and other beneficiaries receiving or entitled to receive retirement, welfare or similar benefits from or pursuant to any plan sponsored, or agreement entered into, by the Company or its subsidiaries;
4. the customers and creditors of the Company or its subsidiaries;
5. the ability of the Company and its subsidiaries to provide, as a going concern, goods, services, employment opportunities and employment benefits and otherwise to contribute to the communities in which they do business;
6. the potential impact on the relationships of the Company or its subsidiaries with regulatory authorities and the regulatory impact generally; and
7. such other additional factors as a Manager may consider appropriate in such circumstances.

(b) In discharging his or her responsibilities as a Manager, each Manager must, to the fullest extent permitted by applicable Law, take into consideration the effect that the Company's actions would have on the ability of:

1. the U.S. Regulated Subsidiaries to carry out their responsibilities under the Exchange Act; and
2. the U.S. Regulated Subsidiaries, NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity) and the Company (a) to engage in conduct that fosters and does not interfere with the ability of the U.S. Regulated Subsidiaries, NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity) and the Company to prevent fraudulent and manipulative acts and practices in the securities markets; (b) to promote just and equitable principles of trade in the securities markets; (c) to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; (d) to remove impediments to and perfect the mechanisms of a free and open market in securities and a U.S. national securities market system; and (e) in general, to protect investors and the public interest.

(c) In discharging his or her responsibilities as a Manager, as an officer or an employee of the Company, each such Manager, officer or employee shall (1) comply with the U.S. federal securities laws and the rules and regulations thereunder, (2) cooperate with the SEC and (3) cooperate with the U.S. Regulated Subsidiaries pursuant to, and to the extent of, their regulatory authority.

(d) Nothing in this Section 3.12 shall create any duty owed by any Manager, officer or employee of the Company to any Person to consider, or afford any particular weight to, any of the foregoing matters or to limit his or her consideration to the foregoing matters. No employee, former employee, beneficiary, customer, creditor, community or regulatory authority or member thereof shall have any rights against any Manager, officer or employee of the Company or the Company under Section 3.12.

Section 3.13 No Personal Liability. Subject to Article XV, except as otherwise provided in the Act, by applicable Law or expressly in this Agreement, no Manager will be obligated personally for any debt, obligation or liability of the Company or of any Company subsidiaries, whether arising in contract, tort or otherwise, solely by reason of being a Manager.

## ARTICLE IV

### STATUTORY DISQUALIFICATION

Section 4.1 No person that is a U.S. Disqualified Person may be a Manager or officer of the Company.

## ARTICLE V

### COMMITTEES

Section 5.1 Establishment. The Board may, by resolution, designate from among the Managers one or more committees, each of which shall be comprised of one or more Managers; provided that in no event may the Board designate any committee with all of the authority of the Board. Subject to the immediately preceding proviso, any such committee, to the extent provided in the resolution forming such committee, shall have and may exercise the authority of the Board. The Board may dissolve any committee or remove any member of a committee at any time.

Section 5.2 Committee Procedures. Each committee may determine in its sole discretion the procedural rules for meeting and conducting its business and shall act in accordance therewith, except as otherwise provided herein or required by applicable Law. A majority of any committee may fix the time and place of its meetings, unless the Board shall otherwise provide.

Section 5.3 Committee Rules. Unless the Board otherwise provides, each committee designated by the Board may adopt, amend and repeal rules for the conduct of its business. In the absence of a provision by the Board or a provision in the rules of such committee to the contrary, a majority of the entire authorized number of members of such committee shall constitute a quorum for the transaction of business unless the committee shall consist of one or two members, in which event one member shall constitute a quorum. The vote of a majority of the members present at a meeting at the time of such vote if a quorum is then present shall be the act of such committee. Action may be taken by any committee without a meeting if all members thereof consent thereto in writing (which, for avoidance of doubt, may include Electronic Transmission),

and the writing or writings (which, for avoidance of doubt, may include Electronic Transmission) are filed with the minutes of the proceedings of such committee.

## **ARTICLE VI**

### **OFFICERS**

Section 6.1 Officers. The Company may have one or more officers as the Board from time to time may deem proper. Such officers shall have such powers and duties as from time to time may be conferred by the Board or by any committee thereof. Any number of offices may be held by the same person and Managers may hold any office.

Section 6.2 Term of Office; Resignation; Removal; Vacancies. Unless otherwise provided in the resolution of the Board electing or authorizing the appointment of any officer, each officer shall hold office until his or her successor is elected or appointed and qualified or until his or her earlier resignation or removal. Any officer may resign at any time upon written notice to the Board or to such person or persons as the Board may designate. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein no acceptance of such resignation shall be necessary to make it effective. The Board may remove any officer with or without cause at any time. Any officer authorized by the Board to appoint a person to hold an office of the Company may also remove such person from such office with or without cause at any time, unless otherwise provided in the resolution of the Board providing such authorization. Any vacancy occurring in any office of the Company by death, resignation, removal or otherwise may be filled by the Board at any regular or special meeting or by an officer authorized by the Board to appoint a person to hold such office.

Section 6.3 Powers and Duties. The officers of the Company shall have such powers and duties in the management of the Company as shall be stated in this Agreement or in a resolution of the Board which is not inconsistent with this Agreement and, to the extent not so stated, as generally pertain to their respective offices, subject to the control of the Board. The Board may require any officer, agent or employee to give security for the faithful performance of his or her duties.

Section 6.4 Contracts. Notwithstanding any other provision contained in this Agreement and except as required by law, any contracts or other instruments may be executed and delivered in the name and on the behalf of the Company by such officer or officers of the Company as the Board may from time to time direct. Such authority may be general or confined to specific instances as the Board may determine.

## **ARTICLE VII**

### **MEMBER; LIMITED LIABILITY**

Section 7.1 Member. The name and the mailing address of the Member are set forth on Schedule A hereto. All of the Interests shall be held by the Member.

Section 7.2 Transfer Restrictions. So long as the Company shall control, directly or indirectly any U.S. Regulated Subsidiary, the Member may not transfer or assign any Interests of the Company, in whole or in part, to any person or entity, unless such transfer or assignment shall be filed with and approved by the SEC under Section 19 of the Exchange Act.

Section 7.3 Power of the Member. The Member shall have the power to exercise any and all rights or powers granted to the Member pursuant to the express and implied terms of this Agreement and the Act.

Section 7.4 Title to Property. All real and personal property owned by the Company shall be owned by the Company as an entity and no Member shall have any ownership interest in such property in its individual name or right, and each Member's interest in the Company shall be deemed personal property for all purposes. The Company shall hold all of its real and personal property in the name of the Company and not in the name of any Member.

Section 7.5 Consent Without a Meeting. Notwithstanding anything to the contrary herein, to the fullest extent permitted by the Act, any action that is to be voted on, consented to or approved by the members may be taken without a meeting, without prior notice and without a vote if consented to, in writing (which, for avoidance of doubt, may include Electronic Transmission), by the Member. Each such action taken by written consent of a Member shall be included in the minute book of the Company.

Section 7.6 Limited Liability. Except as otherwise provided in the Act, by applicable Law or expressly in this Agreement, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Covered Person shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Covered Person.

Section 7.7 Other Business. Subject to applicable Law, the Member may engage in or possess an interest in other business ventures (unconnected with the Company) of every kind and description, independently or with others. The Company shall not have any rights in or to such independent ventures or the income or profits therefrom by virtue of this Agreement.

## ARTICLE VIII

### INTERESTS; MEMBERS

#### Section 8.1 Interests.

(a) Authorized Interests. There shall be only one class of Interest, all of which is held by the Member and set forth on Schedule A hereto.

(b) Certificates. The Company may, but shall not be required to, issue any certificates to evidence ownership of an Interest.

(c) Voting. Each member entitled to vote at any meeting of members shall be entitled to vote in proportion to the percentage held by such member of all outstanding Interests that have voting power upon the matter in question.

(d) Member Meetings and Action by Written Consent. Meetings of the members may be held at any time for any purpose upon the call of (i) the Board acting pursuant to a resolution adopted by a majority of the Managers or (ii) the members owning a majority of the total voting power of Interests then outstanding that would be entitled to vote at the meeting as determined under Section 9.1(a)(1). Any action required or permitted to be taken by the members of the Company may be effected by the written consent of members of the Company possessing the required vote to approve such action, with or without a meeting, with or without prior notice and with or without a vote. In no instance where action is authorized by written consent need a meeting of members be called or noticed.

(e) Notice of Meetings. Written notice, stating the place, day and hour of the meeting and the general nature of the business to be considered, shall be given to each member entitled to vote thereat, at his or her address as it appears on the records of the Company, not less than ten (10) days nor more than sixty (60) days before the date of the meeting, except as otherwise provided herein or required by law. If mailed, such notice shall be deemed to have been given when deposited in the United States mail with postage thereon prepaid, addressed to the member at such member's address as it appears on the records of the Company. Only such business shall be conducted at a meeting as shall have been brought before the meeting pursuant to the Company's notice of meeting. Any previously scheduled meeting of the members may be postponed, canceled or adjourned by resolution of the Board or by the a majority in interest of the members at any time in advance of the date previously scheduled for such meeting. A written waiver of notice, signed by the member entitled to notice, or a waiver by electronic transmission by the member entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Attendance of a member at a meeting shall constitute a waiver of notice of such meeting, except when the member attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the members need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by this Agreement.

## **ARTICLE IX**

### **VOTING AND OWNERSHIP LIMITATIONS**

Section 9.1 In the event that the Member does not own all of the issued and outstanding Interests of the Company, the following provisions of this ARTICLE IX shall apply:

(a) Voting Limitation.

1. Notwithstanding any other provision of this Agreement, for so long as the Company shall directly or indirectly control any U.S. Regulated

Subsidiary, (1) no Person, either alone or together with its Related Persons shall be entitled to vote or cause the voting of Interests of the Company beneficially owned 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 Interests represent in the aggregate more than 10% of the voting power entitled to be cast on such matter, without giving effect to this Section 9.1(a) (such threshold being hereinafter referred to as the “Voting Limitation”), and the Company shall disregard any such votes purported to be cast in excess of the Voting Limitation; and (2) if any Person, either alone or together with its Related Persons, is party to any agreement, plan or other arrangement relating to Interests of the Company entitled to vote on any matter with any other Person, either alone or together with its Related Persons, under circumstances that would result in Interests of the Company 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 Section 9.1, either alone or together with its Related Persons, to vote, possess the right to vote or cause the voting of Interests of the Company that would exceed 10% of the voting power entitled to be cast on such matter (assuming that all Interests of the Company that are subject to such agreement, plan or other arrangement are not outstanding votes entitled to be cast on such matter) (the “Recalculated Voting Limitation”), then the Person, either alone or together with its Related Persons, shall not be entitled to vote or cause the voting of Interests of the Company 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 Interests represent in the aggregate more than the Recalculated Voting Limitation, and the Company shall disregard any such votes purported to be cast in excess of the Recalculated Voting Limitation.

2. The Voting Limitation and the Recalculated Voting Limitation, as applicable, shall apply to each Person unless and until: (a) such Person shall have delivered to the Board a notice in writing, not less than 45 days (or such shorter period as the Board shall expressly consent to) prior to any vote, of such Person’s intention, either alone or together with its Related Persons, to vote or cause the voting of Interests of the Company beneficially owned by such Person or its Related Persons, in person or through any voting agreement or other arrangement, in excess of the Voting Limitation or the Recalculated Voting Limitation, 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 SEC under Section 19(b) of the Exchange Act, and shall have become effective thereunder.

3. Subject to its fiduciary obligations under applicable law, the Board shall not adopt any resolution pursuant to clause (b) of Section 9.1(a)(2) 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, (i) will not impair the ability of any U.S. Regulated Subsidiary, the Company or NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity) to discharge their respective responsibilities under the Exchange Act and the rules and regulations thereunder and (ii) is otherwise in the best interests of (w) the Company, (x) its members and (y) the U.S. Regulated 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 Exchange Act;

C. in the case of a resolution to approve the exercise of voting rights in excess of 20% of the voting power entitled to be cast on such matter, (i) neither such Person nor any of its Related Persons is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Exchange Act) (any such person subject to statutory disqualification being referred to in this Agreement as a "U.S. Disqualified Person"); (ii) for so long as the Company directly or indirectly controls NYSE Arca, Inc. ("NYSE Arca") or NYSE Arca Equities, Inc. ("NYSE Arca Equities") or any facility of NYSE Arca, neither such Person nor any of its Related Persons is an ETP Holder (as defined in the NYSE Arca Equities rules of NYSE Arca, as such rules may be in effect from time to time) ("NYSE Arca ETP Holder") of NYSE Arca Equities (any such Person that is a Related Person of an NYSE Arca ETP Holder shall hereinafter also be deemed to be an "NYSE Arca ETP Holder" for purposes of this Agreement, as the context may require) or an OTP Holder or OTP Firm (each as defined in the rules of NYSE Arca, as such rules may be in effect from time to time) of NYSE Arca (any such Person that is a Related Person of an OTP Holder or OTP Firm shall hereinafter also be deemed to be an "OTP Holder" or "OTP Firm", as appropriate, for purposes of this Agreement, as the context may require); [and ](iii) for so long as the Company directly or indirectly controls New York Stock Exchange LLC ("New York Stock Exchange") [ or NYSE Market (DE), Inc. ("NYSE Market")], neither such Person nor any of its Related Persons is a "member" or "member organization" (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time) (a "NYSE Member", and any such Person that is a Related Person of such member or member organization shall hereinafter also be deemed to be a NYSE Member for purposes of this Agreement, as the context may require); and (iv) for so long as the Company directly or indirectly controls NYSE MKT LLC ("NYSE MKT"), neither such Person nor any of its Related Persons is a "member" (as defined in Sections 3(a)(3)(A)(i), 3(a)(3)(A)(ii), 3(a)(3)(A)(iii) and 3(a)(3)(A)(iv) of the Exchange Act) of NYSE MKT (an "MKT Member," and any such Person that is a Related Person of such member or member organization shall hereinafter also be deemed to be an "MKT Member" for purposes of this Agreement, as the

context may require); and (v) for so long for so long as the Corporation directly or indirectly controls NYSE National, Inc. (or its successor) (“NYSE National”), neither such Person nor any of its Related Persons is an ETP Holder (as defined in the bylaws of NYSE National, as such bylaws may be in effect from time to time) of NYSE National (“NYSE National ETP Holder”) (any such Person that is a Related Person of an ETP Holder shall hereinafter also be deemed to be an “NYSE National ETP Holder” for purposes of this Agreement, as the context may require);

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 Interests of the Company 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 IX, either alone or together with its Related Persons, to vote, possess the right to vote or cause the voting of Interests of the Company that would exceed 20% of the voting power entitled to be cast on such matter (assuming that all Interests of the Company that are subject to such agreement, plan or other arrangement are not entitled to vote on such matter), (i) neither such Person nor any of its Related Persons is a U.S. Disqualified Person; (ii) for so long as the Company directly or indirectly controls NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca, neither such Person nor any of its Related Persons is an NYSE Arca ETP Holder, OTP Holder or an OTP Firm; (iii) for so long as the Company directly or indirectly controls New York Stock Exchange [or NYSE Market], neither such Person nor any of its Related Persons is a NYSE Member; [and ](iv) for so long as the Company directly or indirectly controls NYSE MKT, neither such Person nor any of its Related Persons is a MKT Member; and (v) for so long as the Corporation directly or indirectly controls NYSE National, neither such person nor any of its Related Persons is an NYSE National ETP Holder.

4. In making such determinations, the Board may impose such conditions and restrictions on such Person and its Related Persons owning any Interests of the Company 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 Exchange Act and the governance of the Company.

5. If and to the extent that Interests of the Company beneficially owned by any Person or its Related Persons are held of record by any other Person (the “Record Owner”), this Section 9.1(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 Voting Limitation and the Recalculated Voting Limitation applicable to such Person and its Related Persons.

6. This Section 9.1(a) shall not apply to (1) any solicitation of any revocable proxy from any member of the Company by or on behalf of the



Company or by any officer or Manager of the Company acting on behalf of the Company or (2) any solicitation of any revocable proxy from any member of the Company by any other member that is conducted pursuant to, and in accordance with, Regulation 14A promulgated pursuant to the Exchange Act (other than a solicitation pursuant to Rule 14a-2(b)(2) promulgated under the Exchange Act, with respect to which this Section 9.1(a) shall apply).

7. For purposes of this Section 9.1(a), no Person shall be deemed to have any agreement, arrangement or understanding to act together with respect to voting Interests of the Company 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 Interests as a result of (1) any solicitation of any revocable proxy from any member of the Company by or on behalf of the Company or by any officer or Manager of the Company acting on behalf of the Company or (2) any solicitation of any revocable proxy from any member of the Company by any other member that is conducted pursuant to, and in accordance with, Regulation 14A promulgated pursuant to the Exchange Act (other than a solicitation pursuant to Rule 14a-2(b)(2) promulgated under the Exchange Act, with respect to which this Section 9.1(a) shall apply), except if such power (or the arrangements relating thereto) is then reportable under Item 6 of Schedule 13D under the Exchange Act (or any similar provision of a comparable or successor report).

(b) Ownership Concentration Limitation.

1. Except as otherwise provided in this Section 9.1(b), for so long as the Company shall control, directly or indirectly, any of the U.S. Regulated Subsidiaries, no Person, either alone or together with its Related Persons, shall be permitted at any time to own beneficially Interests in the Company representing in the aggregate more than 20% of the voting power entitled to be cast on any matter (the "Concentration Limitation").

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

3. Subject to its fiduciary obligations under applicable law, the Board shall not adopt any resolution pursuant to clause (b) of Section 9.1(b)(2) unless the Board shall have determined that:

A. such acquisition of beneficial ownership by such Person, either alone or together with its Related Persons, (i) will not impair the ability of any U.S. Regulated Subsidiaries, the Company or NYSE Group (if and to the extent that NYSE Group continues to exist as a

separate entity) to discharge their respective responsibilities under the Exchange Act and the rules and regulations thereunder and (ii) is otherwise in the best interests of (w) the Company, (x) its members and (y) the U.S. Regulated 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 Exchange Act. In making such determination, the Board may impose such conditions and restrictions on such Person and its Related Persons owning any Interests of the Company 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 Exchange Act and the governance of the Company;

C. neither such Person nor any of its Related Persons is a U.S. Disqualified Person;

D. for so long as the Company directly or indirectly controls NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca, neither such Person nor any of its Related Persons is an NYSE Arca ETP Holder or an OTP Holder or OTP Firm;

E. for so long as the Company directly or indirectly controls New York Stock Exchange[ or NYSE Market], neither such Person nor any of its Related Persons is a Member; [and]

F. for so long as the Company directly or indirectly controls NYSE MKT, neither such Person nor any of its Related Persons is a MKT Member; and

G. for so long as the Corporation directly or indirectly controls NYSE National, neither such Person nor any of its Related Persons is an NYSE National ETP Holder.

4. Unless the conditions specified in Section 9.1(b) are met, if any Person, either alone or together with its Related Persons, at any time beneficially owns Interests of the Company in excess of the Concentration Limitation, such Person and its Related Persons shall be obligated to sell promptly, and the Company shall be obligated to purchase promptly, to the extent funds are legally available therefor, at a price equal to US\$1,000.00 (one thousand United States dollars) for each percentage of the total Interest in the Company, such percentage Interest as is necessary so that such Person, together with its Related Persons, shall beneficially own Interests of the Company representing in the aggregate no more than 20% of the voting power entitled to be cast on any matter, after taking into account that such repurchased Interests shall no longer be deemed to be outstanding.

5. Nothing in this Section 9.1(b) shall preclude the settlement of transactions entered into through the facilities of New York Stock Exchange;

provided, however, that, if any Transfer of any Interests of the Company shall cause any Person, either alone or together with its Related Persons, at any time to beneficially own Interests of the Company in excess of the Concentration Limitation, such Person and its Related Persons shall be obligated to sell promptly, and the Company shall be obligated to purchase promptly, Interests of the Company as specified in Section 9.1(b).

6. If any Interest shall be represented by a certificate, a legend shall be placed on such certificate to the effect that such Interest is subject to the Concentration Limitations as set in Section 9.1(b). If the Interests shall be uncertificated, a notice of such restrictions and limitations shall be included in the statement of ownership provided to the holder of record of such Interests.

(c) Procedure for Repurchasing Interests.

1. In the event the Company shall repurchase Interests (the “Repurchased Interests”) of the Company pursuant to Section 9.1, notice of such repurchase shall be given by first class mail, postage prepaid, mailed not less than 5 business nor more than 60 calendar days prior to the repurchase date, to the holder of the Repurchased Interests, at such holder’s address as the same appears in Schedule A. Each such notice shall state: (a) the repurchase date; (b) the number of Interests to be repurchased; (c) the aggregate repurchase price; and (d) the place or places where such Repurchased Interests are to be surrendered for payment of the aggregate repurchase price. Failure to give notice as aforesaid, or any defect therein, shall not affect the validity of the repurchase of Repurchased Interests. From and after the repurchase date (unless default shall be made by the Company in providing funds for the payment of the repurchase price), Repurchased Interests which have been repurchased as aforesaid shall no longer be deemed to be outstanding, and all rights of the holder of such Repurchased Interests as a member of the Company (except the right to receive from the Company the repurchase price against delivery to the Company of evidence of ownership of such Interests) shall cease. Upon surrender in accordance with said notice of evidence of ownership of Repurchased Interests so repurchased (properly assigned for transfer, if the Board shall so require and the notice shall so state), such Interests shall be repurchased by the Company.

2. If and to the extent that Interests of the Company beneficially owned by any Person or its Related Persons are held of record by any other Person, this ARTICLE IX shall be enforced against such Record Owner by requiring the sale of Interests of the Company held by such Record Owner in accordance with this Section 9.1, in a manner that will accomplish the Concentration Limitation applicable to such Person and its Related Persons.

(d) Right to Information; Determinations by the Board. The Board shall have the right to require any Person and its Related Persons that the Board reasonably believes (i) to be subject to the Voting Limitation or the Recalculated Voting Limitation, (ii) to own beneficially (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act) Interests of the Company entitled to vote on any matter in excess of

the Concentration Limitation, or (iii) to own beneficially (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act) an aggregate of 5% or more of the then outstanding Interests of the Company entitled to vote on any matter, which ownership such Person, either alone or together with its Related Persons, has not reported to the Company, to provide to the Company, upon the Board's request, complete information as to all Interests of the Company beneficially owned by such Person and its Related Persons and any other factual matter relating to the applicability or effect of this ARTICLE IX as may reasonably be requested of such Person and its Related Persons. Any constructions, applications or determinations made by the Board pursuant to ARTICLE IX 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 Company and its Members and officers.

## ARTICLE X

### CAPITAL; ALLOCATIONS; DISTRIBUTIONS

Section 10.1 Capital Contributions. The Member is deemed admitted as the Member of the Company upon its execution and delivery of this Agreement. The Member has contributed to the Company the amount listed on Schedule A attached hereto.

Section 10.2 Additional Capital Contributions. The Member is not required to make any additional capital contribution to the Company. However, the Member may make additional capital contributions to the Company in its sole discretion.

Section 10.3 Allocation of Profits and Losses. The net profits or net losses of the Company for each fiscal period (and each item of income, gain, loss, deduction, or credit for income tax purposes) shall be allocated to the Member. The percentage interest of the Member in the Company is 100%.

Section 10.4 Distributions. Distributions shall be made to the Member at the times and in the aggregate amounts determined by the Member. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make a distribution to any Member on account of its interest in the Company if such distribution would violate the Act or other applicable law.

## ARTICLE XI

### DISSOLUTION; LIQUIDATION

Section 11.1 Dissolution.

(a) The Company shall dissolve, and its affairs shall be wound up upon the first to occur of the following: (i) the written consent of the Member; (ii) at any time there are no members of the Company unless the Company is continued in a manner permitted by the Law; or (iii) the entry of a decree of judicial dissolution under the Act or applicable law.

(b) The bankruptcy of the Member will not cause the Member to cease to be a member of the Company and upon the occurrence of such an event, the business of the Company shall continue without dissolution.

(c) In the event of dissolution, the Company shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner), and the assets of the Company shall be applied in the manner, and in the order of priority, set forth under the Act.

Section 11.2 Liquidation. Upon a dissolution pursuant to Section 11.1, the Company's business and assets shall be wound up promptly in an orderly manner. The Board shall be the liquidator to wind up the affairs of the Company. In performing its duties, the Board is authorized to sell, exchange or otherwise dispose of the Company's business and assets in accordance with the Act in any reasonable manner that the Board determines to be in the best interests of the Member.

Section 11.3 Cancellation of Certificate of Formation. Upon completion of a liquidation pursuant to Section 11.2 following a dissolution of the Company pursuant to Section 11.1, the Member shall execute, acknowledge and cause to be filed a certificate of cancellation of the Certificate of Formation of the Company in the office of the Secretary of State of the State of Delaware.

## ARTICLE XII

### CONFIDENTIAL INFORMATION

Section 12.1 Limits on Disclosure. To the fullest extent permitted by applicable Law, all confidential information that shall come into the possession of the Company pertaining to the self-regulatory function of the U.S. Regulated Subsidiaries, in each case to the extent that such entities continue to be controlled, directly or indirectly, by the Company (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of any of the U.S. Regulated Subsidiaries (the "U.S. Subsidiaries' Confidential Information") shall (i) not be made available to any Persons (other than as provided in Sections 12.2 and 12.3) other than to those officers, Managers, employees and agents of the Company that have a reasonable need to know the contents thereof, (ii) be retained in confidence by the Company and the officers, Managers, employees and agents of the Company and (iii) not be used for any commercial purposes.

Section 12.2 Certain Disclosure Permitted. Notwithstanding anything to the contrary in Section 12.1, nothing in this Agreement shall be interpreted so as to limit or impede:

(a) the rights of the SEC or any of the U.S. Regulated Subsidiaries to have access to and examine such U.S. Subsidiaries' Confidential Information pursuant to the U.S. federal securities laws or

(b) the ability of any officers, Managers, employees or agents of the Company to disclose the U.S. Subsidiaries' Confidential Information to the SEC or the U.S. Regulated Subsidiaries.

Section 12.3 Inspection. The Company's books and records shall be subject at all times to inspection and copying by the SEC and any U.S. Regulated Subsidiary; provided that such books and records are related to the operation or administration of such U.S. Regulated Subsidiary or any other U.S. Regulated Subsidiary over which such U.S. Regulated Subsidiary has regulatory authority or oversight.

Section 12.4 Maintenance of Books and Records. The Company's books and records related to U.S. Regulated Subsidiaries shall be maintained within the United States. For so long as the Company directly or indirectly controls any U.S. Regulated Subsidiary, the books, records, premises, Managers, officers and employees of the Company shall be deemed to be the books, records, premises, Managers, officers and employees of such U.S. Regulated Subsidiaries for purposes of and subject to oversight pursuant to the Exchange Act.

## **ARTICLE XIII**

### **JURISDICTION**

The Company, its Managers and officers, and those of its employees whose principal place of business and residence is outside of the United States shall be deemed to irrevocably submit to the jurisdiction of the U.S. federal courts and the SEC for the purposes of any suit, action or proceeding pursuant to the U.S. Federal Securities Laws, commenced or initiated by, the SEC arising out of, or relating to, the activities of the U.S. Regulated Subsidiaries (and shall be deemed to agree that the Company may serve as the U.S. agent for purposes of service of process in such suit, action or proceeding), and the Company and each such Manager, officer or employee, in the case of any such Manager, officer or employee by virtue of his acceptance of any such position, 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 SEC, that such suit, action or proceeding is an inconvenient forum or that the venue of such suit, action or proceeding is improper, or that the subject matter thereof may not be enforced in or by such courts or agency.

## **ARTICLE XIV**

### **COMPLIANCE WITH SECURITIES LAWS; OTHER CONSIDERATIONS**

Section 14.1 Compliance and Cooperation with U.S. Federal Securities Laws. The Company shall comply with the U.S. Federal Securities Laws and shall cooperate with the SEC and the U.S. Regulated Subsidiaries pursuant to and to the extent of their respective regulatory authority, and shall take reasonable steps necessary to cause its agents to cooperate with the SEC and, where applicable, the U.S. Regulated Subsidiaries pursuant to their regulatory authority.

Section 14.2 Consent With Respect to Certain Provisions. The Company shall take reasonable steps necessary to cause its Managers, officers and employees, prior to accepting a position as a Manager, officers or employee, as applicable, of the Company to consent in writing to the applicability to them of Articles XII and XIII and Sections 3.12 and 14.3, as applicable, with respect to their activities related to any U.S. Regulated Subsidiary.

Section 14.3 Independence of the U.S. Regulated Subsidiaries. The Company, its Managers, officers and employees shall give due regard to the preservation of the independence of the self-regulatory function of the U.S. Regulated Subsidiaries (to the extent of each U.S. Regulated Subsidiary's self-regulatory function) and to its obligations to investors and the general public, and shall not take any actions that would interfere with the effectuation of any decisions by the board of directors or managers of the U.S. Regulated Subsidiaries relating to their regulatory responsibilities (including enforcement and disciplinary matters) or that would interfere with the ability of the U.S. Regulated Subsidiaries to carry out their respective responsibilities under the Exchange Act.

Section 14.4 Limitations. Notwithstanding anything to the contrary in Article XV, no Member, Manager, officer, employee, former employee, beneficiary, customer, creditor, community, regulatory authority or member thereof shall have any rights against the Company or any Manager, officer or employee of the Company under this Article XIV.

## ARTICLE XV

### EXCULPATION AND INDEMNIFICATION

Section 15.1 Manager Liability. (a) A Manager of the Company shall not be liable to the Company or its members for monetary damages for breach of fiduciary duty as a Manager of the Company, except to the extent that such exemption from liability or limitation thereof is not permitted under the Act as currently in effect or as the same may hereafter be amended.

(b) No amendment, modification or repeal of this Section 15.1 shall adversely affect any right or protection of a Manager of the Company that exists at the time of such amendment, modification or repeal.

Section 15.2 Indemnification and Insurance.

(a) Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a Manager or Officer of the Company or is or was serving at the request of the Company as a Manager, Officer or employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a Manager, Officer, employee or agent or in any other capacity while serving as a

Manager, Officer, employee or agent, shall be indemnified and held harmless by the Company to the fullest extent authorized by the Act, as the same exists or may hereafter be amended (but, in the case of any such amendment, to the fullest extent permitted by law, only to the extent that such amendment permits the Company to provide broader indemnification rights than said law permitted the Company to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, amounts paid or to be paid in settlement, and excise taxes or penalties arising under the Employee Retirement Income Security Act of 1974) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a Manager, Officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that, except as provided in paragraph (C) of this Section 15.2, the Company shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board. The right to indemnification conferred in this Section 15.2 shall be a contract right and shall include the right to be paid by the Company the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that, if the Act requires, the payment of such expenses incurred by a Manager or Officer in his or her capacity as a Manager or Officer (and not in any other capacity in which service was or is rendered by such person while a Manager or Officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the Company of an undertaking, by or on behalf of such Manager or Officer, to repay all amounts so advanced if it shall ultimately be determined that such Manager or Officer is not entitled to be indemnified under this Section 15.2 or otherwise. The Company may, by action of the Board, provide indemnification to employees and agents of the Company with the same scope and effect as the foregoing indemnification of Managers and Officers. For purposes of this Section 15.2, the term "Company" shall include any predecessor of the Company and any constituent corporation (including any constituent of a constituent) absorbed by the Company in a consolidation or merger.

(b) To obtain indemnification under this Section 15.2, a claimant shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to the claimant and is reasonably necessary to determine whether and to what extent the claimant is entitled to indemnification.

(c) If a claim under paragraph (A) of this Section 15.2 is not paid in full by the Company within thirty (30) days after a written claim pursuant to paragraph (B) of this Section 15.2 has been received by the Company, the claimant may at any time thereafter bring suit against the Company to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Company) that the claimant has not met the standard of conduct that makes it permissible under the Act for the Company to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the Company.



Neither the failure of the Company (including its Board or members) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the Act, nor an actual determination by the Company (including its Board or members) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

(d) The Company shall be precluded from asserting in any judicial proceeding commenced pursuant to paragraph (C) of this Section 15.2 that the procedures and presumptions of this Section 15.2 are not valid, binding and enforceable and shall stipulate in such proceeding that the Company is bound by all the provisions of this Section 15.2.

(e) The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Section 15.2 shall not be exclusive of any other right that any person may have or hereafter acquire under any statute, provision of the Agreement, agreement, determination by the Member or otherwise. No repeal or modification of this Section 15.2 shall in any way diminish or adversely affect the rights of any Manager, Officer, employee or agent of the Company hereunder in respect of any occurrence or matter arising prior to any such repeal or modification.

(f) The Company may maintain insurance, at its expense, to protect itself and any Manager, Officer, employee or agent of the Company or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Company would have the power to indemnify such person against such expense, liability or loss under the Act.

(g) The Company may, to the extent authorized from time to time by the Board, grant rights to indemnification, and rights to be paid by the Company the expenses incurred in defending any proceeding in advance of its final disposition, to any employee or agent of the Company to the fullest extent of the provisions of this Section 15.2 with respect to the indemnification and advancement of expenses of Managers and Officers of the Company.

(h) If any provision or provisions of this Section 15.2 shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (1) the validity, legality and enforceability of the remaining provisions of this Section 15.2 (including, without limitation, each portion of any paragraph of this Section 15.2 containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (2) to the fullest extent possible, the provisions of this Section 15.2 (including, without limitation, each such portion of any paragraph of this Section 15.2 containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

(i) Any notice, request or other communication required or permitted to be given to the Company under this Section 15.2 shall be in writing and either

delivered in person or sent by telecopy, telex, telegram, overnight mail or courier service, or certified or registered mail, postage prepaid, return receipt requested, to the Secretary of the Company and shall be effective only upon receipt by the Secretary.

Section 15.3 Survival. The provisions of this Article XV shall survive the dissolution, liquidation, winding-up and termination of the Company.

**ARTICLE XVI****MISCELLANEOUS**

Section 16.1 Amendments. The Company reserves the right to amend or repeal any provision contained in this Agreement in any manner now or hereafter permitted by law. Any amendment of this Agreement shall require the approval of the Member and of the Board. Notwithstanding any other provision of this Agreement, for so long as this Company shall control, directly or indirectly, any of the U.S. Regulated Subsidiaries, before any amendment or repeal of any provision of the Agreement shall be effective, such amendment or repeal shall be submitted to the boards of directors of each of the U.S. Regulated Subsidiaries (or the boards of directors of their successors), and if any or all of such boards of directors shall determine that such amendment or repeal must be filed with or filed with and approved by the SEC under Section 19 of the Exchange Act and the rules promulgated thereunder before such amendment or repeal may be effectuated, then such amendment or repeal shall not be effectuated until filed with or filed with and approved by the SEC, as the case may be.

Section 16.2 No Waiver. The failure of the Company or the Member (or any permitted transferee or assignees of the Company or the Member) in any instance to exercise any rights granted under this Agreement shall not constitute a waiver of any other rights that may subsequently arise under the provisions of this Agreement or any other agreement between or among the Company and the Member. No waiver of any breach or condition of this Agreement shall be deemed to be a waiver of any other or subsequent breach or condition, whether of like or different nature.

Section 16.3 Rights of Creditors and Third Parties under Agreement. This Agreement is entered into among the Company and the Member for the exclusive benefit of the Company, its Member, and their successors, permitted transferees and permitted assigns. This Agreement is expressly not intended for the benefit of any creditor of the Company or any other Person. Except and only to the extent provided by applicable Law or Article XV, no such creditor or third party shall have any rights under this Agreement or any other agreement between the Company and any Member with respect to any capital contribution or otherwise.

Section 16.4 Governing Law. Subject to Article XIII, this Agreement shall be governed by and construed under the laws of the State of Delaware.

Section 16.5 Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any Person or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (b) the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the

validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

Section 16.6 Headings. The Articles, Sections, Subsections and other headings contained in this Agreement are for reference purposes only and shall not be deemed part of this Agreement or affect the meaning or interpretation of this Agreement.

Section 16.7 Entire Agreement. This document, including all schedules and exhibits hereto, constitutes the entire Agreement and understanding by the Member with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and verbal, if any, between the parties with respect to the subject matter hereof.

Section 16.8 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the undersigned has caused this Seventh Amended and Restated Limited Liability Company Agreement of NYSE Holdings LLC to be duly executed effective as of the date first written above.

INTERCONTINENTAL EXCHANGE HOLDINGS, INC.

By: \_\_\_\_\_  
Name: Scott A. Hill  
Title: Chief Financial Officer

**SCHEDULE A****MEMBER; CAPITAL CONTRIBUTIONS; PERCENTAGE INTERESTS**

<u>Member</u>	<u>Capital Contribution</u>	<u>Percentage of Ownership</u>
Intercontinental Exchange Holdings, Inc.	\$10	100%

Deletions [bracketed]  
Additions underscored

**[FOURTH]~~FIFTH~~ AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
NYSE GROUP, INC.**

NYSE Group, Inc. (the “Corporation”), a corporation organized and existing under the Delaware General Corporation Law, as amended from time to time (the “DGCL”), hereby certifies as follows:

FIRST. The name of the Corporation is NYSE Group, Inc. The original Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on May 19, 2006 (the “Original Certificate of Incorporation”), and the name under which the Corporation filed the Original Certificate of Incorporation was Jefferson Merger Sub, Inc.

SECOND. A First Amended and Restated Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on April 4, 2007 (the “First Amended and Restated Certificate of Incorporation”), amending and restating the Original Certificate of Incorporation.

THIRD. A Second Amended and Restated Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on September 30, 2008 (the “Second Amended and Restated Certificate of Incorporation”), amending and restating the First Amended and Restated Certificate of Incorporation.

FOURTH. A Third Amended and Restated Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on November 13, 2013 (the “Third Amended and Restated Certificate of Incorporation”), amending and restating the Second Amended and Restated Certificate of Incorporation.

FIFTH. [This]A Fourth Amended and Restated Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on December 29, 2014 ([this]the “Fourth Amended and Restated Certificate of Incorporation”).

SIXTH. This Fifth Amended and Restated Certificate of Incorporation has been duly adopted in accordance with the provisions of Sections 242 and 245 of the DGCL by written consent of the holder of all the outstanding stock entitled to vote thereon in accordance with the provisions of Section 228 of the DGCL.

[~~SIXTH~~SEVENTH]. The [~~Third~~Fourth Amended and Restated Certificate of Incorporation is hereby amended and restated in its entirety as follows:

## ARTICLE I

### NAME OF CORPORATION

The name of the corporation is NYSE Group, Inc. (hereinafter referred to as the “Corporation”).

## ARTICLE II

### REGISTERED OFFICE

The address of the Corporation’s registered office in the State of Delaware is c/o The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, City of Wilmington, County of New Castle, State of Delaware 19801, and The Corporation Trust Company shall be the registered agent of the Corporation in charge thereof.

## ARTICLE III

### PURPOSE

The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the Delaware General Corporation Law (the “DGCL”).

## ARTICLE IV

### STOCK

Section 1. Authorized Stock. The total number of shares of all classes of stock which the Corporation shall have authority to issue is two hundred (200), consisting of one hundred (100) shares of Common Stock, par value \$0.01 per share (the “Common Stock”), and one hundred (100) shares of Preferred Stock, par value \$0.01 per share (the “Preferred Stock”).

Section 2. Preferred Stock. The board of directors of the Corporation (the “Board”) is authorized, 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:



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

(2) 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;

(3) 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;

(4) 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;

(5) 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;

(6) 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;

(7) 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;

(8) whether or not the holders of the shares of such series shall have voting rights, in addition to the voting rights provided 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 that all the shares of such series entitled to vote on a particular matter shall be deemed to be voted on such matter in the manner that a specified portion of the voting power of the shares of such series or separate class are voted on such matter; and

(9) any other relative rights, powers, preferences, qualifications, restrictions 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 Common Stock, 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 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 DGCL as then in effect.

Section 3. Options, Warrants and Other Rights. The Board is authorized to create and issue options, warrants and other rights from time to time entitling the holders thereof to purchase securities or other property of the Corporation or any other entity, including any class or series of stock of the Corporation or any other entity and whether or not in connection with the issuance or sale of any securities or other property of the Corporation, for such consideration (if any), at such times and upon such other terms and conditions as may be determined or authorized by the Board and set forth in one or more agreements or instruments. Among other things and without limitation, such terms and conditions may provide for the following:

(1) adjusting the number or exercise price of such options, warrants or other rights or the amount or nature of the securities or other property receivable upon exercise thereof in the event of a subdivision or combination of any securities, or a recapitalization, of the Corporation, the acquisition by any natural person, company, corporation or similar entity, government, or political subdivision, agency, or instrumentality of a government (each, a “Person”) of beneficial ownership of securities representing more than a designated percentage of the voting power of any outstanding series, class or classes of securities, a change in ownership of the Corporation’s securities or a merger, statutory share exchange, consolidation, reorganization, sale of assets or other occurrence relating to the Corporation or any of its securities, and restricting the ability of the Corporation to enter into an agreement with respect to any such transaction absent an assumption by another party or parties thereto of the obligations of the Corporation under such options, warrants or other rights;

(2) restricting, precluding or limiting the exercise, transfer or receipt of such options, warrants or other rights by any Person that becomes the beneficial owner of a designated percentage of the voting power of any outstanding series, class or classes of securities of the Corporation or any direct or indirect transferee of such a Person, or invalidating or voiding such options, warrants or other rights held by any such Person or transferee; and

(3) permitting the Board (or certain directors specified or qualified by the terms of the governing instruments of such options, warrants or other rights) to redeem, terminate or exchange such options, warrants or other rights.

This Section 3 shall not be construed in any way to limit the power of the Board to create and issue options, warrants or other rights.

Section 4. (a) Transfers of Stock of the Corporation. All of the issued and outstanding shares of stock of the Corporation shall be held by NYSE Holdings LLC, a Delaware limited liability company (“NYSE Holdings”). NYSE Holdings may not transfer or assign any shares of stock of the Corporation, in whole or in part, to any person or entity, unless such transfer or assignment shall be filed with and approved by the U.S. Securities and Exchange Commission (the “SEC”) under Section 19 of the U.S. Securities Exchange Act of 1934, as amended and the rules promulgated thereunder (the “Exchange Act”).

(b) Voting and Ownership Limitations. In the event that NYSE Holdings does not own all of the issued and outstanding shares of stock of the Corporation, the following provisions of this Section 4(b) of Article IV shall apply:

(1) Voting Limitation.

(A) Notwithstanding any other provision of this Certificate of Incorporation, for so long as the Corporation shall control, directly or indirectly,

any of New York Stock Exchange LLC (the “New York Stock Exchange”), [NYSE Market (DE), Inc. (“NYSE Market”), NYSE Regulation, Inc. (“NYSE Regulation”),] NYSE Arca, L.L.C. (“NYSE Arca LLC”), NYSE Arca, Inc. (“NYSE Arca”), NYSE Arca Equities, Inc. (“NYSE Arca Equities”), [or ]NYSE MKT LLC (“NYSE MKT”) or NYSE National, Inc. or any of their successors (each, a “Regulated Subsidiary” and together, the “Regulated Subsidiaries”), (1) no Person, either alone or together with its Related Persons (as defined below), 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 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% of the then outstanding votes entitled to be cast on such matter, without giving effect to this Section 4(b) of Article IV (such threshold being hereinafter referred to as the “Voting Limitation”), and the Corporation shall disregard any such votes purported to be cast in excess of the Voting Limitation; and (2) 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, but for this Section 4(b) of Article IV, 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% 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) (the “Recalculated Voting Limitation”), then the Person, 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.

The Voting Limitation and the Recalculated Voting Limitation, as applicable, shall apply to each Person unless and until: (i) such Person shall have delivered to the Board a notice in writing, not less than 45 days (or such shorter period as the Board shall expressly consent to) prior to any vote, 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 Voting Limitation or the Recalculated Voting Limitation, as applicable; (ii) the Board shall have resolved to expressly permit such voting; and (iii) such resolution shall have been filed with, and approved by,

the SEC under Section 19(b) of the Exchange Act, and shall have become effective thereunder.

Subject to its fiduciary obligations under applicable law, the Board shall not adopt any resolution pursuant to clause (ii) of this Section 4(b)(1)(A) of Article IV unless the Board shall have determined that:

(w) 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 of the Regulated Subsidiaries, in each case to the extent that such entities continue to be controlled, directly or indirectly, by the Corporation, to discharge their respective responsibilities under the Exchange Act and the rules and regulations thereunder and is otherwise in the best interests of the Corporation, its stockholders and the Regulated Subsidiaries;

(x) 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 Exchange Act;

(y) in the case of a resolution to approve the exercise of voting rights in excess of 20% of the then outstanding votes entitled to be cast on such matter, (1) neither such Person nor any of its Related Persons is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Exchange Act); (2) for so long as the Corporation directly or indirectly controls the NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca, neither such Person nor any of its Related Persons is an ETP Holder (as defined in the NYSE Arca Equities rules of NYSE Arca, as such rules may be in effect from time to time) of NYSE Arca Equities ("NYSE Arca ETP Holder") (any such Person that is a Related Person of an NYSE Arca ETP Holder shall hereinafter also be deemed to be an "NYSE Arca ETP Holder" for purposes of this Certificate of Incorporation, as the context may require) or an OTP Holder or OTP Firm (each as defined in the rules of NYSE Arca, as such rules may be in effect from time to time) of NYSE Arca (any such Person that is a Related Person of an OTP Holder or OTP Firm shall hereinafter also be deemed to be an "OTP Holder" or "OTP Firm", as appropriate, for purposes of this Certificate of Incorporation, as the context may require); (3) for so long as the Corporation directly or indirectly controls New York Stock Exchange[ or NYSE Market], neither such Person nor any of its Related Persons is a "member" or "member organization" (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time) (a "NYSE Member," and any such Person that is a Related Person of such member or member organization shall hereinafter also be deemed to be a "NYSE Member" for purposes of this Certificate of Incorporation, as

the context may require); [and ](4) for so long as the Corporation directly or indirectly controls NYSE MKT, neither such Person nor any of its Related Persons is a “member” (as defined in Sections 3(a)(3)(A)(i), 3(a)(3)(A)(ii), 3(a)(3)(A)(iii) and 3(a)(3)(A)(iv) of the Exchange Act) of NYSE MKT (an “MKT Member,” and any such Person that is a Related Person of such member shall hereinafter also be deemed to be an “MKT Member” for purposes of this Certificate of Incorporation, as the context may require); [and ]for so long as the Corporation directly or indirectly controls NYSE National, Inc. (or its successor) (“NYSE National”), neither such Person nor any of its Related Persons is an ETP Holder ( as defined in the bylaws of NYSE National, as such bylaws may be in effect from time to time) of NYSE National (“NYSE National ETP Holder”) (any such Person that is a Related Person of an NYSE National ETP Holder shall hereinafter also be deemed to be an “NYSE National ETP Holder” for purposes of this Certificate of Incorporation of the Corporation, as the context may require); and

(z) 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 IV, 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 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 other arrangement are not outstanding votes entitled to be cast on such matter), (1) neither such Person nor any of its Related Persons is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Exchange Act); (2) for so long as the Corporation directly or indirectly controls the NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca, neither such Person nor any of its Related Persons is an NYSE Arca ETP Holder, OTP Holder or an OTP Firm; (3) for so long as the Corporation directly or indirectly controls New York Stock Exchange[ or NYSE Market], neither such Person nor any of its Related Persons is a NYSE Member; [and ](4) for so long as the Corporation directly or indirectly controls NYSE MKT, neither such Person nor any of its Related Persons is an MKT Member[.] and (5) for so long as the Corporation directly or indirectly controls NYSE National, neither such person nor any of its Related Persons is an NYSE National ETP 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 Exchange Act and the governance of the Corporation.

(B) 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 (the “Record Owner”), this Section 4(b)(1) of Article IV 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 Voting Limitation and the Recalculated Voting Limitation applicable to such Person and its Related Persons.

(C) This Section 4(b)(1) of Article IV 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 Exchange Act (other than a solicitation pursuant to Rule 14a-2(b)(2) promulgated under the Exchange Act, with respect to which Section 4(b)(1) of Article IV shall apply).

(D) For purposes of this Section 4(b)(1) of Article IV, 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 Exchange Act (other than a solicitation pursuant to Rule 14a-2(b)(2) promulgated under the Exchange Act, with respect to which Section 4(b)(1) of Article IV shall apply), except if such power (or the arrangements relating thereto) is then reportable under Item 6 of Schedule 13D under the Exchange Act (or any similar provision of a comparable or successor report).

(E) “Related Persons” shall mean with respect to any Person:

(i) any “affiliate” of such Person (as such term is defined in Rule 12b-2 under the Exchange Act);

(ii) any other Person(s) with which such first Person has 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 stock of the Corporation;

(iii) in the case of a Person that is a company, corporation or similar entity, any executive officer (as defined under Rule 3b-7 under the Exchange 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;

(iv) in the case of a Person that is a “member organization” (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time), any “member” (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time) that is associated with such Person (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act);

(v) in the case of a Person that is an OTP Firm, any OTP Holder that is associated with such Person (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act);

(vi) in the case of a Person that is a “member” (as defined in Section 3(a)(3)(A)(ii), 3(a)(3)(A)(iii) or 3(a)(3)(A)(iv) of the Exchange Act) of NYSE MKT, any “member” (as defined in Section 3(a)(3)(A)(i) of the Exchange Act) of NYSE MKT that is associated with such Person (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act);

(vii) 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 its parents or subsidiaries;

(viii) in the case of a Person that is an executive officer (as defined under Rule 3b-7 under the Exchange Act), or a director of a company, corporation or similar entity, such company, corporation or entity, as applicable;

(ix) 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 company, as applicable;

(x) in the case of a Person that is a “member” (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time), the “member organization” (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time) with which such Person is associated (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act);



(xi) in the case of a Person that is an OTP Holder, the OTP Firm with which such Person is associated (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act); and

(xii) in the case of any Person that is a “member” (as defined in Section 3(a)(3)(A)(i) of the Exchange Act) of NYSE MKT, any “member” (as defined in Section 3(a)(3)(A)(ii), 3(a)(3)(A)(iii) or 3(a)(3)(A)(iv) of the Exchange Act) of NYSE MKT with which such Person is associated (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act).

(2) Ownership Concentration Limitation.

(A) Except as otherwise provided in this Section 4(b)(2) of Article IV, for so long as the Corporation shall control, directly or indirectly, any of the Regulated Subsidiaries, no Person, either alone or together with its Related Persons, shall be permitted at any time to own beneficially shares of stock of the Corporation representing in the aggregate more than 20% of the then outstanding votes entitled to be cast on any matter (the “Concentration Limitation”).

(B) The Concentration Limitation shall apply to each Person unless and until: (i) such Person shall have delivered to the Board a notice in writing, 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 Concentration Limitation, of such Person’s intention to acquire such ownership; (ii) the Board shall have resolved to expressly permit such ownership; and (iii) such resolution shall have been filed with, and approved by, the SEC under Section 19(b) of the Exchange Act and shall have become effective thereunder.

(C) Subject to its fiduciary obligations under applicable law, the Board shall not adopt any resolution pursuant to clause (ii) of Section 4(b)(2)(B) of this Article IV unless the Board shall have determined that:

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

(ii) 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 Exchange Act. 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 Exchange Act and the governance of the Corporation;

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

(iv) for so long as the Corporation directly or indirectly controls NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca, neither such Person nor any of its Related Persons is an NYSE Arca ETP Holder or an OTP Holder or OTP Firm;

(v) for so long as the Corporation directly or indirectly controls New York Stock Exchange [or NYSE Market], neither such Person nor any of its Related Persons is a NYSE Member; [and]

(vi) for so long as the Corporation directly or indirectly controls NYSE MKT, neither such Person nor any of its Related Persons is an MKT Member[.];

(vii) for so long as the Corporation directly or indirectly controls NYSE National, neither such Person nor any of its Related Persons is an NYSE National ETP Holder.

(D) Unless the conditions specified in Section 4(b)(2)(B) of this Article IV 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 Concentration Limitation, such Person and its Related Persons shall be obligated to sell promptly, and the Corporation shall be obligated to purchase 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 shares of stock of the Corporation representing in the aggregate no more than 20% of the then outstanding votes entitled to be cast on any matter, after taking into account that such repurchased shares shall become treasury shares and shall no longer be deemed to be outstanding.

(E) Nothing in this Section 4(b)(2) of Article IV shall preclude the settlement of transactions entered into through the facilities of New York Stock Exchange; provided, however, that, if any Transfer of any shares of stock of the Corporation shall cause any Person, either alone or together with its Related Persons, at any time to beneficially own shares of stock of the Corporation in excess of the Concentration Limitation, such Person and its Related Persons shall be obligated to sell promptly, and the Corporation shall be obligated to purchase

promptly, shares of stock of the Corporation as specified in Section 4(b)(2)(D) of this Article IV.

(3) Procedure for Repurchasing Stock.

(A) In the event the Corporation shall repurchase shares of stock (the “Repurchased Stock”) of the Corporation pursuant to any provision of this Section 4(b) of Article IV, notice of such repurchase shall be given by first class mail, postage prepaid, mailed not less than 5 business nor more than 60 calendar days prior to the repurchase date, to the holder of the Repurchased Stock, at such holder’s address as the same appears on the stock register of the Corporation. Each such notice shall state: (1) the repurchase date; (2) the number of shares of Repurchased Stock to be repurchased; (3) the aggregate repurchase price, which shall equal the aggregate par value of such shares; and (4) the place or places where such Repurchased Stock is to be surrendered for payment of the aggregate repurchase price. Failure to give notice as aforesaid, or any defect therein, shall not affect the validity of the repurchase of Repurchased Stock. From and after the repurchase date (unless default shall be made by the Corporation in providing funds for the payment of the repurchase price), shares of Repurchased Stock which have been repurchased as aforesaid shall become treasury shares and shall no longer be deemed to be outstanding, and all rights of the holder of such Repurchased Stock as a stockholder of the Corporation (except the right to receive from the Corporation the repurchase price against delivery to the Corporation of evidence of ownership of such shares) shall cease. Upon surrender in accordance with said notice of evidence of ownership of Repurchased Stock so repurchased (properly assigned for transfer, if the Board shall so require and the notice shall so state), such shares shall be repurchased by the Corporation at par value.

(B) 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 4(b) of Article IV shall be enforced against such Record Owner by requiring the sale of shares of stock of the Corporation held by such Record Owner in accordance with this Section 4(b) of Article IV, in a manner that will accomplish the Concentration Limitation applicable to such Person and its Related Persons.

(4) Right to Information; Determinations by the Board. The Board shall have the right to require any Person and its Related Persons that the Board reasonably believes (i) to be subject to the Voting Limitation or the Recalculated Voting Limitation, (ii) to own beneficially (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act) shares of stock of the Corporation entitled to vote on any matter in excess of the Concentration Limitation, or (iii) to own beneficially (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act) 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

Board'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 Section 4(b) of Article IV as may reasonably be requested of such Person and its Related Persons. Any constructions, applications or determinations made by the Board pursuant Section 4(b) of Article IV 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.

## ARTICLE V

### BOARD OF DIRECTORS

Section 1. Powers of the Board – General. The business and affairs of the Corporation shall be managed by or under the direction of the Board. In addition to the powers and authority expressly conferred upon them by statute or by this Certificate of Incorporation or the bylaws of the Corporation, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation. The Board is authorized to adopt, amend or repeal bylaws of the Corporation.

Section 2. Power to Call and Postpone Stockholder Meetings.

(A) In addition to any right to call a special meeting of stockholders provided for in the Bylaws of the Corporation, special meetings of stockholders of the Corporation may be called at any time by the holder or holders of a majority of the outstanding shares of Common Stock or by the Board acting pursuant to a resolution adopted by a majority of the directors then in office.

(B) Any meeting of stockholders may be postponed by the holder or holders of a majority of the outstanding shares of Common Stock or by action of the Board. The Board shall have the power to adopt such rules and regulations for the conduct of the meetings and management of the affairs of the Corporation as they may deem proper and the power to adjourn any meeting of stockholders, which powers may be delegated by the Board to the chairman of such meeting either in such rules and regulations or pursuant to the bylaws of the Corporation.

Section 3. Number of Directors. Subject to the rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, the number of directors shall be fixed from time to time as set forth in the bylaws of the Corporation.

Section 4. Election of Directors. The directors shall be elected by the stockholders at each annual meeting of stockholders (or any adjournment or continuation thereof) at which a quorum is present, to hold office until the next annual meeting of stockholders, but shall continue to serve despite the expiration of the director's term until

their respective successors are duly elected and qualified. Elections of directors need not be by written ballot except and to the extent provided in the bylaws of the Corporation.

Section 5. Removal of Directors. Subject to the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, and except as set forth in the bylaws of the Corporation, any director or the entire Board may be removed at any time, with or without cause, by the holders of a majority of the votes entitled to be cast by the holders of the then-outstanding shares of the Corporation's capital stock entitled to vote in an election of directors, voting together as a single class.

Section 6. Vacancies. Except as set forth in the bylaws of the Corporation, vacancies and newly created directorships resulting from any increase in the authorized number of directors or from any other cause (other than vacancies and newly created directorships which the holders of any class or classes of stock or series thereof are expressly entitled by this Certificate of Incorporation to fill) may be filled by (1) a majority of the directors then in office, although less than a quorum, or by the sole remaining director or (2) the holders of a majority of the votes entitled to be cast by the holders of the then-outstanding shares of the Corporation's capital stock entitled to vote in an election of directors, voting together as a single class. Any director appointed to fill a vacancy or a newly created directorship shall hold office until his or her successor is elected and qualified or until his or her earlier resignation or removal.

Section 7. Directors Selected by Holders of Preferred Stock. Notwithstanding anything to the contrary contained in this Article V, in the event that the holders of any class or series of Preferred Stock of the Corporation shall be entitled, voting separately as a class, to elect any directors of the Corporation, then the number of directors that may be elected by such holders voting separately as a class shall be in addition to the number of directors fixed pursuant to a resolution of the Board. Except as otherwise provided in the terms of such class or series, (a) the terms of the directors elected by such holders voting separately as a class shall expire at the annual meeting of stockholders next succeeding their election; and (b) any director or directors elected by such holders voting separately as a class may be removed, with or without cause, by the holders of a majority of the voting power of all outstanding shares of stock of the Corporation entitled to vote separately as a class in an election of such directors.

Section 8. Considerations of the Board. In taking any action, including action that may involve or relate to a change or potential change in the control of the Corporation, a director of the Corporation may consider, among other things, both the long-term and short-term interests of the Corporation and its stockholders and the effects that the Corporation's actions may have in the short term or long term upon any one or more of the following matters:

- (1) the prospects for potential growth, development, productivity and profitability of the Corporation and its subsidiaries;
- (2) the current employees of the Corporation or its subsidiaries;

- (3) the employees of the Corporation or its subsidiaries and other beneficiaries receiving or entitled to receive retirement, welfare or similar benefits from or pursuant to any plan sponsored, or agreement entered into, by the Corporation or its subsidiaries;
- (4) the customers and creditors of the Corporation or its subsidiaries;
- (5) the ability of the Corporation to provide, as a going concern, goods, services, employment opportunities and employment benefits and otherwise to contribute to the communities in which it does business;
- (6) the potential impact on the relationships of the Corporation or its subsidiaries with regulatory authorities and the regulatory impact generally; and
- (7) such other additional factors as a director may consider appropriate in such circumstances.

In discharging his or her responsibilities as a member of the Board, each director must, to the fullest extent permitted by applicable law, take into consideration the effect that the Corporation's actions would have on the ability of the Regulated Subsidiaries to carry out their responsibilities under the Exchange Act and on the ability of the Regulated Subsidiaries and the Corporation (i) to engage in conduct that fosters and does not interfere with the Regulated Subsidiaries' and the Corporation's ability to prevent fraudulent and manipulative acts and practices in the securities markets; (ii) to promote just and equitable principles of trade in the securities markets; (iii) to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; (iv) to remove impediments to and perfect the mechanisms of a free and open market in securities and a national securities market system; and (v) in general, to protect investors and the public interest. In discharging his or her responsibilities as a member of the Board or as an officer or employee of the Corporation, each such director, officer or employee shall (x) comply with the federal securities laws and the rules and regulations thereunder, (y) cooperate with the SEC and (z) cooperate with the Regulated Subsidiaries pursuant to and to the extent of their regulatory authority. Nothing in this Section 8 of Article V shall create any duty owed by any director, officer or employee of the Corporation to any Person to consider, or afford any particular weight to, any of the foregoing matters or to limit his or her consideration to the foregoing matters. No employee, former employee, beneficiary, customer, creditor, community or regulatory authority or member thereof shall have any rights against any director, officer or employee of the Corporation or the Corporation under this Section 8 of Article V.

## ARTICLE VI

### STATUTORY DISQUALIFICATION

No person that is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Exchange Act) may be a director or officer of the Corporation.

## ARTICLE VII

### STOCKHOLDER ACTION

Section 1. Action by Written Consent. Any action required or permitted to be taken by the stockholders of the Corporation may be effected by the written consent of stockholders of the Corporation possessing the required vote to approve such action, with or without a meeting.

Section 2. Quorum. At each meeting of stockholders of the Corporation, except where otherwise required by law or this Certificate of Incorporation, the holders of a majority of the voting power of the outstanding shares of stock of the Corporation entitled to vote on a matter at the meeting, present in person or represented by proxy, shall constitute a quorum (it being understood that any shares in excess of the Voting Limitation or the Recalculated Voting Limitation shall not be counted as present at the meeting and shall not be counted as outstanding shares of stock of the Corporation for purposes of determining whether there is a quorum, unless and only to the extent that the Voting Limitation or the Recalculated Voting Limitation, as applicable, shall have been duly waived pursuant to Section 4(b)(1) or Section 4(b)(2) of Article IV). For purposes of the foregoing, where a separate vote by class or classes is required for any matter, the holders of a majority of the voting power of the outstanding shares of such class or classes entitled to vote, present in person or represented by proxy, shall constitute a quorum to take action with respect to that vote on that matter. In the absence of a quorum of the holders of any class of stock of the Corporation entitled to vote on a matter, the meeting of such class may be adjourned from time to time until a quorum of such class shall be so present or represented. Shares of its own capital stock belonging to the Corporation or to another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the Corporation, shall neither be entitled to vote nor be counted for quorum purposes; provided, however, that the foregoing shall not limit the right of the Corporation to vote stock, including but not limited to its own stock, held by it in a fiduciary capacity, provided, further, that any such shares of the Corporation's own capital stock held by it in a fiduciary capacity shall be voted by the person presiding over any vote in the same proportions as the shares of capital stock held by the other stockholders are voted (including any abstentions from voting).

If this Certificate of Incorporation provides for more or less than one vote for any share of stock of the Corporation on any matter or to the extent a stockholder is prohibited pursuant to this Certificate of Incorporation from casting votes with respect to any shares of stock of the Corporation, every reference in the bylaws of the Corporation

to a majority or other proportion of shares of stock of the Corporation shall refer to such majority or other proportion of the aggregate votes of such shares of stock, taking into account any greater or lesser number of votes as a result of the foregoing.

## **ARTICLE VIII**

### **DIRECTOR LIABILITY**

A director of the Corporation shall not be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director of the Corporation, except to the extent that such exemption from liability or limitation thereof is not permitted under the DGCL as currently in effect or as the same may hereafter be amended.

No amendment, modification or repeal of this Article VIII shall adversely affect any right or protection of a director of the Corporation that exists at the time of such amendment, modification or repeal.

## **ARTICLE IX**

### **JURISDICTION**

The Corporation, its directors and officers, and those of its employees whose principal place of business and residence is outside of the United States shall be deemed to irrevocably submit to the jurisdiction of the United States federal courts and the SEC for the purposes of any suit, action or proceeding pursuant to the United States federal securities laws and the rules and regulations thereunder, commenced or initiated by the SEC arising out of, or relating to, the activities of the Regulated Subsidiaries (and shall be deemed to agree that the Corporation may serve as the U.S. agent for purposes of service of process in such suit, action or proceeding), and the Corporation and each such director, officer or employee, in the case of any such director, officer or employee by virtue of his acceptance of any such position, 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 SEC, that such suit, action or proceeding is an inconvenient forum or that the venue of such suit, action or proceeding is improper, or that the subject matter thereof may not be enforced in or by such courts or agency.

## **ARTICLE X**

### **CONFIDENTIAL INFORMATION**

To the fullest extent permitted by applicable law, all confidential information pertaining to the self-regulatory function of New York Stock Exchange, [NYSE Market, NYSE Regulation, ]NYSE Arca, NYSE Arca Equities, [and ]NYSE MKT and NYSE National (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of any of the



Regulated Subsidiaries that shall come into the possession of the Corporation shall: (x) not be made available to any Persons (other than as provided in the next sentence) other than to those officers, directors, employees and agents of the Corporation that have a reasonable need to know the contents thereof; (y) be retained in confidence by the Corporation and the officers, directors, employees and agents of the Corporation; and (z) not be used for any commercial purposes. Notwithstanding the foregoing sentence, nothing in this Certificate of Incorporation shall be interpreted so as to limit or impede the rights of the SEC or any of the Regulated Subsidiaries to access and examine such confidential information pursuant to the federal securities laws and the rules and regulations thereunder, or to limit or impede the ability of any officers, directors, employees or agents of the Corporation to disclose such confidential information to the SEC or the Regulated Subsidiaries. The Corporation's books and records shall be subject at all times to inspection and copying by (a) the SEC and (b) by any Regulated Subsidiary; provided that, in the case of (b), such books and records are related to the operation or administration of such Regulated Subsidiary or any other Regulated Subsidiary over which such Regulated Subsidiary has regulatory authority or oversight. The Corporation's books and records related to Regulated Subsidiaries shall be maintained within the United States.

For so long as the Corporation directly or indirectly controls any Regulated Subsidiary, the books, records, premises, officers, directors and employees of the Corporation shall be deemed to be the books, records, premises, officers, directors and employees of such Regulated Subsidiaries for purposes of and subject to oversight pursuant to the Exchange Act.

## **ARTICLE XI**

### **COMPLIANCE WITH SECURITIES LAWS; OTHER CONSIDERATIONS**

Section 1. The Corporation shall comply with the federal securities laws and the rules and regulations thereunder and shall cooperate with the SEC and the Regulated Subsidiaries pursuant to and to the extent of their respective regulatory authority, and shall take reasonable steps necessary to cause its agents to cooperate, with the SEC and, where applicable, the Regulated Subsidiaries pursuant to their regulatory authority. No stockholder, employee, former employee, beneficiary, customer, creditor, community or regulatory authority or member thereof shall have any rights against the Corporation or any director, officer or employee of the Corporation under this Section 1 of Article XI.

Section 2. The Corporation shall take reasonable steps necessary to cause its officers, directors and employees, prior to accepting a position as an officer, director or employee, as applicable, of the Corporation to consent in writing to the applicability to them of Section 8 of Article V, Article IX, Article X and Section 3 of this Article XI of this Certificate of Incorporation, as applicable, with respect to their activities related to any Regulated Subsidiary.

Section 3. The Corporation, its directors, officers and employees shall give due regard to the preservation of the independence of the self-regulatory function of the Regulated Subsidiaries (to the extent of each Regulated Subsidiary's self-regulatory function) and to obligations to investors and the general public and shall not take any actions that would interfere with the effectuation of any decisions by the board of directors or managers of the Regulated Subsidiaries relating to their regulatory functions (including disciplinary matters) or that would interfere with the ability of the Regulated Subsidiaries to carry out their respective responsibilities under the Exchange Act.

## **ARTICLE XII**

### **AMENDMENTS TO CERTIFICATE OF INCORPORATION**

The Corporation reserves the right to amend or repeal any provision contained in this Certificate of Incorporation in any manner now or hereafter permitted by law, and all rights conferred upon stockholders herein are granted subject to this reservation. Notwithstanding any other provision of this Certificate of Incorporation, for so long as this Corporation shall control, directly or indirectly, any of the Regulated Subsidiaries, before any amendment or repeal of any provision of this Certificate of Incorporation shall be effective, such amendment or repeal shall either (a) be filed with or filed with and approved by the SEC under Section 19 of the Exchange Act and the rules promulgated thereunder or (b) be submitted to the boards of directors of New York Stock Exchange, [NYSE Market, NYSE Regulation, ]NYSE Arca, NYSE Arca Equities, [and] NYSE MKT and NYSE National or the boards of directors of their successors, in each case only to the extent that such entity continues to be controlled directly or indirectly by the Corporation, and if any or all of such boards of directors shall determine that such amendment or repeal must be filed with or filed with and approved by the SEC under Section 19 of the Exchange Act and the rules promulgated thereunder before such amendment or repeal may be effectuated, then such amendment or repeal shall not be effectuated until filed with or filed with and approved by the SEC, as the case may be.

## **ARTICLE XIII**

### **ENFORCEABILITY**

If any provision of this Certificate of Incorporation is held to be illegal, invalid or unenforceable, (a) such provision shall be construed in such a manner to be legal, valid and enforceable to the maximum extent permitted under applicable law; (b) the legality, validity and enforceability of the remaining provisions of this Certificate of Incorporation shall not be affected or impaired thereby, and (c) the illegality, invalidity or unenforceability of a provision in a particular jurisdiction shall not invalidate or render illegal, invalid or unenforceable such provision in any other jurisdiction.

**ARTICLE XIV**

**EFFECTIVE TIME**

This Fourth Amended and Restated Certificate of Incorporation shall be effective as of 8:00 a.m., Eastern Standard Time, on December 29, 2014.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, the Corporation has caused this Fourth Amended and Restated Certificate of Incorporation to be executed by its duly authorized officer on December 29, 2014.

NYSE GROUP, INC.

By: \_\_\_\_\_  
Name: Martha Redding  
Title: Assistant Secretary

Deletions [bracketed]  
Additions underscored

[~~SECOND~~]THIRD AMENDED AND RESTATED  
BYLAWS  
OF  
NYSE GROUP, INC.  
Incorporated under the Laws of the State of Delaware  
=====

ARTICLE I

OFFICES AND RECORDS

Section 1.1. Registered Office. The registered office of NYSE Group, Inc. (the “Corporation”) in the State of Delaware shall be established and maintained at the office of The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, City of Wilmington, County of New Castle, State of Delaware 19801, and The Corporation Trust Company shall be the registered agent of the Corporation in charge thereof.

Section 1.2. Other Offices. The Corporation may have such other offices, either within or without the State of Delaware, at such places as the Board of Directors may from time to time designate or as the business of the Corporation may from time to time require.

Section 1.3. Books and Records. The books and records of the Corporation may be kept outside the State of Delaware at such place or places as may from time to time be designated by the Board of Directors.

ARTICLE II

STOCKHOLDERS

Section 2.1. Annual Meetings. An annual meeting of stockholders for the election of directors, and for such other business as may be stated in the notice of the meeting, shall be held at such place, either within or without the State of Delaware, and at such time and date as the Board of Directors, by resolution, shall determine and as set forth in the notice of the meeting. At each annual meeting, the stockholders entitled to vote shall elect a Board of Directors and they may transact such other corporate business as shall be stated in the notice of the meeting.

Section 2.2. Special Meetings. In addition to any right to call a special meeting of stockholders provided for in the Certificate of Incorporation of the Corporation, special meetings of stockholders may be called at any time by (a) the Board of Directors acting pursuant to a resolution adopted by a majority of the directors then in office, (b) the Chairman of the

Board of Directors, (c) the Chief Executive Officer, (d) the President, (e) the Secretary or (f) the holder or holders of a majority of the outstanding shares of common stock, par value \$0.01 per share, of the Corporation (the "Common Stock"), in each case, to be held at such date, time and place either within or without the State of Delaware as may be stated in the notice of the meeting.

Section 2.3. Notice of Meetings. Written notice, stating the place, day and hour of the meeting and the general nature of the business to be considered, shall be given to each stockholder entitled to vote thereat, at his or her address as it appears on the records of the Corporation, not less than ten (10) days nor more than sixty (60) days before the date of the meeting, except as otherwise provided herein or required by the Delaware General Corporation Law (the "DGCL"). If mailed, such notice shall be deemed to have been given when deposited in the United States mail with postage thereon prepaid, addressed to the stockholder at such stockholder's address as it appears on the records of the Corporation. No business other than that stated in the notice shall be transacted at any meeting of stockholders without the unanimous consent of all the stockholders entitled to vote thereat.

Section 2.4. Quorum and Adjournment. Except as otherwise provided by law or by the Certificate of Incorporation of the Corporation (the "Certificate of Incorporation"), the holders of a majority of the votes entitled to be cast by the holders of all of the then-outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, represented in person or by proxy, shall constitute a quorum at a meeting of stockholders, except that when specified business is to be voted on by a class or series of stock voting as a class, the holders of a majority of the shares of such class or series shall constitute a quorum of such class or series for the transaction of such business. The chairman of the meeting or the holders of a majority of the votes so represented may adjourn the meeting from time to time, whether or not there is such a quorum. No notice of the time and place of adjourned meetings need be given except as required by law. At any such adjourned meeting at which the requisite amount of stock entitled to vote shall be represented, any business may be transacted that might have been transacted at the meeting as originally noticed, but only those stockholders entitled to vote at the meeting as originally noticed shall be entitled to vote at any adjournment or adjournments thereof. The stockholders present at a duly called meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

Section 2.5. Organization. Meetings of stockholders shall be presided over by such person or persons as the Board of Directors may have designated or, in the absence of such person, the Chairman of the Board of Directors, if any, or in the absence of a Chairman of the Board of Directors by the Chief Executive Officer, or in the absence of a Chief Executive Officer by an Executive Vice President, or in the absence of an Executive Vice President, by a chairman chosen at the meeting. A Corporate Secretary, or in the absence of a Corporate Secretary an Assistant Corporate Secretary, shall act as secretary of the meeting, but in the absence of a Corporate Secretary and any Assistant Corporate Secretary, the chairman of the meeting may appoint any person to act as secretary of the meeting.

The order of business at each such meeting shall be as determined by the chairman of the meeting. The chairman of the meeting shall have the right and authority to

adjourn a meeting of stockholders without a vote of stockholders and to prescribe such rules, regulations and procedures and to do all such acts and things as are necessary or desirable for the proper conduct of the meeting and are not inconsistent with any rules or regulations adopted by the Board of Directors pursuant to the provisions of the Certificate of Incorporation, including the establishment of procedures for the maintenance of order and safety, limitations on the time allotted to questions or comments on the affairs of the Corporation, restrictions on entry to such meeting after the time prescribed for the commencement thereof and the opening and closing of the voting polls for each item upon which a vote is to be taken.

Section 2.6 Voting; Proxies. Unless otherwise provided in the Certificate of Incorporation, each stockholder entitled to vote at any meeting of stockholders shall be entitled to one vote for each share of stock held by such stockholder which has voting power upon the matter in question. Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power, regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the Corporation generally. A stockholder may revoke any proxy that is not irrevocable by attending the meeting and voting in person or by filing an instrument in writing revoking the proxy or another duly executed proxy bearing a later date with a Corporate Secretary. Voting at meetings of stockholders need not be by written ballot unless so directed by the chairman of the meeting or the Board of Directors. Directors shall be elected by a plurality of the votes of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors. In all other matters, unless otherwise required by law, the Certificate of Incorporation or these Bylaws, a majority of the votes cast for or against the matter at the meeting by stockholders entitled to vote on the subject matter shall be the act of the stockholders. Where a separate vote by class or classes is required, the affirmative vote of the holders of a majority (or, in the case of an election of directors, a plurality) of the votes cast for or against the matter at the meeting by stockholders in that class or classes entitled to vote on the subject matter shall be the act of such class or classes, except as otherwise required by law, the Certificate of Incorporation or these Bylaws.

Section 2.7. Stockholders Record Date. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may, except as otherwise required by the DGCL, fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors and which record date: (1) in the case of determination of stockholders entitled to vote at any meeting of stockholders or adjournment thereof, shall, unless otherwise required by law, not be more than sixty nor less than ten days before the date of such meeting and (2) in the case of any other action, shall not be more than sixty days prior to such other action. If no record date is fixed: (1) the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding

the day on which the meeting is held and (2) the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

Section 2.8. Stockholder Action by Written Consent. Unless otherwise provided by the Certificate of Incorporation of the Corporation, any action required or permitted to be taken at any annual or special meeting of stockholders may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

### ARTICLE III

#### BOARD OF DIRECTORS

Section 3.1. General Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. Subject to the rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, the number of directors shall be fixed from time to time by the Board of Directors of the Corporation. In addition to the powers and authorities expressly conferred upon them by these Bylaws, the Board of Directors may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these Bylaws required to be exercised or done by the stockholders. A director need not be a stockholder.

Section 3.2. Certain Qualifications for Directors. A majority of the Board of Directors shall be U.S. Persons. A “U.S. Person” shall mean, as of the date of his or her most recent election or appointment as a director any person whose domicile as of such date is and for the immediately preceding twenty-four (24) months shall have been the United States.

Section 3.3. Election; Term of Office; Resignation. Each director shall hold office until his or her successor is elected and qualified or until his or her earlier resignation or removal. Any director may resign at any time upon written notice to the Board of Directors. Such resignation shall take effect at the time specified therein (and if no time be specified, at the time of its receipt by the Board of Directors) and unless otherwise specified therein no acceptance of such resignation shall be necessary to make it effective.

Section 3.4. Vacancies. Any vacancy on the Board of Directors resulting from death, retirement, resignation, disqualification or removal from office or other cause, as well as any vacancy resulting from an increase in the number of directors which occurs between annual meetings of the stockholders at which directors are elected, shall be filled by (1) a majority vote of the remaining directors then in office, though less than a quorum, or by the sole remaining



director or (2) the holders of a majority of the votes entitled to be cast by the holders of the then-outstanding shares of the Corporation's capital stock entitled to vote in an election of directors, voting together as a single class; provided that, if a vacancy results from the death, retirement, resignation, disqualification or removal from office of a U.S. Person, then the director chosen to fill such vacancy shall be a U.S. Person. If a vacancy results from an increase in the number of directors which occurs between annual meetings of the stockholders at which directors are elected, then, if necessary for U.S. persons to remain a majority of the board, a U.S. Person shall fill such vacancy. The directors chosen to fill vacancies shall hold office for a term expiring at the end of the next annual meeting of stockholders, but shall continue to serve despite the expiration of the director's term until his or her successor shall have been elected and qualified. No decrease in the number of directors constituting the Board of Directors shall shorten or eliminate the term of any incumbent director. Whenever the holders of any class or classes of stock or series thereof are entitled by the Certificate of Incorporation to elect one or more directors, vacancies and newly created directorships of such class or classes or series may be filled by, and only by, a majority of the directors elected by such class or classes or series then in office, or by the sole remaining director so elected. If the office of any director becomes vacant and there are no remaining directors, the stockholders, by the affirmative vote of the holders of shares constituting a majority of the voting power of the Corporation, at a special meeting called for such purpose, may appoint any qualified person to fill such vacancy.

Section 3.5. Removal. Subject to the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, any director, or the entire Board of Directors, may be removed from office at any time, with or without cause, 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 the Corporation's capital stock entitled to vote in an election of directors, voting together as a single class.

Section 3.6. Meetings. The newly elected directors may hold their first meeting for the purpose of organization and the transaction of business, if a quorum be present, immediately after the annual meeting of the stockholders; or the time and place of such meeting may be fixed by consent of all the Directors. Regular meetings of the Board of Directors may be held without notice at such places and times as shall be determined from time to time by resolution of the Board of Directors. Special meetings of the Board of Directors may be held at any time or place within or without the State of Delaware whenever called by a Chairman of the Board, the Chief Executive Officer or a majority of the directors then in office, and shall be held at such place or places as may be determined by the Board of Directors, or as shall be stated in the call of the meeting.

Section 3.7. Notice. Notice of any special meeting of directors shall be given to each director at his business or residence in writing by hand delivery, first-class or overnight mail or courier service, telegram or facsimile transmission, email or other electronic transmission or orally by telephone. If mailed by first-class mail, such notice shall be deemed adequately delivered when deposited in the United States mails so addressed, with postage thereon prepaid, at least four (4) days before such meeting. If by telegram, overnight mail or courier service, such notice shall be deemed adequately delivered when the telegram is delivered to the telegraph company or the notice is delivered to the overnight mail or courier service company at least twenty-four (24) hours before such meeting. If by facsimile transmission, such notice shall be

deemed adequately delivered when the notice is transmitted at least twelve (12) hours before such meeting. If by telephone or by hand delivery, the notice shall be given at least twelve (12) hours prior to the time set for the meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice of such meeting. A meeting may be held at any time without notice if all the directors are present or if those not present waive notice of the meeting in accordance with Section 7.3 of these Bylaws.

Section 3.8. Participation in Meetings by Conference Telephone Permitted. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, members of the Board of Directors, or any committee designated by the Board, may participate in a meeting of the Board or of such committee, as the case may be, by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Bylaw shall constitute presence in person at such meeting.

Section 3.9. Quorum; Vote Required for Action. At each meeting of the Board of Directors, a whole number of directors equal to at least a majority of the total number of directors constituting the entire Board of Directors (including any vacancies) shall constitute a quorum for the transaction of business. The vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board unless the Certificate of Incorporation or these Bylaws shall require a vote of a greater number. The directors present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough directors to leave less than a quorum. In case at any meeting of the Board a quorum shall not be present, the members or a majority of the members of the Board present may adjourn the meeting from time to time until a quorum shall be present.

Section 3.10. Organization. Meetings of the Board of Directors shall be presided over by the Chairman of the Board of Directors, if any, or in the absence of a Chairman of the Board of Directors, by a chairman chosen at the meeting; provided, however, that, if the Chairman of the Board of Directors is also the Chief Executive Officer, he or she shall not participate in executive sessions of the Board of Directors. If the Chairman of the Board of Directors is not the Chief Executive Officer, he or she shall act as a liaison officer between the Board of Directors and the Chief Executive Officer. A Corporate Secretary, or in the absence of a Corporate Secretary an Assistant Corporate Secretary, shall act as secretary of the meeting, but in the absence of a Corporate Secretary and any Assistant Corporate Secretary the chairman of the meeting may appoint any person to act as secretary of the meeting.

Section 3.11. Action by Directors Without a Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all members of the Board or of such committee, as the case may be, then in office consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board or committee.

Section 3.12. Compensation of Directors. Directors may be paid such compensation for their services and such reimbursement for expenses of attendance at meetings

as the Board of Directors may from time to time determine. No such payment shall preclude any director from serving the Corporation or any of its parents or subsidiaries in any other capacity and receiving compensation for such service.

## ARTICLE IV

### COMMITTEES

Section 4.1. Committees of the Board of Directors. The Board of Directors may from time to time designate one or more committees of the Board of Directors, with such lawfully delegable powers and duties as it thereby confers, to serve at the pleasure of the Board of Directors and shall, for those committees and any others provided for herein, elect a director or directors to serve as the member or members, designating, if it desires, other directors as alternate members who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of any member of any committee and any alternate member in his or her place, the member or members of the committee present at the meeting and not disqualified from voting, whether or not he or she or they constitute a quorum, may by unanimous vote appoint another member of the Board of Directors to act at the meeting in the place of the absent or disqualified member. The Board of Directors shall have power at any time to fill vacancies in, to change the membership of, or to dissolve any such committee. Nothing herein shall be deemed to prevent the Board of Directors from appointing one or more committees consisting in whole or in part of persons who are not directors of the Corporation; provided, however, that no such committee shall have or may exercise any authority of the Board of Directors.

Section 4.2. Committee Procedures. Each committee may determine the procedural rules for meeting and conducting its business and shall act in accordance therewith, except as otherwise provided herein or required by law. A majority of any committee may fix the time and place of its meetings, unless the Board of Directors shall otherwise provide. Adequate provision shall be made for notice of such meetings to be given to members of the committees.

Section 4.3. Committee Rules. Unless the Board of Directors otherwise provides, each committee designated by the Board may adopt, amend and repeal rules for the conduct of its business. In the absence of a provision by the Board or a provision in the rules of such committee to the contrary, a majority of the entire authorized number of members of such committee shall constitute a quorum for the transaction of business unless the committee shall consist of one (1) or two (2) members, in which event one (1) member shall constitute a quorum. The vote of a majority of the members present at a meeting at the time of such vote if a quorum is then present shall be the act of such committee. Action may be taken by any committee without a meeting if all members thereof consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of the proceedings of such committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

## ARTICLE V

## OFFICERS; EMPLOYEES

Section 5.1. Officers; Election or Appointment. The Board of Directors shall take such action as may be necessary from time to time to ensure that the Corporation has such officers as are necessary, under Section 5.1 of these Bylaws and the DGCL as currently in effect or as the same may hereafter be amended, to enable it to sign stock certificates. In addition, the Board of Directors at any time and from time to time may elect (i) one or more Chairmen of the Board of Directors from among its members, (ii) one or more Chief Executive Officers, one or more Presidents and/or one or more Chief Financial Officers, (iii) one or more Executive Vice Presidents, one or more Corporate Secretaries and/or (iv) one or more other officers, in the case of each of (i), (ii), (iii) and (iv) if and to the extent the Board deems desirable. The Board of Directors may give any officer such further designations or alternate titles as it considers desirable. In addition, the Board of Directors at any time and from time to time may authorize any officer of the Corporation to appoint one or more officers of the kind described in clauses (iii) and (iv) above. Any number of offices may be held by the same person and directors may hold any office unless the Certificate of Incorporation or these Bylaws otherwise provide.

Section 5.2. Term of Office; Resignation; Removal; Vacancies. Unless otherwise provided in the resolution of the Board of Directors electing or authorizing the appointment of any officer, each officer shall hold office until his or her successor is elected or appointed and qualified or until his or her earlier resignation or removal. Any officer may resign at any time upon written notice to the Board or to such person or persons as the Board may designate. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein no acceptance of such resignation shall be necessary to make it effective. The Board may remove any officer with or without cause at any time. Any officer authorized by the Board to appoint a person to hold an office of the Corporation may also remove such person from such office with or without cause at any time, unless otherwise provided in the resolution of the Board providing such authorization. Any vacancy occurring in any office of the Corporation by death, resignation, removal or otherwise may be filled by the Board at any regular or special meeting or by an officer authorized by the Board to appoint a person to hold such office.

Section 5.3. Powers and Duties. The officers of the Corporation shall have such powers and duties in the management of the Corporation as shall be stated in these Bylaws or in a resolution of the Board of Directors which is not inconsistent with these Bylaws and, to the extent not so stated, as generally pertain to their respective offices, subject to the control of the Board. The Board may require any officer, agent or employee to give security for the faithful performance of his or her duties.

## ARTICLE VI

## STOCK CERTIFICATES AND TRANSFERS

Section 6.1. Certificates; Uncertificated Shares. The shares of stock in the Corporation shall be represented by certificates; provided that the Board of Directors of the Corporation may provide by resolution or resolutions that some or all of any or all classes or

series of its stock shall be uncertificated shares. Any such resolution shall not apply to any such shares represented by a certificate theretofore issued until such certificate is surrendered to the Corporation. If shares of stock in the Corporation are certificated, any signature on such certificates may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue. Certificates representing shares of stock of the Corporation may bear such legends regarding restrictions on transfer or other matters as any officer or officers of the Corporation may determine to be appropriate and lawful.

If the Corporation is authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock, provided that, except as otherwise required by law, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of such class or series of stock and the qualifications, limitations or restrictions of such preferences and/or rights. Within a reasonable time after the issuance or transfer of uncertificated shares of any class or series of stock, the Corporation shall send to the registered owner thereof a written notice containing the information required by law to be set forth or stated on certificates representing shares of such class or series or a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of such class or series and the qualifications, limitations or restrictions of such preferences and/or rights.

Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated shares and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

Section 6.2. Lost, Stolen or Destroyed Stock Certificates; Issuance of New Certificates. No certificate for shares of stock in the Corporation shall be issued in place of any certificate alleged to have been lost, destroyed or stolen, except on production of such evidence of such loss, destruction or theft and on delivery to the Corporation of a bond of indemnity in such amount, upon such terms and secured by such surety, as the Board of Directors or any financial officer may in its or his discretion require.

Section 6.3. Transfer of Shares. The shares of stock of the Corporation shall be transferable only upon its books by the holders thereof in person or by their duly authorized attorneys or legal representatives, and upon such transfer the old certificates shall be surrendered to the Corporation by the delivery thereof to the person in charge of the stock and transfer books and ledgers, or to such other person as the Board of Directors may designate, by whom they shall be cancelled, and new certificates shall thereupon be issued. A record shall be made of each

transfer and whenever a transfer shall be made for collateral security, and not absolutely, it shall be so expressed in the entry of the transfer.

## ARTICLE VII

### MISCELLANEOUS

Section 7.1 Fiscal Year. The fiscal year of the Corporation shall be determined by the Board of Directors.

Section 7.2. Seal. The Corporation may have a corporate seal which shall have the name of the Corporation inscribed thereon and shall be in such form as may be approved from time to time by the Board of Directors. The corporate seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

Section 7.3. Waiver of Notice of Meetings of Stockholders, Directors and Committees. Whenever notice is required to be given by law or under any provision of the Certificate of Incorporation or these Bylaws, a written waiver thereof, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors or members of a committee of directors need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by the Certificate of Incorporation or these Bylaws.

Section 7.4. Contracts. Except as otherwise required by law, the Certificate of Incorporation or these Bylaws, any contracts or other instruments may be executed and delivered in the name and on the behalf of the Corporation by such officer or officers of the Corporation as the Board of Directors may from time to time direct. Such authority may be general or confined to specific instances as the Board may determine. The Chairman of the Board, the President or any Vice President may execute bonds, contracts, deeds, leases and other instruments to be made or executed for or on behalf of the Corporation. Subject to any restrictions imposed by the Board of Directors or the Chairman of the Board, the President or any Vice President of the Corporation may delegate contractual powers to others under his jurisdiction, it being understood, however, that any such delegation of power shall not relieve such officer of responsibility with respect to the exercise of such delegated power.

Section 7.5. Proxies. Unless otherwise provided by resolution adopted by the Board of Directors, the Chairman of the Board, the Chief Executive Officer, the President or any Vice President may from time to time appoint an attorney or attorneys or agent or agents of the Corporation, in the name and on behalf of the Corporation, to cast the votes which the Corporation may be entitled to cast as the holder of stock or other securities in any other corporation, any of whose stock or other securities may be held by the Corporation, at meetings of the holders of the stock or other securities of such other corporation, or to consent in writing,

in the name of the Corporation as such holder, to any action by such other corporation, and may instruct the person or persons so appointed as to the manner of casting such votes or giving such consent, and may execute or cause to be executed in the name and on behalf of the Corporation and under its corporate seal or otherwise, all such written proxies or other instruments as he may deem necessary or proper in the premises.

Section 7.6. Indemnification and Insurance. (A) Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a “proceeding”), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a director or officer of the Corporation or is or was serving at the request of the Corporation as a director, officer or employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the DGCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, to the fullest extent permitted by law, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys’ fees, judgments, fines, amounts paid or to be paid in settlement, and excise taxes or penalties arising under the Employee Retirement Income Security Act of 1974) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that, except as provided in paragraph (C) of this Section 7.6, the Corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board. The right to indemnification conferred in this Section shall be a contract right and shall include the right to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that, if the DGCL requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Section or otherwise. The Corporation may, by action of the Board, provide indemnification to employees and agents of the Corporation with the same scope and effect as the foregoing indemnification of directors and officers. For purposes of this Bylaw, the term “Corporation” shall include any predecessor of the Corporation and any constituent corporation (including any constituent of a constituent) absorbed by the Corporation in a consolidation or merger.

(B) To obtain indemnification under this Section 7.6, a claimant shall submit to the Corporation a written request, including therein or therewith such documentation and information as is reasonably available to the claimant and is reasonably necessary to determine whether and to what extent the claimant is entitled to indemnification. Upon written request by a

claimant for indemnification pursuant to the first sentence of this paragraph (B), a determination, if required by applicable law, with respect to the claimant's entitlement thereto shall be made as follows: (1) if requested by the claimant, by Independent Counsel (as hereinafter defined), or (2) if no request is made by the claimant for a determination by Independent Counsel, (i) by the Board of Directors by a majority of the Disinterested Directors (as hereinafter defined), even though less than a quorum, or (ii) by a committee of Disinterested Directors designated by majority vote of the Disinterested Directors, even if less than a quorum, or (iii) if there are no Disinterested Directors, or if a majority of the Disinterested Directors so directs, by Independent Counsel in a written opinion to the Board of Directors, a copy of which shall be delivered to the claimant, or (iv) if a majority of the Disinterested Directors so directs, by the stockholders of the Corporation. In the event that the determination of entitlement to indemnification is to be made by Independent Counsel at the request of the claimant, the Independent Counsel shall be selected by the Board of Directors unless there shall have occurred within two years prior to the date of the commencement of the action, suit or proceeding for which indemnification is claimed a "Change of Control," in which case the Independent Counsel shall be selected by the claimant unless the claimant shall request that such selection be made by the Board of Directors. If it is so determined that the claimant is entitled to indemnification, payment to the claimant shall be made within 10 days after such determination.

(C) If a claim under paragraph (A) of this Section 7.6 is not paid in full by the Corporation within thirty (30) days after a written claim pursuant to paragraph (B) of this Section 7.6 has been received by the Corporation, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Corporation) that the claimant has not met the standard of conduct that makes it permissible under the DGCL for the Corporation to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors, Independent Counsel or stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including its Board of Directors, Independent Counsel or stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

(D) If a determination shall have been made pursuant to paragraph (B) of this Section 7.6 that the claimant is entitled to indemnification, the Corporation shall be bound by such determination in any judicial proceeding commenced pursuant to paragraph (C) of this Section 7.6.

(E) The Corporation shall be precluded from asserting in any judicial proceeding commenced pursuant to paragraph (C) of this Section 7.6 that the procedures and presumptions of this Bylaw are not valid, binding and enforceable and shall stipulate in such proceeding that the Corporation is bound by all the provisions of this Bylaw.



(F) The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Bylaw shall not be exclusive of any other right that any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, Bylaws, agreement, vote of stockholders or Disinterested Directors or otherwise. No repeal or modification of this Bylaw shall in any way diminish or adversely affect the rights of any director, officer, employee or agent of the Corporation hereunder in respect of any occurrence or matter arising prior to any such repeal or modification.

(G) The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL. To the extent that the Corporation maintains any policy or policies providing such insurance, each such director or officer, and each such agent or employee to which rights to indemnification have been granted as provided in paragraph (H) of this Section 7.6, shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage thereunder for any such director, officer, employee or agent.

(H) The Corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification, and rights to be paid by the Corporation the expenses incurred in defending any proceeding in advance of its final disposition, to any employee or agent of the Corporation to the fullest extent of the provisions of this Section 7.6 with respect to the indemnification and advancement of expenses of directors and officers of the Corporation.

(I) If any provision or provisions of this Section 7.6 shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (1) the validity, legality and enforceability of the remaining provisions of this Section 7.6 (including, without limitation, each portion of any paragraph of this Section 7.6 containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (2) to the fullest extent possible, the provisions of this Section 7.6 (including, without limitation, each such portion of any paragraph of this Section 7.6 containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

(J) For purposes of this Section 7.6:

(1) “Disinterested Director” means a director of the Corporation who is not and was not a party to the matter in respect of which indemnification is sought by the claimant.

(2) “Independent Counsel” means a law firm, a member of a law firm, or an independent practitioner, that is experienced in matters of corporation law and shall include any person who, under the applicable standards of professional conduct then

prevailing, would not have a conflict of interest in representing either the Corporation or the claimant in an action to determine the claimant's rights under this Section 7.6.

(3) "Change of Control" means the first to occur of:

(I) The acquisition by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Exchange Act (a "Person") of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 50% or more of either (A) the then-outstanding shares of common stock of the Corporation (the "Outstanding Common Stock") or (B) the combined voting power of the then-outstanding voting securities of the Corporation entitled to vote generally in the election of directors (the "Outstanding Voting Securities"); provided, however, that the following acquisitions shall not constitute a Change of Control: (i) any acquisition directly from the Corporation, (ii) any acquisition by the Corporation, or (iii) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Corporation or any affiliated corporation;

(II) Any transaction as a result of which the individuals who, prior to the commencement of the transaction or the efforts to consummate the same, constituted the Board of Directors (the "Incumbent Board") cease in connection with the transaction to constitute at least a majority of the Board of Directors; provided, however, that any individual becoming a director whose election, or nomination for election by the Corporation's stockholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a person other than the Board of Directors;

(III) Consummation of a reorganization, merger, statutory share exchange or consolidation or similar corporate transaction involving the Corporation or any of its subsidiaries, a sale or other disposition of all or substantially all of the assets of the Corporation, or the acquisition of assets or stock of another entity by the Corporation or any of its subsidiaries (each, a "Business Combination"), in each case unless, following such Business Combination, (A) all or substantially all of the individuals and entities that were the beneficial owners of the Outstanding Common Stock and the Outstanding Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of the then-outstanding shares of common stock and the combined voting power of the then-outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the

Corporation resulting from such Business Combination (including, without limitation, a corporation that, as a result of such transaction, owns the Corporation or all or substantially all of the Corporation's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership immediately prior to such Business Combination of the Outstanding Common Stock and the Outstanding Voting Securities, as the case may be, (B) no Person (excluding any corporation resulting from such Business Combination or any employee benefit plan (or related trust) of the Corporation or such corporation resulting from such Business Combination) beneficially owns, directly or indirectly, 50% or more of, respectively, the then-outstanding shares of common stock of the corporation resulting from such Business Combination or the combined voting power of the then-outstanding voting securities of such corporation, except to the extent that such ownership existed prior to the Business Combination, and (C) at least a majority of the members of the Board of Directors of the corporation resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement or of the action of the Board providing for such Business Combination; or

(IV) Approval by the stockholders of the Corporation of a complete liquidation or dissolution of the Corporation.

(K) Any notice, request or other communication required or permitted to be given to the Corporation under this Section 7.6 shall be in writing and either delivered in person or sent by telecopy, telex, telegram, overnight mail or courier service, or certified or registered mail, postage prepaid, return receipt requested, to the Secretary of the Corporation and shall be effective only upon receipt by the Secretary.

Section 7.7. Form of Records. Unless otherwise required by applicable law, any records maintained by the Corporation in the regular course of its business, including its stock ledger, books of account and minute books, may be kept on, or be in the form of, punch cards, magnetic tape, photographs, microphotographs or any other information storage device, provided that the records so kept can be converted into clearly legible form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect the same.

Section 7.8. Laws and Regulations; Close of Business. For purposes of these Bylaws, any reference to a statute, rule or regulation of any governmental body means such statute, rule or regulation (including any successor thereto) as the same currently exists or may be amended from time to time. Any reference in these Bylaws to the close of business on any day shall be deemed to mean 5:00 P.M., New York time, on such day, whether or not such day is a business day.

Section 7.9. Amendment of Bylaws. (a) These Bylaws may be amended or repealed, and new Bylaws may be adopted at any time, by a majority of the Board of Directors. Stockholders of the Corporation may amend or repeal any Bylaw; provided 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, amend or repeal any provision of these Bylaws.

(A)(b) Notwithstanding paragraph (a) of this Section 7.9, for so long as the Corporation shall control, directly or indirectly, any of New York Stock Exchange LLC, [NYSE Market, Inc., NYSE Regulation, Inc.,] NYSE Arca, L.L.C., NYSE Arca, Inc., NYSE Arca Equities, Inc.[ or NYSE Alternext US LLC], NYSE MKT LLC, NYSE National, Inc. or their successors, before any amendment or repeal of any provision of these Bylaws shall be effective, such amendment or repeal shall either be (I) filed with or filed with and approved by the SEC under Section 19 of the Exchange Act and the rules promulgated thereunder or (II) submitted to the boards of directors of New York Stock Exchange LLC, [NYSE Market, Inc., NYSE Regulation, Inc.,]NYSE Arca, Inc., NYSE Arca Equities, Inc. [and NYSE Alternext US LLC], NYSE MKT LLC, NYSE National, Inc. or the boards of directors of their successors, in each case only to the extent that such entity continues to be controlled directly or indirectly by the Corporation, and if any or all of such boards of directors shall determine that such amendment or repeal must be filed with or filed with and approved by the SEC under Section 19 of the Exchange Act and the rules promulgated thereunder before such amendment or repeal may be effectuated, then such amendment or repeal shall not be effectuated until filed with or filed with and approved by the SEC, as the case may be.