

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

EXHIBIT A

AMERICAN STOCK EXCHANGE LLC

Proposed Rule Change

It is proposed that the following provisions of the American Stock Exchange Constitution be amended as set forth below. [Bracketing] indicates text to be deleted and underlining indicates text to be added.

CONSTITUTION OF THE AMERICAN STOCK EXCHANGE LLC

ARTICLE I

TITLE; PURPOSES; DEFINITIONS

Section 1. Title. The title of this Company shall be “American Stock Exchange LLC”, hereinafter referred to as the “Exchange.”

Section 2. Purposes. The purpose of the Exchange shall be:

(a) Securities Market Place — to provide a securities market place where high standards of honor and integrity shall prevail and to promote and maintain just and equitable principles of trade and business;

(b) An Exchange — to conduct and carry on the functions of an “exchange” within the meaning of that term in the Securities Exchange Act of 1934; and

(c) Delaware Limited Liability Company Law — to conduct and carry on any and all activities incidental to the foregoing which may lawfully be conducted and carried on by a company of its type formed under the Delaware Limited Liability Company Law.

Section 3. Definitions. The following terms as used in this Constitution and in the rules adopted pursuant thereto shall, unless the context otherwise indicates, be construed as follows:

(a) Rules of the Exchange[—]._The term “rules of the Exchange” shall include the Constitution and all rules and commentaries adopted pursuant thereto.

(b) Member[—]._The term “member”, when not preceded by the word “regular”, “options principal”, “allied”, or “associate”, shall include regular, options principal, allied and associate members.

(c) Regular Member; Regular Trading Right[—]. The term “regular member” means a person holding a regular trading right issued by [The Amex Corporation]MC. The term “regular trading right” means the right that is appurtenant to a regular membership interest in MC to transact business on the Floor of the Exchange generally.

(d) Options Principal Member; Options Principal Trading Right; Derivative Products[—]. The term “options principal member” means a person holding an options principal trading right issued by [The Amex Corporation]MC. The term “options principal trading right” means the right that is appurtenant to an options principal membership interest in MC to execute on the Floor of the Exchange transactions in options and other derivative products for the right holder’s own account, and to give orders in options and other derivative products for his own account to regular members for execution. The holder of an options principal trading right may not execute agency transactions on the Floor either for customers or for regular, associate or allied members or other options principal members, may not be registered as a specialist, may not execute on the Exchange any orders, whether as agent or principal, in stocks, warrants, bonds or other securities (except principal transactions in options and other derivative products), and may not accept any orders from his member organization for execution. The term “derivative products” includes, in addition to standardized options, other securities which are issued by The Options Clearing Corporation or another limited purpose entity or trust, and which are based solely on the performance of an index or portfolio of other publicly traded securities. Notwithstanding the foregoing, the term “derivative products” shall not include warrants of any type or closed-end management investment companies.

(e) Allied Member. The term “allied member” means:

(1) a general partner in a regular, options principal or associate member firm or an employee who controls such member firm who is not a regular, options principal, or associate member of the Exchange;

(2) an employee of a regular, options principal or associate member corporation who is not a regular, options principal or associate member of the Exchange, and who is either:

(i) a principal executive officer of such corporation, or

(ii) a person who controls such corporation and who in each case has become an allied member as provided in Article IV;

(3) a trustee of a regular or options principal member organization which is a pension plan or an employee who controls such organization; or

(4) an employee of any other entity permitted by the Exchange to become a member organization who controls such organization.

[[Sections 3 (d) and (e) were rescinded effective May 16, 1995.]]

(f) Member Organization. The term “member organization”, means a partnership, corporation, trust or such other entity as the Exchange may, by Rule, permit to become a member organization, and which meets the qualifications specified in Article IV, Section 2(d). When not preceded by the word (or words) “regular”, “options principal” or “associate”, the term “member organization” shall include regular, options principal and associate member organizations.

(g) Approved Person. The term “approved person” means a person who is not a regular, options principal, associate or allied member or an employee of a member organization who has become an approved person as provided in the rules of the Exchange and who is:

(1) a person who controls a member or member organization,

(2) a person engaged in a securities or kindred business who is controlled by or under common control with a member or member organization. The terms “control”, “person” and “engaged in a securities or kindred business” as used herein shall be defined in the rules of the Exchange,

(3) a person who is the owner of a membership held or to be held subject to a special transfer agreement, or

(4) an individual who is either:

(i) the owner of a membership as to which a nominee has been designated, or

(ii) a person who controls a pension plan which is an approved person, and who meets such additional requirements as the Exchange may require.

(h) Interim Member. The term “interim member” means an individual pre-qualified by the Exchange who is designated by a member or member organization in accordance with Article IV, Section 3(e), to temporarily use the membership for a specified period of time when the member is absent from the Trading Floor.

(i) Publicly Held Security; Voting Stock; Non-Voting Stock. The term “publicly held security” with respect to a member organization means any class of equity security issued by a member corporation which is owned beneficially by one hundred or more persons who are not members or employees of the member corporation. The term “voting stock” means stock in a corporation the holders of which are entitled to

vote for the election of the directors of such corporation. The term “non-voting stock” means stock of any class in a corporation other than voting stock.

(j) Security or Securities. The term “security” or “securities” shall include stocks, bonds, options and other interests or instruments commonly known as securities.

(k) Member Contracts. The term “Member Contracts” shall include all contracts of a member of the Exchange or of a member organization, with any member of the Exchange or with any member organization, for the purchase, sale, borrowing, loaning or hypothecation of securities, or for the borrowing, loaning or payment of money, whether occurring upon the Floor of the Exchange or elsewhere.

(l) Exchange Contracts. The term “Exchange Contracts” shall include all “Member Contracts”:

(1) made on the Exchange; or

(2) not made on the Exchange, unless made subject to the rules of another exchange or Nasdaq, or unless the parties thereto have expressly agreed that the same shall not be Exchange Contracts.

(m) Date of Death. The actual date of death notwithstanding, the “death” of a member and the “date of death” of a member shall be conclusively deemed to have occurred upon, and to be, respectively, the date when actual notice of such death shall have been received by the Exchange.

(n) Entire Board. The term “entire Board” means the total number of [governors]Governors which the Exchange would have if there were no vacancies.

(o) He, Him, or His. The terms “he”, “him”, or “his” shall be deemed to refer to persons of female as well as male gender, and to include organizations, as well as individuals, when the context so requires.

(p) Special Transfer. As used herein, the term “special transfer” [shall mean]means a transfer of a regular or options principal membership pursuant to an agreement between the owner thereof and an individual who is authorized to use the membership for a specified period of time or until the occurrence of a specified event.

(q) Lessor. The term “lessor” means the owner of a regular or options principal membership who transfers such membership pursuant to a special transfer agreement to a person approved by the Exchange, and includes any successor in interest of such owner.

(r) Lessee. The term “lessee” means an individual who holds a regular or options principal membership pursuant to a special transfer agreement and

who is authorized to use such membership for a specified period of time or until the occurrence of a specified event.

(s) Nominee. The term “nominee”, unless the context requires otherwise, means an individual who is authorized by the owner of a membership, in accordance with Article IV, Section 4(b)(2), to conduct such owner’s business on the Floor of the Exchange.

[(t) NASD. The term “NASD” means the National Association of Securities Dealers, Inc.]

[(u) Nasdaq. The term “Nasdaq” means The Nasdaq Stock Market, Inc.]

[(v) Transaction Agreement. The term “Transaction Agreement” means the agreement dated as of May 8, 1998, between the American Stock Exchange, Inc. and certain other parties, including the NASD, pursuant to which substantially all of the assets of the American Stock Exchange, Inc. were transferred to the Exchange, as it may be amended from time to time.]

[(w) Predecessor Corporation. The term “Predecessor Corporation” means the American Stock Exchange, Inc. prior to the date of the Transaction Agreement, and The Amex Corporation after that date.]

[(x) Amex Committee. The term “Amex Committee” means the committee by that name established pursuant to the Transaction Agreement.]

[(t)][(y)]Class A Interest. The term “Class A Interest” [refers to]means the Class A limited liability company interest in the Exchange[initially issued to the Predecessor Corporation].

[(u)] Class A Interestholder. The term “Class A Interestholder” means the person or other entity that holds the Class A Interest from time to time.

[(v)][(z)]Class B Interest. The term “Class B Interest” [refers to]means the Class B limited liability company interest in the Exchange[initially issued to NASD Market Holding Company, a wholly-owned subsidiary of the NASD].

[(w)] Class B Interestholder. The term “Class B Interestholder” means the person or other entity that holds the Class B Interest from time to time.

[(x)][(aa) Amex Corporation]MC. The term “MC” means The Amex [Corporation” means the New]Membership Corporation, a New York Not-for-Profit Corporation[that holds the Class A Interest in the Exchange].

[(y)] Standing Committees. The term “Standing Committees” means the committees of the Board of Governors set forth in Article II, Section 6 hereof.

(z) Amex Nominating and Corporate Governance Committee. The term “Amex Nominating and Corporate Governance Committee” means the Standing Committee established in accordance with Article II, Section 6(a) hereof.

(aa) Executive Committee. The term “Executive Committee” means the Standing Committee established in accordance with Article II, Section 6(b) hereof.

(bb) [NASD Nominating]Audit Committee. The term “[NASD Nominating]Audit Committee” means the [National Nominating]Standing Committee [appointed pursuant to]established in accordance with Article[VII] II, Section[9 of the NASD By-Laws] 6(c) hereof.

(cc) Regulatory Oversight Committee. The term “Regulatory Oversight Committee” means the Standing Committee established in accordance with Article II, Section 6(d) hereof.

(dd) Compensation Committee. The term “Compensation Committee” means the Standing Committee established in accordance with Article II, Section 6(e) hereof.

(ee) Industry Governor. The term “Industry Governor” means a Management Governor, a Floor Governor, a Membership Governor, an Upstairs Governor or a Listed Company Governor.

Amendments.

Amended October 7, 1974.

Amended June 2, 1977.

Amended December 12, 1977.

Amended December 14, 1977.

Amended June 13, 1979.

Amended July 24, 1981.

Amended October 31, 1994.

Amended May 16, 1995.

Amended October 30, 1998.

Amended July 7, 2000.

Amended [_____, 2004].

ARTICLE III

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GOVERNMENT AND ADMINISTRATION

Section 1. The Board of Governors; [—]Classification.

(a) Classification. The Board of Governors shall be composed of:

(1) Nine persons who are not officers or employees of, and who have no material business relationship with the Exchange, the Class A Interestholder or the Class B Interestholder and who are not directors of the Class A Interestholder or the Class B Interestholder, and who (A) are not Members, Lessors, or Lessees, (B) are not employed by, or affiliated or associated with, an entity that (x) is a Member, (y) otherwise has trading rights or privileges on the Exchange or (z) is a broker or dealer, (C) are not directors, officers or employees of an issuer of Securities that are listed on the Exchange and (D) meet such additional criteria for independence or otherwise, as are not inconsistent with this Article II, Section 1(a)(1) and as shall have been established by the Amex Nominating and Corporate Governance Committee from time to time (which additional criteria shall be published in the rules of the Exchange) (the “Independent Governors”);

(2) Two members who spend a substantial portion of their time on the floor of the Exchange (the “Floor Governors”);

(3) One person who shall be the owner of a regular or options principal membership interest in MC (the “Membership Governor”);

(4) [(1) Six regular, options principal, associate or allied members of the Exchange (i) two of whom]One person who shall be affiliated with regular or associate member organizations that engage in a business having substantial direct contact with public securities customers (the “Upstairs [Industry Governors]Governor”[)], and (ii) four of whom shall be persons who spend a substantial part of their time on the Floor of the Exchange (“Floor Governors”). At least one of the Floor Governors shall be principally engaged in business as a registered equity specialist, and at least one shall be principally engaged in business as a registered options trader];

[(2) Eight representatives of the public (i) none of whom is, or is affiliated with, a broker or dealer in securities and (ii) all of whom are nominated by the NASD Nominating Committee (“Public Governors”); and]

[(3) The two most senior officers of the Exchange, and]

[(4) Two representatives of the staff of the NASD.]

(5)]One person who shall be a director, officer, employee or representative of an issuer of Securities that are listed on the Exchange (the “Listed Company Governor”); and

(6) One person who shall be the Chief Executive Officer of the Exchange (the “Management Governor”).

(b) Standing. All [elected governors other than the four Floor]Governors[shall be nominated and elected by the holder of the Class B Interest. The four Floor Governors shall be nominated by the holder of the Class A Interest and elected

by the holder of the Class B Interest. A nominee for Floor Governor may be rejected by the holder of the Class B Interest only if such person (i) is subject to a statutory disqualification within the meaning of Section 3(a)(39) of the Securities Exchange Act of 1934, (ii) is subject to a proceeding or investigation which could result in such a statutory disqualification, or (iii) has been disciplined by a securities self-regulatory organization with respect to a matter involving fraud or a serious violation of the U.S. securities laws. The holder of the Class A Interest shall have the right to submit a substitute nominee in the event of any such rejection. All governors] shall be of equal standing and shall be entitled to one vote each at all meetings of the Board.

(c) [The nomination of the Floor]Nomination and Election Procedures. All Governors [by the holder of the Class A Interest]shall be [accomplished in the following manner. The nominees shall be chosen by vote of the regular and options principal members voting together as a single class on candidates selected and proposed either by the Amex Nominating Committee or by petition signed by at least twenty-five regular and/or options principal members. The Amex Nominating Committee shall consist of five persons, three of whom shall be members active on the Floor of the Exchange (“Floor Members”), and two of whom shall be representatives of the public having no affiliation with a broker or dealer in securities (“Public Members”). Of the three Floor Members, one shall be principally engaged in business as a registered equity specialist, one shall be principally engaged in business as a registered options trader, and one shall be principally engaged in business as a Floor broker on the Floor of the Exchange.]nominated and elected in accordance with the procedures set forth in Article III.

[(d) The two governors who are representatives of the staff of the NASD shall be appointed by the NASD and shall serve on the Board until their successors are appointed. The two most senior officers of the Exchange shall serve on the Board for as long as they hold such offices.]

[(e) The Floor Governors shall be divided into two classes. The first class shall include at least one governor who is an equity specialist. The second class shall include at least one governor who is a registered options trader.]

[(f) The members of the Amex Nominating Committee shall be divided into two classes. The first class shall consist of one Public Member and the Floor Member who is a registered specialist, and the second class shall consist of one Public Member, the Floor Member who is a registered options trader, and the Floor Member who is a Floor broker.]

[(g) The Upstairs Industry Governors and the Public Governors shall be divided into two classes, each of which shall consist of one Upstairs Industry Governor and four Public Governors.]

[(h) The initial terms of the Floor Governors, members of the Amex Nominating Committee, Upstairs Industry Governors, and Public Governors in the first and second classes shall terminate in 1999 and 2000 respectively, upon the election

of their successors. Thereafter, the persons in each class shall be elected for two-year terms and shall hold office until their successors are elected.]

(d) _____[(i)]Term of Office. The members of the Board of Governors shall be elected for two-year terms and shall hold office until their successors are elected; provided, however, at the first election of Governors as of the 2004 Effective Date (defined in Section 1(f) of this Article II) seven Governors shall be elected for a term of one year and eight Governors shall be elected for a term of two years; provided, further, that (i) if the 2004 Effective Date shall be prior to July 1, 2004, the next election of Governors shall be held in December 2004 and the period from the 2004 Effective Date to December 31, 2004 shall be deemed to be a period of one year and (ii) if the 2004 Effective Date shall be after July 1, 2004, the next election of Governors shall be held in December 2005 and the period from the 2004 Effective Date to December 31, 2005 shall be deemed to be a period of one year. No [Floor, Upstairs Industry or Public]Governor (other than the Management Governor) who has served [three]four consecutive elected terms as [a governor]Governor shall be eligible for election as a [governor,]Governor except after an interval of two years; provided, however, that [Governors in the first class whose term in office expires in 1999, and any other governor appointed to]service on the Board [for one year or less by reason of a vacancy, may subsequently be elected to serve three consecutive two-year terms.]of Governors prior to January 1, 1999 will not be taken into account for these purposes.

[(j) No person shall serve for all or part of two consecutive terms as a member of the Amex Nominating Committee. No member of the Amex Nominating Committee, and no person having a business affiliation with a member of the Amex Nominating Committee, shall be eligible as a candidate for office on the ticket named by it. Any vacancy in the Amex Nominating Committee shall be filled by the remaining members thereof, who shall elect a person qualified to fill the vacancy.]

(e) _____[(k)]Each [governor]Governor that is not a regular or options principal member of the Exchange shall be deemed to have agreed to uphold the Constitution by acceptance of the office of [governor]Governor. Each [governor]Governor that is not a regular or options principal member of the Exchange shall have the right to go on the [Floor]floor of the Exchange but shall not have the right to transact business in securities thereon, and shall have no rights or obligations with respect to contributions to, or benefits from, the Gratuity Fund.

(f) _____Phase-In of Governor Classifications. Notwithstanding anything to the contrary set forth in Sections 1(a), 1(c) or 2(a) of this Article II, the provisions of Sections 1(a) and 2(a) of this Article II shall become effective (the “2004 Effective Date”) on the earlier of (i) the six-month anniversary of the closing of the acquisition by MC (or a subsidiary of MC) of the Class B Interest (the “Class B Interest Acquisition Closing Date”) or (ii) the date of the election of the Board of Governors first succeeding the Class B Interest Acquisition Closing Date. Prior to the 2004 Effective Date, the provisions of the Constitution relating to the classification of Governors in effect immediately prior to the Class B Interest Acquisition Date shall continue in full force and effect.

Amendments.

Amended June 7, 1972.

Amended June 2, 1977.

Amended December 14, 1977.

Amended December 21, 1979.

Amended March 31, 1986.

Amended March 13, 1987.

Amended February 10, 1993.

Amended June 6, 1996.

Amended October 30, 1998.

[_____, 2004].

Section 2. Vacancies.

(a) [A] Failure to Satisfy Classification Requirements. Subject to Section 1(f) of this Article II, a vacancy shall occur in the office of any [governor]Governor if the Board of Governors shall determine, by the affirmative vote of a majority of the entire Board of Governors, that such office holder no longer satisfies the requirements pursuant to which he was elected or is no longer eligible within the classification to which he was elected to the Board of Governors.

(b) Absence of Governor. If a [governor]Governor shall have been absent from three consecutive regular meetings of the Board of Governors, without having been excused by the Chairman, the Board of Governors may, by the affirmative vote of a majority of the entire Board of Governors, remove such [governor]Governor and declare the office theretofore held by him to be vacant.

(c) Expulsion, Suspension or Insolvency. The expulsion, suspension or insolvency of a person holding office or of his member organization shall create a vacancy in the office held by such person.

(d) Removal. In the event of the refusal, failure, neglect or inability of an officer approved or elected by the Board[, or any governor] of Governors (other than the Chief Regulatory Officer who shall be appointed by, and who shall not be removed without the advice and consent of, the Regulatory Oversight Committee), or any Governor, to discharge the duties of his office, or for any cause, of the sufficiency of which the Board of Governors shall be the sole judge, the Board of Governors shall have the power, by the affirmative vote of a majority of the entire Board of Governors, to remove such officer or [governor]Governor and declare the position held by him to be vacant.

(e) Vacancies in Board of Governors. All vacancies occurring in the offices of [governors]Governors shall be filled by the Board of Governors by the appointment of persons recommended by the [holder of the Class B Interest in the Exchange with respect to all governors other than Floor Governors,] Amex Nominating and [by the holder of the Class A Interest in the Exchange with respect to Floor Governors] Corporate Governance Committee, to serve until the next annual election.[.]

(f) Vacancies Among Officers Elected by the Board of Governors. In case any vacancy shall occur in any office to which the holder thereof is elected by the Board of Governors, such vacancy shall be filled by election by the Board of Governors of a person eligible to serve in such office.

Amended.

[_____, 2004].

Section 3. Powers, Duties and Procedures.

Powers and Duties. The Board of Governors shall be vested with all powers necessary for the government of the Exchange, the regulation of the business conduct of members and member organizations of the Exchange and of approved persons in connection with their conduct of the business of member organizations, [provided, however, that] subject to the [Board]provisions of [Governors]applicable law and this Constitution. Each Governor shall [not], in exercising such powers and performing such duties, comply with the federal securities laws and the rules and regulations thereunder, cooperate with the Securities and Exchange Commission pursuant to its regulatory authority and take [any action that requires]into consideration the [consent]self-regulatory function of [The Amex Corporation,]the [Amex Committee,]Exchange and his or [both]her obligations under the [terms]Securities Exchange Act of 1934 and the [Transaction Agreement]rules thereunder, including, without [first obtaining]limitation, Section 6(b) of such [consent]Act.

Rules. In the exercise of its powers, the Board of Governors may adopt, modify or rescind such rules, require such appearances and the filing of such reports, issue such orders and directions, and make such decisions as it may deem appropriate, which rules, requirements, orders, directions and decisions shall be binding upon members, member organizations and approved persons concerned.

Procedure. The Board of Governors shall determine the manner and form by which its proceedings shall be conducted; shall make such appointments and perform such other duties as are required herein; shall remove any officer (other than the Chief Regulatory Officer) or dissolve any committee (other than a Standing Committee), when in its opinion the public interest or the welfare of the Exchange so requires; and shall have original and supervisory jurisdiction over any and all subjects and matters referred to committees or officers, and may direct and control their actions or proceedings at any stage thereof, except as otherwise provided in this Constitution.

Finances. The Board of Governors shall have control of the property and finances of the Exchange. No purchase of real property shall be made by the Exchange, nor shall it sell, mortgage or lease its real property, unless authorized by the affirmative vote of a majority of the entire Board of Governors. By the affirmative vote of a majority of the entire Board and upon the recommendation of the Compensation Committee, it shall fix the amount of fees and compensation, if any, to be paid to [governors]Governors, to members of committees, to Arbitrators, to Trustees of the

Gratuity Fund and to members and other persons called to give information before the Board of Governors or any committee (in their capacities as such).

Delegation of Powers. [The]In addition to the Standing Committees, the Board of Governors by the affirmative vote of a majority of the entire Board of Governors, may delegate such of its powers as it may from time to time determine, subject to the provisions of the Constitution and applicable law, to such committee or committees as the Board of Governors may from time to time authorize; provided, however, no such delegation may be made of any power that has been delegated to any Standing Committee established pursuant to Article II, Section 6 of the Constitution. The Board of Governors may assign such authority and duties to the Chief Executive Officer and to other officers and employees of the Exchange in addition to those specified in the Constitution, as the Board of Governors may from time to time determine, subject to applicable law and this Constitution.

The Board of Governors shall create and consult with the Seat Owners Advisory Committee (“SOAC”), consisting of representatives of various constituencies of the Exchange as SOAC shall deem appropriate. The Board of Governors may also appoint such other committees, composed either of [governors]Governors or other persons, with such powers other than those vested in the Board of Governors or any Standing Committee under the Constitution or applicable law, and for such terms as it may from time to time determine. Subject to the approval of the Board of Governors, and after seeking the advice of all segments of the membership, the Chairman, or the Chief Executive Officer if delegated by the Chairman, shall from time to time appoint a number of regular, options principal, associate and allied members of the Exchange, and individuals who are employed by or associated with a member organization in a senior capacity, who shall be designated as Exchange Officials, to serve on such committees. In selecting such Exchange Officials, the Chairman, or the Chief Executive Officer if delegated by the Chairman, shall give due consideration to the various phases of Exchange activities and member organization operations.

Appeal. An appeal to the Board of Governors from a decision of any committee (other than the Audit Committee and Regulatory Oversight Committee) or from a decision of any officer or employee acting under authority granted by the Board of Governors may be taken by a member, member organization or approved person affected by such decision, by filing with the Secretary of the Exchange a written demand therefor within five business days after the decision has been rendered. A member of any such committee taking part in the hearing of a matter may, within two days after a decision has been made thereon, appeal therefrom to the Board of Governors by filing a written demand therefor with the Secretary of the Exchange. Any member or ex-officio member or additional member of any such committee from whose decision an appeal to the Board of Governors is taken pursuant hereto may participate in the hearing of such appeal, but shall not participate in the deliberation or determination of the Board of Governors thereon. The decision of the Board of Governors with respect to any such appeal shall be final and conclusive, except that the Board Governors under its general power of delegation may authorize a committee to consider any specific appeal or any class or type

of appeals and in such case the decision of the committee with respect thereto shall be final and conclusive.

Meetings. An annual meeting of the Board of Governors shall be [held immediately]the first regularly scheduled meeting of the Board of Governors following the [close of business on the Exchange on the first Thursday after the]annual election of the Exchange in each year[or, if the Exchange is not open for business on that day, on the next succeeding business day, and no]. No notice of such annual meeting of the Board of Governors need be given.

Regular meetings of the Board of Governors shall be held at such times as the Board of Governors may designate by resolution, and no notice of such meetings need be given.

Special meetings of the Board of Governors may be called by the Chairman of the Board of Governors, or pursuant to the written request of four [governors]Governors, upon notice as below prescribed[, but no notice need be given to any governor who has submitted a signed waiver thereof].

All meetings of the Board of Governors shall be held in the Board Room of the Exchange unless another place is fixed by the Board of Governors for any regular meeting or by the person or persons calling a special meeting and specified in the notice thereof.

Notice of a special meeting of the Board of Governors shall be given by the Secretary of the Exchange or by a person calling the meeting to each [governor]Governor, other than any who have duly waived notice, (1) by written notice mailed, first class postage prepaid, not later than the [second]fifth day before the meeting or (2) by either written or oral notice given personally or by telephone or other means of electronic communication, [in which case]not later than the second day before the meeting[may be held as soon after such notice is given as a quorum shall be assembled at the place of the meeting, unless another time shall be specified in the notice]. Any notice shall be sufficient if addressed to a [governor]Governor at his office or at such other address as he shall have requested the Secretary of the Exchange to direct notices to him. Anything in this Constitution or in any resolution adopted by the Board of Governors to the contrary notwithstanding, notice of any meeting of the Board of Governors need not be given to any Governor who submits a signed waiver of such notice, whether before or after such meeting, or who attends such meeting without protesting, prior thereto or at its commencement, the lack of notice to him or her.

Except as otherwise specifically provided in the Constitution, a notice or waiver of notice need not specify the purpose of any meeting, and the Board of Governors may consider and take action upon any matter at its annual or any regular meeting or at any special meeting, whether or not such matter has been referred to in any notice or waiver of notice of such meeting.

Written Consent to Action Without Meeting. Any action required or permitted to be taken by the Board of Governors or any committee thereof may be taken without a meeting if all members of the Board of Governors then in office or such committee consent in writing to the adoption of a resolution authorizing such action.

Quorum. Except as otherwise specifically required by the Constitution with respect to the vote necessary for action to be taken by the Board[, seven governors] of Governors, a majority of Governors then in office shall be sufficient to constitute a quorum for any meeting of the Board, and any action taken pursuant to the vote of a majority of the [governors]Governors present at such meeting shall be deemed to be the action of the Board of Governors; provided, however, that any quorum of Governors shall include a number of Independent Governors at least equal to the number of Governors participating in any such meeting who are not Independent Governors. Participation in a meeting by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time shall constitute presence in person at the meeting.

Contracts of Employment. The Board of Governors may authorize any officer, on behalf of the Exchange, to enter into a contract of employment with any person for such period of time and upon such other terms and conditions as may be set forth in a written agreement which has been submitted to and authorized by the Board of Governors (i) upon the recommendation of the Compensation Committee established pursuant to Section 6(e) of this Article II as prescribed by this Constitution or the Compensation Committee charter, if applicable, and (ii) in the case of the Chief Regulatory Officer, in accordance with the recommendation of the Compensation Committee as prescribed by this Constitution and the Compensation Committee charter and subject to the advice and consent of the Regulatory Oversight Committee.

Selection of Chairman and Vice-Chairman. As soon as practical following the annual election of Governors, the Board of Governors shall elect a Chairman from among its members by resolution adopted by a majority of the Governors then in office, a Vice-Chairman from among its members [who are regular or options principal members of the Exchange,]and such other persons having such other titles as it shall deem necessary or advisable, to serve until the next annual election or until a successor is elected and takes office. The Chairman, Vice-Chairman, and such other persons elected under this subsection shall have such powers and duties as may be determined from time to time by the Board of Governors. The Board of Governors, by resolution adopted by a majority of the Governors then in office, may remove the Chairman, Vice-Chairman, and any person elected under this subsection from such position at any time.

The Chairman shall be either the Management Governor or an Independent Governor. When the Management Governor serves as the Chairman, the Board of Governors shall designate an Independent Governor as "Lead Governor" to preside over executive sessions of the Board of Governors. The Management Governor shall not participate in executive sessions of the Board of Governors. The Board of

Governors shall publicly disclose the Lead Governor's name and a means by which interested parties may communicate with the Lead Governor. The Lead Governor may also serve as Vice-Chairman or such other position as the Board of Governors shall deem necessary or advisable from time to time in accordance with the preceding paragraph.

In the case of the absence or inability to act of the Chairman, [or in case of a vacancy in]the [office of Chairman, the Vice-Chairman of the Board]Lead Governor (if one shall have been designated) shall exercise the powers and discharge the duties of the Chairman in calling and presiding at meetings of the Board of Governors.

In the absence or inability to act of both the Chairman and the Lead Governor (if one shall have been designated), the Vice-Chairman (if such person is other than the Lead Governor), and in the absence or inability of the Vice-Chairman, the members of the Board of Governors[who are regular, options principal, associate or allied members of the Exchange], and in such order of priority as the Board of Governors may designate, or in the absence of such designation, the senior available member in service on the Board of Governors[who is a regular, options principal, associate or allied member of the Exchange], shall exercise the powers and discharge the duties of the Chairman in calling and presiding at meetings of the Board of Governors.

In case a vacancy shall occur in the office of the Chairman, [the Board, by resolution adopted by a majority of the Governors then in office, shall fill such vacancy. In case a vacancy shall occur in the office of the]Lead Governor or Vice-Chairman, the Board of Governors, by resolution adopted by a majority of the Governors then in office, shall fill such vacancy by [the election]appointing a Governor eligible to serve in such office[of a governor who is a Floor Governor].

Following each annual election the Chairman shall make such appointments, in the manner provided for herein, as may be required by the Constitution and shall fill any vacancy which occurs in any office to which he has made an appointment. Pending approval by the Board of Governors such appointments may be made ad interim.

The Standing Committees shall be established in accordance with Section 6 of this Article II.

[Subject to the approval of the Board by the affirmative vote of a majority of the entire Board, the Chairman shall appoint and may remove the members of any committee of the Board.]Subject to the approval of the Board of Governors by the affirmative vote of a majority of the [governors]Governors present at any meeting of the Board of Governors, the Chairman shall appoint and may remove the members of [other]any operating committees which may from time to time be authorized by the Board of Governors to consider matters pertaining to the administration of the Exchange and to the rules and policies of the Exchange concerning members, member organizations and approved persons. The Chairman shall fill vacancies in said committees and may make any such appointment ad interim until the next regular meeting of the Board of Governors.

Subject to the approval of the Board of Governors, the Chairman may appoint special committees to advise or consult with him or other officers of the Exchange, or to consider matters pertaining to the administration of the Exchange, and such committees appointed by the Chairman shall have such powers as may be delegated to them by the Board of Governors.

The Chairman may call special meetings of the Board of Governors. He shall call special meetings of the Board of Governors upon the written request of three [governors]Governors. The Chairman, or the Vice-Chairman or the Chief Executive Officer if delegated by the Chairman, shall preside at meetings of the members of the Exchange.

The Chairman, or the Chief Executive Officer if delegated by the Chairman, shall have power to examine, or to authorize any officers, employees or representatives of the Exchange to examine, the books, papers and records of any member, his employees, his member organization, or any partner, director, employee or approved person of his member organization, and the Chairman, or the Chief Executive Officer if delegated by the Chairman, shall have power to order the production of such books, papers and records for examination either by him or by any officers, employees or representatives of the Exchange so designated, or to require any member to cause any of his employees, or any of the partners, directors, employees or approved persons of his member organization, to appear and testify before the Chairman or before any officers, employees or representatives of the Exchange so designated, as to any matter or transaction pertaining to the business of such member, his employees, his member organization or any partner, director, employee or approved person to cause any of his or its employees to appear and testify before the Chairman or before any officers, employees or representatives of the Exchange so designated as to any matter or transaction pertaining to the business of such approved person or of any employee or such approved person.

The Chairman, or the Chief Executive Officer if delegated by the Chairman, may vote the shares of stock or other securities of any corporation, association or other entity which may at any time be owned by the Exchange, may execute any shareholders' or other consents in respect thereof and may in his discretion delegate such powers by executing Proxies or otherwise, on behalf of the Exchange. The Board of Governors from time to time may confer like powers upon any other person or persons.

Trial of Members, Member Organizations and Approved Persons. Subject to the provisions of the Constitution, the Board of Governors may adopt, amend or repeal such rules and prescribe such procedures as it may deem necessary or appropriate for the conduct of disciplinary proceedings and reviews therefrom. The Board of Governors shall have the power to enforce any penalty that may be imposed upon a member, member organization, approved person or employee of a member or member organization pursuant to any such disciplinary proceeding.

Transactions in Exchange Securities. The Board of Governors shall have the power to require, to the extent not inconsistent with the Securities Exchange Act of

1934, as amended, that transactions in which members participate, in securities admitted to dealings upon the Exchange shall be made or executed upon the Exchange.

Penalties. The Board of Governors may prescribe penalties to be imposed for violation of rules and policies adopted pursuant to the Constitution, and for neglect or refusal to comply with orders, directions or decisions of the Board of Governors or of any officer or employee of the Exchange or of any committee acting under powers delegated by the Board of Governors, and for other offenses against the Exchange where penalties are not specifically prescribed by the Constitution; provided, however, no such power shall be delegated to any committee of the Board of Governors unless such committee has no more than five members and at least one of the members of such committee shall be a Floor Governor, a Membership Governor or an Upstairs Governor.

Contracts. The Board of Governors shall prescribe rules for dealing on the Exchange. It may adopt such rules as it may deem necessary and proper in respect to contracts, including Exchange and Member Contracts, and the performance thereof, and as to default and insolvency. It may extend or postpone the time for the performance of Exchange Contracts whenever in its opinion such action is called for by the public interest or by just and equitable principles of trade.

Admission of Securities. The Board of Governors shall establish standards and requirements with respect to the listing or admission to unlisted trading on the Exchange of securities, contracts in securities “when, as and if issued” or “when-distributed” and rights, warrants and similar privileges appertaining to securities, and with respect to the continued listing or admission to unlisted trading thereof or the suspension of trading therein or removal of the same from listing or unlisted trading. The Board of Governors may grant to the Chairman, or such officer or officers of the Exchange as he may designate, the authority to approve any such securities, contracts in securities, rights, warrants or privileges, for original listing or admission to unlisted trading upon the Exchange and to admit the same to dealings on an “issued”, “when issued” or “when-distributed” basis; to list or admit to dealings on an “issued”, “when issued” or “when-distributed” basis securities of an issuer having securities already listed or admitted to unlisted trading on the Exchange, including certificates of deposit, rights to subscribe, and other securities issued in exchange for or growing out of such securities; to suspend dealings in such securities at any time, and without notice, when such action is deemed appropriate and to remove the same from listing or from unlisted trading; to make such certifications or file such notices with respect to the listing and registration of any such securities or the suspension of dealings or removal thereof from listing or unlisted trading as may be required by the Securities Exchange Act of 1934 and rules and regulations issued thereunder; and to take such other action as may be necessary or appropriate in connection with the listing, suspension of trading or removal from listing or unlisted trading of any such securities. Any company directly affected by a decision of the Chairman or such duly authorized officer of the Exchange with respect to the listing of its securities or the removal thereof from listing or unlisted trading, may appeal such decision to the Board of Governors. A committee designated by the Board of Governors shall conduct a hearing with respect to any such appeal and shall make recommendations

to the Board of Governors with respect thereto. The decision of the Board of Governors with respect to any such appeal shall be final and conclusive, except that the Board of Governors under its general power of delegation may authorize a committee to consider any or all such appeals and in such case the decision of the committee with respect thereto shall be final and conclusive.

Corners. Whenever, in the opinion of the Board of Governors, a corner has been created in a security listed or admitted to unlisted trading on the Exchange, or a single interest or group has acquired such control of a security so listed or so admitted to unlisted trading that the same cannot be obtained for delivery on existing contracts except at prices or on terms arbitrarily dictated by such interest or group, the Board of Governors may postpone the time for deliveries on Exchange Contracts therein, and may, from time to time, further postpone such time or may postpone deliveries until further action by it, and may at any time by resolution declare that if such security is not delivered on any contract calling for delivery thereof at or before the time to which delivery has been postponed or which has been fixed by the Board of Governors for such delivery, such contract shall be settled by payment to the party entitled to receive such security, or by the credit to such party, of a fair settlement price, determined as hereinafter provided. If the parties to any contract which is to be settled on the basis of such fair settlement price do not agree with respect thereto, such fair settlement price and the date for the payment of the same may be fixed by the Board of Governors. The Board of Governors before fixing the same shall give the parties to the contract which is to be settled on the basis thereof an opportunity to be heard either before the Board of Governors or before a special committee appointed for the purpose. Such special committee shall report the testimony, together with its conclusions thereon, to the Board of Governors, which may act upon such report without further hearing, or, in its discretion, may accord the parties a further hearing before acting thereon.

Invitation to Non-Governors. The Board of Governors or any committee thereof may invite a person, not a member thereof, to attend its meetings and to participate in its deliberations, but such person shall not have the right to vote.

Members, Member Organizations and Approved Persons. The Board of Governors shall have general supervision over members and member organizations, and shall have general supervision over approved persons in connection with their conduct of the business of member organizations. The Board of Governors may examine into and regulate the conduct and financial condition of members, member organizations and approved persons. It shall have supervision over and may adopt such rules as it may deem necessary or proper with respect to the formation of member organizations, the continuance thereof, the finances and capital requirements thereof, the types, terms, conditions and issuance of securities by member organizations and trading in such securities, the interest of members and other persons in member organizations, the partners, officers, directors, trustees, stockholders and employees of members and member organizations, the offices of members and member organizations, the business connections of members and member organizations, and their association with or domination by or over any organizations or persons engaged in the securities business.

The Board of Governors, to the extent not inconsistent with the Securities Exchange Act of 1934, as amended, shall have supervision over all matters relating to the collection, dissemination and use of quotations and of reports of prices on the Exchange and may grant to the Chairman, or to such officer or officers of the Exchange as he may designate, the authority to approve or disapprove any application for ticker or quotation service to any non-member. The Board of Governors may grant to the Chairman, or such officer or officers of the Exchange as he may designate, the authority to approve or disapprove of any connection or means of communication with the Floor and to require at any time the discontinuance of any such connection or means of communication if such connection or means of communication has been or is being used to facilitate any violation of the Securities Exchange Act of 1934, as amended, or rules thereunder, the Exchange Constitution or its Rules, or just and equitable principles of trade. The Board of Governors shall establish standards and requirements for the registration of specialists or odd-lot dealers in securities dealt in on the Exchange, and may grant to a committee or committees, the authority to (i) approve the registration of specialists or odd-lot dealers, (ii) revoke or suspend any such registration at any time, (iii) allocate to a registered specialist or odd-lot dealer any security dealt in on the Exchange, and (iv) revoke any such allocation, temporarily or permanently, at any time.

The Board of Governors may by rule provide for facilities and establish the conditions under which members may transmit orders electronically from the Floor of the Exchange to other markets and receive orders transmitted electronically to the Floor of the Exchange from other markets for the purchase or sale of securities traded on the Exchange.

Recording on the Trading Floor. There shall be no recording by any medium of images, sound or data on the Trading Floor without the prior written approval of the Exchange. The Board of Governors may grant to the Chairman, or such officer or officers of the Exchange as he may designate, the authority to approve or disapprove, upon such terms and conditions as may be deemed advisable, any request to record images, sound, or data on the Trading Floor.

Personal Interest. No [member of the Board]Governor shall participate in the determination of any matter brought before it in which such [member]Governor has a personal interest; but, except as otherwise specifically provided in the Constitution, membership on a committee which has made prior inquiry or investigation of the subject under examination by the Board of Governors, with or without recommendation thereon, shall not constitute any such disqualification.

Interpretation. The Board of Governors shall be authorized and empowered to interpret the Constitution and rules of the Exchange and such interpretation shall be conclusive and binding.

Subsidiaries. The Board of Governors may cause to be organized any corporation or similar entity which, in the opinion of the Board of Governors, is necessary to facilitate the business of members or member organizations or the performance of the functions of the Exchange. The Board of Governors may authorize

the acquisition and holding of all or any part of the stock of such corporation or similar equity security of any other entity and may authorize all acts and things necessary to enable such [corporation]entity to carry out the purposes of its organization.

Group Hospitalization Plan. The Board of Governors may authorize a group hospitalization plan on such terms and conditions as it may deem appropriate, and any member may elect to participate therein by giving written notice to the Treasurer of the Exchange. The Board of Governors may adopt such rules with respect to such group hospitalization plan as it may deem appropriate and may modify or terminate such plan at any time. Any member who elects to participate in such group hospitalization plan shall pay to the Exchange, as a charge of the Exchange, any premiums or other amounts payable with respect to the member's participation in such plan. Any member participating in such group hospitalization plan may withdraw therefrom upon giving to the Treasurer of the Exchange written notice of the member's election to withdraw from such plan and upon paying to the Exchange all premiums and other amounts due or to become due from such member down to the date his withdrawal becomes effective under such plan. The Exchange shall not be liable for any damages sustained by any member or person insured under such plan from any cause whatsoever.

Confidential Information. All confidential information of the Exchange pertaining to the self-regulatory function of the Exchange, including books and records reflecting such confidential information (including but not limited to regulatory investigations, examinations, disciplinary matters, and to the extent designated by the Exchange as confidential, trading data and trading practices) shall be retained in confidence by each Governor, the Exchange and its personnel and will not be used by each Governor, the Exchange and its personnel for any non-regulatory purposes and shall not be made available to any persons (including, without limitation, any Members of the Exchange) except that such confidential information may be disclosed (i) to those personnel of the Exchange and to members of the Board of Governors of the Exchange to the extent necessary or appropriate to properly discharge the self-regulatory responsibilities of the Exchange; (ii) to the extent required by applicable statute, rule or regulation or any court of competent jurisdiction; and (iii) to the extent that such confidential information has become generally available publicly through no fault of the Exchange or its Governors, officers, employees or advisors. Notwithstanding the foregoing, such confidential information of the Exchange shall be subject at all times to inspection and copying by the Securities and Exchange Commission at no additional cost to such Commission. Nothing in this Constitution shall be interpreted as to limit or impede the rights of the Securities Exchange Commission to access and examine such confidential information of the Exchange pursuant to the U.S. federal securities laws and the rules thereunder, or to limit or impede the ability of a Governor, the Exchange and its personnel to disclose such confidential information to the Securities Exchange Commission.

Cooperation with MC. The Exchange and its directors and officers shall provide such information and access to MC as MC may reasonably request, and otherwise shall cooperate with MC, in order to assist MC and its officers and directors in

carrying out their responsibility under MC's corporate governance documents and applicable laws.

Amendments.

Amended January 16, 1958, effective May 1, 1958.

Amended effective September 4, 1962.

Amended effective November 19, 1969.

Amended February 6, 1970.

Amended effective June 1, 1970.

Amended June 18, 1971.

Amended effective October 1, 1971.

Amended June 7, 1972.

Amended October 25, 1972.

Amended June 2, 1977.

Amended September 11, 1978.

Amended May 16, 1995.

Amended June 6, 1996.

Amended September 3, 1997.

Amended October 30, 1998.

Amended April 13, 2000.

Amended February 22, 2002 (Amex-2001-56).

Amended [_____, 2004].

Section 4. Officers of the Exchange.

(a) Chief Executive Officer. The Board of Governors by resolution adopted by a majority of the Governors then in office, shall elect a Chief Executive Officer of the Exchange who shall have the care of all the interests of the Exchange. He shall be responsible to the Board of Governors for the management and administration of the affairs of the Exchange. He shall be the official representative of the Exchange and its spokesman in all public matters. He shall, during his incumbency, be a member of the Board of Governors. He shall have such other powers and duties in the management of the Exchange as may be determined from time to time by the Board of Governors.

The Chief Executive Officer shall have no affiliation with any member organization nor any other business interest during his incumbency proscribed by the Code of Conduct of the Exchange. By his acceptance of the office of Chief Executive Officer he shall be deemed to have agreed to uphold the Constitution of the Exchange.

Subject to approval by the affirmative vote of a majority of the entire Board of Governors, the Chief Executive Officer may appoint such other officers of the Exchange including, but not limited to, President, Executive Vice President, Senior Vice President, and Vice President, as he may from time to time determine are required for the efficient management and operation of the Exchange, and subject to like approval of the Board of Governors he shall appoint the Treasurer and the Secretary and shall fix the duties, responsibilities, terms and conditions of employment of such officers other than

those appointments or terms and conditions of employment that are within the power and responsibility of the Compensation Committee, the Regulatory Oversight Committee or the Audit Committee and, subject to [the]Sections 2(d) and 6(c) of this Article II and approval of the Board of Governors, he may terminate their employment at any time.

[The]Subject to the powers and responsibilities of the Compensation Committee and the Regulatory Oversight Committee, the Chief Executive Officer shall have power to appoint, dismiss and fix the salaries and wages of all other employees of the Exchange, including such expert or professional advisers as he may deem advisable. He shall determine the number and duties of all employees. He may require that officers, appointees or employees of the Exchange give good and sufficient bonds for the faithful performance of their duties.

All salaried officers and employees of the Exchange shall be under the direction of and responsible to the Chief Executive Officer[.] or the Chief Executive Officer's designee; provided, however, that the Chief Regulatory Officer shall also report directly to the Regulatory Oversight Committee and that the internal auditors (as set forth in Section 6(c) of this Article II), shall also report directly to the Audit Committee.

The Chief Executive Officer, or such other officer as he may designate, shall prepare and present to the Board of Governors periodic reports concerning the finances, income and expenses of the Exchange, and prior to the beginning of each fiscal year of the Exchange shall present to the Board of Governors an estimate of the income of the Exchange and recommendations as to appropriations for expenses for such fiscal year. The Chief Executive Officer may at any time recommend additional appropriations or the increase or decrease of any appropriations made by the Board of Governors and shall make reports and recommendations to the Board of Governors as to the financial policy of the Exchange.

In the case of the absence or inability to act of the Chief Executive Officer, such other person as the Board of Governors may designate shall assume all the functions and discharge all the duties of the Chief Executive Officer. In the absence of such designation by the Board of Governors, the most senior ranking officer available shall assume all such functions and discharge all such duties of the Chief Executive Officer. In case a vacancy shall occur in the office of Chief Executive Officer, the Board of Governors, by the affirmative vote of a majority of the [governors]Governors then in office, shall fill such vacancy.

(b) Treasurer. The Treasurer of the Exchange shall receive and acting under instructions from the Chief Executive Officer take charge of and disburse monies of the Exchange. He shall report fully to the Chief Executive Officer in regard thereto at such times as the Chief Executive Officer may require. He shall perform such other duties as the Chief Executive Officer or the Constitution may prescribe.

(c) Secretary. The Secretary of the Exchange shall keep records of the proceedings of the Exchange and of the Board of Governors. He shall keep a record containing the names of all members together with the dates of their

admission to membership and the dates of their resignation from or transfer of regular membership or options principal membership, as the case may be, their resignation from or termination of associate or allied membership. He shall perform such other duties as the Chief Executive Officer or the Constitution may prescribe.

(d) Chief Regulatory Officer. The Regulatory Oversight Committee, by resolution adopted by a majority of its members then in office, shall appoint a Chief Regulatory Officer who shall be responsible for the management and administration of the regulatory functions of the Exchange. The Chief Regulatory Officer shall report directly to the Regulatory Oversight Committee and to the Chief Executive Officer or the Chief Executive Officer's designee. The Board of Governors shall have the authority to remove the Chief Regulatory Officer only with the advice and consent of the Regulatory Oversight Committee.

Amendments.

Amended January 16, 1958, effective May 1, 1958.

Amended June 2, 1954, effective June 23, 1954.

Amended effective September 4, 1962.

Amended effective June 8, 1964.

Amended July 15, 1968.

Amended May 7, 1969.

Amended effective November 19, 1969.

Amended effective June 1, 1970.

Amended June 18, 1971.

Amended effective October 1, 1971.

Amended June 7, 1972.

Amended October 25, 1972.

Amended June 2, 1977.

Amended December 14, 1977.

Amended April 19, 1978.

Amended May 16, 1995.

Amended June 6, 1996.

Amended October 30, 1998.

Amended April 13, 2000.

Amended [_____], 2004].

Section 5. Committees.

(a) Examination, Investigation, etc. Any committee authorized by the Board of Governors or by the Constitution shall have power to examine, or to authorize any officers, employees or representatives of the Exchange to examine the books, papers and records of any member, his employees, his member organization, or any partner, director, employee or approved person of his member organization, and any such committee shall have power to order the production of such books, papers and records for examination either by such committee or by any officers, employees or representatives of the Exchange designated by such committee. Any such committee shall also have power to require any member to appear and testify before such committee

or before any officers, employees or representatives of the Exchange designated by such committee, or to require any member to cause any of his employees, or any of the partners, directors, employees or approved persons of his member organization, to appear and testify before such committee or before any officers, employees or representatives of the Exchange designated by such committee, as to any matter or transaction pertaining to the business of such member, his employees, his member organization or of any partner, director, employee or approved person of his member organization, or to require any approved person to cause any of his or its employees to appear and testify before such committee or before any officers, employees or representatives of the Exchange designated by such committee, as to any matter or transaction pertaining to the business of such approved person or of any employee of such approved person. Any such committee shall also have the power to select and engage its own counsel, consultants, accountants or other experts or advisors to assist such committee in the exercise of its powers and the fulfillment of its responsibilities.

(b) **Additional Committee Members.** The chairman of any committee authorized by the Board[,] of Governors (other than a committee to which the Board of Governors has delegated powers vested in it pursuant to the Constitution or applicable law or as otherwise provided in the Constitution including, without limitation, the Standing Committees) shall, with the approval of the [chairman]Chairman, be empowered to appoint any member associated with any member organization to serve on said committee for such time as the chairman of such committee, with the approval of the Chairman, may decide. Such appointees shall serve as additional members of the committee to which they may be appointed and shall be entitled to vote.

(c) **Committee Rules.** Any committee authorized by the Board of Governors shall have power, subject to the provisions of the Constitution and applicable law, to make and require the observance of rules, regulations, requirements, rulings and orders pertaining to matters within its jurisdiction. In the absence of a designation by the Board of Governors (except in the case of the Standing Committees where no such designation by the Board of Governors shall be made), any committee authorized by the Board of Governors shall have power to appoint a member of such committee as its chairman.

(d) **Committee Procedure.** Except as herein otherwise prescribed, each committee authorized by the Board of Governors shall determine the manner and form in which its proceedings shall be conducted and shall make such regulations for its government as it shall deem proper and may act at a meeting, or without a meeting, and by a majority of its members or by such other vote of its members as such committee by a majority of its existing members may by rule determine, subject always to the control and supervision of the Board of Governors. No member of a committee shall participate in the deliberations of such committee, or in the determination by such committee, with respect to a matter in which he is personally interested. Any one or more members of any committee may participate in a meeting of such committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at the meeting.

(e) Vacancies. Any vacancy on any committee of the Exchange other than a Standing Committee shall be filled by the Chairman in accordance with Section 3 of this Article II.

Amendments.

Amended effective September 4, 1972.

Amended June 8, 1964.

Amended effective June 1, 1970.

Amended June 7, 1972.

Amended October 25, 1972.

Amended June 2, 1977.

Amended December 14, 1977.

Amended April 19, 1978.

Amended effective June 25, 1990.

Amended June 6, 1996.

Amended October 30, 1998.

Amended [_____, 2004]

Section 6. [Amex Adjudicatory Council]Standing Committees. The Board of Governors shall adopt for each Standing Committee a charter consistent with the powers and responsibilities set forth in the subsections below applicable to each such Standing Committee, and including such additional powers and responsibilities as may be considered appropriate and not inconsistent with this Constitution. The adoption of each such charter shall require the affirmative vote of at least 75% of the Board of Governors then in office. Each Standing Committee shall have the power to appoint a member of such Standing Committee as its chairman. Notwithstanding anything to the contrary set forth in this Section 6 of Article II, Industry Governors may serve as members of the Standing Committees until the 2004 Effective Date.

(a) Amex Nominating and Corporate Governance Committee.

(1) Composition, Authority and Duties. The Amex Nominating and Corporate Governance Committee shall be appointed by the Board of Governors and shall consist of three Governors, two of whom shall be Independent Governors and one of whom shall be the Membership Governor, as established by resolution adopted by a majority of the Board of Governors then in office. The Amex Nominating and Corporate Governance Committee shall: (i) establish criteria and procedures for the nomination of Governors, members of the Amex Adjudicatory Council, and Trustees of the Gratuity Fund; (ii) search for qualified nominees for submission to the MC members for election; (iii) review the qualifications of and, when necessary and appropriate, interview candidates who may be proposed for nomination or who are nominated by petition as Governors, members of the Amex Adjudicatory Council, and Trustees of the Gratuity Fund; (iv) submit to MC, in its capacity as the Class A Interestholder, a slate of nominees for the election of Governors, members of the Amex

Adjudicatory Council, and Trustees of the Gratuity Fund; (v) perform such duties as are set forth in Article III; (vi) perform such other duties in connection with the selection or election of the Governors, members of the Amex Adjudicatory Council, and Trustees of the Gratuity Fund as the Board of Governors may request; (vii) monitor and consider the Exchange's corporate governance practices, (viii) consider and make recommendations concerning the composition, organization and functions of the Board of Governors, (ix) review periodically the performance of the Board of Governors, (x) review periodically the Constitution, and (xi) make periodic reports to the entire Board of Governors on such matters within its powers and responsibilities as the Board of Governors may specify.

(2) Eligibility and Vacancy. Any vacancy in the Amex Nominating and Corporate Governance Committee shall be filled by the remaining members thereof, who shall elect a person qualified to fill the vacancy.

(b) Executive Committee. The Executive Committee, to be appointed by Board of Governors upon the recommendation of the Amex Nominating and Corporate Governance Committee, shall consist of three to five Governors at least a majority of whom shall be Independent Governors and at least one of whom shall be an Industry Governor, as established by a resolution adopted by a majority of the Board of Governors then in office. The Executive Committee shall have reasonable access during normal working hours to all information (including all books and records) respecting the Exchange and its assets. The Executive Committee, to the extent permitted by law, shall have and may exercise, when the Board of Governors is not in session, all powers of the Board of Governors regarding the supervision of the management of the business and affairs of the Exchange.

(c) Audit Committee. The Audit Committee, to be appointed by the Board of Governors upon the recommendation of the Amex Nominating and Corporate Governance Committee, shall consist of three to five Independent Governors, as established by resolution adopted by a majority of the Board of Governors then in office. The Audit Committee shall (i) have the authority to consider the qualification of the Exchange's independent public accountants, to make recommendations to the Board of Governors as to their selection and retention and to review and resolve disputes between such independent public accountants and management relating to the preparation of the annual financial statements, (ii) confer with the Exchange's independent public accountants to determine the scope of the audit that such accountants will perform, (iii) receive reports from the independent public accountants and transmit such reports to the Board of Governors, and after the close of the fiscal year, transmit to the Board of Governors the financial statements certified by such accountants, (iv) inquire into, examine and make comments on the accounting procedures of the Exchange and the reports of the independent public accountants, (v) consider and make recommendations to the Board of Governors upon matters presented to it by the officers of the Exchange pertaining to the audit practices and procedures adhered to by the Exchange, (vi) appoint the internal auditors of the Exchange (who shall report directly to the Audit Committee and who shall not be removed without the advice and consent of the Audit Committee)

and (vii) make periodic reports to the entire Board of Governors on such matters within its powers and responsibilities as the Board of Governors may specify.

(d) Regulatory Oversight Committee.

(1) Composition, Authorities and Duties. There shall be established a Regulatory Oversight Committee which shall (i) have authority to determine the Exchange's regulatory scheme, programs, budget and staffing proposals annually, (ii) appoint and direct the Chief Regulatory Officer, (iii) advise the Compensation Committee with respect to and approve the compensation (or any change thereto) of the Chief Regulatory Officer, (iv) be responsible for assessing regulatory performance on a regular basis, (v) have the authority to recommend the adoption of rules to the Board of Governors concerning such matters as may be specified in the committee's charter, and (vi) make periodic reports to the entire Board of Governors on such matters within its powers and responsibilities as the Board of Governors may specify.

(2) Number of Members and Qualifications. The Regulatory Oversight Committee, to be appointed by the Board of Governors upon the recommendation of the Amex Nominating and Corporate Governance Committee, shall consist of (i) three to five Independent Governors and (ii) one Industry Governor. The Independent Governors serving as members of the Regulatory Oversight Committee shall be the only voting members of the committee. The Industry Governor serving as a member of the Regulatory Oversight Committee shall be a non-voting member.

(e) Compensation Committee. The Compensation Committee, to be appointed by the Board of Governors upon the recommendation of the Amex Nominating and Corporate Governance Committee, shall consist of three to five Independent Governors. The Compensation Committee shall have and may exercise all of the authority of the Board of Governors in administering the Exchange's management compensation plans, and shall (i) review and approve performance goals relevant to the compensation of the Chief Executive Officer and evaluate the Chief Executive Officer's performance in achieving such goals, and, recommend the compensation of the Chief Executive Officer to the Board of Governors, (ii) recommend to the Board of Governors the compensation of executive officers of the Exchange, (iii) cause to be publicly disclosed on an annual basis the compensation (and the methodology behind such compensation) of the Governors and the five most highly compensated officers of the Exchange, and (iv) make periodic reports to the entire Board of Governors on such matters within its powers and responsibilities as the Board of Governors may specify.

(f) Vacancies. Any vacancy on any Standing Committee shall be filled by the full Board of Governors upon the recommendation of the Amex Nominating and Corporate Governance Committee; except, that, in the case of the Amex Nominating and Corporate Governance Committee, any vacancy shall be filled in accordance with Section 6(a)(2) of this Article II.

Adopted.

[_____, 2004]

Section 7. Amex Adjudicatory Council.

(a) [Appointment]Composition, Authority and [Authority]Duties. There shall be established an Amex Adjudicatory Council (the “Council”) which, subject to the Board of Governors’ [s] discretionary right of review, shall have authority to act for the Board of Governors with respect to any appeal or review of a disciplinary proceeding, a statutory disqualification proceeding, or a membership proceeding; any review of a written stipulation of facts and consent to penalty; the exercise of any exemptive authority; and such other proceedings or actions authorized by the rules of the Exchange.

(b) Number of Members and Qualifications. The Council shall consist of six individuals, three of whom shall be Industry Governors (“Industry Council Members”), and three of whom shall be Independent Governors (“Independent Council Members” and, together with the Industry Council Members, the “Council Members”).

[(b) Number of Members and Qualifications. The Council shall consist of six individuals, all of whom shall be nominated by the Amex Nominating Committee and elected by the regular and options principal members voting together as a single class. Three of the six Council members shall be Floor Governors (“Floor Council Members”). The other three Council members shall be Public Governors (“Public Council Members”).]As soon as practicable following the initial election of members, the Council shall elect a Chair and a Vice-Chair from among its members. The Chair and Vice-Chair shall have such powers and duties as may be determined from time to time by the Council.

(c) Nomination and Election. All Council Members shall be nominated and elected in accordance with the procedures set forth in Article III.

(d) [(c)]Term of Office. [Except as otherwise provided in this subsection, each]Council [member shall hold office for a term of two years or until a successor is elected, except in the event of earlier termination from office by reason of death, resignation, removal, disqualification, or other reason. The Council members shall be divided into two classes. The first class shall consist of two Floor Council]Members[and one Public Council Member. The second class shall consist of one Floor Council Member and two Public Council Members. The initial terms of the Council members in the first and second classes shall terminate in 1999 and 2000, respectively, upon the election of their successors. Subsequent to the initial terms of office, each class] shall be elected for two-year terms and shall hold office until their successors [have been]are elected. [Beginning in 2000, no Council member may serve more than two]No Council Member who has served four consecutive terms[,] as Council Member shall be eligible for election as a Council Member except after an interval of two years; provided, however, that [if a]service on the Amex Adjudicatory Council [member is appointed]prior to[fill a term of less than one year, such member may serve up to two

consecutive terms following] the [expiration of such member's initial term]2004 Effective Date will not be taken into account for these purposes.

(e) ___[(d)]Resignation. A [member of the]Council Member may resign at any time upon written notice to the Board of Governors. Any such resignation shall take effect at the time specified therein, or if the time is not specified, upon receipt thereof, and the acceptance of such resignation, unless required by the terms thereof, shall not be necessary to make such resignation effective.

(f) ___[(e)]Removal. Any or all of the [members of the]Council Members may be removed from office at any time by a majority vote of the Board of Governors for the refusal, failure, neglect, or inability to discharge the duties of such office [by a majority vote of the Board].

(g) ___[(f)]Disqualification. Notwithstanding subsection ([c]d), the term of office of a Council [member]Member shall terminate immediately upon a determination by the Board of Governors, by a majority vote of the entire Board of Governors, that the Council [member]Member no longer fits the classification ([Floor]Industry or [Public]Independent Council Member) for which the [member]Council Member was elected.

(h) ___ Filling of Vacancies. If a position on the Council becomes vacant, whether because of death, disability, disqualification, removal or resignation, the Board of Governors shall appoint a Governor within the same classification (Industry or Independent Council Member) to fill the vacancy until the next annual election of Council members.

[(g) Filling of Vacancies. If a position on the Council becomes vacant, whether because of death, disability, disqualification, removal or resignation, the board of directors of The Amex Corporation shall appoint a person within the same classification (Floor or Public Council Member) to fill the vacancy until the next annual election of Council members.] In the event that a [member of the]Council Member is precluded from participating in the Council's consideration of a particular matter due to a conflict of interest, the [board]Board of [directors of The Amex Corporation]Governors shall appoint a Governor within the same classification for the position [as provided in subsection (b) of this Section]to serve as a substitute for such Council [member]Member with respect to the particular matter. In the event that a [person]Governor fitting the relevant classification is not available to serve as a substitute, the Board of [Directors]Governors may appoint a person who would be qualified to serve as a [governor]Governor within such classification (Industry Governor or Independent Governor).

(i) ___[(h)]Quorum and Voting. At all meetings of the Council, a quorum for the transaction of business shall consist of a majority of the Council, including at least two [Public]Independent Council Members. In the absence of a quorum, a majority of the [members]Council Members present may adjourn the meeting

until a quorum is present. In the event of a tie vote, the decision that was the subject of the Council's review shall stand.

(j) _____ (i) Meetings. The [members of the]Council Members may participate in a meeting through the use of a conference telephone or similar communications equipment by means of which all persons participating in the meeting may hear one another, and such participation in a meeting shall constitute presence in person at that meeting for all purposes.

Adopted.

[October 30, 1998.]Effective October 30, 1998

Amendment.

Amended [_____ , 2004]

Section 8. _____ Actions Requiring the Consent of MC. Notwithstanding anything to the contrary set forth in this Constitution, Amex shall not, and neither the Board of Governors nor any committee thereof shall take any of the following actions without the written consent of MC in accordance with its Second Restated Certificate of Incorporation (as in effect on the date hereof or as amended in accordance with section 18 of such Certificate of Incorporation as in effect on the date hereof) and the By-Laws of MC (as in effect on the date hereof or as amended in accordance with section 9.01 of such By-Laws as in effect on the date hereof, the "MC By-Laws"):

(a) _____ sell, issue, transfer or otherwise dispose in any single transaction or series of transactions of any limited liability company interest or other equity security of the Exchange or any securities convertible into or exchangeable for, or options rights or warrants to acquire, any such equity securities or (ii) any notes or debt securities containing equity features (including, without limitation, any notes or debt securities convertible into or exchangeable for any equity securities or containing profit participation features); or

(b) _____ (i) authorize, grant or issue any form of trading privilege other than as set forth in Article IV, Section 1, or (ii) authorize, grant or issue any material new rights to the holders of existing privileges (except, in the case of clause (i), other than as authorized by Article IV, Section 1 hereof).

Adopted.

[_____ , 2004]

ARTICLE III
RESERVED.]

NOMINATION AND ELECTION PROCEDURES

[Article]

SECTION 1.]ALL GOVERNORS, COUNCIL MEMBERS AND TRUSTEES OF THE GRATUITY FUND SHALL BE ELECTED BY MC, AS THE CLASS A INTERESTHOLDER, UPON A VOTE OF THE REGULAR AND OPTIONS PRINCIPAL MEMBERSHIPS IN ACCORDANCE WITH THE MC BY-LAWS. ALL CANDIDATES SUBMITTED TO MC, AS THE CLASS A INTERESTHOLDER, FOR ELECTION AS GOVERNORS, COUNCIL MEMBERS, AND TRUSTEES OF THE GRATUITY FUND SHALL BE SELECTED BY EITHER THE (I) AMEX NOMINATING AND CORPORATE GOVERNANCE COMMITTEE OR (II) BY PETITION AS PROVIDED IN SECTION 4 OF THIS ARTICLE III [IS DELETED IN ITS ENTIRETY EFFECTIVE OCTOBER 30, 1998.]BELOW.

Adopted.

[_____, 2004].

Section 2. The Amex Nominating and Corporate Governance Committee shall report to MC, as the Class A Interestholder, at least eight weeks prior to the Meeting Date the names of candidates nominated by it as Governors, members of the Amex Adjudicatory Council, and Trustees of the Gratuity Fund. Such report shall be promptly disseminated or made available to the MC members through posting or other appropriate means and shall be promptly forwarded to the Secretary of MC for mailing to the MC members in accordance with the MC By-Laws.

Adopted.

[_____, 2004].

Section 3. Any member may propose nominees for Governors, Council Members, and Trustees of the Gratuity Fund to the Amex Nominating and Corporate Governance Committee for consideration by written submission filed with the Secretary of the Exchange for delivery to the Amex Nominating and Corporate Governance Committee not less than 12 weeks prior to the date of the annual meeting of the MC Members (the "Meeting Date"). No regular or options principal member may propose (pursuant to this Section 3 of this Article III) more than one candidate for each position. No proposed nomination shall be valid unless (1) it is timely filed with the Secretary of the Exchange, (2) it specifies the proposed nominee and (3) the proposed nominee is eligible for the office for which he or she is nominated. The Secretary of the Exchange shall promptly report to the Amex Nominating and Corporate Governance Committee the names of all persons timely nominated. In the event that any question is raised as to whether any candidate meets the criteria for the appropriate classification specifically set forth in Section 1 of Article II of this Constitution, such matter shall be

determined by the Amex Nominating and Corporate Governance Committee, subject to the right of appeal to the full Board of Governors. Any candidate proposed for consideration by the Amex Nominating and Corporate Governance Committee pursuant to this Section 3 of Article III shall have the right, upon written request to the Chairman of such Committee, to appear before such Committee to discuss his or her candidacy.

Adopted.

[_____, 2004].

Section 4. Any member may nominate candidates for Governors, members of the Amex Adjudicatory Council, and Trustees of the Gratuity Fund by written petition filed with the Secretary of the Exchange for delivery to the Amex Nominating and Corporate Governance Committee within three weeks after the dissemination of the report of the Amex Nominating and Corporate Governance Committee in accordance with Section 3 of this Article III. No regular or options principal member may nominate or endorse (pursuant to this Section 4 of Article III) more than one candidate for each such position. A petition may make nominations for all or less than all of the positions up for election, provided that no petition shall name more than one candidate for each such position. No nomination by petition shall be valid unless (1) it is timely filed with the Secretary of the Exchange, (2) it is signed by not less than 40 members, (3) it specifies each nominee and (4) the nominee is eligible for the office for which he or she is nominated. The Secretary of the Exchange shall promptly report to the Amex Nominating and Corporate Governance Committee, the names of all persons nominated by timely petition. In the event that any question is raised as to the validity of the signatures set forth on any petition or whether any candidate meets the criteria for the appropriate classification specifically set forth in Section 1 of Article II of this Constitution, such matter shall be determined by the Amex Nominating and Corporate Governance Committee, subject to the right of appeal to the full Board of Governors. The persons nominated by valid petition shall be deemed nominees for the offices and positions set forth in such petition and shall be included on the ballot sent to MC by the Amex Nominating and Corporate Governance Committee. A statement of the candidates nominated by petition shall be promptly disseminated or made available to the MC members through posting or other appropriate means and shall be promptly forwarded to the Secretary of MC for mailing to the MC members in accordance with the MC By-Laws.

Adopted.

[_____, 2004].

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

Adopted.

[_____, 2004].

ARTICLE IV

MEMBERSHIP

Section 1. Admission to Membership.

(a) Number of Regular Memberships.

(1) Regular ~~[membership]~~Membership. There shall be up to ~~[864]~~834 regular memberships~~[in the Exchange, inclusive of any regular memberships created through the options principal membership upgrade program]~~. The number of regular memberships shall be increased only if the Board of Governors requests ~~[The Amex Corporation]~~MC to issue additional regular memberships. Any such issuance of additional regular memberships shall require the ~~[approval]~~consent of ~~[a majority of]~~MC, as the ~~[regular]~~Class A Interestholder, in accordance with the terms of the Second Amended and ~~[options principal members voting together as a single class at a meeting called for the purpose]~~Restated Certificate of ~~[considering the request that new regular memberships be issued]~~Incorporation of MC.

(2) Requirements. Every applicant for regular membership must be at least the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business. An application for regular membership shall be in writing and shall be in such form, and contain such information, as the Exchange may from time to time prescribe. No person may be admitted to regular membership unless his application is approved by the Exchange in accordance with the provisions of Section 1(g) of this Article IV.~~[Nothing in the Constitution shall be construed to prohibit NASD Market Holding Company from holding a regular membership.]~~

(3) Signing Constitution. No person whose application for regular membership has been approved by the Exchange shall be admitted to the privileges thereof until he shall have signed the Constitution of the Exchange. By such signature he pledges himself to abide by the Constitution as the same has been or shall be from time to time amended and by all rules and regulations adopted pursuant to the Constitution and all regulations, orders, directives or decisions adopted or made in accordance therewith. In addition, any regular member or lessee of a regular membership, by exercising any of the rights inherent in a regular trading right, shall be deemed to have pledged himself, as though he had signed the Constitution, to abide by the Constitution as the same has been or shall be from time to time amended and by all rules and regulations adopted pursuant to the Constitution and all regulations, orders, directives or decisions adopted or made in accordance therewith.

(b) Number of Options Principal Memberships.

(1) Options [principal membership]Principal Membership. There shall be [203]30 options principal[memberships in the Exchange, but this number shall be reduced by the number of options principal memberships upgraded to regular] memberships. The number of options principal memberships shall be increased only if the Board of Governors requests [The Amex Corporation]MC to issue additional options principal memberships. Any such issuance of additional options principal memberships shall require the [approval]consent of [a majority of]MC, as the [regular]Class A Interestholder, in accordance with the terms of the Second Amended and [options principal members voting together as a single class at a meeting called for the purpose]Restated Certificate of [considering the request that additional options principal memberships be issued]Incorporation of MC.

(2) Requirements. An applicant for options principal membership must be at least the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business. An application for options principal membership shall be in writing and shall be in such form, and contain such information, as the Exchange may from time to time prescribe. Such applicant must agree that his primary occupation will be the transaction of business in options as principal on the Floor of the Exchange. No person may be admitted to options principal membership unless his application is approved by the Exchange in accordance with the provisions of Section 1(g) of this Article IV.[Nothing in this Constitution shall be construed to prohibit NASD Market Holding Company from holding an options principal membership.]

(3) Signing Constitution. No person whose application for options principal membership has been approved by the Exchange shall be admitted to the privileges thereof until he shall have signed the Constitution of the Exchange. By such signature he pledges himself to abide by the Constitution as the same has been or shall be from time to time amended and by all rules and regulations adopted pursuant to the Constitution and all regulations, orders, directives or decisions adopted or made in accordance therewith. In addition, any options principal member or lessee of an options principal membership, by exercising any of the rights inherent in an options principal trading right, shall be deemed to have pledged himself, as though he had signed the Constitution, to abide by the Constitution as the same has been or shall be from time to time amended and by all rules and regulations adopted pursuant to the Constitution and all regulations, orders, directives or decisions adopted or made in accordance therewith.

(4) Rights. An options principal member and the member organization with which he is associated shall have such rights and privileges and shall be subject to such obligations and duties as may be prescribed under the Constitution as the same has been or shall be from time to time amended and the rules and regulations adopted in accordance therewith.

(5) Directory. The names of options principal members and the member organizations with which they are associated shall be listed in any membership directory of the Exchange under the heading “Options Principal Members”.

(c) Allied Membership. [Allied membership —]Any person not a regular, options principal or associate member of the Exchange, shall upon approval by the Exchange become an allied member of the Exchange by pledging himself to abide by the Constitution as it has been or shall be from time to time amended, and by all rules adopted pursuant to the Constitution, and by becoming either:

(1) a general partner in a regular, options principal or associate member firm or an employee who controls such member firm;

(2) an employee of a regular, options principal or associate member corporation who is either: ([1]i)a person who controls such corporation, or ([2]ii)a principal executive officer of such member corporation;

(3) a trustee of a regular or options principal member organization which is a pension plan or an employee who controls such organization; or

(4) an employee of any other entity permitted by the Exchange to become a member organization who controls such organization.

Such pledge to abide by the Constitution and rules shall be made by written instrument filed with the Exchange in which the signer pledges himself as aforesaid.

Any person who becomes an allied member shall have all the rights and privileges and shall be under all the duties and obligations of an allied member of the Exchange in accordance with the Constitution.

An allied membership shall not be transferable.

When an allied member dies or is expelled, his allied membership shall terminate.

When an allied member ceases or fails to meet the requirements of an allied member in his member organization, as provided above, and does not forthwith qualify as an allied member in a member organization continuing the business of the first member organization, his allied membership shall terminate.

An allied member may go upon the Floor of the Exchange but shall have no right to effect securities transaction thereon except as provided in Section 3 of this Article IV.

When the Treasurer shall report to the Chief Executive Officer of the Board of Governors that an allied member has neglected to pay a fine for thirty days

after the fine became payable, the allied membership of such allied member shall terminate, unless the Exchange shall have granted the extension of time for payment of such fine.

(d) Associate [Membership. Associate]membership[—]._ The number of associate members shall be such as may be determined by the Board of Governors from time to time. Any person not less than the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business either as a partner of a firm or as a director or executive officer of a corporation may make application for associate membership.

An application for associate membership shall be in writing and shall be in such form, and contain such information, as the Exchange may from time to time prescribe. No person may be admitted to associate membership unless his application is approved by the Exchange, in accordance with the provisions of Section 1(g) of this Article IV. Any person admitted to associate membership in the American Stock Exchange LLC prior to September 4, 1962, as an individual or as a partner of a firm shall remain an associate member only so long as he is actively engaged in the business of buying and selling securities as broker or dealer. Any person admitted to associate membership in the Exchange or in the American Stock Exchange LLC after September 4, 1962, as a partner of a firm shall remain an associate member only so long as he remains a partner of such firm or of another firm continuing the business of the first firm or a director or executive officer of a corporation continuing the business of the first firm. Any person admitted to associate membership in the Exchange or in the American Stock Exchange LLC, whether before or after September 4, 1962, as a director or executive officer of a corporation shall remain an associate member only so long as he remains a director or executive officer of such corporation or of another corporation continuing the business of the first corporation.

An associate member and the member firm or member corporation of which he is a partner or a director or executive officer shall have such rights and privileges, as may, from time to time, be prescribed by the Board of Governors. Where an associate member and partner or director or executive officer of a member firm or corporation ceases to be such a partner, director or officer of such firm or corporation such firm or corporation may, within thirty days following such death, retirement and resignation or termination of office or within such further time as the Exchange may authorize, nominate for associate membership a general partner in such firm or a director or executive officer of such corporation. In the event of the death of an associate member partner, director or executive officer, the Exchange may authorize the firm in which he was a partner or the corporation in which he was a director or executive officer to have the status of a temporary associate member firm or a temporary associate member corporation, as the case may be, for a period of thirty days from the date of such death or for such further time as the Exchange shall determine, and upon such conditions as the Exchange may fix, and the Exchange may at any time during such period withdraw such authorization in which event such status shall terminate.

Associate members for whom the Exchange is the Designated Examining Authority shall be required to pay an annual membership fee as set forth in Article VII, Section 1 herein and, upon payment of the optional annual electronic access fee shall be entitled, while such member remains in good standing, to maintain electronic access to (i) the PER/AMOS system of the Exchange, and (ii) such other automated systems of the Exchange as the Board of Governors may from time to time determine. Effective August 7, 2000, all new associate members shall be required to pay the annual electronic access fee as well as the monthly and/or annual fees.

Visiting Floor

An associate member may, if accompanied by a regular member, visit the Floor of the Exchange but shall not have the privilege of transacting business thereon.

(e) **Exchange Liability.** Except insofar as the Board of Governors may specifically provide by rule with respect to Exchange facilities which implement the electronic transmission of orders for the purchase or sale of securities traded on the Exchange to the Floor of the Exchange or between the Floor of the Exchange and other markets, neither the Exchange nor any of its affiliates nor any of its or their respective officers, [governors]Governors, committee members, employees or agents shall be liable to a member of the Exchange, a member organization, or a person associated with a member or a member organization for any loss, expense, damages or claims that arise out of the use or enjoyment of the facilities or services afforded by the Exchange, any interruption in or failure or unavailability of any such facilities or services, or any action taken or omitted to be taken in respect to the business of the Exchange except to the extent such loss, expense, damages or claims are attributable to the willful misconduct, gross negligence, bad faith or fraudulent or criminal acts of the Exchange or its officers, employees or agent acting within the scope of their authority.

(f) **Initiation Fee.** No person shall be approved for regular, options principal or associate membership or admitted to the privileges thereof until the Exchange shall have received the initiation fee, and, in the case of associate members, the fee for electronic access to Exchange systems as provided in Article IV, Section 1(d) and the monthly and/or annual membership fee, required by Article VII, Section 1(e).

(g) **Approval of Membership Matters.** Whenever pursuant to any of the provisions of this Section[1,] 1 of Article IV, the approval, consent, permission, authorization or waiver of the Exchange is required, such approval, consent, permission, authorization or waiver may be granted by the Chairman or by any officer or employee of the Exchange to whom the Chairman has delegated such authority; except that no person who has been expelled from the Exchange or has been declared ineligible for reinstatement pursuant to Section 5(c) of this Article IV, may be readmitted as a regular[,] or options principal, allied or associate member unless approved by the Board of Governors. If the Chairman or any such officer or employee shall refuse to grant such approval, consent, permission, authorization or waiver, the person or persons affected thereby shall have the right to a hearing on the matter before a committee authorized by

the Board of Governors. Such committee shall have the authority to affirm or reverse the decision of the Chairman or of such duly authorized officer or employee, or to modify such decision or impose such conditions as it shall deem appropriate, and the decision of the committee shall be final and conclusive.

(h) Limited Trading Permits.

(1) There shall be a maximum of ten limited trading permits. Limited trading permits shall expire on May 14 in each year unless renewed by the holder thereof for such fee as may be established from time to time by the Board of Governors, which fee shall be not less than \$2,000 nor more than \$5,000 per annum.

(2) Requirements for Issuance. A limited trading permit holder must: (i) be at least the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business; (ii) agree that his primary occupation will be the transaction of business on the Floor of the Exchange in his capacity as a permit holder; and (iii) meet such other qualifications as may be specified in the plan approved by the regular members of the Exchange providing for the offering of such limited trading permits. Applications must be approved by the Exchange in accordance with the provisions of Section 1(g) of this Article IV.

No person whose application for a permit has been approved by the Exchange shall be admitted to the privileges thereof until he shall have signed the Constitution of the Exchange. By such signature he shall pledge himself to abide by the Constitution as the same has been or shall be from time to time amended and by all rules, regulations, requirements, orders, directions or decisions adopted or made in accordance therewith.

(3) Rights and Obligations. A limited trading permit holder may execute on the Floor of the Exchange transactions in options and other derivative products initiated by him for his own account and may give orders in options and other derivative products for his own account to regular members for execution provided, however, that a limited trading permit holder may not trade in individual stock options listed on the Exchange.

A limited trading permit holder may not execute agency transactions on the Floor either for customers or for regular, associate, allied or options principal members or other permit holders, may not be registered as a specialist, may not execute on the Exchange any orders, whether as agent or principal, in stocks, warrants, bonds or other securities (except principal transactions in options and other derivative products as described above) and may not accept any orders from his member organization for execution.

Derivative products shall have the meaning described in Section 3(d) of Article I.

A limited trading permit holder shall not be entitled to vote in any election or on any amendment to the Constitution or on any other matter, to participate in the Gratuity Fund provided for in Article IX of the Constitution, to share in any distribution of the assets or funds of the Exchange in the event of any voluntary or involuntary final liquidation, dissolution, or winding up of the affairs of the Exchange, or to serve as a Governor of the Exchange. Except as provided above, a limited trading permit holder shall be considered a member of the Exchange for all purposes, and shall be subject to such obligations and duties (including the payment of dues, initiation fees and other fees and charges of the Exchange) as may be imposed on members by the Constitution as the same has been or shall be from time to time amended and by all rules, regulations, requirements, orders, directions and decisions adopted or made in accordance therewith. (To implement this provision, all provisions of the Constitution and the rules, regulations, requirements, orders, directions and decisions adopted or made in accordance therewith which by their terms are applicable to regular and options principal members shall be deemed to also apply to and include limited trading permit holders unless the application thereof shall be inconsistent with the specific provisions of this subsection (h) or unless the context shall otherwise require.)

A limited trading permit may be transferred in the same manner and subject to the same terms and conditions as those applicable to the transfer of an options principal membership. Without limiting the foregoing, a limited trading permit may be leased pursuant to a special transfer agreement as provided in Section 4(b) of this Article IV. The transferee of a limited trading permit shall be subject to payment of an initiation fee equal to that payable by transferees of an options principal membership.

An individual limited trading permit holder who is associated with a broker-dealer shall qualify such broker-dealer as a member organization of the Exchange. If the limited trading permit pursuant to which a member organization is thus qualified shall expire as provided in paragraph (1) of this subsection (h) such organization shall cease to be a member organization of the Exchange, unless a person who is a regular, [associate or]options principal or associate member becomes associated therewith. Upon the expiration of a limited trading permit as provided in paragraph (1) of this subsection (h), all rights and privileges granted pursuant hereto shall terminate.

(i) [Class C Trading Rights.][Reserved.] [For a period of five years beginning on the closing date of the Transaction Agreement, Class C Trading Rights may be issued to qualified individuals or organizations who are instrumental in obtaining new listings of securities admitted to dealings on the Exchange that are judged by the Exchange to constitute demonstrable product. The holder of a Class C Trading Right may be registered as a specialist in any such newly listed security, but may not be registered as a specialist in any other securities on the Exchange and may not operate a joint book with a regular member. The Board of Governors shall determine when and to

whom to issue Class C Trading Rights and shall further determine the fees, dues, and other charges applicable to Class C Trading Right holders. Each Class C Trading Right shall expire three years after the date of its issuance, or at the end of the five-year period referred to above, whichever first occurs, and no more than 25 Class C Trading Rights shall be outstanding at any time.]

[A Class C Trading Right shall not entitle the holder (i) to vote in any election, (ii) to participate in the Gratuity Fund provided for in Article IX of the Constitution, (iii) to share in any distribution of the assets or funds of the Exchange in the event of any voluntary or involuntary final liquidation, dissolution, or winding up of the affairs of the Exchange, or (iv) to serve as a Governor of the Exchange. Except as provided above, a Class C Trading Right holder shall be considered a member of the Exchange for all purposes, and shall be subject to such obligations and duties as may be imposed on members by the Constitution as the same has been or shall be from time to time amended and by all rules, regulations, requirements, orders, directions and decisions adopted or made in accordance therewith. (To implement this provision, all provisions of the Constitution and the rules, regulations, requirements, orders, directions and decisions adopted or made in accordance therewith which by their terms are applicable to regular and options principal members shall be deemed to also apply to and include Class C Trading Right holders unless the application thereof shall be inconsistent with the specific provisions of this subsection (i) or unless the context shall otherwise require.)]

[A Class C Trading Right may not be sold, leased or otherwise transferred, provided, however, that subject to the approval of such transfer by the Exchange, a Class C Trading Right may be sold or otherwise transferred in connection with a business combination, reorganization or other transfer of all or substantially all of the assets of one member organization to another. A specialist holding a Class C Trading Right who then becomes a regular member shall be deemed to have continued his registration as specialist in the securities allocated to him without any need for reallocation thereof.]

[A Class C Trading Right holder must be at least the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business. No person whose application for a Class C Trading Permit has been approved by the Exchange shall be admitted to the privileges thereof until he shall have signed the Constitution of the Exchange. By such signature he shall pledge himself to abide by the Constitution as the same has been or shall be from time to time amended and by all rules, regulations, requirements, orders, directions or decisions adopted or made in accordance therewith.]

(j) New Trading Rights. The Board of Governors shall not authorize the issuance of any new forms of trading privileges not provided for in this Constitution, or grant materially new rights to the holders of existing privileges, without first obtaining the consent of [The Amex Corporation]MC in accordance with the terms

of its [amended and restated certificate]Second Restated Certificate of
[incorporation]Incorporation.

Amendments.

Adopted January 16, 1958, effective May 1, 1958.

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August 2, 1956, effective August 20, 1956.

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Amended April 13, 2000.

Amended September 11, 2000.

Amended September 19, 2000.

Amended _____, 2004.

Section 2. Members, Member Organizations and Membership
Owners.

(a) Approval of Organizations. No partnership, corporation, pension trust, or other entity shall become or remain a member organization and no person associated with an organization shall become or remain an allied member or approved person unless such organization, allied member or approved person meets and continues to meet the standards prescribed in the Constitution and rules of the Exchange.

(b) Approval of Members and Persons Associated with Member Organizations. Without the prior approval of the Exchange, in order to protect investors and the public interest or to facilitate the administration of the Exchange, no member shall be associated with a member organization unless all members associated with and approved persons of such member organization who are required to be approved by the Exchange are so approved.

(c) Member Limited to One Member Organization. Except as may be permitted by a Rule adopted by the Board of Governors or otherwise specifically permitted by the Board of Governors, no party shall at the same time be a member in more than one member organization.

(d) Conditions of Approval of Member Organizations. The Exchange shall not approve an organization as a regular or options principal member organization unless the organization transacts business as a broker or dealer in securities, and:

(1) The organization owns a regular or options principal membership or a regular or options principal member of the Exchange is associated with the organization;

(2) [(i) in the case of a partnership, every general partner in the firm is a regular, options principal or allied member of the Exchange, or

(ii) in the case of a corporation, every director of such corporation is a member, allied member or [an] approved person, or

(iii) in the case of a trust, it owns a membership and is a pension plan of an active member of the Exchange, and is approved by the Exchange in accordance with its rules;

(3) every party required by the Exchange to be an allied member or approved person of the organization has qualified as such; and

(4) the organization complies with such additional requirements as the rules of the Exchange may prescribe.

(e) The Exchange shall not approve a corporation as an associate member organization unless at least one of the directors or executive officers of the corporation is an associate member of the Exchange, and it satisfies the requirements specified in Sections 2(d)(2)(ii), (3) and (4) of this Article.

(f) Withdrawal of Approval of Member Organizations. Approval of a member organization shall be withdrawn if the Exchange shall determine any of the conditions for approval contained in subsections (e) and (f) hereof ceases to be maintained. The Exchange may withdraw approval of a member organization if such organization violates any of its, or any member or approved person in such organization

violates any of his, agreements with the Exchange, or if such organization fails to comply with all the provisions of the Constitution of the Exchange and the rules of the Board of Governors and the requirements and practices of the Exchange as the same may be amended from time to time.

(g) Approval Revocable. The approval of an organization as a member organization or the approval of a party as an approved person constitutes only a revocable privilege and confers on the organization or party no right or interest of any nature whatsoever to continue as a member organization or approved person.

(h) Withdrawal of Approval of Certain Stockholders. Whenever a party who is required to be approved by the Exchange as a member or approved person fails or ceases to be so approved, each member corporation shall promptly redeem or convert to a fixed income security such of its outstanding voting stock as may be necessary to reduce such party's ownership of voting stock in the member corporation below that level which enables such party to exercise controlling influence over the management or policies of such member corporation.

(i) Non-Voting Common Stock. No member corporation shall issue any publicly held security in the form of non-voting common stock unless the Exchange determines that the non-voting common stock has normal and appropriate preferences which entitle it to be regarded as preferred stock.

(j) Approved Persons. Any person who comes within the definition of "approved person" as set forth in Article I of this Constitution shall upon approval by the Exchange become an approved person by filing such applications and executing such agreements with the Exchange as the Exchange may from time to time by rule prescribe.

(k) Location. Every member organization shall be created or organized under the laws of, and shall maintain its principal place of business in, the United States or any State thereof.

(l) Registered Address. Every member and member organization shall register with the Exchange an address and subsequent changes thereof where notices may be served. Any notice mailed to a member or member organization at the last address registered at the Exchange shall be presumed to have been received by such member or member organization.

(m) Offices. Members and member organizations may, with the consent of the Exchange, establish offices other than main offices. Such offices shall be in the charge of a partner, manager, trustee, or officer approved by the Exchange. All offices of members and member organizations shall be subject to such rules as may be prescribed from time to time by the Board of Governors. The provisions of this subsection shall not apply to members and member organizations of the Exchange who are members or member organizations of another exchange, which exchange has

comparable rules or regulations to which such members or member organizations are subject and comply, unless the Board of Governors shall so direct.

(n) Employees and Officers. The Exchange may require at any time that the name, remuneration, term of employment and actual duties of any employee of a member of the Exchange or of a member organization or any officer of a member corporation shall be stated to the Exchange, together with such other information with respect to such employee or officer as the Exchange may deem requisite, and it may require that no branch office manager, senior customers' man, junior customers' man, service man, securities salesman, securities trader or traveling representative shall be employed by a member of the Exchange or a member organization without the prior approval of the Exchange. The Exchange may disapprove the employment, remuneration or term of employment of any employee or officer or require the termination of employment of any employee or officer.

(o) Written Notification of Proposed Acts. A member or the owner of a membership shall promptly notify the Exchange in writing if he or it intends to enter into or to terminate a special transfer agreement, or if he or it intends to designate or terminate the designation of a nominee. A member shall promptly notify the Exchange in writing if he intends to organize a member organization or to qualify an organization as a member organization, or if he intends to become associated with an associate member organization, or if his regular or options principal member organization intends to permit another person to become a member or an approved person of such member organization. Upon receipt of such notification, the Secretary [shall post on the Bulletin Board in]of the Exchange shall disseminate or make available to the members by posting or other appropriate means for such period as the Board of Governors may determine: the name of the member or membership owner intending to enter into or to terminate a special transfer agreement and the name of the person to whom such membership will be transferred; the name of the member or membership owner intending to designate or terminate the designation of a nominee and the name of the proposed nominee or an indication that the membership is reverting to the owner; or the names of all proposed members and all proposed approved persons of such regular or options principal member organization.

(p) Assignment of Membership or Interest in Member Organization. No person shall assign or in any way encumber a membership in the Exchange without the prior approval of the Exchange.

(q) Submission of Information as to Proposed Changes. If a member intends to enter into a partnership agreement or to alter the terms of an existing partnership agreement, or if a member corporation with which a member is associated intends to amend its certificate of incorporation or its by-laws, such member shall submit such papers and information relating to such agreement or change as the Exchange may require.

(r) Retirement from Member Organization. A member who is associated with a member organization shall give or cause to be given, to the Exchange

prompt notice of the retirement of any member from his member organization or of the dissolution of such member organization.

(s) Number of Partners. No member shall conduct business under a firm name unless he is associated with a partnership and no member shall be associated with a member firm doing business with the public unless such member firm has at least two general partners who are active in the business; provided, however, that if by death or otherwise a member firm is reduced to one general partner, such general partner may continue business under the firm name for such period as may be allowed by the Exchange.

(t) Suspended Members, etc. A member shall not become associated with a suspended member of the Exchange, a person who has been expelled therefrom, an insolvent person, a minor, or a person who may have previously been a member of the Exchange and against whom a member holds a claim arising out of transactions made during the time of such membership which has not been released or settled.

(u) Continuing Relationship of Member or Member Organization with Suspended Member or Person Expelled from Exchange. Except with the consent of the Exchange and subject to such conditions as it may impose, no member shall continue to be a member of the Exchange if he permits to remain associated in any manner with him or his member organization a person who has been expelled from membership in the Exchange and no member shall continue to be a member of the Exchange if he permits a person who is suspended from membership in the Exchange pursuant to Section 4 of Article V to participate in the profits of or to act in any capacity for him or his member organization during the period of such suspension.

(v) Required Vote of Exchange in Certain Cases. Whenever pursuant to any of the foregoing provisions of this Section 2, the approval, consent, permission, authorization or waiver of the Exchange is required, the provisions of Section 1(g) of this Article IV shall be applicable to the granting of such approval, consent, permission, authorization or waiver.

Amendments.

Amended March 18, 1954.

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Amended [_____, 2004].

Section 3. Member Representation.

(a) Governor and Exchange Official Representatives. The Exchange may authorize an employee of any regular or options principal member [governor]Governor or regular or options principal member Exchange Official who spends a substantial part of his time on the Floor of the Exchange, or an allied member associated with or an employee of the member or member organization with which such [governor]Governor or such Exchange Official is associated, to exercise the privilege of transacting on the Floor the business of such [governor]Governor or such Exchange Official or of the member or member organization with which such [governor]Governor or such Exchange Official is associated, during such time as such [governor]Governor is engaged in Exchange business or such Exchange Official is present at a meeting of the Board of Governors[of the Exchange].

(b) Temporary Representatives. A regular or options principal member may, with the approval of the Exchange, designate another member of the same category as his representative to execute his orders or the orders of his organization with which he is associated, during his absence from the Floor on Exchange business.

(c) Representation While Engaged in Military or Naval Service or in Public Program for Defense of U.S. The Exchange may authorize an allied member or an employee of a regular or options principal member or an employee of a regular or options principal member organization with which such regular or options principal member is associated, to exercise the privilege of transacting on the Floor of the Exchange the business of such regular or options principal member or of the member organization with which such regular or options principal member is associated, during such time as such regular or options principal member is actively engaged in any military, naval or other public service incident to the defense of the United States or of any nation which is a belligerent against one or more of the enemies of the United States.

(d) Representation While Engaged in Military or Naval Training Service. The Exchange may authorize an allied member or an employee of a regular or options principal member or an employee of a regular or options principal member organization with which such regular or options principal member is associated,

to exercise the privilege of transacting on the Floor of the Exchange the business of such regular or options principal member or of the organization with which such regular or options principal member is associated, during such time, not exceeding thirty days in any calendar year, as such regular or options principal member is participating in camp or cruise duty or other military or naval training service as an officer or in the enlisted personnel of the Army, Navy, Coast Guard or Air Force of the United States, or the Guard, militia or other military establishment of any State.

(e) Interim Member Representatives. The owner of a regular or options principal membership may designate one or more persons approved by the Exchange, subject to and in accordance with such rules as may be adopted from time to time by the Board of Governors, as interim members to represent him or it with respect to such membership during specified periods of time, when the member is absent from the Trading Floor. Upon payment of the flat allocation fee, pursuant to Article VII, [Section]Sec. 1(g) of the Exchange Constitution, and submission of the appropriate form to the Membership Services Department, an interim will become effective. Contracts made on the Trading Floor of the Exchange by an interim member shall be considered contracts made by the active member or member organization, and such active member or member organization shall be responsible therefor. Such active member or member organization shall also be responsible for all obligations to the Exchange and all obligations to other members or member organizations resulting from Exchange transactions or transactions in other securities transacted by the interim member. The Exchange will require prior written approval of interim members by lessor.

The owner of the membership, rather than the interim member, shall be deemed to be the regular or options principal member, as the case may be, for purposes of participating in any distribution of the assets and funds of the Exchange, in the event of any voluntary or involuntary final liquidation, dissolution or winding up of the affairs of the Exchange. The owner of the membership and/or active member, rather than an interim member, shall be the "Participant", as defined in Article IX of the Exchange Constitution, in the Gratuity Fund, and entitled to the benefits described therein.

(f) Withdrawal of Authorization. The Exchange may at any time withdraw any authorization given pursuant to this Section and the death of the regular or options principal member shall cancel such authorization.

(g) Contracts by Representatives. Contracts made on the Floor of the Exchange by any such representative authorized pursuant to this Section shall be considered contracts made by the regular or options principal member represented by such representative or employee or by the member organization with which such regular or options principal member is associated.

Amendments.

Amended January 16, 1958, effective May 1, 1958.

Amended effective September 4, 1962.

Amended December 14, 1977.

Amended April 19, 1978.

Amended January 19, 1983.
Amended February 16, 1983.
Amended May 16, 1995.
Amended October 30, 1998.
Amended July 7, 2000.
Amended [_____], 2004].

Section 4. Transfer of Membership.

(a) Charges Pending. Unless approved by the Exchange no member or owner of a membership may sell or transfer his or its membership, nor may any regular member, options principal member, allied member or associate member resign from the Exchange, nor shall the membership of any allied member terminate as provided in Section 1(c) of this Article while charges [preferred]brought by the Exchange in accordance with the Constitution and rules are pending against him or it, or before acceptance of his or its written resignation by the Exchange.

Unless approved by the Exchange, no owner of a regular or options principal membership shall transfer his or its membership pursuant to a special transfer agreement, or designate a nominee or interim member with respect to the membership pursuant to paragraph (b)(2) of this Section and paragraph (e) of Section 3, while charges are pending against him or it or while he or the member organization with which he is associated is suspended from membership.

(b) Special Transfer and Designation of Nominee.

(1) The owner of a regular or options principal membership may lease such membership pursuant to a special transfer agreement to a person approved by the Exchange, subject to and in accordance with such rules as may be adopted from time to time by the Board of Governors. During the term of such lease, the lessee, for all purposes of the Constitution and the Rules thereunder, shall be the regular or options principal member of the Exchange, as the case may be, except for the purpose of participating in any distribution of the assets and funds of the Exchange in the event of any voluntary or involuntary final liquidation, dissolution or winding up of the affairs of the Exchange, the lessor rather than the lessee shall be deemed to be the regular or options principal member, as the case may be. The lease of a membership as provided herein shall be deemed to be a transfer of such membership for the purposes of this Article IV and the reversion of such membership to the lessor at the termination of any such lease shall also be deemed such a transfer. [Pursuant to Article III, Section 8(a), in]In the case of a membership subject to a special transfer agreement, the lessor or the lessee, as specified in the special transfer agreement, shall exercise all voting rights with respect to the membership, and if no specification is made therein, the lessee shall exercise all voting rights.

(2) The owner of a regular or options principal membership may designate a person approved by the Exchange, subject to and in

accordance with such rules as may be adopted from time to time by the Board of Governors, as a nominee to represent him or it with respect to such membership. As long as a nominee remains authorized, the nominee, for all purposes of the Constitution and the rules thereunder, shall be the regular or options principal member of the Exchange, as the case may be, except for the purpose of participating in any distribution of the assets and funds of the Exchange in the event of any voluntary or involuntary final liquidation, dissolution or winding up of the affairs of the Exchange, the owner of the membership rather than the nominee shall be deemed to be the regular or options principal member, as the case may be. The designation of a nominee as provided herein shall be deemed to be a transfer of such membership for the purposes of this Article IV and the termination of such designation and reversion of such membership to the owner shall also be deemed to be a transfer. [Pursuant to Article III, Section 8(a), in] In the case of a membership for which a nominee has been designated, the owner of the membership shall exercise all voting rights with respect to the membership.

(c) Election of Transferee. A transfer of a regular or options principal membership, other than a transfer to a trustee or to the Exchange pursuant to Section 7 of this Article, may be made upon the approval of the candidate by the Exchange. Notice of the proposed transfer shall be [posted on]disseminated or made available to the [Bulletin Board in the Exchange for]members through posting or other appropriate means at least seven days prior to transfer.

(d) Contracts Pending Transfer. A regular or options principal member proposing to transfer his membership to an applicant for membership shall not, pending action by the Exchange on the proposed transfer, after the third day of the posting of notice of the proposed transfer make any contract on the Exchange, unless the contract is expressly made on behalf of another member of the Exchange or on behalf of a member organization which shall continue to be a member organization notwithstanding the completion of such transfer. No contract made after the third day by a member proposing to transfer his membership or by the member organization with which he is associated shall, if the transfer is approved by the Exchange, be the basis of a claim against the proceeds of the transfer thereof under this Section, but may, if the transfer is to another person associated with the same member organization, constitute the basis of a claim under this Section against the proceeds of the subsequent transfer of such membership by the person to whom it is transferred.

Closing Contracts. On the seventh day after the posting of notice of a proposed transfer of a regular or options principal membership, all Exchange contracts of the member proposing to make the transfer or of his member organization shall mature and, if not settled, shall be closed out as in the case of an insolvency, unless the same are assumed or taken over by another member or member organization.

Transfer by Board. Notice of a transfer of a regular or options principal membership to be made by the Board of Governors, pursuant to the provisions of the Constitution, shall be posted as in the case of a voluntary transfer, and shall have the

same effect with respect to open contracts and unmatured debts and obligations of the former member as in the case of a voluntary transfer.

(e) Distribution of Proceeds. Upon any transfer of a regular or options principal membership, whether made by a regular or options principal member or owner of a membership or his or its legal representatives, voluntarily or by the Board of Governors in pursuance of the provisions of the Constitution, the proceeds thereof shall be applied to the following purposes and in the following order of priority.

FIRST: EXCHANGE CHARGES. THE PAYMENT OF SUCH DUES, FINES, ASSESSMENTS, CONTRIBUTIONS TO THE GRATUITY FUND AND CHARGES AS THE EXCHANGE SHALL DETERMINE ARE OR MAY BECOME DUE TO THE EXCHANGE BY THE MEMBER WHOSE MEMBERSHIP IS BEING TRANSFERRED OR BY THE OWNER OF THE MEMBERSHIP BEING TRANSFERRED OR BY THE MEMBER ORGANIZATION WITH WHICH SUCH MEMBER IS ASSOCIATED.

SECOND: CLAIMS OF REGULAR OR OPTIONS PRINCIPAL MEMBERS OR MEMBER ORGANIZATIONS. THE PAYMENT TO CREDITORS WHO ARE REGULAR OR OPTIONS PRINCIPAL MEMBERS OF THE EXCHANGE OR REGULAR OR OPTIONS PRINCIPAL MEMBER ORGANIZATIONS OF ALL FILED CLAIMS TO THE EXTENT THAT THE SAME SHALL HAVE BEEN DETERMINED BY THE EXCHANGE TO HAVE ARISEN OUT OF CONTRACTS MADE BETWEEN THE PARTIES THERETO AND SHALL HAVE BEEN ALLOWED BY THE EXCHANGE, IN THE FOLLOWING ORDER OF PRIORITY:

(1) Floor Contracts. Claims arising in the ordinary course of business from Exchange Contracts for the purchase, sale, borrowing or loaning of securities entered into on the Floor of the Exchange.

(2) Other Ordinary Business Contracts. Claims arising from Exchange Contracts entered into in the ordinary course of business other than those included in the preceding paragraph.

(3) Other Business Contracts. Claims arising from Exchange Contracts other than those included in the two preceding paragraphs, except those made for nonbusiness purposes.

(4) Contracts Under Rules of Another Exchange. Claims arising from members' contracts made subject to the rules of another exchange.

Pro Rata Distribution. If the proceeds of the transfer of a regular or options principal membership are insufficient to pay all filed claims allowed by the Exchange to creditors who are regular or options principal members of the Exchange or regular or options principal member organizations, then insofar as possible each class of

said claims shall be paid in full in the foregoing order of priority, and whenever said proceeds are insufficient to pay in full all claims in any class the claims in such class shall be paid pro rata except as provided in this Section.

Unmatured Contracts. All contracts which do not, pursuant to this Section, mature by reason of the transfer of the membership may for the purposes hereof be treated as though they had so matured and the amount due thereon may be fixed and determined by the Exchange on the basis of market values, or such other basis as shall be deemed fair and just by the Exchange.

Contingent Claims. If a claim based on a contract is contingent, or if the amount that will be ultimately due thereon cannot for any reason be immediately ascertained and determined, the Exchange may out of the proceeds of the sale of the membership reserve and retain such amount as it may deem appropriate pending the determination of the amount due on such claim.

Collateral. A claim shall be allowed by the Exchange only for the amount due thereon after the proceeds of the sale of all collateral held therefor, or the fair value of such collateral as determined by the Exchange, has been credited thereon, and the Exchange may require that any such collateral shall be disposed of before passing on the claim.

Determination of Claims. Following the transfer of a membership, as provided in this Section, the former member or owner of the membership against which claims shall have been filed shall have no right to the proceeds of the sale of said membership, or to the balance thereof, until a reasonable time has elapsed in which the Exchange may consider said claims. The opinion of the Exchange as to what time shall be reasonable in the circumstances shall be conclusive on the former member or owner of the membership and on the claimants against the said proceeds.

THIRD: SURPLUS AFTER CLAIMS. THE SURPLUS, IF ANY, OF THE PROCEEDS OF THE TRANSFER OF A REGULAR OR OPTIONS PRINCIPAL MEMBERSHIP SHALL BE PAID TO THE OWNER OF THE MEMBERSHIP TRANSFERRED, OR TO HIS OR ITS LEGAL REPRESENTATIVES, UPON THE EXECUTION BY HIM OR THEM OF A RELEASE OR RELEASES SATISFACTORY TO THE EXCHANGE, UNLESS THE EXCHANGE SHALL DETERMINE EITHER (A) THAT THE PROTECTION OF THE CREDITORS OF THE MEMBER ORGANIZATION OR FORMER MEMBER ORGANIZATION WITH WHICH THE MEMBER IS OR WAS LAST ASSOCIATED REQUIRES THE USE OF SAID SURPLUS, OR ANY PART THEREOF, OR (B) THAT SAID OWNER HAS EXPRESSLY AGREED THAT SAID SURPLUS SHALL BE PAID TO SUCH ORGANIZATION, IN EITHER OF WHICH EVENTS SAID SURPLUS SHALL BE PAID OVER TO SUCH ORGANIZATION UPON THE EXECUTION BY SAID MEMBER OR SUCH ORGANIZATION OF A RELEASE OR RELEASES SATISFACTORY TO THE EXCHANGE.

(f) **Filing Claims.** A regular or options principal member of the Exchange, or a regular or options principal member organization, shall forfeit all right under this Section to share in the proceeds of a regular or options principal membership which has been transferred, unless such member or member organization files a statement of his or its claim with the Secretary of the Exchange prior to the expiration of the seven-day posting period; but such tardy claim, if and as allowed by the Exchange, may be paid out of any surplus remaining after all other claims allowed by the Exchange have been paid in full, and may be paid in preference to claims referred to in subsection (g) of this Section not already paid when it is filed.

(g) **Intra-Partnership or Intra-Corporation Claims.** Claims growing out of business transactions between the member of the Exchange whose membership is being disposed of (herein called the “retiring member”) and another person associated with the same member organization, or out of such transactions between the retiring member and the member organization with which he was associated at the time of such transactions shall not share in the proceeds of the membership of the retiring member until all other claims allowed by the Exchange have been paid in full. If the retiring member was a lessee or nominee, no such claims shall have any share whatsoever in the proceeds of the membership.

(h) **Disposal of Membership by Board of Governors.** When a regular or options principal member (other than one who is a lessee or nominee of a membership) or the owner of a membership is expelled or becomes ineligible for reinstatement, the Board of Governors shall dispose of his or its membership in the manner provided in Section 7 of this Article. When a regular or options principal member who is the lessee or nominee of a membership is expelled or becomes ineligible for reinstatement the lease, nominee or interim member designation shall terminate. When a regular or options principal member or owner of a membership dies or resigns, the Board of Governors may dispose of his or its membership in the manner provided in Section 7 of this Article, if such member or such membership is delinquent in the payment of dues, fines, charges or assessments of the Exchange or contributions to the Gratuity Fund (as provided in Article IX) for a period of ninety days.

(i) **Rights of Creditors.** The death, expulsion, suspension or registration of a regular or options principal member or owner of such membership shall not affect the rights of creditors under the provisions of this Section.

(j) **Rights of Creditor’s Estate.** When a regular or options principal member is in debt to another regular or options principal member, the death of the creditor member, or the transfer of his membership, either voluntarily or by the Board of Governors, shall not affect the rights of said creditor member, his member organization or his estate to share in the proceeds of the membership of the debtor member under this Section, in the same manner and to the same extent as if such creditor member had not died or his membership had not been transferred.

Amendments.

Amended January 16, 1958, effective May 1, 1958.

Amended effective September 4, 1962.

Amended October 25, 1972.

Amended October 7, 1974.

Amended June 2, 1977.

Amended December 12, 1977.

Amended December 14, 1977.

Amended effective December 4, 1979.

Amended May 2, 1991.

Amended May 16, 1995.

Amended October 30, 1998.

Amended July 7, 2000.

Amended [_____, 2004].

Section 5. Reinstatement.

(a) Reinstatement by Board. Every application for reinstatement by a member, member organization or owner of a membership suspended pursuant to Section 3 of Article V shall be referred to such committee as may be appointed by the Board of Governors for such purpose. A hearing shall be held by the committee with respect to such application and a record shall be kept. No application for reinstatement shall be considered with respect to a member, member organization or owner of a membership as to whom dues, fines, assessments or charges of the Exchange, or contributions to the Gratuity Fund (as provided in Article IX) are due and unpaid. If the committee shall determine to reinstate a member, member organization or owner of a membership suspended under the provisions of Section 3 of Article V, it may impose such conditions as it shall deem appropriate. If the committee shall determine not to reinstate such suspended member, member organization or owner of a membership, its determination shall be supported by a statement setting forth the specific grounds on which the application for reinstatement is denied.

(b) Reinstatement by Chief Executive Officer.
Notwithstanding the foregoing provisions of this Section 5, whenever it shall appear to the Chief Executive Officer:

(1) that a member or member organization has been suspended pursuant to subsection (a) or (b) of Section 3 of Article V, and that the conditions resulting in such suspension no longer exist or the suspension of such member or member organization by another registered national securities exchange or national securities association has been terminated by such other exchange or securities association; and

(2) that prompt reinstatement is advisable to avoid substantial loss to the public, to the Exchange or to the member or member organizations; and

(3) that it is not practicable to convene a meeting of the Board of Governors immediately to act in the matter;

the Chief Executive Officer may announce to the Exchange the reinstatement of such member or member organization. Any reinstatement pursuant to this subsection (b) shall be effective immediately, but shall be submitted to the Board of Governors as soon as reasonably practicable and unless approved by the Board of Governors such reinstatement shall forthwith terminate.

(c) Denial for Irregularities. Whenever an Exchange Disciplinary Panel shall determine that a member, member organization or owner of a membership suspended under the provisions of Section 3 of Article V, has been guilty of irregularities or unbusinesslike dealings, it may declare such member, member organization or owner of a membership ineligible for reinstatement. Any such determination shall be made only after the suspended member, member organization or owner of a membership has been given notice and an opportunity to be heard by the Disciplinary Panel in accordance with the procedures specified in Section 1(b) of Article V and such determination shall be subject to review in accordance with the provisions of paragraph (7) of said Section.

Amendments.

Amended effective September 4, 1962.

Amended effective June 8, 1964.

Amended effective November 19, 1969.

Amended June 7, 1972.

Amended October 25, 1972.

Amended October 16, 1975.

Amended June 2, 1977.

Amended effective December 4, 1979.

Amended May 16, 1995.

May 18, 1998.

October 30, 1998.

Amended May 13, 2000.

Amended [_____, 2004].

Section 6. Temporary Member Firms and Corporations.

(a) Death of Sole Regular or Options Principal Member Associated with Regular or Options Principal Member Organization. An organization which continues the business of a regular or options principal member organization following the death of the sole regular member or sole options principal member, as the case may be, who was associated with such member organization and actively engaged in the business of such organization may be granted the status of a temporary member organization for such period of time as the Exchange may determine, upon application to and approval by the Exchange.

(b) Application Requirements. The Exchange may not grant an application of a firm for the status of temporary member firm unless:

(1) Provisions of Articles of Partnership; Use and Proceeds of Membership. If the deceased regular or options principal member was a general partner in the member firm, the articles of partnership of the firm permit the continuance of the business thereof by the surviving partners; provide that the continuing firm shall be entitled to the use of the membership of such deceased member while such firm is a temporary member firm; and provide that the proceeds of such membership shall be an asset of such continuing firm, insofar as may be necessary for the protection of the creditors of such firm and subject to the Constitution and rules of the Exchange, while such firm is a temporary member firm; or

(2) Continuance in Business; Use and Proceeds of Membership. If the deceased regular or options principal member was not a general partner in the member firm, the member firm continues in business; and the deceased member shall have agreed in a writing filed with the Exchange that such member firm, if permitted by the Exchange to have the status of a temporary member firm, shall be entitled to the use of his membership while such firm is a temporary member firm; and that the proceeds of his membership shall be an asset of the firm, in so far as may be necessary for the protection of the creditors of the firm and subject to the Constitution and rules of the Exchange, while such firm is a temporary member firm; and

(3) Agreement to be Filed; Subject to Rules. The applicant firm files with the Exchange an agreement, in such form as the Exchange may prescribe, providing that such firm and each member associated with such firm while such firm is a temporary member firm, will be subject to and comply with the Constitution and rules of the Exchange to the same extent as if a regular or options principal member of the Exchange were associated therewith;

(4) Capital. The capital of the applicant firm is, in the opinion of the Exchange, adequate.

(c) Application Requirements. The Exchange may not grant an application of a corporation for the status of temporary member corporation unless:

(1) Continuance in Business. [The]the member corporation continues in business; and

(2) Use and Proceeds of Membership. [The]the deceased member shall have agreed in a writing filed with the Exchange that such member corporation, if permitted by the Exchange to have the status of a temporary member corporation, shall be entitled to the use of his membership while such corporation is a temporary member corporation; and that the proceeds of his membership shall be an asset of the corporation, insofar as may be necessary for the protection of the creditors of the corporation and subject to the Constitution and rules of the Exchange, while such corporation is a temporary member corporation; and

(3) Agreement to be Filed; Subject to Rules. [The]the applicant corporation files with the Exchange an agreement, in such form as the Exchange may prescribe, providing that such corporation and each member therein, while such corporation is a temporary member corporation, will be subject to and comply with the Constitution and rules of the Exchange to the same extent as if a regular or options principal member of the Exchange were associated with such corporation and actively engaged in the business of such corporation; and

(4) Capital. [The]the capital of the applicant corporation is, in the opinion of the Exchange, adequate.

(d) Rights and Privileges. A temporary member firm or a temporary member corporation shall have all of the rights and privileges to which regular or options principal member firms and regular or options principal member corporations are entitled under the rules of the Exchange except:

(1) [Exceptions. No]no partner in such firm and no director of such corporation shall be entitled to transact business personally upon the Floor of the Exchange; and

(2) such firm or corporation shall not have the privilege of appointing a member representative even though the deceased regular member had such privilege.

(e) Status Effective. The status of a temporary member firm or temporary member corporation shall be deemed effective in respect of any member organization at the time of the death of the regular or options principal member associated with such member organization in any case where an application for such status has been granted, and, pending the consideration of an application, a firm or corporation which satisfies such requirements as the Exchange may prescribe shall be entitled to the rights and shall be subject to the obligations of a temporary member firm, or temporary member corporation, as the case may be.

(f) Termination of Status. The status of a temporary member organization may be terminated with respect to any such organization by the Exchange at any time, in the sole discretion of the Exchange, and, in any event, shall terminate when a regular member or an options principal member, as the case may be, becomes associated with and actively engages in the business of such organization.

(g) Proceeds of Membership Subject to Claims. The proceeds of the sale of a regular or options principal membership, the use of which has been contributed to a temporary member organization, shall be subject to claims of the Exchange, regular and options principal members and regular and options principal member organizations against such temporary member organization to the same extent as if the deceased member were living and associated with such temporary member

organization and actively engaged in the business of such organization at the time of the transactions giving rise to such claims.

Amendments.

Amended effective September 4, 1962.

Amended effective June 1, 1970.

Amended effective February 2, 1971.

Amended October 25, 1972.

Amended October 7, 1974.

Amended June 2, 1977.

Amended December 14, 1977.

Amended April 19, 1978.

Amended May 2, 1991.

Amended October 30, 1998.

Section 7. Disposal of Regular Memberships by the Board.

(a) **Transfer to Chairman as Trustee.** The Board of Governors shall transfer to the Chairman of the Board of Governors and to his successors in office, as trustee for the purposes provided in this Section, any regular or options principal membership as to which the member, or the member organization associated with such member, or the owner of the membership, has been suspended for ninety days for non-payment of Exchange dues, fines, assessments, charges or contributions to the Gratuity Fund (as provided in Article IX), and may so transfer a membership as provided in Article IV, Section 4(h), and in Article V, Section 4(t). The Board of Governors shall effect such a transfer at the first regular meeting of the Board of Governors held following such ninetieth day.

(b) **Owner Ceases to be Member on Transfer of Membership to Trustee.** If a regular or options principal membership has been transferred to a trustee pursuant to this Section the owner thereof shall cease to be a regular member or options principal member or an approved person, as the case may be, of the Exchange and shall have, with respect to the membership so transferred, and the proceeds of any sale thereof, only such rights as are provided in this Section and in Section 4 of this Article, until and unless such owner shall have redeemed such membership as provided herein.

(c) **Purposes for Which Membership is Transferred to Trustee.** The Chairman of the Board of Governors, and his successors in office, to whom a regular or options principal membership is transferred pursuant to subsection (b) of this Section shall receive, hold and dispose of such membership only for the following purposes:

Prices at Which Trusteed Memberships Shall be Offered. To offer the membership for sale promptly following such transfer, to applicants for admission to regular or options principal membership, as the case may be, and through the office of the Secretary of the Exchange, at the following schedule of prices: during the first two weeks of such offer, at the latest price at which a regular membership or an options principal membership, as the case may be, has been sold and transferred to an applicant

for regular or options principal membership, otherwise than for a nominal consideration or through private sale, prior to the commencement of such offering; during the succeeding eight weeks of such offering, at prices reduced each week by an amount equal to one-eighth of the amount by which the initial offering price exceeds the amount of the arrears outstanding against such membership, and during the succeeding two weeks of such offering, at a price equal to the arrears outstanding against such membership; provided: that, if such membership is so transferred to the trustee by reason of the expulsion or the ineligibility of a member for reinstatement and no such arrears are outstanding with respect to such membership, the trustee shall so offer such membership, at the following schedule of prices: during the first two weeks of such offering, at such last sale price; and during the succeeding ten weeks of such offering, at prices reduced each week by an amount equal to one-eleventh of such last sale price; and provided: that, if an applicant for membership has on file with the Exchange, at the time of such transfer to the trustee, an authorization to purchase a membership at a price higher than such initial offering price, the trustee shall sell the membership to such applicant at the price specified in such authorization; and provided further: that, if such last sale price is lower than the amount of such arrears, the trustee shall offer the membership at a price equal to such arrears, during the first six weeks of such offering; at a price equal to such last sale price, during the succeeding three weeks of such offering; and shall sell such membership at any price specified in an authorization to purchase a membership filed with the Exchange during the succeeding three weeks of such offering; and

Transfer to Applicant for Membership. To sell the membership to an applicant desiring to purchase a regular or options principal membership, as the case may be, upon payment of the price at which the membership is offered and to transfer the membership to such applicant upon his or its approval as a regular or as the case may be, options principal member of the Exchange, or as an owner of such a membership; and

Membership May be Reacquired by Suspended Member Upon Payment of Amount Due. If the suspended member or membership owner whose membership was so transferred to such trustee, shall, at any time prior to such sale, pay to such trustee an amount equal to the arrears outstanding against such membership plus the amount of Exchange dues, assessments or charges or contributions to the Gratuity Fund which would have been payable had such membership not been so transferred, then to transfer such membership to such person; and

Distribution of Proceeds of Sale. To pay over and distribute the proceeds received from any such sale in accordance with the provisions of Section 4 of this Article, or to pay over the sums received from the former owner of such membership to the Exchange and to the Trustees of the Gratuity Fund; and

If Applicant Fails in Election, Disposal of Membership is to be Recommended. If such a sale to an applicant desiring to purchase a regular or options principal membership is effected but such applicant is not so approved, to repay any sums so received, and to recommence the disposal of such membership, as herein provided, as

if such membership had first been transferred to such trustee on the day such applicant failed to be approved; and

Transfer to Exchange of Membership Not Sold or Redeemed. If no such sale or redemption is effected prior to the end of the twelfth week of offering, in a case where such arrears are outstanding with respect to such membership, to thereupon sell and transfer such membership to the Exchange upon receipt from the Exchange of an amount equal to the price at which such membership was so offered by the trustee during the twelfth week of such offering, and to pay over and distribute sums so received to or among the Exchange and the Trustees of the Gratuity Fund, or, in a case where no such arrears are outstanding with respect to such membership, to thereupon transfer such membership to the Exchange at no cost to the Exchange.

(d) Memberships Transferred to Exchange to be Retired. A membership transferred to the Exchange pursuant to this Section shall be offered for sale from time to time at such price as may be authorized by the Board of Governors and any proceeds received therefrom shall be added to the general funds of the Exchange.

(e) Trustee Not Liable. No liability and no compensation shall attach to the execution of the duties of the trustee provided in this Section.

(f) Notice to be Given of Offering Price. Notice shall be [placed on the bulletin board] disseminated or made available to the members through posting or other appropriate means of [the Exchange] each membership offered for sale pursuant to this Section with a statement of the price at which such membership is offered.

Amendments.

Amended effective September 4, 1962.

Amended effective June 1, 1970.

Amended October 25, 1972.

Amended October 16, 1975.

Amended June 2, 1977.

Amended effective December 4, 1979.

Amended May 16, 1995.

Amended October 30, 1998.

Amended September 7, 1999.

Amended [_____, 2004].

ARTICLE V

DISCIPLINE OF MEMBERS

Section 1. Procedures.

(a) Assistance of Counsel Permitted. A person, firm or corporation shall be permitted to have the assistance of legal or other counsel in any

hearing conducted pursuant to the provisions of this Article or any review thereof, and in any investigation conducted by any officer, employee or representative of the Exchange, or any committee authorized by the Board of Governors.

(b) Hearing before Disciplinary Panel. Except as provided in Section 2 of this Article, Exchange disciplinary proceedings shall be conducted in the following manner:

(1) Disciplinary Panel. In any disciplinary proceeding involving charges against a member, member organization, approved person, or a registered or non-registered employee or prospective employee of a member or member organization, a hearing shall be held with respect to such charges before an Exchange Disciplinary Panel. Such Disciplinary Panel shall consist of not less than three nor more than five persons: a hearing officer who shall be chairman of the Panel with the remainder of the Disciplinary Panel being members of the hearing board.

(2) Hearing Board. The Chief Executive Officer, subject to the approval of the Board, shall from time to time designate such number of Exchange Officials and shall appoint such number of additional persons to serve on the hearing board as he shall deem necessary for the purpose of conducting Exchange disciplinary proceedings. The qualifications of persons to be appointed to the hearing board shall be determined in accordance with such rules as may be adopted by the Board of Governors, except that members of the Board of Governors shall not be eligible for appointment to the hearing board or as hearing officers. Exchange Officials and other persons appointed to the hearing board as herein provided shall serve at the pleasure of the Board of Governors or until their successors are appointed and take office.

(3) Hearing Officer. The Chief Executive Officer, subject to the approval of the Board of Governors, shall designate one or more hearing officers who shall have no Exchange duties or functions relating to the investigation or preparation of disciplinary matters.

(4) Composition of Disciplinary Panel. In any hearing at which a charge or charges against a member, member organization, or approved person are considered pursuant to this Article, the members of the hearing board serving on the Disciplinary Panel shall, except as hereinafter provided, be members of the Exchange.

In any hearing at which a charge or charges against a registered or non-registered employee or prospective employee of a member or member organization are considered pursuant to this Article or pursuant to rules adopted by the Board of Governors, the members of the hearing board serving on the Disciplinary Panel shall include at least one registered employee or non-registered employee of a member or member organization; in the discretion of the chairman of the Disciplinary Panel the remainder thereof may be members of the Exchange.

In any hearing at which a charge or charges against both a registered or non-registered employee or prospective employee of a member or member organization and against a member, member organization or approved person are considered pursuant to this Article or pursuant to rules adopted by the Board of Governors, the members of the hearing board serving on the Disciplinary Panel shall include one registered employee or non-registered employee of a member or member organization and the remainder thereof shall be members of the Exchange.

Subject to the foregoing provisions of this paragraph, the selection of the hearing officer to serve as the chairman of each Disciplinary Panel and the members of the hearing board to serve thereon shall be made in accordance with such rules as may be adopted by the Board of Governors. For all purposes of this Article, the decision of a majority of the members of a Disciplinary Panel shall be the decision of such Disciplinary Panel and shall be final and conclusive, except to the extent that such decision may be revised on review as provided in Section 1(c).

(5) The Board of Governors, in accordance with the provisions of Section[2] 3 of Article II, shall adopt such rules and prescribe such procedures not inconsistent with the provisions of this Article as it may deem necessary or appropriate for the conduct of Exchange disciplinary proceedings and investigations, and may from time to time amend, alter or repeal any such rules or procedures.

(6) An accusation, charging a member, member organization or approved person before an Exchange Disciplinary Panel with having committed an offense, shall be in writing; it shall specify the charge or charges against such member, member organization or approved person with reasonable detail, and shall be signed by the person or persons making the charge or charges. A copy of such charge or charges, shall be served upon the accused member, member organization or approved person either personally, or by leaving the same during business hours at the office address of such member, member organization or approved person or by mailing it to such member, member organization or approved person at his or its office address or place of residence. The accused shall have twenty days from the date of such service to answer such charge or charges, or such further time as the Exchange in its discretion may deem proper. An answer shall be in writing, signed by or on behalf of the accused member, member organization or approved person and shall be filed with the Secretary of the Exchange. If so expressly required in the charge or charges, the answer shall specifically indicate which statements, or portions thereof, contained in the charge or charges are denied and which are admitted, and any such statements or portions thereof in the charge or charges which are not specifically denied shall be deemed to be admitted. The answer shall also contain in reasonable detail any affirmative defense which the accused wishes to submit and shall include any documents which the accused wishes to submit in support of the answer. Upon the answer being filed, or if the accused shall refuse or neglect to make answer as hereinbefore required, the Disciplinary Panel shall, at a hearing called for that purpose, proceed to consider the charge or charges. The Exchange

shall cause copies of the charge or charges, and of the answer, if any, and of any documents submitted in support thereof by the accused, to be mailed or otherwise delivered to each member of the Disciplinary Panel at least five days before such hearing. Notice of such hearing shall be sent to the accused; the accused member, or any person associated with the accused member organization who is a member of the Exchange and is designated in writing by the accused member organization to represent it for all purposes at such hearing, or the accused approved person, shall be entitled to be present personally thereat, and shall be permitted to examine and cross-examine all of the witnesses produced before the Disciplinary Panel, and also to present such testimony, defense or explanation as may be deemed responsive to the charge or charges. Any witnesses produced by the accused shall be subject to cross-examination. After hearing all the witnesses produced before the Disciplinary Panel and after hearing the accused the Disciplinary Panel shall determine whether or not the accused member, the accused member organization or the accused approved person is guilty of the offense or offenses charged. If it determines that the accused is guilty, the Disciplinary Panel may fix and impose the penalty. Any such determination shall be supported by a written statement setting forth (i) any act or practice in which such member, member organization or approved person is found to have engaged or which such member, member organization or approved person is found to have omitted, (ii) the specific provision of the Securities Exchange Act of 1934, as amended, the rules and regulations thereunder, the Constitution or the rules, procedures or policies of the Exchange, which any such act, practice or omission to act is deemed to violate, and (iii) the penalty imposed and the reasons therefore. Such written statement shall be served upon the accused in the manner hereinbefore provided, and a copy thereof shall be sent to each member of the Amex Adjudicatory Council. The determination of the Disciplinary Panel and any penalty imposed shall become final and conclusive twenty days after notification thereof to the accused, provided, however, that if a request for review of such determination or penalty, or both, is filed, as hereinafter provided, the penalty shall be stayed pending the result of such review.

(c) Review by Amex Adjudicatory Council. Any member, member organization or approved person determined to be guilty of a charge or charges before an Exchange Disciplinary Panel pursuant to this Article, or the division or department of the Exchange which brought the charges, may require that such determination, the penalty imposed by the Disciplinary Panel, or both the determination and the penalty be reviewed by the Amex Adjudicatory Council. A request for such review of an Exchange Disciplinary Panel determination or penalty shall be made in writing and filed with the Secretary of the Exchange within twenty days after notification of the determination and penalty, if any, is served upon the accused member, member organization or approved person.

An Exchange Disciplinary Panel determination or penalty shall also be subject to review by the Amex Adjudicatory Council upon a call for review by any member of the Council within thirty days after service of the Panel's determination.

In connection with any such review of an Exchange Disciplinary Panel determination or penalty, the Amex Adjudicatory Council may, as it deems appropriate, (i) affirm, modify or reverse the determination made by the Disciplinary Panel; and (ii) sustain, increase, decrease or eliminate any penalty imposed by the Disciplinary Panel, or impose any penalty permitted under the provisions of this Article.

If the Amex Adjudicatory Council determines that the Disciplinary Panel has not adequately considered all of the matters which should have been considered in connection with the charge or charges, or has improperly applied or interpreted the Constitution, rules, requirements and policies of the Exchange, the Council may remand the matter to the Disciplinary Panel for further consideration consistent with such determination. Upon such remand, the Disciplinary Panel shall conduct a further hearing in accordance with the provisions of subsection (b) and may as a result thereof modify, reverse or reaffirm its previous determination or impose any penalty permitted under this Article regardless of whether such penalty shall be greater than the penalty imposed as a result of the original hearing. Any determination or penalty imposed by the Disciplinary Panel as a result of a remand from the Amex Adjudicatory Council shall be subject to further review upon request as hereinabove provided.

The Amex Adjudicatory Council shall transmit its proposed written decision to each member of the Board of Governors. The Board of Governors may call the proceeding for review pursuant to Section 2(d) of this Article. If the Board of Governors does not call the proceeding for review, the proposed written decision of the Amex Adjudicatory Council shall become final. Unless the Amex Adjudicatory Council remands the proceeding, the decision shall constitute the final action of the Exchange.

(d) Discretionary Review by the Board of Governors. Upon the request of any four its members, the Board of Governors may review a proposed written decision of the Amex Adjudicatory Council. Such a request for review shall be made not later than the next meeting of the Board of Governors that is at least 15 days after that date on which the proposed written decision of the Amex Adjudicatory Council is transmitted to the Board of Governors. By a unanimous vote of the Board of Governors, the Board of Governors may shorten the period to less than 15 days. By an affirmative vote of the majority of the Board of Governors then in office, the Board of Governors may, during the 15-day period, vote to extend the period to more than 15 days. The review by the Board of Governors shall occur not later than the next regularly scheduled meeting of the Board of Governors following the request for review. Ten ~~[governors]~~Governors shall be required to constitute a quorum for any meeting of the Board of Governors at which the Board of Governors shall review a disciplinary proceeding as herein provided, and any action taken pursuant to the vote of a majority of the ~~[governors]~~Governors present at such meeting shall be deemed to be the action of the Board of Governors.

After review, the Board of Governors may (i) affirm, modify, or reverse the proposed written decision of the Amex Adjudicatory Council; and (ii) sustain, increase or eliminate any penalty imposed, or impose any lesser penalty permitted under the provisions of this Article. Alternatively, the Board of Governors may remand the

proceeding with instructions. The decision of the Board of Governors shall constitute the final action of the Exchange, unless the Board of Governors remands the proceedings.

(e) **Disciplinary Fine Systems.** The Board of Governors shall adopt such rules as it deems necessary or appropriate to implement disciplinary fine systems for the resolution of minor rule violations and shall delegate appropriate authority to officers and employees of the Exchange to properly administer such fine systems.

(f) **Discussing Charges Prohibited.** No person, firm or corporation under charges before a Disciplinary Panel shall discuss the subject of such charges with any member of the Panel, the Amex Adjudicatory Council, or the Board of Governors. No member of the Board of Governors, the Amex Adjudicatory Council, or a Disciplinary Panel shall discuss charges made in a disciplinary proceeding with any person, firm or corporation being charged, or with any one representing such person, firm or corporation.

(g) **Announcement of Results.** The Board of Governors shall adopt rules governing the announcement of the results of any disciplinary proceeding conducted pursuant to the provisions of this Article, provided, however, that no such announcement shall be permitted until there shall have been a final determination by the Exchange with regard to such disciplinary matter and the penalty, if any, to be imposed.

Amendments.

September 4, 1962.

November 19, 1969.

June 1, 1970.

October 25, 1972.

October 16, 1975.

April 19, 1978.

July 22, 1981.

December 15, 1989.

July 12, 1994.

May 18, 1998.

October 30, 1998.

Amended April 13, 2000.

Amended November, 14, 2000.

Amended [_____, 2004].

Section 2. Delegation of Disciplinary Powers. Stipulation of Facts and Consent to Penalty. In lieu of the procedures set forth in paragraph 6 of Section 1(b) of this Article, a Disciplinary Panel, selected in accordance with the provisions of Section 1(b) of this Article, at a hearing called for that purpose may determine whether any member, member organization or approved person is guilty of having committed an offense or offenses on the basis of a written stipulation of facts and consent to a specified penalty entered into between such member, member organization or approved person and any officer of the Exchange, and may fix and impose the penalty agreed to in such

stipulation and consent or any lesser penalty. A written notice of the result shall be served upon the member, member organization or approved person in the manner provided in subsection (b) of Section 1 of this Article, and a copy thereof shall be sent to each member of the Amex Adjudicatory Council. The determination of the Disciplinary Panel and any penalty imposed shall become final and conclusive ten days after notification thereof to the accused, provided, however, that if a request for review by the Amex Adjudicatory Council of such determination or penalty, or both, is filed as hereinafter provided, the penalty shall be stayed pending the result of such review. If the Disciplinary Panel rejects the stipulation and consent to a specified penalty, the matter shall proceed as if the stipulation and consent had not been entered into, and such stipulation and consent shall be disregarded in any subsequent proceeding. A written notice of such rejection by the Disciplinary Panel shall be served upon the member, member organization or approved person in the manner provided in subsection (b) of Section 1 of this Article.

Upon the request of any member of the Amex Adjudicatory Council, the Council shall review the determination of, or the penalty imposed by, a Disciplinary Panel in connection with a written stipulation of facts and consent to a specified penalty. Any such request for review of such determination or penalty shall be made in writing and filed with the Secretary of the Exchange within ten days after notification of the determination and penalty, if any, is served upon the accused member, member organization or approved person. Upon review, the Amex Adjudicatory Council may fix and impose the penalty agreed to in such stipulation and consent, or impose a lesser penalty or reject such consent, as it deems appropriate.

Amendments.

Amended effective September 4, 1962.

Amended effective November 19, 1969.

Amended June 1, 1970.

Amended October 25, 1972.

Amended July 12, 1994.

May 18, 1998.

October 30, 1998.

Section 3. Suspension in View of Financial or Operating Conditions.

(a) Automatic Suspension. A member that fails to perform his or its contracts or is insolvent or is in such financial or operating condition that he or it cannot be permitted to continue in business with safety to investors, his or its creditors, other members or the Exchange, or a member who is associated with a member organization which fails to perform its contracts or is insolvent or is in such financial or operating condition that it cannot be permitted to continue in business with safety to investors, its creditors, other members or the Exchange, shall immediately inform the Chief Executive Officer, in writing, of such fact, and prompt announcement thereof shall be made by the Chief Executive Officer to the Exchange and such member or member organization shall, upon such notice to the Exchange, become automatically suspended

until and unless such member or member organization has been reinstated as provided in Section 5 of Article IV.

(b) Suspension by Chief Executive Officer. Whenever it shall appear to the Chief Executive Officer that a member or a member organization has failed to meet his or its engagements or is insolvent, or is in such financial or operating condition that he or it cannot be permitted to continue in business with safety to investors, his or its creditors, other members of the Exchange, or whenever it shall appear to the Chief Executive Officer that a member or member organization has been suspended by another registered national securities exchange or national securities association for failure to meet his or its engagements, for insolvency or for being in such financial or operating condition that he or it cannot be permitted to continue in business with safety to investors, his or its creditors, other members, or such other exchange or securities association, the Chief Executive Officer shall announce to the Exchange the suspension of such member or member organization, which suspension shall continue until such member or member organization has been reinstated as provided [in]Section 5 of Article IV.

(c) Investigation by Exchange. Every member and member organization suspended under the foregoing provisions of this Section shall immediately afford every facility to the Exchange for investigation of his or its affairs and shall at the request of the Exchange submit to the Exchange or its representatives his or its books and papers and the books and papers of any employee of such member and the books and papers of any member associated with, approved person or employee of such member organization, and such suspended member or member organization shall appear, and cause such persons to appear, and testify before such officers, employees or representatives of the Exchange as may be designated by the Chief Executive Officer.

(d) Sale of Regular or Options Principal Membership and Revocation of Associate Membership. If the Board of Governors determines, after not less than ten days' notice to a regular or options principal member that has been suspended or whose member organization has been suspended under the foregoing provisions of this Section, that the protection of the persons and organizations entitled to make claim against the proceeds of the transfer of his or its regular or options principal membership, as the case may be, under Section 4 of Article IV or the protection of the creditors of the member organization with which such regular or options principal member is or was last associated requires the transfer of the membership of such member, such membership may be disposed of by the Board of Governors.

In any case, if a regular or options principal member or an associate member suspended under the foregoing provisions of this Section is not reinstated as provided in Section 5 of Article IV within one year from the time of his suspension, or within such further time as the Board of Governors may grant, his or its membership, if a regular or options principal member, shall be disposed of by the Board of Governors and, if an associate member, his or its membership shall be revoked.

The Board of Governors may, by the affirmative vote of a majority of the [governors]Governors present at a meeting of the Board of Governors, extend the time within which application is to be made for reinstatement for periods not exceeding one year each.

(e) Failure to Pay Dues, etc. Any member or member organization, or owner of a membership, neglecting or failing to pay his or its dues, fines, assessments, charges or contributions to the Gratuity Fund within thirty days after the same become payable shall be reported by the Treasurer to the Chief Executive Officer, who shall, after due notice to the delinquent, announce to the Exchange the suspension of such delinquent which suspension shall continue until said dues, fines, assessments, charges or contributions are paid; except that the Chief Executive Officer shall permit the contributions due to the Gratuity Fund from a Participant (as such term is defined in Article IX thereof) to accrue and remain unpaid during such period as such Participant may be relieved of his obligation to pay dues pursuant to Article VII, Section 2(a), but any contributions so accrued and unpaid shall remain a charge against the proceeds of the membership standing in the name of or owned by such Participant and shall be deducted from the amount of any Gratuity Fund payment to the family of such Participant if such Participant dies while any such contributions are unpaid.

(f) Any member or member organization suspended under the provisions of subsections (a) or (b) of this Section 3 shall be granted promptly a hearing with regard to such suspension before the Board of Governors or such committee as may be appointed by the Board of Governors for such purpose. Any determination by the Board of Governors or such committee as a result of such hearing to affirm the suspension shall be supported by a statement setting forth the specific grounds on which the suspension is based.

Amendments.

Amended effective September 4, 1962.

Amended effective June 8, 1964.

Amended effective November 19, 1969.

Amended effective June 1, 1970.

Amended June 7, 1972.

Amended October 25, 1972.

Amended October 16, 1975.

Amended June 2, 1977.

Amended December 14, 1977.

Amended April 19, 1978.

Amended effective December 4, 1979.

Amended May 16, 1995.

Amended October 30, 1998.

Amended April 13, 2000.

Amended [_____, 2004].

Section 4. Suspension or Expulsion.

(a) Examination by Another Self-Regulatory Organization. If the Board of Governors shall deem that it is in the interest and welfare of the Exchange or in the public interest, or appropriate or necessary for the maintenance of just and equitable principles of trade, to facilitate the examination by the authorities of another self-regulatory organization of any transaction in which a member or member organization of the Exchange has been concerned and that the testimony of such member or his employees or the testimony of such member organization or the members associated therewith, or approved persons or employees thereof or the books and papers of such member or member organization or the books and papers of any such persons are material to such examination and shall direct such member or member organization to appear and testify, or to cause any of such persons to appear and testify, or to produce such books and papers before the authorities of such other self-regulatory organization, or any committee thereof, for the purposes of such examination, and the member or member organization of the Exchange shall refuse or fail to comply with any such direction, the member or the member organization may be adjudged guilty of an act detrimental to the interest and welfare of the Exchange.

(b) Fraud. A member, member organization or approved person adjudged guilty in a proceeding under this Article of fraud or of fraudulent acts shall be deemed to be guilty of conduct or proceeding inconsistent with just and equitable principles of trade, and such member or member organization may be suspended or expelled from membership and the approval of such approved person may be withdrawn.

(c) Fictitious Transactions. A member or member organization adjudged guilty in a proceeding under this Article of making a fictitious transaction, or of giving an order for the purchase or sale of securities, the execution of which would involve no change of ownership, or of executing such an order with knowledge of its character, shall be deemed to be guilty of conduct or proceeding inconsistent with just and equitable principles of trade, and may be suspended or expelled from membership.

(d) Market Demoralization. A member or member organization adjudged guilty in a proceeding under this Article of making any purchases or sales or offers of purchase or sale of securities for the purpose of upsetting the equilibrium of the market and bringing about a condition of demoralization in which prices will not fairly reflect market values, or of assisting in making any such purchases or sales or offers of purchase or sale with knowledge of such purpose, or of being, with such knowledge, a party to or of assistance in carrying out any plan or scheme for the making of such purchases or sales or offers of purchase or sale, shall be deemed to be guilty of conduct or proceeding inconsistent with just and equitable principles of trade, and may be suspended or expelled from membership.

(e) Misstatements. Whenever it is adjudged in a proceeding under this Article that a member, member organization or approved person has made a misstatement, or has submitted a report or statement containing a misstatement upon a material point to the Board of Governors, to the Chairman or any officer or representative of the Exchange, or to any committee of the Exchange, or whenever it is adjudged in a proceeding under this Article that a member, member organization or approved person

has made a misstatement upon a material point to the Exchange on his or its application for membership or for approval, such member or member organization may be suspended or expelled from membership, and the approval of such approved person may be withdrawn.

(f) **Fraud Prior to Election or Approval.** Whenever it is adjudged in a proceeding under this Article that a member prior to his application for membership or a member organization prior to its application for approval as a member organization or an approved person prior to his application for approval has been guilty of a fraudulent or dishonest act, and that the facts and circumstances thereof were not disclosed to the Exchange on the application of such member for membership or on the application of such member organization for approval or on the application of such approved person for approval, such member or member organization may be suspended or expelled from membership, and the approval of such approved person may be withdrawn.

(g) [Reserved.]

(h) **Violation of Constitution, Rules or Resolution; Inequitable Conduct.** A member, member organization or approved person who or which shall be adjudged guilty in a proceeding under this Article of a violation of the Constitution of the Exchange, of a violation of a rule adopted pursuant to the Constitution, of a violation of a resolution of the Board of Governors regulating the conduct or business of members or member organizations, or of conduct or proceeding inconsistent with just and equitable principles of trade, may, if a member or member organization, be suspended or expelled from membership or, if an approved person have his approval withdrawn, unless the offense is the violation of a provision, rule or resolution for which a different penalty has been provided, in which case such other penalty may be imposed.

(i) **Violation of Securities Exchange Act.** A member or member organization adjudged guilty in a proceeding under this Article of a willful violation of any provision of the Securities Exchange Act of 1934, as amended, or any rule or regulation thereunder, shall be deemed to be guilty of conduct or proceeding inconsistent with just and equitable principles of trade and may be suspended or expelled.

(j) **Acts Detrimental to Exchange.** A member or member organization adjudged guilty in a proceeding under this Article of any act which may be determined to be detrimental to the interest or welfare of the Exchange, may be suspended or expelled from membership.

(k) **Failure to Testify.** If a member, member organization or approved person is required by the Board of Governors, by the Chairman, or the Chief Executive Officer if delegated by the Chairman, or by any committee authorized by the Board of Governors or by the Constitution, to submit his or its books, papers and records or the books, papers and records of his or its employees or the books, papers and records of any member associated with or approved person of such member organization, or to furnish any information to, or to appear and testify before, or to cause any of such

persons to appear and testify before, the Board of Governors, the Chairman, or the Chief Executive Officer if delegated by the Chairman, any such committee, or such officers, employees or representatives of the Exchange as may be so designated, and such member, member organization or approved person shall be adjudged guilty in a proceeding under this Article or having refused or failed to comply with such requirement, such member or member organization may be suspended or expelled from membership, and such approved person may have his approval withdrawn.

(l) **Improper Conduct.** A member adjudged guilty in a proceeding under this Article of conduct subversive of good order and decorum or serious interference with the personal comfort or safety of another person, within the limits of any department of the Exchange, may be suspended from membership for a period not exceeding sixty days or fined.

(m) **Betting.** A member adjudged guilty in a proceeding under this Article of betting, or offering to bet, upon the Floor of the Exchange may be suspended from membership for a period not exceeding sixty days or fined.

(n) **Fines in Addition to or in Lieu of Suspension or Expulsion.** In any proceeding in which a penalty of suspension or expulsion from membership may be imposed, there may be imposed, in addition to or in lieu of such penalty, a fine or such other penalty as may be deemed appropriate.

(o) **Termination of Rights by Expulsion.** The expulsion of a member organization shall terminate all of its rights and privileges as a member organization, and the expulsion of a member or withdrawal of approval of an approved person which is the owner of a membership shall terminate all rights and privileges arising out of such membership with respect to the party expelled, except in the case of a regular or options principal member or the owner of such membership such rights in respect to the proceeds of the transfer of the membership as he or it may have under the provisions of Section 4 of Article IV.

(p) **Termination of Rights by Suspension.** When a member organization is suspended pursuant to a proceeding under this Article, such member organization shall be deprived during the term of its suspension of all of its rights and privileges as a member organization; and when a member or owner of a membership is suspended pursuant to a proceeding under this Article, such member shall be deprived during the term of his suspension of all rights and privileges of membership, except those pertaining to the Gratuity Fund.

(q) **Proceedings Against Suspended Member or Member Organization.** A member or member organization of the Exchange suspended for any cause may be proceeded against under this Article for any offense committed by him or it either before or after the announcement of his or its suspension, in all respects as if such member or member organization were not under suspension.

(r) Responsibility for Acts of Others. A regular, options principal, associate or allied member of the Exchange is liable to the same discipline and penalties for any act or omission of his member organization or of such member's representative authorized pursuant to Article IV, Section 3, as though such act or omission were his own personal act or omission. A member organization is liable to the same discipline and penalties for any act or omission of any of the members associated therewith or approved persons or employees or nominees thereof as though such act or omission were its own act or omission.

(s) Suspension or Expulsion of Members of Suspended or Expelled Member, Member Organization. Unless the Board of Governors or a committee authorized by the Board of Governors otherwise determines, when a member organization is suspended or expelled in a proceeding under this Article, each regular, options principal, associate and allied member who is associated with such member organization, and each nominee and interim member who has been designated by such member or member organization, shall thereupon be suspended or expelled, as the case may be; and any such suspension shall continue during the suspension of such member organization or during such lesser period as the Board of Governors or such committee may determine. Unless the Board of Governors or a committee authorized by the Board of Governors otherwise determines, when the Exchange's approval of an approved person who is an owner of a regular or options principal membership is withdrawn in a proceeding under this Article, any special transfer agreement or nominee designation in effect with respect to such membership shall be suspended during the withdrawal of such person's approval as an approved person or during such lesser period as the Board of Governors or such committee may determine.

(t) Continued Failure to Pay Fines, Dues, etc. If fines, dues, assessments, charges or contributions to the Gratuity Fund of any suspended regular, options principal or associate member or member organization or owner of a membership are not paid at the end of ninety days after they become payable, the membership of such suspended regular or options principal member or member organization or owner of a membership shall be disposed of by the Board of Governors under the provisions of Section 7 of Article IV, and in the case of an associate member, the Board of Governors shall revoke his membership.

Whenever the Treasurer shall report to the Chief Executive Officer that a member organization or owner of a membership has neglected to pay a fine for forty-five days after the same is payable, the membership of each regular, options principal, associate and allied member who is associated with such member organization shall be suspended, and any special transfer agreement nominee or interim member designation in effect with respect to any such membership shall be suspended, unless the Board of Governors shall have granted an extension of time to pay such fine. Should payment not be made within one year after payment is due, any such regular or options principal membership may be disposed of, and the membership of any such associate member may be revoked, by the Board of Governors on at least ten days' written notice mailed to the owner of such regular or options principal membership or to such associate member at his or its address registered with the Exchange.

Amendments.

Amended January 16, 1958, effective May 1, 1958.[
]

Amended effective September 4, 1962.

Amended effective November 19, 1969.

Amended effective June 1, 1970.

Amended June 7, 1972.

Amended October 25, 1972.

Amended October 7, 1974.

Amended August 19, 1976.

Amended January 18, 1977.

Amended June 2, 1977.

Amended December 14, 1977.

Amended April 7, 1978.

Amended April 19, 1978.

Amended effective December 4, 1979.

Amended January 20, 1988.

Amended May 16, 1995.

Amended October 30, 1998.

Amended April 13, 2000.

Amended July 7, 2000.

Amended [_____, 2004].

Section 5. Suspension, Expulsion or Bar by Another Regulatory Authority.

(a) Whenever a member or member organization is suspended or expelled from any other securities exchange or any national securities association, or is suspended or barred from being associated with any member of such exchange or association, or is suspended or barred by any governmental securities agency from dealing in securities or being associated with any broker or dealer in securities, an Exchange Disciplinary Panel may, in view of such suspension, expulsion or bar, suspend or expel such person or organization as a member or member organization of the Exchange, but no such suspension imposed by such Disciplinary Panel shall commence before or expire after the suspension imposed by such other exchange, association or agency, and no such expulsion shall be imposed by such Disciplinary Panel unless such member or member organization has been expelled or barred by such other exchange, association or agency. Nothing in this Section 5 shall preclude any proceeding against any member or member organization under any other Section of this Article V.

(b) Procedure. In any proceeding under this Section 5, the method of procedure required by Section 1(b) of this Article V shall not apply, but the accused shall be given not less than ten days' notice in writing that an Exchange Disciplinary Panel will conduct a hearing to determine whether or not to suspend or expel the accused, as the case may be, as provided in this Section 5. At the hearing before the Disciplinary Panel, the accused member, or any person associated with the accused

member organization who is a member of the Exchange and is designated in writing by the accused member organization to represent it for all purposes at such hearing, shall be afforded an opportunity to explain why it would be inappropriate for the Disciplinary Panel to accept the finding of such other exchange, association or agency or to suspend or expel the accused, notwithstanding the suspension, expulsion or bar by such other exchange, association or agency. In the event that the Disciplinary Panel determines not to accept the finding of guilt by such other exchange, association or agency, it may order a proceeding under any other Section of this Article V. In the event that the accused fails or refuses to appear before the Disciplinary Panel, the Disciplinary Panel may nevertheless determine the matter and suspend or expel the accused as provided in this Section 5. If the Disciplinary Panel determines to accept the finding of guilt by such other exchange, association or agency and to suspend or expel the accused, such determination shall be supported by a written statement setting forth the specific grounds on which such action is based. Such written statement shall be served upon the accused in the manner provided by Section 1(b) of this Article V, and a copy thereof shall be sent to each member of the Amex Adjudicatory Council. Any action by an Exchange Disciplinary Panel pursuant to this Section 5 shall be subject to review in accordance with the procedures specified in Section 1(c) and (d) of this Article V. In the event no request for review is filed within twenty days after the accused is notified of the determination of the Disciplinary Panel, such determination shall become final and conclusive.

(c) A member or member organization may, nevertheless, consent to the penalty of suspension or expulsion from the Exchange solely by reason of the imposition of the suspension, expulsion or bar by such other exchange, association or agency, and without either the separate determination of an Exchange Disciplinary Panel as provided above in this Section 5 or the procedure provided by Section 1(b) of this Article V. Such consent shall be in writing, signed by the accused member or member organization, and shall be delivered to the Exchange not later than two business days after the Exchange gives the accused notice in writing that it intends to proceed under Section 5 of Article V. The consent shall take effect immediately upon approval by the Board of Governors.

Adopted.

Effective November 19, 1969.

Amendments.

Amendment adopted June 7, 1972.

Amended October 25, 1972.

Amended October 16, 1975.

Amended December 14, 1977.

Amended May 18, 1998.

Amended October 30, 1998.

Section 6. Retention of Jurisdiction over Former Members. If, during the period of one year immediately following (a) the termination of a person's status as a member or member organization, (b) receipt by the Exchange of written notification of

such termination, or (c) receipt by the Exchange of any amendment to such termination notice, whichever occurs later, the Secretary of the Exchange gives written notice to such person that the Exchange is making inquiry into any specified matter or matters occurring prior to the termination of such person's status as a member or member organization, the Board of Governors, the Chairman, or the Chief Executive Officer if delegated by the Chairman, or any committee authorized by the Board of Governors or the Constitution may thereafter require such person to submit to the Exchange books and papers relating to the matter or matters specified in such notice, or to furnish information to, or to appear and testify before, the Board of Governors, the Chairman, or the Chief Executive Officer if delegated by the Chairman, any such committee or such officers, employees or representatives of the Exchange as may be so designated with respect to any such matter. Following the termination of such person's status as a member or member organization, provided such notice is given, such person may be charged with having refused or failed to comply with any such requirement or, as a result of the inquiry into the matter or matters specified in such notice, such person may be charged with having committed, prior to termination, any other offense with which such person might have been charged had such status not been terminated. Any charge against a former member or member organization may be brought before an Exchange Disciplinary Panel and determined as provided in Section 1(b) of this Article V in the case of a member or member organization. Whenever an Exchange Disciplinary Panel shall determine that any such former member or member organization is guilty of the offense or offenses charged, it may impose a fine, impose a censure, or direct that such person not be admitted or re-admitted as a member or member organization for a specified period of time; and, in the case of a former member, the Exchange may thereafter refuse to approve the employment of such person by a member or member organization:

(a) for such period of time as the Exchange may determine, or

(b) until such time as the Board of Governors, any committee authorized by the Board of Governors or the Constitution, or the Chairman, or the Chief Executive Officer if delegated by the Chairman, or any officer, employee or representative of the Exchange so designated, shall have completed the investigation of the matter with respect to which such former member or member organization refused or failed to submit books and papers, or to furnish information, or to appear and testify, and until the passage of such further period of time, if any, as the Exchange Disciplinary Panel shall have specified.

Adopted.

Effective November 19, 1969.

Amendments.

Adopted June 7, 1972.

Amended October 25, 1972.

Amended October 8, 1977.

Amended December 14, 1977.

Amended December 5, 1980.

Amended January 20, 1988.

Amended July 12, 1994.
Amended April 13, 2000.
Amended [_____, 2004].

Section 7. Disapproval of Business Connections.

(a) and (b) —Rescinded effective December 14, 1977.

ARTICLE VI

COMMISSIONS

Rescinded effective May 1, 1976.

ARTICLE VII

FEES AND DUES

Section 1. Annual Membership Fees.

(a) Regular [Members]members. The initiation fee for regular membership shall be \$2,500; provided, however, that if a regular member who is associated with a member organization transfers his membership to another person associated with such member organization and such organization continues to engage in the business of buying and selling securities as brokers or dealers without interruption or change, other than such changes as may be occasioned by the death or retirement of the regular member whose membership is being transferred, the initiation fee payable in connection with such transfer shall be \$1,500.

Notwithstanding other provisions of the Constitution, an applicant for regular membership who is an associate member on the effective date of this amendment and continues to be such down to the date of the filing of his application for regular membership, or is a general partner or a director of a firm or corporation which was an associate member firm or corporation on the effective date of this amendment and continues to be an associate member firm or corporation down to the date of the filing by such applicant of his application for regular membership, shall not be required to pay any initiation fee.

The above initiation fee shall be paid prior to the approval by the Exchange of an applicant for regular membership.

(b) Options principal members. The initiation fee for options principal membership shall be \$2,500; provided, however, that if an options principal member who is associated with a member organization transfers his membership to another person associated with such member organization and such organization continues to engage in the business of buying and selling securities as brokers or dealers without interruption or change, other than such changes as may be occasioned by the

death or retirement of the options principal member whose membership is being transferred, the initiation fee payable in connection with such transfer shall be \$1,500.

The initiation fee required by this subsection shall be paid prior to the approval by the Exchange of an applicant for options principal membership.

(c) ~~Special [transfer]~~Transfer. Upon the transfer of a membership pursuant to a special transfer agreement the transferee shall be required to pay an initiation fee of \$1,500. At the termination of the special transfer agreement, no initiation fee shall be payable if the membership reverts back to the owner thereof; provided, however, that an initiation fee shall be required in the case of any transfer to a new lessee.

(d) Transfers within the member organization. Notwithstanding the foregoing provisions of this Section, if a regular or options principal membership is temporarily transferred within a member organization from a member who is active on the Floor to a person who is not active on the Floor, and such person within 90 days thereafter retransfers the membership to another person within a member organization who is to represent the member organization on the Floor, no initiation fee shall be payable with respect to the second transfer.

(e) ~~[Associate Members.]~~Associate members[—]. The initiation fee for associate membership shall be a sum equal to 5% of the latest price at which a regular membership shall have been sold and transferred to an applicant for regular membership, otherwise than for a nominal consideration or through a private sale prior to the date when such initiation fee is due, provided, however, that the initiation fee for an associate member who is approved as the nominee of an associate member firm or corporation pursuant to Article IV, Section 1(d) shall be \$100. The annual membership fee for associate membership shall be \$4,000 per month for associate member firms and \$3,000 per year for individual associate members and off-floor traders. Associate members shall be permitted to waive these fees by demonstrating to the Exchange's Financial Regulatory Services Department that ten percent (10%) of the associate member's and/or individual off-floor trader's volume is transacted on the Floor of the Exchange. Effective August 7, 2000, all new associate members shall be required to pay the annual electronic access fee, as provided in Article IV, Section 1(d), as well as the monthly and/or annual fees. Such initiation, monthly and/or annual and electronic access fees shall be paid prior to the approval by the Exchange of an applicant for associate membership, and prior to renewal of such membership at the end of the period for which such fees have been paid.

(f) Nominees. Upon the designation of a nominee pursuant to Article IV, Section 4(b)(2), the owner of the membership shall be required to pay an initiation fee of \$1,500. At the termination of such designation, no initiation fee shall be payable if the membership reverts back to the owner thereof; provided, however, that an initiation fee shall be required in the case of any designation of a new nominee.

(g) Interim Members. Upon the designation of an interim member pursuant to Article IV, Section 3(e), the owner of the membership shall be required to pay an interim member status annual maintenance fee of \$1,500. Additionally, a flat fee of \$250 for each allocation shall be payable at the time when each allocation becomes effective.

Amendments.

Amended April 15, 1963.

Amended effective October 1, 1971.

Amended June 7, 1972.

Amended October 25, 1972.

Amended June 2, 1977.

Amended December 14, 1977.

Amended April 19, 1978.

Amended July 19, 1983.

Amended November 18, 1986.

Amended August 23, 1989.

Amended May 16, 1995.

Amended October 30, 1998.

Amended July 7, 2000.

Amended September 11, 2000.

Amended May 22, 2001 (Amex-2001-15).

Section 2. Dues, Fines and Assessments.

(a) Payment of Dues. The dues with respect to each membership of the Exchange shall be payable on the first days of January, April, July and October in each year.

Apportionment of Dues. The dues payable with respect to each regular and options principal membership, or in lieu thereof in whole or in part, assessments of regular and options principal memberships for the capital account of the Exchange, and the dues of associate members, shall not exceed eight hundred dollars per year, and the amount of each installment shall be determined by the Board of Governors at least fifteen days before the date on which the same is payable. Payments of dues by regular and options principal memberships for each quarter may, as to part or the whole thereof, in the discretion of the Board of Governors, constitute such members' contributions to the current expenses of the Exchange for said period, as estimated by the Board of Governors, and their contributions to the capital investment of the Exchange, including investments in subsidiaries of the Exchange.

The Board of Governors on the request of a regular or options principal member may, if such member is actively engaged in any military, naval or other public service incident to the defense of the United States or of any nation which is allied or associated with the United States, and, in the determination of the Board of Governors, is not able to avail himself of the privileges provided for in Article IV, Section 3(d) exempt

such member from the payment of dues, under such terms and conditions and to such extent and for such period as the Board of Governors may prescribe.

(b) Exchange to Return Unexpired Dues Paid by Transferor and Collect from Transferee. When a regular or options principal membership is transferred and the transferor has paid all dues due at the time of such transfer, the Exchange shall pay to the transferor, on the day of transfer, the unexpired portion of the dues so paid. A transferee shall pay to the Exchange, on the day of transfer, the dues for the period from the date of such transfer to the end of the dues period in which such transfer occurs.

(c) Unpaid Dues to Date of Transfer Collectible from Proceeds of Sale. When a regular or options principal membership is transferred and the transferor is delinquent in the payment of dues at the time of such transfer, unpaid dues shall be apportioned to the date of such transfer. Unpaid dues to the date of such transfer shall be collectible out of the proceeds of the sale of such membership in accordance with Section 4([d]e) First, of Article IV. Unpaid dues for the period from the date of such transfer to the end of the dues period in which such transfer occurs shall be paid by the transferee to the Exchange on the day of transfer.

(d) Liability for Dues Until Transfer. Notwithstanding the death (in the case of an individual), resignation, suspension or expulsion of a regular or options principal member, member organization or owner of a membership, such membership shall, until transferred, continue liable for dues, fines and other charges of the Exchange, and for contributions to the Gratuity Fund. An associate member shall remain liable during suspension for payment of dues and fines of the Exchange.

(e) Liability for Dues Ceases Upon Transfer to Trustee. Upon the transfer of a membership to a trustee, pursuant to Article IV, Section 7, such membership shall not thereafter be liable for dues, assessments, or charges of the Exchange or contributions to the Gratuity Fund, which become payable thereafter, and if payment therefor is made by the former owner in the redemption of such membership such payment shall be added to the general funds of the Exchange or paid to the Gratuity Fund as the case may require.

Amendments.

Amended effective September 4, 1962.

Amended June 2, 1977.

Amended May 16, 1995.

Amended October 30, 1998.

Amended [_____, 2004].

Section 3. Associate Member Fees.

Fee Where Associate Member Becomes Director or Executive Officer of Corporation. An associate member who becomes a director or an executive officer of a corporation which is otherwise approved by the Exchange as an associate member

corporation, shall pay a fee of \$100 for the privilege of conferring upon such corporation the privileges of an associate member corporation. Such corporation shall not be deemed to be entitled to the privileges of an associate member corporation until such fee shall have been paid to the Exchange.

Amendments.

Amended effective September 4, 1962.

Amended October 25, 1972.

Amended October 30, 1998.

Section 4. Special Charge.

Exchange May Impose on Members Fees Based on Transactions. The Board of Governors may impose upon regular, options principal and associate members and upon regular, options principal and associate member organizations a charge on each securities transaction effected through the facilities of the Exchange, and may change, remove, and reimpose such charge. In fixing the amount of such charge, the Board of Governors may establish different rates for transactions effected for non-members, for members and member organizations and for various categories of members, or may omit such charge for any category or categories of members or member organizations and may establish different rates for transactions effected in different securities or through different mechanisms. Such charges shall be payable at such times and shall be collected in such manner as the Board of Governors may determine, and the proceeds thereof shall be deposited among the general funds of the Exchange.

Amendments.

Amended March 25, 1975.

Amended June 2, 1977.

Amended October 30, 1998.

Amended [_____, 2004].

Section 5. Options Transactions. In lieu of the charge authorized by Section 4 of this Article VII, the Board of Governors may impose upon regular, options principal and associate members and upon regular, options principal and associate member organizations in respect of options transactions effected on the Exchange a charge for each such options transaction, and may from time to time change, remove, and reimpose such charge. In fixing the amount of such charge, the Board of Governors may establish different rates for options transactions effected for non-members, for members and member organizations and for various categories of members and may establish different rates for transactions effected in different securities or through different mechanisms. Such charge shall be applicable to both the writing and the purchase of options on the Exchange and shall be payable at such times and shall be collected in such manner as the Board of Governors may determine and the proceeds thereof shall be deposited among the general funds of the Exchange.

Amendments.

Amended effective November 1, 1974.

Amended June 2, 1977.
Amended October 30, 1998.
Amended [_____, 2004].

ARTICLE VIII

ARBITRATION PROCEDURE

Section 1. Duty to Arbitrate. Members, member organizations, partners, officers and trustees of member organizations shall arbitrate all controversies arising in connection with their business between or among themselves or between them and their customers as required by any customer's agreement or, in the absence of a written agreement, if the customer chooses to arbitrate. Lessors and lessees shall arbitrate all controversies arising between them in connection with their special transfer agreement. Owners of memberships and their nominees shall arbitrate all controversies arising between them in connection with the membership and the business thereof.

Amendments.
Amended effective June 1, 1970.
Amended December 12, 1977.
May 16, 1995.
October 30, 1998.

Section 2. Arbitration Forum. Arbitration shall be conducted pursuant to the NASD Code of Arbitration Procedure or such other code of arbitration procedures as may be from time to time determined by the Board of Governors by adoption of a resolution approved by a majority of the Governors then in office, except that if all parties to the controversy are members, allied members, member firms or member corporations of the New York Stock Exchange, any party may elect to arbitrate under the arbitration procedures of that exchange.

[Section 3. Proceeding Instituted Prior to Combination]

[. Any arbitration proceeding instituted with Predecessor Corporation prior to the closing date under the Transaction Agreement may continue to be conducted by means of the arbitration facilities of this Exchange and in accordance with Exchange arbitration rules and procedures in effect when such proceeding was instituted.]

Adopted.
October[39,] 30, 1998.

Amendments.
Amended [_____, 2004].

Section 3. [Section 4.]Penalties.

(a) Failure to arbitrate. Failure on the part of a party who has a duty to arbitrate to submit to arbitration as herein provided, or the institution of a suit in any court by such party, prior to arbitration hereunder, in a case subject to such arbitration, shall constitute an act contrary to just and equitable principles of trade.

(b) Failure to pay award. Failure on the part of a member, member organization or owner of a membership to pay an award made pursuant to the arbitration procedures of an exchange or the NASD shall be deemed a failure to meet his or its engagements and subject him or it to suspension under Article V, Section 3.

Amendments.

Amended May 16, 1995.

Amended October 30, 1998.

Amended [_____, 2004].

ARTICLE IX

THE GRATUITY FUND

Section 1. Participants Only.

(a) The Gratuity Fund shall apply solely to regular and options principal members of the Exchange, and to owners, nominees, lessors and lessees of regular or options principal memberships of the Exchange who satisfy the eligibility requirements for participation in the Gratuity Fund specified in paragraph (b) below, all of whom shall be referred to in this Article as "Participants".

(b) (1) To be a Participant, an individual who is a member or the lessee or nominee of a membership must be currently active as such, and an individual who is an owner of a membership and not currently active as a member, lessee or nominee must have been previously active as such for two continuous years after June 10, 1993; provided that prior active status shall not count for this purpose if there should be thereafter any five-year period in which such individual is not the owner of a regular or options principal membership or a lessee or nominee of a regular or options principal membership. For these purposes, the terms "active" and "two continuous years" shall have the meanings specified in subparagraph (2) below.

(2) [(i) Definition of "active." An "active" member is a person who satisfies all Exchange requirements to be active on the Floor, including passing any necessary examinations and being registered as a "broker", "dealer" or "person associated with a broker or dealer" (as defined by Section 3(a)(4), (5) and (18) of the []'34 Act).

(ii) Definitions of "two continuous years." "two continuous years" means two calendar years. Failure to meet the active requirement for any period up to sixty (60) consecutive calendar days during the

two-year period shall not be considered an interruption of such period. A person may be active on different seats during the two years, and may be either owner, nominee or lessee, or any combination thereof.

(c) No individual may be a Participant with respect to more than one membership, and any individual otherwise satisfying the requirements of this Section 1 with respect to more than one membership shall designate to the Exchange the membership as to which he desires to be a Participant. In the absence of any such designation by the individual, the Exchange shall make such designation in its discretion.

Amendments.

Amended effective December 4, 1979.

Amended May 16, 1995.

Section 2. Purpose. It was the purpose of the Exchange in establishing the Gratuity Fund to provide a method, through the medium of voluntary contributions by Participants, whereby the surviving family of a deceased Participant might receive financial assistance. Nothing herein contained shall, however, be construed as constituting a liability of the Exchange, or of its members or Participants, to any member or Participant, or to his representatives, next of kin, creditors, or otherwise. Neither the establishment of funds hereunder nor anything in this Article contained shall create any right in any member or Participant which may be assigned or pledged, or which shall be available to his creditors.

Amendment.

May 16, 1995.

Section 3. Contributions by New Participants. Before being admitted to the privileges of owning or having in their name a membership in the Exchange, Participants shall pay to the Treasurer of the Gratuity Fund a sum determined by dividing \$125,000 by the then number of Participants and owners of regular and options principal memberships that do not have a Participant. The said Gratuity Fund, together with any additions thereto, shall be the property of the Exchange, to be managed and distributed by the Trustees of the [said]Gratuity Fund, as hereinafter set forth.

Amendments.

Amended effective June 1, 1965.

Amended effective December 4, 1979.

Amended effective February 20, 1987.

Amended May 16, 1995.

Amended [_____ , 2004]

Section 4. Contributions on Death of Participant. Upon the death of a Participant, each Participant shall pay to the Treasurer of the Gratuity Fund a sum determined by dividing the amount payable under the provisions of Section 5 of this Article by the then number of Participants and owners of regular and options principal memberships that do not have a Participant. Each membership shall be subject to at least

one assessment each time contributions are required upon the death of a Participant, and if there is no Participant associated with the membership, then the owner of such membership shall be obligated to pay such assessment. Payments under this and under the preceding Section shall be charged and collected in the same manner as dues and fines are or may be at the time charged and collected. Such payments shall likewise be a charge against the estate of a deceased Participant until the date of the transfer of the membership owned by him or as to which he is a lessee or nominee. A Participant shall be subject to the full amount of an assessment notwithstanding the fact that such Participant may not be eligible under Section 5 below to collect an amount equivalent to that being paid to the beneficiaries of the Participant with respect to whose death the assessment is being made.

Amendments.

Amended effective June 1, 1965.

Amended effective December 4, 1979.

Amended effective February 20, 1987.

Amended effective May 16, 1995.

Section 5. Payment of Benefits. The Trustees of the Gratuity Fund, within one year after the death of a Participant, or within such further time as they may deem expedient, shall pay, out of the money collected from the subscriptions aforesaid, the respective amount hereinafter set forth according to the length of time that has elapsed between the date when the deceased became a Participant and the date of his death, namely

- \$25,000 if such elapsed time is less than one year,
- \$50,000 if such elapsed time is one year or more but less than two years,
- \$75,000 if such elapsed time is two years or more but less than three years,
- \$100,000 if such elapsed time is three years or more but less than four years,
- \$125,000 if such elapsed time is four years or more.
- and no more, or so much thereof as may have been collected on account of the death of such Participant, to the person or persons named in the next Section, but in the manner, and subject to the discretion, therein provided, which money shall be accepted as a gratuity from those assessed, free from all debts, charges and demands whatsoever. A person who shall for any period of five years or more cease to be a Participant, who thereafter again becomes a Participant, shall be treated as a new Participant for purposes of the "phase in" described above, but a person who

ceases to be a Participant and resumes Participant status after less than five years shall be entitled to resume the “phase in” status previously enjoyed.

Additions to Principal. Any sum thus collected above the sum specified above shall be added to the principal of the Gratuity Fund.

Amendments.

Amended effective June 1, 1965.

Amended effective December 4, 1979.

Amended effective February 20, 1987.

Amended effective May 16, 1995.

Amended effective October 30, 1998.

Section 6. Beneficiaries.

Surviving Spouse. Should a Participant die leaving a surviving spouse and no issue and/or no legally adopted child or children, or its or their issue, then the whole sum shall be paid to such surviving spouse.

Surviving Spouse and Issue. Should the Participant die leaving a surviving spouse and issue, and/or a legally adopted child or children, or its or their issue, then one-half shall be paid to the surviving spouse and one-half to the issue, and to the legally adopted child or children, or its or their issue, share and share alike, per stirpes.

Issue —No Surviving Spouse. Should the Participant die leaving issue, and/or a legally adopted child or children, or its or their issue, and no surviving spouse, then the whole sum shall be paid to the issue, and/or the legally adopted child or children, or its or their issue, share and share alike, per stirpes.

Adopted Children. Legally adopted children shall, as above stated, share in the gratuity to the same extent as issue.

No Issue —No Surviving Spouse. Should the Participant leave at death no surviving spouse, issue, legally adopted child, or children, its issue, or their issue, but a father and mother, to the father and mother equally; if a father or a mother, all to the one thus surviving; if no father or mother but brothers and sisters, to such brothers and sisters surviving, share and share alike, the issue of a deceased brother or sister to take per stirpes the parent's share.

No Relatives. Should the Participant leave at death no surviving spouse, issue, adopted child or children, issue of an adopted child or children, father, mother, brother or sister, or issue of a brother or sister, no payment shall be made, but the subscriptions collected shall be credited to the Participants in the Gratuity Fund as against subsequent subscriptions hereunder.

Decision on Relationships. The Trustees of the Gratuity Fund shall be the sole judges in respect to proofs of death, of relationships and of payments to be made hereunder. Their decisions on all such matters shall be final. Payments from [said]the Gratuity Fund, other than as herein authorized, shall be made by the said Trustees only under the direction of the Board of Governors.

Amendments.

Amended January 19, 1983.

Amended May 16, 1995.

Amended October 30, 1998.

Amended [_____], 2004]

Section 7. Income of Fund. There shall be credited annually to each Participant, in reduction of his payments under this Article, his proportion of the net income which has been received as interest on the Fund during each year, plus so much of his proportion of the principal of [said]the Gratuity Fund above two hundred fifty thousand dollars as the Trustees in their discretion may deem advisable.

In the event any extraordinary payment shall be received by the Gratuity Fund from any source, there shall be credited to each then participant, in reduction of his payments under this Article, his proportion of such payment.

Amendments.

Amended effective June 1, 1965.

Amended effective December 4, 1979.

Amended effective February 20, 1987.

Amended effective May 16, 1995.

Amended effective October 30, 1998.

Amended [_____], 2004]

Section 8. Restriction to Participants. The provisions of this Article shall not extend to any Participant whose connection with the Exchange shall have been severed by transfer of his membership, other than a special transfer, whether the same be voluntary or involuntary, or to any Participant who now is, or hereafter may be, expelled from the Exchange, but it shall extend to Participants suspended.

Amendments.

Amended effective December 4, 1979.

Amended effective May 16, 1995.

Section 9. Management by Trustees. The execution of the provisions of this Article, and the management and distribution of the Fund created hereunder, shall be under the charge of six trustees, to be known as "The Trustees of the Gratuity Fund" who are regular or options principal members of the Exchange and are Participants under the provisions thereof.

Amendment.
May 16, 1995.

Section 10. Classification and Selection of Trustees. [The]All Trustees [of the Gratuity Fund]shall be [appointed by The Amex Corporation, based on the vote of the regular and options principal members of]nominated and elected in accordance with the [Exchange]procedures set forth in Article III. The Trustees shall be divided into three classes, each consisting of two Trustees. Trustees shall hold office for three years from the date of their election and until Trustees are chosen and qualified in their stead.

Amendments.
Amended effective September 4, 1962.
Amended June 7, 1972.
Amended October 30, 1998.
Amended [_____, 2004].

Section 11. Vacancy Among Trustees. In case of a vacancy among the Trustees, [the board of The Amex Corporation]MC shall appoint a person qualified to serve as Trustee until the next meeting at which the Trustees to be appointed are selected.

[Amendment]Amendments.
Amended effective October 30, [1998]1998.
Amended [_____, 2004].

Section 12. Investments. All investments of moneys of the Gratuity Fund shall be in securities authorized to trustees under the laws of the State of New York.

Section 13. Officers of Fund. Within one month after the annual election, a meeting of the Trustees shall be held at which the Trustees shall elect a Chairman, a Vice Chairman, a Secretary, a Treasurer and an Assistant Treasurer of the Gratuity Fund, who shall serve until the next annual election of the Exchange, and until their successors shall be chosen. The offices of Secretary and Treasurer of the Gratuity Fund may be held by the same person.

Amendments.
Amended July 2, 1958, effective July 21, 1958.
Amended effective September 4, 1962.
Amended effective October 1, 1971.

Section 14. Meetings of Trustees. The Chairman of the Gratuity Fund may call a special meeting at any time; he shall call a meeting at the request of two Trustees; at a meeting four Trustees shall constitute a quorum, and the action of a majority of the Trustees at any meeting at which a quorum is present shall be binding.

[Amendment]Amendments.

Amended July 2, 1953, effective July 21, 1958.

Amended [_____, 2004]

Section 15. Report on Condition. It shall be the duty of the Chairman of the Gratuity Fund to preside at meetings; he shall be entitled to vote on all questions; he shall, on the Monday preceding the annual election of the Exchange, make a report to the [Chief Executive Officer]Chairman of the Board of [the Exchange]Governors of the condition of the Gratuity Fund, with a statement by the Treasurer of the Gratuity Fund of receipts and disbursements.

[Amendment]Amendments.

Amended April 13, 2000.

Amended [_____, 2004].

Section 16. Management. It shall be the duty of the Secretary of the Gratuity Fund to keep regular minutes of the proceedings of the Trustees, and to give notice of meetings.

Deposit of Funds; Custody of Securities; Books. It shall be the duty of the Treasurer of the Gratuity Fund to deposit contributions collected for the [said]Gratuity Fund, in such banking institutions as the Trustees may direct, to the credit of the Trustees of the Gratuity Fund of the American Stock Exchange LLC. Such depositaries shall be authorized to honor checks on said accounts signed by the Treasurer of the [said]Gratuity Fund and by one other Trustee. Subject to the examination and control of the Trustees, the Treasurer shall have custody of all securities belonging to the Gratuity Fund. He shall keep, or cause to be kept, proper books of account. Upon the announcement of the death of any Participant, he shall make a record thereof, and shall report the fact to the Trustees. Payments from said Fund shall be made by the Treasurer of the Gratuity Fund only when authorized by the Trustees. His books shall always be open to inspection by any Trustee, and he shall make, upon the request of any Trustee, statements of receipts and disbursements. The Treasurer shall make such investments for the Gratuity Fund as may be ordered by the Trustees, and shall report the same to them at their next regular meeting.

Amendments.

Amended May 16, 1995.

Amended October 30, 1998.

Amended [_____, 2004]

Section 17. Payments to Minors. The Trustees shall have discretion, in respect to the payment of a gratuity for a minor, either to pay such gratuity to the mother or father of the minor or to a guardian of the minor; but the Trustees may, in their discretion, make such payment expressly subject to such terms and conditions as the Trustees may in the circumstances deem advisable.

Amendment.

Amended [_____ , 2004].

Section 18. Beneficiary Not Located. In the event that a gratuity is directed to be paid hereunder to a person who, after reasonable inquiry, cannot be found, the said gratuity shall be retained by the Treasurer of the Gratuity Fund for a period of six years, after which time, unless payment shall have been made in the meantime, the said gratuity shall be added to the principal of the [trust]Gratuity Fund, and shall thereafter be free of any claim by or through such person.

Amendment.

Amended [_____ , 2004]

Section 19. Expenses. The Trustees shall have power to consult and employ legal counsel; they shall be authorized to make disbursements out of the Gratuity Fund to defray necessary expenses, but no such disbursements shall be allowed without a resolution specifying the nature and amount of the same being entered at large upon the books of minutes of the Secretary of the Gratuity Fund.

Amendment.

Amended [_____ , 2004]

Section 20. Vacancy Among Officers. In case of a vacancy occurring in the office of Chairman, or Vice Chairman, or Secretary, or Treasurer, or Assistant Treasurer of the Gratuity Fund, the Trustees shall forthwith proceed to fill the same for the unexpired term. In case of the temporary absence or inability to act of the Chairman, or Vice Chairman, the Secretary or the Treasurer or Assistant Treasurer of the Gratuity Fund, the Trustees shall have power to appoint one of their number to act in his stead pro tem.

[Amendment]Amendments.

July 2, 1958, effective July 21, 1958.

Amended [_____ , 2004]

Section 21. Supervision of Finances. The Board of Governors [of the Exchange]shall, at all times, have the right to direct the production before it of the securities belonging to the Fund, the Secretary's book of minutes and the Treasurer's books of account.

Annual Audit. It shall be the duty of the Board of Governors to make an annual examination of the condition of the Gratuity Fund; and it shall have the right at any time to make such additional examination thereof as it may deem proper.

Amendments.

Amended effective September 4, 1962.

Amended effective October 30, 1998.

Amended [_____ , 2004]

Section 22. Discipline of Trustees. The Board of Governors [of the Exchange]shall have power to try charges against any Trustee for malfeasance or negligence in office and, by the affirmative vote of a majority of the entire Board of Governors, to suspend him from office, or to remove him and declare the office vacant.

Amendments.

Amended October 25, 1972.

Amended October 30, 1998.

Amended [_____, 2004].

Section 23. Transition Provisions.

(a) Notwithstanding the foregoing provisions of this Article IX, an individual who was a regular member or regular member lessor on June 10, 1993 will be exempt from the “active” requirement specified in Section 1(b) above, unless or until there should be thereafter any five-year period in which such individual is not the owner of a regular or options principal membership or a lessee or nominee of a regular or options principal membership.

(b) An individual who is the owner of an options principal membership on May 16, 1995 shall make, in accordance with the Rules of the Exchange, an election to be or not to be a Participant, and such election shall be irrevocable for the lifetime of such individual, unless such individual shall thereafter become the owner of a regular membership and satisfy any additional eligibility requirements to be a Participant under Section 1 of this Article IX. Notwithstanding the foregoing, an individual who is the owner of an options principal membership on May 16, 1995 but who became an owner of such membership subsequent to June 10, 1993 shall not be eligible to elect to become a Participant unless such individual was a regular or options principal member or lessor as of June 10, 1993.

(c) An individual who is a lessee of a regular or options principal membership on May 16, 1995 shall have the right to elect, in accordance with the Rules of the Exchange, to not be a Participant, but such election shall be effective only for the duration of the current lease and any renewals thereof.

(d) Each individual who becomes a Participant on May 16, 1995 solely by operation of the Constitutional amendments made effective on that date, shall pay an initial assessment to the Gratuity Fund in the amount of \$300, in lieu of any initial assessment under Section 3 above. All payments under this paragraph shall be charged and collected in the same manner as dues and fines are or may be at the time charged and collected. Such payments shall likewise be a charge against the estate of a deceased Participant until the date of the transfer of the membership owned by him or as to which he is a lessee or nominee.

(e) An individual who becomes a Participant on May 16, 1995 solely by operation of the Constitutional amendments made effective on that date, shall for purposes of Section 5 of this Article be deemed to have been a Participant for four

years or more, regardless of how long such person has been a member of the Exchange, subject to the normal provisions of Section 5 should such person later cease to be a Participant for five years or more. Notwithstanding the foregoing, an individual described in paragraph (b) or (c) above who elects not to become a Participant, and who subsequently becomes a Participant on some other basis, shall be subject to the “phase in” provisions of said Section 5 on the same terms as any other new Participant.

Adopted.
May 16, 1995.

ARTICLE X

CLEARING ORGANIZATIONS

Section 1. Clearing Organizations. The rights of the Exchange as owner of an interest in any corporation (whether or not a subsidiary of the Exchange), joint venture, partnership or other entity shall be exercised by the Board of Governors.

Amendments.
Amended effective October 1, 1971.
Amended effective October 7, 1974.

Section 2. Settlement of Exchange Contracts.

(a) In every Exchange Contract not involving an option contract (as defined in the Rules) or the exercise thereof, delivery and payment shall be made through a registered clearing agency (as defined by rule of the Board of Governors), in accordance with the by-laws and rules of such registered clearing agency, unless otherwise stipulated in the bid or offer or it is otherwise agreed by the parties to the contract, or unless such registered clearing agency either in the particular instance or in pursuance of its by-laws and rules, will not act in the matter. If a party to any such contract is not a participant in a registered clearing agency entitled to clear and settle any such contract through such registered clearing agency he shall cause the transaction to be cleared or settled for him by a member organization which is a participant in a registered clearing agency.

(b) In every Exchange Contract involving an option contract (as defined in the Rules) or the exercise thereof, settlement and payment shall be made as required by the By-Laws and Rules of The Options Clearing Corporation unless The Options Clearing Corporation, either in the particular instance or in pursuance of its By-Laws and Rules, will not act in the matter. If a party to any such contract is not a Clearing Member as defined in the By-Laws of The Options Clearing Corporation he shall cause the transaction to be cleared or settled for him by a Clearing Member.

Amendments.
Amended effective September 4, 1962.
Amended effective October 7, 1974.

Amended January 18, 1977.
Amended April 7, [1978]1978.

Section 3. Exchange Contracts Include Rules.

(a) Rescinded effective January 18, 1977.

(b) The By-Laws and Rules of The Options Clearing Corporation and the amendments thereto adopted from time to time shall be a part of the terms and conditions of every contract which is to be cleared or settled by, or shall be made a part of the terms and conditions of every transaction submitted for settlement through The Options Clearing Corporation and all such contracts shall be subject to the exercise by The Options Clearing Corporation of the powers with respect thereto vested in it by its By-Laws and Rules.

Amendments.

Amended effective October 7, 1974.

January 18, 1977.

Amended April 7, 1978.

Amended October 30, 1998.

[ARTICLE XI]

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 1. Rules of Exchange Included in Contract Terms. The provisions of the Constitution of the Exchange and of the rules adopted pursuant thereto shall be a part of the terms and conditions of all Exchange Contracts, and all such contracts shall be subject to the exercise by the Board of Governors, of the powers with respect thereto vested in it by the Constitution and rules of the Exchange.

Amendments.

Amended effective September 4, 1962.

Amended effective October 7, 1974.

Amended January 18, 1977.

Amended April 7, 1978.

Section 2. Securities Admitted by New York Stock Exchange.
Rescinded effective August 19, 1976.

Section 3. Keeping of Books. Members and member organizations shall keep true and complete books of account and records adequately setting forth the transactions of such members and member organizations in accordance with the requirements of the Constitution and rules of the Exchange and the Securities Exchange Act of 1934 and the rules thereunder.

Amendments.

Amended June 19, 1978.

Amended May 16, 1995.

Section 4. Controlled Corporations and Associations.

Broker for Securities Corporation. Unless the prior written consent of the Exchange is obtained, no member or member organization shall act as a broker for any non-member corporation or association in the purchase or sale of securities if such non-member corporation or association is controlled directly or indirectly through stock ownership or otherwise by such member or member organization and is itself engaged in the business of buying and selling securities as broker for others.

Participation in Corporate Commissions. If a member or an officer, director or employee of a member organization is an officer, director or employee of any non-member corporation or association engaged in the business of buying and selling securities for its own account or as broker for others, or if he or his member organization is a stockholder in any such non-member corporation or association, neither he nor the member organization shall participate in any commission paid by such non-member corporation or association unless either he or the member organization is engaged in a general brokerage business and in connection with such business actively participates in the transaction on which such commission is paid, or such member is actively engaged in business as a Floor broker.

Corporate Use of Member Office; Corporate Use of Member Name. Unless the prior written consent of the Exchange is obtained, no member or member organization shall suffer or permit any non-member corporation or association engaged in the business of buying and selling securities for its own account or as broker or agent for others to use as its office the office or any branch office of such member or member organization or to employ in its business the same business organization as that employed by such member or member organization or voluntarily suffer or permit any such organization to conduct its business under a name that does not clearly differentiate such corporation or association from such member or member organization.

Responsibility for Corporate Subsidiary; Duty to Produce Books. If a member or member organization controls, directly or indirectly, through stock ownership or otherwise, a non-member corporation or association engaged in the business of buying and selling securities for its own account or as broker or agent for others, such member or member organization shall be responsible for any fraud committed by such non-member corporation or association or for any conduct or proceeding of such non-member corporation or association inconsistent with just and equitable principles of trade or any act detrimental to the interest or welfare of the Exchange or tending to defeat the purpose of any provision of the Constitution of the Exchange or of a rule or resolution adopted pursuant thereto, to the same extent and in the same manner as though such fraud or conduct or proceeding or act had been the fraud, conduct or proceeding or act of such member or member organization, and such member or member organization shall be under the same duty to produce the books, records and papers of any such non-member

corporation or association for examination and inspection and to furnish evidence in regard to the acts and proceedings of such non-member corporation or association and shall be subject to the same penalties for the neglect of such duty as if such books, records, papers, acts and proceedings were the books, records, papers, acts and proceedings of such member or member organization.

Adopted.

Sec. 4 adopted effective October 7, 1974.

Amendments.

Amended effective June 1, 1970.

Amended effective May 1, 1975.

Amended effective October 7, 1974.

Amended effective May 16, 1995.

Amended effective October 30, 1998.

Section 5. [Options]Code of Conduct. [No employee of]The Board of Governors shall adopt a code or codes of conduct, applicable to Governors and to all officers and employees of the Exchange[and no employee of any corporation in], which [the Exchange owns the majority of the capital stock may purchase or sell for his own account]code or [for any account in which he has a direct or indirect interest any option which entitles the purchaser to purchase or sell any security which is the subject of any option contract admitted to dealings on the Exchange; provided, however, that this prohibition shall not extend to a standardized option issued by The Options Clearing Corporation unless such option is on an underlying security which is listed on the Exchange.]codes also comply with the definition of a “code of ethics” as set forth in Item 406 of SEC Regulation S-K.

Adopted.

October 30, 1998.

Amendments.

Amended _____, 2004.

Section 6. Rule of Construction. This Constitution shall be governed by, and construed in accordance with, the laws of the State of Delaware, without regard to the principles of conflict of laws.

Amendment.

October 30, 1998.

ARTICLE XII

EMERGENCY COMMITTEE

Section 1. Authority to Take Action Under Emergency or Extraordinary Market Conditions. The Board of Governors, or such person or persons as

may be designated by the Board of Governors, in the event of an emergency or extraordinary market conditions, shall have the authority to take any action regarding the trading of any or all securities on the Exchange and the operation of any Exchange trading system or facility and the participation in any such system or facility by any or all persons, if in the opinion of the Board of Governors or the person or persons hereby designated, such action is necessary or appropriate for the protection of investors or the public interest or for the orderly operation of the Exchange or any Exchange system or facility.

Amendments.

Adopted effective September 4, 1962.

Amended effective October 1, 1971.

Amended October 30, 1998.

Amended [_____, 200_].

ARTICLE XIII

AMENDMENTS TO THE CONSTITUTION

Section 1. Procedure.

(a) _____ The provisions of this Constitution may be amended or repealed, and new provisions may be adopted, only if approved by a majority of [governors and by the holder of the Class B Interest in the Exchange] Governors then in office in accordance with the procedure specified in this Article[. The]; provided, however, that the Board of Governors[and the holder of the Class B Interest] shall not approve any change or amendment to the Constitution [that requires the consent of The Amex Corporation, the Amex Committee, or both under the terms of the Transaction Agreement]described in subsection (b) below without first obtaining [such] the consent of MC in accordance with the Second Restated Certificate of Incorporation and the MC By-Laws. The [elimination] effectiveness of [the foregoing sentence or] any such change or amendment [thereto that would limit its effect] shall [also require the consent of The Amex Corporation.] be subject to first obtaining such consent.

(b) _____ No amendment to, or that would have the effect of limiting the effectiveness of, the following provisions of the Constitution shall be made without first obtaining the consent of MC:

(i) _____ Article II, Section 1 (the Board of Governors; Classification);

(ii) _____ Article II, Section 6 (Standing Committees);

(iii) _____ Article II, Section 8 (Actions Requiring the Consent of MC);

- Procedures);
- (iv) Article III (Nomination and Election
- Rights);
- (v) Article IV, Section 1(j) (New Trading
- (vi) this Article XIII, Sections 1 and 3; and
- (vii) any such amendment to the Constitution that would result in a material change in the market structure or operations of the Exchange.

Amendments.

Adopted effective October 1, 1971.

Amended June 7, 1972.

Amended October 30, 1998.

Amended [_____, 2004].

Section 2. Adoption by Board.

(a) Amendments to the Constitution may be proposed by one or more members of the Board of Governors or by the signed petition of not less than 50 regular and options principal members of the Exchange setting forth the proposed amendment. Any such petition shall be filed with the Secretary of the Exchange who shall present it to the Board of Governors at its next regular meeting or within 30 days after the date such petition is filed.

(b) Every proposed amendment to the Constitution must be presented in writing to the Board of Governors at a regular meeting or at a special meeting expressly called for the purpose of receiving it. The Secretary of the Exchange shall promptly cause a copy of every proposed amendment to be transmitted to each [governor]Governor. Action on any proposed amendment shall be taken or postponed at a regular meeting of the Board of Governors or at a special meeting expressly called for the purpose of acting thereon. The Board of Governors may make such changes in an amendment so proposed as it may deem necessary or appropriate in order to carry out the intention of such proposed amendment or in order to make it conform to other provisions of the Constitution or any applicable Federal or State Law. Subject to the requirements of [Section]Sections 1 and 3 of this Article XIII, a proposed amendment shall be adopted if it is approved by the affirmative vote of the majority of [governors]Governors then in office[and by the holder of the Class B Interest in the Exchange].

Amendments.

Adopted effective October 1, 1971.

Amended June 7, 1972.

Amended October 25, 1972.

Amended October 30, 1998.

Amended [_____, 200].

Section 3. [Voting by Membership]Adoption of Amendments
Requiring the Consent of MC

Section 4.

(a) [] In the event that a proposed amendment to the Constitution cannot be made without the consent of [The Amex Corporation, based on the vote of regular and options principal members of the Exchange]MC, the Secretary of the Exchange shall request that [the Amex Corporation]MC hold a special meeting of MC for the purpose of considering such proposed amendment. The Secretary of the Exchange shall furnish a copy of the proposed amendment with such request.

Amendments.

Adopted October 25, 1972.

Amended October 30, 1998.

Amended [_____, 2004].

Section 3 renumbered as Section 3(a) as of [_____, 2004]

[Section 4. Adoption of Amendments Requiring a Membership Vote]

(b) [] In the event that a proposed amendment to the Constitution cannot be made without the consent of [The Amex Corporation, based on the vote of the regular and options principal members of the Exchange, the Predecessor Corporation]MC, MC shall grant such consent to the proposed amendment if it is authorized to do so [by a majority of the regular]in accordance with its Second Amended and Restated Certificate of Incorporation and[options principal members voting as a single class at a duly convened meeting at which a quorum is present. If a quorum shall not be present, in person or by proxy, at the place and time fixed for the special meeting called to consider the proposed amendment, the meeting shall be adjourned to reconvene at the same time and place on the day two weeks thereafter or, if the Exchange is not open for business on that day, on the next succeeding business day. If a proposed amendment is not approved at the special meeting at the time fixed therefore or at such adjourned time, such amendment may not again be submitted to the membership for a period of ninety days]the MC By-Laws.

Amendments.

Adopted effective October 1, 1971.

Amended June 7, 1972.

Amended May 16, 1995.

Amended October 30, 1998.

Amended [_____, 2004].

Section 4 renumbered as Section 3(b) as of [_____, 2004]

Section 4. [Section 5.]Provisions for Families of Deceased Members. Notwithstanding the foregoing provisions of this Article, no amendment of Article IX shall ever be made which will impair, in any essential particular, the obligation of each regular member to contribute, not less than the sum of twenty-five dollars to the

provision for the families of deceased members, unless such amendment shall be authorized by a unanimous vote, or by the written request, of all of the regular members of the Exchange.

Amendments.

Adopted effective October 1, 1971.

Amended June 7, 1972.

Amended October 30, [1998]1998.

Amended [_____, 2004].

[Section 6. Renumbered as Section 5 effective October 30, 1998.]

Amendments.

Adopted effective October 1, 1971.

Amended June 7, 1972.

Amended effective December 4, [1979]1979.

Section 6 renumbered as Section 5 effective October 30, 1998 and renumbered as Section 4 effective [_____, 2004]

ARTICLE XIV

RESERVED

[¶9122]Article XIV is deleted in its entirety effective October 30, 1998.