

**EXHIBIT 5A**



**By-Laws**

Underlined text indicates new text

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## Article I - Definitions

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SECTION 1. Unless the context requires otherwise (or except as otherwise specified in the By-Laws or Rules), the terms defined herein shall, for all purposes of these By-Laws and the Rules of the Corporation, have the meanings herein specified.

A. - B. [No change]

C.

(1) – (12) [No change]

### Clearing Fund

(14) The term "Clearing Fund" means the fund established pursuant to ~~Article VIII of the By-Laws~~Chapter X of the Rules.

(14) – (39) [No change]

D. – Z. [No change]

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## Article V - Clearing Members

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### Conditions to Admission

SECTION 3. No applicant shall be admitted as a Clearing Member until the applicant has deposited with the Corporation its initial contribution to the Clearing Fund in the amount required by ~~Article VIII of the By-Laws~~Chapter X of the Rules and has signed and delivered to the Corporation an agreement in such form as the Corporation shall require, including applicant's agreements (a) to clear through the Corporation, either directly or through another Clearing Member, all of its confirmed trades and all other transactions which the By-Laws or the Rules may require to be cleared through the Corporation, (b) to abide by all provisions of the By-Laws and the Rules and by all procedures adopted pursuant thereto, (c) that the By-Laws and the Rules shall be a part of the terms and conditions of every confirmed trade or other contract or transaction which the applicant, while a Clearing Member, may make or have with the Corporation, or with other Clearing Members in respect of cleared contracts, or which may be cleared or required to be cleared through the Corporation, (d) to grant the Corporation all liens, rights and remedies set forth in the By-Laws and the Rules, (e) to pay to the Corporation all fees and other compensation provided by or pursuant to the By-Laws and the Rules for clearance and for all other services rendered by the Corporation to the applicant while a Clearing Member, (f)

to pay such fines as may be imposed on it in accordance with the By-Laws and the Rules, (g) to permit inspection of its books and records at all times by the representatives of the Corporation and to furnish the Corporation with all information in respect of the applicant's business and transactions as the Corporation or its officers may require, (h) to make such payments to or in respect of the Clearing Fund as may be required from time to time, (i) to comply, in the case of Non-U.S. Securities Firms, with the guidelines and restrictions imposed on domestic broker-dealers regarding the extension of credit, as provided by Section 7 of the Securities Exchange Act of 1934 and Regulation T promulgated thereunder by the Board of Governors of the Federal Reserve System, with respect to any customer account that includes cleared contracts issued by the Corporation, (j) to comply, in the case of Non-U.S. Securities Firms, with the Rules of the Financial Industry Regulatory Authority governing maintenance margin and cut-off times for the submission of exercise notices by customers, and (k) to consent, in the case of Non-U.S. Securities Firms, to the jurisdiction of Illinois courts and to the application of United States law in connection with any dispute with the Corporation arising from membership.

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## **ARTICLE VI - Clearance of Confirmed Trades**

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### **Close Out Netting**

**SECTION 27.** (a) – (h) [No change]

(i) *Disposition of Remaining Margin Assets.* If the Clearing Member is solvent and has not been suspended pursuant to Chapter ~~44~~XI of the Rules, then any remaining restricted or unrestricted margin deposited by the Clearing Member and remaining after all permissible applications provided for above, shall be released to the Clearing Member to be treated and dealt with by the Clearing Member in accordance with applicable law. If the Clearing Member has been suspended by the Corporation pursuant to Chapter ~~44~~XI, then any restricted margin deposited by a Clearing Member and remaining after application of restricted margin to the full extent provided above shall be segregated to the extent required and held by the Corporation under an appropriate designation for distribution to the persons entitled thereto in accordance with applicable law. Any unrestricted margin remaining shall be held for distribution to the persons entitled thereto under applicable law.

(j) – (m) [No change]

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## Article VIII – Clearing Fund

The Corporation shall maintain a Clearing Fund, as provided in and subject to the terms of Chapter X of the Rules.

### *Maintenance and Purpose of the Clearing Fund*

~~SECTION 1. (a) The Corporation shall maintain a Clearing Fund to which each Clearing Member shall contribute, as provided in this Article VIII, to make good losses suffered by the Corporation, or losses suffered by the Clearing Fund resulting from borrowings pursuant to the authority in Section 5(e) of this Article, (i) as a result of the failure of any Clearing Member to discharge duly any obligation on or arising from any confirmed trade accepted by the Corporation, (ii) as a result of the failure of any Clearing Member (including any Appointed Clearing Member) or of CDS to perform its obligations (including its obligations to the correspondent clearing corporation) under or arising from any exercised or assigned option contract or any other contract or obligation issued, undertaken, or guaranteed by the Corporation or in respect of which the Corporation is otherwise liable, (iii) as a result of the failure of any Clearing Member to perform any of its obligations to the Corporation in respect of the stock loan and borrow positions of such Clearing Member, (iv) in connection with any liquidation of a Clearing Member's open positions, (v) in connection with protective transactions effected for the account of the Corporation pursuant to Chapter XI of the Rules, (vi) as a result of the failure of any Clearing Member to make any other required payment or render any other required performance, (vii) as a result of the failure of any bank or securities or commodities clearing organization to perform its obligations to the Corporation for reasons specified in Section 5 of this Article, or (viii) as a result of a borrowing by the Corporation for liquidity needs for same day settlement pursuant to the authority in Section 5(e) of this Article.~~

~~(b) Without limiting any other rights granted herein, each Clearing Member grants to the Corporation a general lien on all cash, Government securities and other property of the Clearing Member contributed to the Clearing Fund (and any proceeds thereof) as security for any obligation of the Clearing Member to the Corporation including, without limitation, any obligation to satisfy a proportionate charge pursuant to Section 5 of this Article VIII.~~

### *Contributions of Clearing Members*

~~SECTION 2. (a) The initial contribution of each Clearing Member to the Clearing Fund shall be \$150,000 or such greater amount as may be fixed by the Risk Committee in its discretion at the time such Clearing Member's application is approved. Notwithstanding anything else to the contrary herein, the initial Clearing Fund contribution of a Futures Only Affiliated Clearing Member may be fixed by the Risk Committee to be the amount calculated pursuant to clause (y) of Rule 1001 (b) if the conditions set forth in Rule 1001(f) are satisfied. The amount of such initial contribution shall remain in force until such time as determined by the Risk Committee (but in any event not later than the end of the first three calendar months commencing after the Clearing Member's admission to membership), after which time the amount of the Clearing Member's required contribution to the Clearing Fund shall be determined in accordance with the Rules.~~

~~(b) The formula for determining required Clearing Fund contributions may be altered from time to time by amendment of the Rules, but in no event shall the minimum required contribution to the Clearing Fund be less than \$150,000 except as provided in section 2(a) of this Article VIII with respect to a Futures Only Affiliated Clearing Member. If the contribution to the Clearing Fund to be made by a Clearing Member is increased as a result of an amendment of the Rules, the increase shall not become effective until the Clearing Member is given five business days prior written notice of the amendment. Unless a Clearing Member notifies the Corporation in writing that it wishes to terminate its clearing membership and closes out or transfers all of its open long and short positions before the effective date of such amendment, such Clearing Member shall be liable to make the increased contribution.~~

### *Form of Contributions*

~~**SECTION 3.** (a) Form and Method of Contributions. Contributions to the Clearing Funds shall be in cash or in government securities:~~

~~(i) *Cash Clearing Fund Requirement.* Clearing Members shall collectively contribute \$3 billion in cash to the Clearing Fund (“Cash Clearing Fund Requirement”). Each Clearing Member’s proportionate share of the Cash Clearing Fund Requirement shall be equal in percentage to its proportionate share of the Clearing Fund as determined by Rule 1001. The Executive Chairman, Chief Administrative Officer, or Chief Operating Officer, upon providing notice to the Risk Committee, shall have the authority to temporarily increase the amount of cash required to be maintained in the Clearing Fund, up to an amount that includes the size of the Clearing Fund as determined in accordance with Rule 1001, for the protection of OCC, Clearing Members or the general public in accordance with the Corporation’s policies and procedures. Any determination by the Executive Chairman, Chief Administrative Officer, or Chief Operating Officer to implement a temporary increase in Clearing Fund size would (i) be based upon then-existing facts and circumstances, (ii) be in furtherance of the integrity of OCC and the stability of the financial system, and (iii) take into consideration the legitimate interests of Clearing Members and market participants. Any temporary increase in the cash Clearing Fund requirement shall be reviewed by the Risk Committee as soon as practical (but in any event, such review must occur within 20 calendar days of such increase) and, if such temporary increase is still in effect, the Risk Committee shall determine whether (A) the increase in the cash Clearing Fund requirement is no longer required, or (B) OCC’s rules should be modified to ensure that OCC continues to maintain sufficient liquidity resources.~~

~~(ii) *Government Securities.* Government securities shall be valued at (1) 99.5% of the current market value for maturities less than one year; (2) 98% of the current market value for maturities between one and five years; (3) 96.5% of the current market value for maturities between five and ten years; and (4) 95% of the current market value for maturities in excess of ten years. For the purposes of this Section, the current market value of Government securities shall be determined by the Corporation at such intervals as the Risk Committee shall from time to time prescribe, but not less often than monthly, on the basis of the quoted bid price therefor supplied by a source designated by the Corporation. Contributions of Government securities shall be deposited by the Clearing Member in an account of the Corporation in an approved custodian in~~

~~the name of the Corporation or by such other method as the Corporation may from time to time approve.~~

~~(b) *Assets Denominated in a Foreign Currency.* Notwithstanding any other provision of this Section 3 of Article VIII, in determining the U.S. dollar amount of clearing fund credit to be given to any foreign currency or asset denominated in a foreign currency, the Corporation may use such exchange rates and apply such “haircuts” as it deems appropriate for its protection.~~

~~(c) *Interest or Gains on Government Securities.* Any interest or gain received or accrued on such securities shall belong to the contributing Clearing Member, and any interest on, or proceeds from the maturity of, such securities received by the Corporation shall be credited by the Corporation to an account of the Clearing Member on the records of the Corporation.~~

~~...Interpretations and Policies:~~

~~.01 The Corporation will not accept the delivery of a depository receipt from an approved custodian if the custodian, a parent or an affiliate has an equity interest in the amount of 20% or more of the contributing Clearing Member’s total capital.~~

~~.02 Securities deposited in an account of the Corporation in an approved custodian in the name of the Corporation shall be credited to the Clearing Member’s “clearing fund account,” which shall be a securities account maintained on the records of the Corporation in the name of such Clearing Member, and the Corporation shall be the Clearing Member’s securities intermediary with respect to such securities for purposes of Articles 8 and 9 of the Uniform Commercial Code. So long as any such securities and any proceeds thereof are so credited to the Clearing Member’s clearing fund account, the Corporation shall have a general lien on and perfected security interest in and “control” over such securities and proceeds for purposes of Articles 8 and 9 of the Uniform Commercial Code.~~

~~.03 For a transition period specified by the Corporation, contributions of Government securities may be made in an account at an approved custodian in the name of the Clearing Member and pledged to the Corporation provided that such a contribution shall not be effective until the Corporation receives confirmation satisfactory to it that the securities have been so pledged through an EDP Pledge System.~~

~~.04 For purposes of paragraph (a)(i) of Section 3, a Clearing Member shall satisfy any increase in its required cash contribution pursuant to an increase in Cash Clearing Fund Requirement no later than one hour before the close of the Fedwire on the business day following the Corporation’s issuance of an instruction to increase cash contributions.~~

#### ~~*Investment of Cash Clearing Fund Contributions*~~

~~**SECTION 4.** (a) Cash contributions to the Clearing Fund may from time to time be partially or wholly invested by the Corporation for its account in Government securities, and to the extent that such contributions are not so invested they shall be deposited by the Corporation in a separate account or accounts for Clearing Fund contributions in approved custodians, provided~~

~~that such account or accounts may commingle the Clearing Fund contributions of different Clearing Members. Interest earned on cash deposits held at a Federal Reserve Bank shall accrue to the benefit of Clearing Members (calculated daily based on each Clearing Member's pro rata share of Clearing Fund cash deposits), provided that each such Clearing Member has provided OCC with all tax documentation as OCC may from time to time require in order to effectuate such payment, and all other interest earned on investments will accrue to the benefit of the Corporation.~~

### ***Application of Clearing Fund***

~~**SECTION 5.** (a) If (i) any Clearing Member shall fail to discharge duly any obligation on or arising from any confirmed trade accepted by the Corporation, (ii) any Clearing Member, (including any Appointed Clearing Member) or of CDS shall fail to perform any obligations (including its obligations to the correspondent clearing corporation) under or arising from any exercised or assigned option contract or any other contract or obligation issued or guaranteed by the Corporation or in respect of which the Corporation is otherwise liable, (iii) any Clearing Member shall fail to perform any obligation to the Corporation in respect of the stock loan and borrow positions of such Clearing Member, (iv) the Corporation shall suffer any loss or expense upon any liquidation of a Clearing Member's open positions, (v) the Corporation shall suffer any loss or expense in connection with protective transactions effected for the account of the Corporation pursuant to Chapter XI of the Rules, or (vi) any Clearing Member shall fail to make any other payment or render any other performance required under the By-Laws or the Rules, then the Corporation shall (after appropriate application of other funds in the accounts of the Clearing Member) apply the Clearing Member's Clearing Fund contribution to the discharge of such obligation, the reimbursement of such loss or expense, or the making of such payment or the funding of such performance. If the sum of all such obligations, losses or expenses, and payments exceeds the sum of the amount of the Clearing Member's total Clearing Fund contribution and the amount of the other funds of the Clearing Member available to the Corporation, and if the Clearing Member fails to pay the Corporation the amount of any such deficiency on demand, the amount of the deficiency shall be paid out of the Clearing Fund and charged on a proportionate basis against all other Clearing Members' computed contributions as fixed at the time, but the Clearing Member who failed to pay the deficiency shall remain liable to the Corporation for the full amount of such deficiency until repayment thereof by such Clearing Member.~~

~~For the purposes of this paragraph, any amount owed by the Corporation to a Participating CCO pursuant to a Participating CCO Agreement as the result of the liquidation of sets of X-M accounts shall be deemed to be a loss suffered by the Corporation upon the liquidation of positions in non-equity securities options.~~

~~(b) (i) If any bank or securities or commodities clearing organization shall fail to perform any obligation to the Corporation when due because of its bankruptcy, insolvency, receivership, suspension of operations, or because of any similar event, and the Corporation shall sustain a loss (whether directly or as a trustee, custodian, or secured party) by reason thereof that is not recoverable out of the Clearing Fund pursuant to paragraph (a), the Corporation may, in its discretion, reimburse itself for such loss out of the Clearing Fund pursuant to this paragraph~~

~~(b)(i), and the amount of any such reimbursement shall be charged proportionately against all Clearing Members' computed contributions to the Clearing Fund as fixed at the time.~~

~~(ii) With respect to any borrowing by the Corporation for liquidity needs for same day settlement pursuant to the authority in paragraph (e) of this Section 5, if such borrowing remains outstanding for a period of less than thirty days, the Corporation may, in its discretion, consider such amount an actual loss to the Clearing Fund and the amount of any such loss shall be charged proportionately against all Clearing Members' computed contributions to the Clearing Fund as fixed at the time, provided however, that if such borrowing remains outstanding on the thirtieth day, the Corporation shall consider such amount an actual loss to the Clearing Fund and the amount of any such loss shall be charged proportionately against all Clearing Members' computed contributions to the Clearing Fund as fixed at the time.~~

~~To the extent that a loss resulting from any of the events referred to in this paragraph (b) is recoverable out of the Clearing Fund pursuant to paragraph (a), the provisions of paragraph (a) shall control, and this paragraph (b) shall be inapplicable.~~

~~(c) Whenever any proportionate charge is made against Clearing Members' computed contributions to the Clearing Fund, the Corporation shall promptly notify all Clearing Members of the amount of the charge and the reasons therefor. For the purposes of paragraphs (a) through (c), the amount of any loss sustained by the Corporation shall be determined without reference to the possibility of any subsequent recovery in respect thereof, through insolvency proceedings or otherwise, but the net amount of any such recovery shall be applied in accordance with Section 8 of this Article.~~

~~(d) Notwithstanding the provisions of paragraphs (a) through (c), in lieu of charging a loss or deficiency proportionately to the Clearing Fund computed contributions of non-defaulting Clearing Members pursuant thereto, the Corporation may, in its discretion, subject to the unanimous approval of the holders of Class A Common Stock and Class B Common Stock, elect to charge such loss or deficiency in whole or in part to the Corporation's current earnings or retained earnings. If such charge is made against current earnings, such charge shall be deemed a refund of clearing fees to the non-defaulting Clearing Members to whose Clearing Fund contributions the loss or deficiency would otherwise have been charged, and in that case the Corporation shall notify each such Clearing Member of the aggregate amount of the charge against current earnings, the reasons therefor, and the amount deemed to have been refunded to such Clearing Member. As used herein, the term "current earnings" shall mean the Corporation's net income before taxes for the period from the beginning of the fiscal year in which a loss or deficiency occurs to the close of the calendar month immediately preceding the occurrence of such loss or deficiency, less an amount equal to the aggregate of all refunds of clearing fees made or authorized to be made or deemed to have been made for such fiscal year. If the Corporation elects to charge a deficiency in a Clearing Member's Clearing Fund contribution to the Corporation's current earnings or retained earnings, the Clearing Member shall remain liable to the Corporation for the full amount of such deficiency until repayment thereof by such Clearing Member.~~



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

~~(f) If the Corporation is obligated to make a payment to a Cross-Guaranty Party pursuant to a Limited Cross-Guaranty Agreement in respect of a suspended Clearing Member, the Corporation shall (after appropriate application of other funds in the accounts of the Clearing Member) apply the Clearing Member's Clearing Fund contribution to make such payment, or to reimburse itself for such payment.~~

~~(g) If the Corporation receives any funds in respect of a suspended Clearing Member from a Cross-Guaranty Party pursuant to a Limited Cross-Guaranty Agreement in circumstances in which the Corporation must still make a charge on a proportionate basis against other Clearing Members' computed contributions to the Clearing Fund even after application of such funds, or in circumstances in which the Corporation has already made a charge on a proportionate basis against other Clearing Members' computed contributions to the Clearing Fund, such funds shall be credited to the Clearing Fund.~~

~~... Interpretations & Policies:~~

~~.01. For purposes of paragraph (a) of this Section 5, the share of any deficiency to be borne by each such other Clearing Member (i.e., excluding the deficient Clearing Member(s)) shall be a fraction, the numerator of which shall be the amount for such Clearing Member that is denoted as (y) in Rule 1001(b), and the denominator shall be the sum of those amounts denoted in (y) across all such other Clearing Members (i.e., excluding the deficient Clearing Member(s)).~~

~~.02 For purposes of paragraph (b) of this Section 5, a Clearing Member's proportionate share of any loss to be charged against such Clearing Member's contribution to the Clearing Fund shall be determined in accordance with the formula prescribed in Interpretation and Policy .01 above.~~

~~.03 If the Corporation has a deficiency after the application of all of the funds of a suspended Clearing Member that are available to the Corporation (including the Clearing Fund contributions of the Clearing Member), and the Clearing Member is a Common Member but the Corporation cannot, in its discretion, determine whether or in what amount it will be entitled to receive funds from a Cross Guaranty Party pursuant to a Limited Cross Guaranty Agreement in respect of the Clearing Member, or when it will receive such funds, the Corporation may, in its discretion, make a charge against other Clearing Members' contributions to the Clearing Fund in accordance with the provisions of paragraph (a). If the Corporation receives funds from a Cross-Guaranty Party in respect of the Clearing Member after making such a charge, the Corporation will allocate such funds to the Clearing Fund in accordance with the provisions of paragraph (g).~~

~~.04 If the Corporation has a deficiency after the application of all of the funds of a suspended Clearing Member that are available to the Corporation (including the Clearing Fund contribution of the Clearing Member), and the Clearing Member is a Common Member and the Corporation determines in its discretion that it is likely to receive funds from a Cross Guaranty Party pursuant to a Limited Cross Guaranty Agreement in respect of the Clearing Member, the Corporation may, in its discretion and in anticipation of receipt of such funds from the Cross Guaranty Party, forego making a charge, or make a reduced charge, against other Clearing Members' contributions to the Clearing Fund in accordance with the provisions of paragraph (a). If the Corporation thereafter does not receive or determines that it is not likely to receive the anticipated funds from the Cross Guaranty Party, or receives funds in a smaller amount than anticipated, the Corporation may, in its discretion, make a charge, or an additional charge, against other Clearing Members' contributions to the Clearing Fund in accordance with the provisions of paragraph (a).~~

~~.05 If the Corporation receives funds from a Cross-Guaranty Party pursuant to a Limited Cross-Guaranty Agreement in respect of a suspended Clearing Member, and is thereafter required for any reason whatsoever to refund such funds to the Cross-Guaranty Party, the Corporation may, in its discretion, make a charge, or an additional charge, against other Clearing Members' contributions to the Clearing Fund in accordance with the provisions of paragraph (a) (based on the other Clearing Members' computed contributions as fixed at the time of the refund), to make itself whole for the funds refunded to the Cross-Guaranty Party.~~

~~.06 In addition to being permitted to take possession of securities deposited by Clearing Members following a default or suspension that has already occurred, the Corporation may take~~

possession of securities deposited by Clearing Members pursuant to clause (i) of paragraph (e) of this Section 5 in anticipation of a potential default by, or suspension of, a Clearing Member.

### ***Making Good of Charges to Clearing Fund***

~~SECTION 6. Whenever an amount is paid out of the Clearing Fund contribution of a Clearing Member, whether by proportionate charge or otherwise, such Clearing Member shall be liable promptly to make good the deficiency in its contribution resulting from such payment. Notwithstanding the foregoing and except as provided for below, if the payment is made as a result of a proportionate charge, a Clearing Member will not be liable to make good more than an additional 100% of the amount of its then required contribution if (i) within five business days following such proportionate charge the Clearing Member notifies the Corporation in writing that it is terminating its status as a Clearing Member, (ii) no opening purchase transaction or opening writing transaction is submitted for clearance through any of the Clearing Member's accounts and (if the Clearing Member is a Market Loan Clearing Member or a Hedge Clearing Member) no Stock Loan is initiated through any of the Clearing Member's accounts after the giving of such notice, and (iii) the Clearing Member closes out or transfers all of its open positions with the Corporation, in each case as promptly as practicable after the giving of such notice; provided that a Clearing Member which so terminates its status as a Clearing Member shall be ineligible to be readmitted to such membership unless the Clearing Member agrees to such reimbursement of the persons who were Clearing Members at the time of such termination as the Board of Directors deems fair and equitable in the circumstances. In the event a Clearing Member notifies the Corporation of its intent to terminate its status as a Clearing Member in accordance with the preceding sentence, and such Clearing Member's computed contribution is less than its minimum required contribution, then the Clearing Member shall also make good 100% of the amount equal to its minimum required contribution less its computed contribution to the Clearing Fund. Each Clearing Member shall have and shall at all times maintain the ability to make good any deficiency described in this Section 6 by 9:00 A.M. Central Time (10:00 A.M. Eastern Time) on the first business day following the day on which the Corporation notifies the Clearing Member of such deficiency.~~

### ***Contribution Refund***

~~SECTION 7. Whenever a Clearing Member definitively ceases to be such, the amount of its contribution to the Clearing Fund shall be returned to it, but not until all confirmed trades and open positions of the Clearing Member from which losses or payments chargeable to the Clearing Fund might result have been fulfilled or closed, or, with the approval of the Corporation, another Clearing Member has been substituted thereon. All amounts chargeable against a Clearing Member's contribution to the Clearing Fund on account of transactions that occurred while it was a Clearing Member, including proportionate charges and unpaid fees, shall be deducted from the amount returned. For purposes of this Section 7, a Clearing Member will be deemed to have definitively ceased to be a Clearing Member at such time as it has fulfilled all requirements of Sub-Sections (i) through (iii) of Section 6 of this Article and has met all outstanding obligations to the Corporation.~~

### ***Recovery of Loss***

~~SECTION 8. If a loss charged proportionately against the contributions of Clearing Members is afterward recovered by the Corporation, in whole or in part, the net amount of such recovery shall be paid to the Clearing Members against whose contributions the loss was charged in proportion to the amounts charged against their respective contributions, whether or not they are still Clearing Members.~~

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## **Article XI - Amendment of the By-Laws and the Rules**

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### **Amendment of the By-Laws**

SECTION 1. The By-Laws may be amended at any time by the Board of Directors upon the affirmative vote of two-thirds of the directors then in office (but not less than a majority of the number of directors fixed by these By-Laws); provided that Sections 2, 3 and 5 of Article II, Article III, the second sentence of Section 1 of Article IV, the first two sentences of Section 1 of Article V, the first sentence of Section 10 of Article VI, Section 11 and 11A of Article VI, Article VIIA, Article VIIB, ~~the first sentence of Section 5(d) of Article VIII~~, Section 9 of Article IX, ~~and~~ this Section 1 of Article XI, and the second sentence of Section 2 of Article XI may not be amended by action of the Board of Directors without the approval of the holders of all of the outstanding Common Stock of the Corporation entitled to vote thereon. For purposes of this Section, the affirmative vote or consent of an Exchange Director then in office shall be deemed to constitute the approval of the stockholder that elected such Exchange Director; provided, however, that if the Exchange Director announces prior to voting in favor of an amendment, or notes on a written consent of directors approving an amendment, that such Exchange Director's vote or consent does not constitute the action of such stockholder, then the amendment shall require the written approval of such stockholder of such Common Stock.

### **Amendment of the Rules**

SECTION 2. The Rules may be amended at any time by the Board of Directors; provided that any amendment of the introduction to Chapter X of the Rules, Rule 1002, Rule 1006, Rule 1009 and Rule 1010 shall require the affirmative vote of two-thirds of the directors then in office (but not less than a majority of the number of directors fixed by these By-Laws). Notwithstanding the foregoing, the first sentence of Rule 1006(e) may not be amended by action of the Board of Directors without the approval of the holders of all of the outstanding Common Stock of the Corporation entitled to vote thereon.

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