

11-02-2004

10/25/04



Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005) Tab settings

102872479 TRADEMARKS ONLY

HEET U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): **Board of Trade of the City of Chicago**

Individual(s) Association
 General Partnership Limited Partnership
 Corporation-State
 Other **Illinois Voluntary Membership Association**

Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies)
 Name: **Board of Trade of the City of Chicago**
 Internal
 Address:
 Street Address: **141 West Jackson Boulevard**
 City: **Chicago** State: **IL** Zip: **60604**

Individual(s) citizenship
 Association
 General Partnership
 Limited Partnership
 Corporation-State
 Other **Delaware Not for Profit, Non-Stock Corporation**

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
 (Designations must be a separate document from assignment)
 Additional name(s) & address(es) attached? Yes No

3. Nature of conveyance:
 Assignment Merger
 Security Agreement Change of Name
 Other **Change in Corporate Status**

Execution Date: **November 13, 2001**

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)
 B. Trademark Registration No.(s) **1,843,860; 1,302,030**

Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:
 Name: **Jeanne M. Gills, Esq.**
 Internal Address: **Suite 2800**
 Street Address: **321 North Clark Street**
 City: **Chicago** State: **IL** Zip: **60610**


6. Total number of applications and registrations involved: **2**

7. Total fee (37 CFR 3.41).....\$ **65.00**
 Enclosed
 Authorized to be charged to deposit account

8. Deposit account number:
 (Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Jeanne M. Gills, Esq.  **October 20, 2004**
 Name of Person Signing Signature Date

Total number of pages including cover sheet, attachments, and document: **16**

Mail documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

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 02 FC:8522 25.00 OP

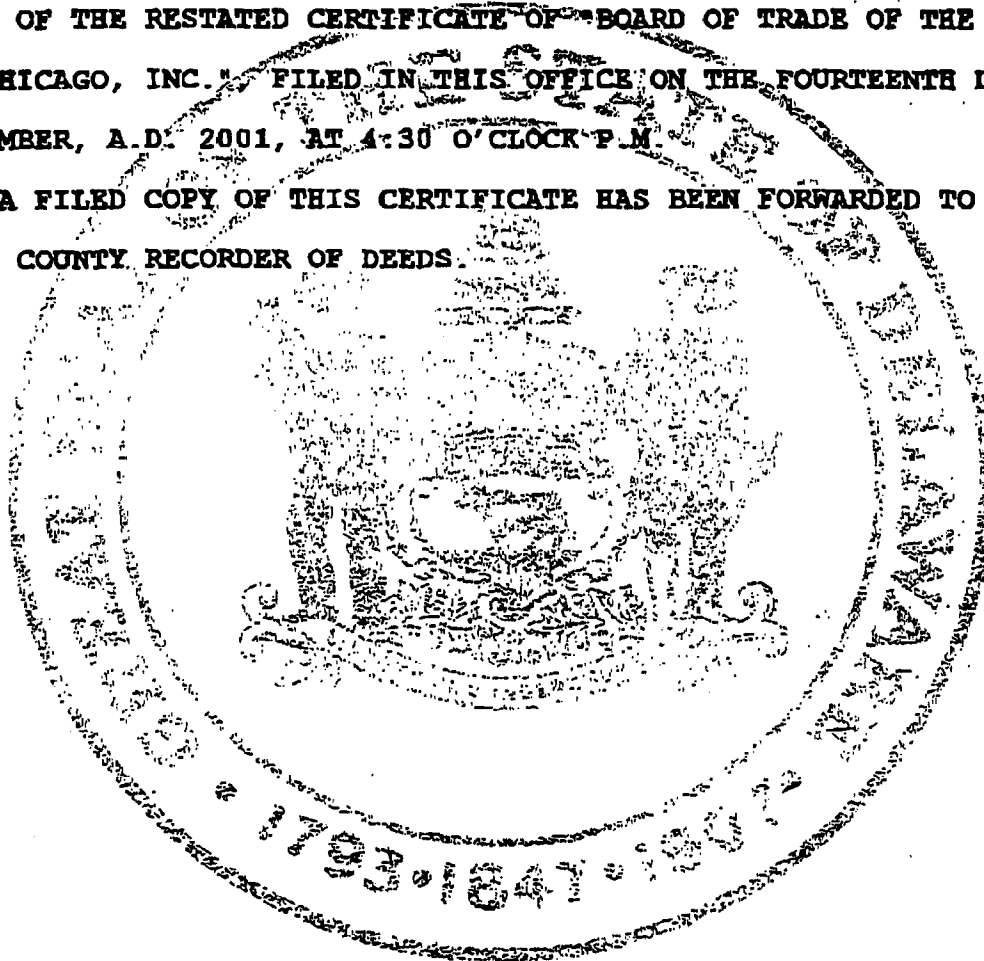
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State of Delaware
Office of the Secretary of State

PAGE 1

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF BOARD OF TRADE OF THE CITY OF CHICAGO, INC. FILED IN THIS OFFICE ON THE FOURTEENTH DAY OF NOVEMBER, A.D. 2001, AT 4:30 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE KENT COUNTY RECORDER OF DEEDS.



Harriet Smith Windsor
Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 1446754

DATE: 11-14-01

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AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION

OF

BOARD OF TRADE OF THE CITY OF CHICAGO, INC.

(Originally incorporated on May 12, 2000
under the name Delaware CBOT, Inc.)

FIRST: The name of the corporation is Board of Trade of the City of Chicago, Inc. (hereinafter referred to as the "Corporation").

SECOND: The address of the registered office of the Corporation in the State of Delaware is 9 East Lockerman Street, in the City of Dover, County of Kent, Delaware 19901. The name of the registered agent of the Corporation at such address is National Registered Agents, Inc.

THIRD: The nature of the business or purposes to be conducted or promoted by the Corporation are:

(a) to maintain a commercial exchange; to promote uniformity in the customs and usages of merchants; to inculcate principles of justice and equity in trade; to facilitate the speedy adjustment of business disputes; to acquire and disseminate valuable commercial and economic information; and, generally, to secure to its members the benefits of cooperation in the furtherance of their legitimate pursuits; and

(b) to engage in any other lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware (the "DGCL").

FOURTH: The Corporation is not for profit and shall have no authority to issue capital stock. Any amendment, alteration or repeal of this Article FOURTH shall require the approval of the Board of Directors and the affirmative vote of the members in accordance with Exhibit A to this Amended and Restated Certificate of Incorporation (including all exhibits, the "Certificate of Incorporation"), which exhibit shall be a part hereof.

FIFTH: The terms and conditions of membership in the Corporation, including, without limitation, the rights and obligations, including trading rights and privileges, of members (full, associate or otherwise), member firms, membership interest holders, delegates and all categories and classes of memberships and other interests in the Corporation, shall be as provided in or pursuant to this Certificate of Incorporation, Exhibit A hereto and the bylaws of the Corporation (including all provisions incorporated therein by reference, the "Bylaws"). Each person or entity that held any membership or other interest in the Board of Trade of the City of Chicago, an Illinois not-for-profit corporation ("Old CBOT"), immediately prior to the merger of Old CBOT with and into the Corporation (the "Merger"), shall hold such membership or other interest in the Corporation immediately following the Merger, subject to this Certificate of Incorporation and the Bylaws, Rules and Regulations (each as hereinafter defined) of the

Corporation.

This Certificate of Incorporation and the Bylaws may be amended from time to time to provide for one or more additional classes of members, membership or other interests, with such terms and conditions, including, without limitation, rights and obligations, including trading rights and privileges, voting rights (or no voting rights), and other qualifications and powers, some or all of which may vary as between classes, as may be provided for herein or in the Bylaws. Any such amendment to this Certificate of Incorporation shall require the approval of the Board of Directors and the affirmative vote of the members in accordance with Exhibit A hereto.

SIXTH: (a) The business and affairs of the Corporation shall be managed by or under the direction of a governing body to be known as the Board of Directors.

(b) Except as otherwise provided in Article Sixth(c) of this Certificate of Incorporation, the Board of Directors shall be comprised of the following eighteen members (all of whom may be referred to hereinafter as "Directors"):

- (1) the Chairman of the Board;
- (2) the Vice Chairman of the Board;
- (3) the President of the Corporation (who shall be a non-voting Director);
- (4) nine elected Directors who shall be Full Members of the Corporation and of whom at least two shall be non-resident (defined for purposes of this provision as a person whose ordinary place of business or occupation is located more than fifty miles from the Court House of Cook County, Illinois);
- (5) four non-member Directors; and
- (6) two Directors who shall be Associate Members of the Corporation.

(c) On and after the first Annual Election (as defined in the Bylaws) following membership approval of a restructuring of the Corporation pursuant to which members will receive stock issued by the Corporation or a holding company that holds, directly or indirectly, a membership or other interest in the Corporation (the "Required Approval"), the Board of Directors shall be comprised of the following nine members (all of whom may be referred to hereinafter as "Directors"):

- (1) one Director who shall serve as the Chairman of the Board;
- (2) one Director who shall not be subject to any qualifications;
- (3) five Directors who shall be members of the Corporation; and

(4) two Directors who shall be "independent directors" as that term is defined in Section 6 of Exhibit B to this Certificate of Incorporation.

The provisions of this Article Sixth (c) shall be of no force and effect unless and until the Required Approval occurs.

(d) The terms of office of such Directors, the manner of their nomination, election or appointment, and other terms and conditions of their service shall be as provided herein and in Exhibit B to this Certificate of Incorporation, which exhibit shall be a part hereof, and in the Bylaws.

SEVENTH: The Corporation shall have Bylaws, which shall include the Rules of the Corporation (the "Rules"), relating to the business of the Corporation, the conduct of its affairs, and its rights or powers or the rights or powers of its members and other interest holders, Directors, officers, employees, agents or other persons having dealings with the Corporation. The Rules shall be set forth in, or incorporated by reference into, the Bylaws and shall be a part thereof. The Bylaws and the Rules may be adopted, amended or repealed by the membership in the manner provided in this Certificate of Incorporation and Exhibit A hereto. The Board of Directors may adopt, amend or repeal Regulations of the Corporation (the "Regulations") not in conflict with the Rules, which shall have the binding effect of Rules. By majority vote, the Board of Directors may delegate, to particular committees as designated by the Board, the power to adopt, amend or repeal Regulations. Applicants for membership and any person or entity holding any membership or other interest in the Corporation shall be required to sign a written agreement to observe and be bound by this Certificate of Incorporation and the Bylaws, Rules and Regulations of the Corporation, as each may be amended from time to time.

EIGHTH: Any person or entity holding any membership or other interest in the Corporation shall hold such membership or interest subject to this Certificate of Incorporation and the Bylaws, Rules and Regulations of the Corporation, as each may be amended from time to time, and shall be required to comply with all requirements hereof and thereof, including, without limitation, the requirements relating to proceeds of membership set forth in Rule 252.00 (as the same may be amended from time to time).

NINTH: The Merger of Old CBOT with and into this Corporation shall have no effect on any rights related to the Chicago Board Options Exchange, Incorporated, including, without limitation, the rights provided in Rule 210.00 (as the same may be amended from time to time), held by any person or entity holding any membership or other interest in the Corporation.

TENTH: A Director of the Corporation shall not be personally liable to the Corporation or its members for monetary damages for breach of fiduciary duty as a Director, except for liability (i) for any breach of the duty of loyalty to the Corporation or its members, (ii) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL, or (iv) for any transaction from which such Director derived an improper personal benefit. If the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors or members of

the governing body of a non-stock corporation, then the liability of such Director shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended. Any repeal or modification of this provision shall not adversely affect any right or protection of a Director existing at the time of such repeal or modification. For purposes of this Article, the term "Director" shall, to the fullest extent permitted by the DGCL, include any person who, pursuant to this Certificate of Incorporation, is authorized to exercise or perform any of the powers or duties otherwise conferred upon a board of directors by the DGCL.

ELEVENTH: The provisions of this Certificate of Incorporation may be amended, altered or repealed from time to time in accordance with Delaware law, provided that any such amendment, alteration or repeal must be approved by the membership in the manner set forth herein and in Exhibit A hereto.

IN WITNESS WHEREOF, this Amended and Restated Certificate of Incorporation, which restates and integrates and further amends the provisions of the Amended and Restated Certificate of Incorporation of this Corporation as heretofore in effect, and which has been duly adopted in accordance with Sections 242 and 245 of the Delaware General Corporation Law, has been executed by a duly authorized officer of the Corporation this 13th day of November, 2001.

**BOARD OF TRADE OF THE CITY OF
CHICAGO, INC.**

By: 
Name: Paul J. Draths
Title: Vice President and Secretary

EXHIBIT A**MEMBERSHIP**

The rights of members and other interest holders in the Corporation shall be subject to the following provisions:

Section 1. Terms and Conditions of Membership. The terms and conditions of membership in the Corporation, including, without limitation, the rights and obligations, including trading rights and privileges, of members (full, associate or otherwise), member firms, membership interest holders, delegates and all categories and classes of memberships and other interests in the Corporation, shall be as provided in the Certificate of Incorporation and this Exhibit A, and in the Bylaws, Rules and Regulations of the Corporation, as each may be amended from time to time.

Section 2. Election Procedures. Members shall vote to elect persons to serve on the Board of Directors and Nominating Committee as follows. The election of such persons shall be in charge of tellers appointed by the Chairman of the Board. If the Chairman of the Board appoints as teller a non-member employee of a member, the member shall require such employee to serve as teller upon the established terms. All votes shall be cast by secret ballot. No member shall vote who is not in good standing with the Corporation. Members may vote by mail in the Annual Election in the manner prescribed in Section 4 of this Exhibit A. The portions of ballots on which votes are cast for Directors and on which votes are cast for the Nominating Committee shall be rejected unless such portions are marked for a full ticket. The tellers shall receive the ballots and place the same in the ballot box, and shall keep a list of the members voting. After the election, the tellers shall count the ballots and report to the Chairman of the Board the names of the persons elected. The ballots shall be preserved for one month, and, upon request of any interested party, the Board may verify the correctness of the returns.

Section 3. Vote Necessary. The vote required at the Annual Election for the choice of elective offices shall be as specified in this Section.

(a) Chairman and Vice Chairman of the Board. A majority of all votes cast shall be necessary to elect a Chairman of the Board and to elect a Vice Chairman. If no candidate received a majority vote for Chairman of the Board or for Vice Chairman at the Annual Election, another ballot shall be taken fifteen days later, and if again there shall be a failure to elect, a third ballot shall be taken on the fifteenth following day, when a plurality shall elect. (11/01/00)

(b) Directors. A plurality of votes shall elect the Directors who are required to be Full Members of the Corporation; provided, however, that if none of the candidates for such offices receiving a plurality of votes is a non-resident member, the non-resident candidate receiving the largest vote as among all non-resident candidates shall be elected Director, in lieu of the resident candidate receiving the lowest winning plurality. A plurality of votes shall elect the Directors who are required to be Associate Members of the Corporation.

(c) **Other Elective Offices.** For all other elective offices, a plurality of votes shall elect.

Section 4. Voting by Mail. At the Annual Election and at all balloting on propositions submitted to a vote of the members, members may vote by mail by delivering a proxy to the Secretary of the Corporation, or any other person or persons designated by the Board of Directors for these purposes (collectively, the "Proxy"), in the manner hereafter provided. At least ten days prior to the balloting, the Proxy shall send to each member (1) a proxy ballot (a "Proxy Ballot") with which the member can appoint the Proxy as proxy and direct the Proxy how to vote; and (2) a copy of the proposition(s) on which a vote is to be taken. Any member who so desires may mark and execute the Proxy Ballot and deliver or mail it to the Proxy. The Proxy shall deliver all such Proxy Ballots to the tellers in charge of the balloting, and the tellers shall indicate which members have submitted Proxy Ballots. The Proxy shall cast one or more ballots to vote, as proxy, as directed in the Proxy Ballots. No ballots received after the polls have closed shall be counted.

The latest dated Proxy Ballot of a given member delivered or received by mail shall be the Proxy Ballot followed by the Proxy with respect to such member. A member can revoke a Proxy Ballot by voting in person.

Section 5. Amendment of Bylaws. New Bylaws and Rules may be adopted and existing Bylaws and Rules may be amended or repealed by the membership. Proposed amendments may be recommended by the Board of Directors and, upon such recommendation, the Chairman of the Board shall call for a special meeting of the membership to be held not less than ten days or more than sixty days after the proposed amendment shall have been posted upon the bulletin board (which shall not be later than the date Proxy Ballots are sent to each member) and notice thereof shall have been sent to the members. All votes shall be cast by Proxy Ballot pursuant to Section 4 of this Exhibit A or otherwise in person or by proxy. For such proposed amendment to be approved, at least 300 votes must be cast, with at least a majority of such votes being cast in favor of the amendment; if less than 300 votes are cast, such proposal shall be resubmitted to the membership in accordance with the procedures set forth in this Section 5 of this Exhibit A. If twenty-five members or more petition for a special meeting for the purpose of voting upon any proposed amendment, the Board of Directors, within thirty days or at the next regular Board of Directors meeting, whichever is sooner, shall either approve and recommend the proposed amendment and call for a special meeting to vote upon such amendment, or report to the petitioners the reason for its disapproval. If, within thirty days after such disapproval, one hundred members or more petition for a special meeting for the purpose of voting upon such proposed amendment, a special meeting shall be called for in accordance with the procedures set forth in this Section 5 of this Exhibit A as though the proposed amendment had been recommended by the Board of Directors.

A petition for a special meeting for the purpose of voting upon an amendment which in the opinion of the Board of Directors involves the same or substantially the same subject matter as has been submitted to a vote of the membership at a special meeting at which at least 300 votes were cast at any time within the twelve months immediately preceding the receipt of such petition by the Board of Directors shall require the signatures of at least one hundred members.

The Board of Directors shall within thirty days or at the next regular Board of Directors meeting, whichever is sooner, either approve and recommend the proposed amendment and call for a special meeting to vote upon such amendment, or report to the petitioners the reason for its disapproval. If, within thirty days after such disapproval, two hundred and fifty members or more petition for a special meeting for the purpose of voting upon such proposed amendment, a special meeting shall be called for in like manner as though the proposed amendment had been recommended by the Board of Directors and, for such amendment to be approved, at least 300 votes must be cast, with at least two-thirds of such votes being cast in favor of such amendment.

Every petition for amendment shall be signed and dated by each petitioning member. It shall be considered an act detrimental to the welfare of the Corporation for any member to sign a petition for a special meeting for the purpose of a vote on an amendment despite disapproval of such amendment by the Board of Directors unless and until the Board of Directors shall actually have disapproved submission of such amendment.

Section 6. Amendment of Amendment of Bylaws. During the period of posting of an amendment in accordance with Section 5 of this Exhibit A, such amendment may be amended at a special meeting held for that purpose if the amendment to the proposed amendment is approved in a vote of the membership in which at least 300 votes are cast and at least a majority of such votes are cast in favor of the amendment to the proposed amendment. If the proposed amendment is thus amended, the amended amendment shall then be posted for at least ten days before submission to the membership for vote at a special meeting.

Section 7. Other Propositions For Vote By Members. Any proposition which the Board of Directors orders submitted to a vote of the members may be so submitted in accordance with the provisions of this Section 7 of this Exhibit A, unless provision for such a submission is specifically provided by some other provision of the Certificate of Incorporation or Bylaws. Such a proposition may be an amendment to the Corporation's Certificate of Incorporation, or may be any other proposition which by law or by the Bylaws or by the Regulations or by order of the Board of Directors for any other reason is required to be so submitted to a vote of the members. Any number of propositions not exceeding five may be submitted concurrently to such a vote of the members.

In submitting any proposition to a vote of the members, the Board of Directors shall adopt a resolution setting forth such proposition, recommending its adoption and ordering it to be submitted to a vote at a special meeting of the members. Thereupon, the Chairman of the Board shall cause such proposition to be posted upon the bulletin board of the Corporation and shall call for a special meeting upon the proposition on a day to be fixed by the Chairman of the Board, which shall not be less than ten days or more than sixty days after the proposition shall have been posted upon the bulletin board. A notice of the date and time of such special meeting shall be given by mail to each member at least ten days in advance of the date upon which such vote is to be taken. Such notice may be accompanied by a letter from the Chairman of the Board in such form and with such content as the Board of Directors shall approve. A form of Proxy Ballot setting forth the proposition(s) to be voted upon and providing an appropriate space for use by the member in voting "for" or "against" the proposition shall be supplied to each member.

Any such proposition thus submitted to a vote of the members shall be deemed adopted if at least 300 votes shall have been cast in the special meeting and a majority of the votes thus cast shall have been in favor of the adoption of the proposition.

Section 8. Voting Rights. Each Full Member shall be entitled to one vote on all matters that are subject to a vote of the general membership. Each Associate Member shall be entitled to one-sixth (1/6) of one vote on all matters that are subject to a vote of the general membership. Until surrendered for an Associate Membership, no one-half (1/2) participations or multiples thereof, shall have any voting rights. In addition, except as otherwise provided herein, no other member or Membership Interest holder (as defined in the Rules) shall have any voting rights.

EXHIBIT B**BOARD OF DIRECTORS**

The Board of Directors shall be subject to the provisions set forth below:

Section 1. Chairman of the Board. The Chairman of the Board shall be the presiding officer of all membership and Board of Directors meetings and shall exercise such powers and perform such duties as generally appertain to that office. Subject to the approval of the Board of Directors, he may appoint special committees and all other committees where the method of appointment is not otherwise provided for, and may temporarily fill any vacancy in any appointive office other than non-member Director.

Section 2. Vice Chairman. Until the first Annual Election following the Required Approval, the Vice Chairman of the Board ("Vice Chairman") shall perform the duties of the Chairman of the Board in his absence or disability. In the absence or disability of the Chairman of the Board and, to the extent the Vice Chairman remains an elective office, the Vice Chairman, the Board of Directors may choose temporarily an Acting Chairman of the Board.

Section 3. President. (1) The Board of Directors may elect a President of the Corporation, who shall be a non-member, by the affirmative vote of at least two-thirds of the full Board of Directors; (2) the Board of Directors is expressly authorized, by such affirmative vote, to fix the compensation of such President, to prescribe the duties to be performed by him and to prescribe a tenure of office which tenure shall be subject to termination for good cause or otherwise, by a vote of not less than two-thirds of the full Board of Directors; and (3) the Board of Directors is expressly authorized to delegate to the President full power to carry on the day-to-day activities of the Corporation, reserving to itself in such case the authority to review the activities of the President and to determine the policies of the Corporation.

Section 4. President's Duties. (1) The President shall be the Chief Executive Officer of the Corporation responsible to the Board of Directors for the management and administration of its business affairs; (2) he shall serve as chief liaison between the Corporation and the public, including federal, state and local government agencies; (3) he shall be a non-voting Director of the Corporation and a non-voting member of the Executive Committee and shall be included for purposes of determining whether a quorum of the Board of Directors or the Executive Committee is achieved; (4) he shall be an ex officio non-voting member of all appointed and special committees of the Corporation of which he is not a regular member; (5) he shall employ such subordinate administrative personnel as he may determine from time to time are required for the efficient management and operation of the Corporation, and shall establish the qualifications, duties and responsibilities of all subordinate administrative personnel; (6) subject to the approval of the Board, he shall fix the compensation, terms and conditions of employment of all subordinate administrative personnel, and may terminate the employment of such personnel; (7) he shall supervise the activities of the Departments of the Corporation; (8) he shall execute all contracts on behalf of the Corporation; (9) he shall not engage in any other business during his incumbency as President, nor shall he trade for his own account or for the

account of others in any commodity which is traded on the Board of Trade of the City of Chicago; and (10) by his acceptance of the office of President, he shall be deemed to have agreed and he shall have agreed to uphold the Certificate of Incorporation and Bylaws, and the Rules, Regulations and Interpretations, of the Corporation. The Board may confer upon the President such other and additional rights and responsibilities as it may deem warranted; provided, however, that the Board shall not confer upon the President the power to formulate the policies of the Corporation or to take disciplinary action, arbitrate disputes or adjust claims against members except in his capacity as Director upon review of such matters.

Section 5. Tenure of Office.

(a) Except as otherwise provided in Section 5(b) of this Exhibit B, the following provisions relating to tenure of office shall apply:

(1) The term of office of the Chairman of the Board and the Vice Chairman of the Board shall commence immediately following the Annual Election (as defined in the Bylaws) at which he or she is elected and will expire at the second Annual Election thereafter. The term of office of each elected Director shall commence immediately following the Annual Election at which he or she is elected and will expire at the third Annual Election thereafter, except as provided in Section 7 of this Exhibit B. In addition, each non-member Director shall be nominated and appointed pursuant to Section 5(a)(4) of this Exhibit B. The term of the office of each non-member Director shall commence immediately following the Annual Election designated by the Board as the beginning of his or her term of office and will expire at the fourth Annual Election thereafter.

(2) If a vacancy occurs in the office of non-member Director, such vacancy will be filled by a successor nominated and approved pursuant to Section 5(d) of this Exhibit B. The successor non-member Director will take office at the meeting following approval and shall hold office for the remainder of the applicable four-year term.

(3) No member shall be elected by the members of the Corporation to more than:

- Three consecutive two-year terms as Chairman of the Board; or
 - Three consecutive two-year terms as Vice Chairman of the Board;
- or
- Two consecutive three-year terms as elected Director.

The foregoing term limits shall apply separately and distinctly to each of the specified elective offices (i.e., Chairman of the Board, Vice Chairman of the Board, and elected Director). In addition, any terms served in substantially the same office with predecessors to the Corporation shall be counted for purposes of the foregoing term limits. A member who has reached a consecutive term limit in any one of the specified

elective offices shall not thereby be ineligible for election to any other elective office on the Board.

(4) The names of all candidates for the non-member Directors' positions shall be submitted to the Corporation's Nominating Committee. It will be the responsibility of the Nominating Committee to review the qualifications of the candidates and present to the Board of Directors the names of those candidates which the Nominating Committee believes are best qualified to serve on the Board of Directors. The Board of Directors will elect candidates from among those submitted by the Nominating Committee which the Board of Directors believes are best qualified to serve the membership.

(b) On and after the first Annual Election following the Required Approval, the provisions of Section 5(a) shall be of no further force and effect and the following provisions relating to tenure of office shall apply:

(1) Except as otherwise provided in Section 5(b)(2) of this Exhibit B, the term of each Director in office immediately prior to the first Annual Election following the Required Approval shall expire in connection with such Annual Election.

(2) Notwithstanding anything else set forth in this Certificate of Incorporation, the position of the Chairman of the Board shall not be elected at the first Annual Election following the Required Approval but rather shall be held by the person who held the office of the Chairman of the Board immediately prior to the first Annual Election following the Required Approval.

(3) Except as otherwise provided in Section 5(b)(4) of this Exhibit B, each Director elected in connection with the first Annual Election following the Required Approval or thereafter shall have a term of office that will commence immediately following the Annual Election at which he or she is elected and will expire at the first Annual Election following such Director's election. There shall be no limit to the number of terms a Director may serve on the Board of Directors.

(c) If a vacancy occurs in any elective office due to death, resignation or other reason, such vacancy may be filled by a successor elected by the Board of Directors to serve until the next Annual Election or until his or her successor is elected and qualified. If any Director shall absent himself without an excuse from six consecutive regular meetings of the Board of Directors, his or her office may be declared vacant.

(d) For purposes of this Certificate of Incorporation, the "Effective Time" shall mean the effective time of this amendment and restatement of the Certificate of Incorporation to be filed with the Secretary of State of the State of Delaware in connection with the modernization of certain aspects of the Corporation's corporate governance structure, including, but not limited to, the possible reduction in size of the Board of Directors from 18 directors to nine directors.

Section 6. Qualifications for Elective Office.

(a) No person shall be a candidate for a non-resident Full Member Directorship as defined in Article SIXTH of the Certificate of Incorporation unless that person:

(1) Has been a Full Member for at least three months immediately preceding the deadline for petition candidacy as specified in the Bylaws;

(2) Remains a Full Member thereafter through and including his election; and

(3) Has prior experience in the futures industry.

(b) No person shall be a candidate for any other Directorship or elective office required to be filled by a member unless that person is a member at the time of standing for election and has been a member of the Corporation for at least one year next preceding his election. Notwithstanding the foregoing, to the extent a candidate for director is required to be a Full Member, such candidate may count time as an Associate Member towards such one year obligation.

(c) All Directors and members of the Nominating Committee required to be Full Members, which include the Chairman of the Board and Vice Chairman of the Board elected prior to the Required Approval, or Associate Members of the Corporation, shall remain as such throughout their terms. All Directors and members of the Nominating Committee shall be referred to as the "elective officers." Notwithstanding the above, a Director who is required to be an Associate Member and has completed at least one and one-half years of his/her current term of office may continue in that office of Director for the remainder of that term provided that such Director continuously remains either an Associate Member of the Corporation or a Full Member of the Corporation.

(d) Individual delegates of memberships who do not separately hold in their own name a membership of the appropriate class are not eligible to be an elective officer as defined in Section 6(d) of this Exhibit B. Members shall not be ineligible for elective office or for committee appointments based on their having delegated their memberships.

(e) For purposes of Article Sixt(c) of this Certificate of Incorporation, "independent director" means a person other than an officer or employee of the Corporation or its subsidiaries or any other individual having a relationship, which, in the sole and absolute discretion of the Board of Directors, or in the case of a nominee, the Nominating Committee, would interfere with the exercise of independent judgement in carrying out the responsibilities of a Director. The following persons shall not be considered independent:

(1) a Director who is a member of, or employed by, the Corporation or any of its affiliates for the current year or any of the past three (3) years;

(2) a Director who accepts any compensation from the Corporation or

any of its affiliates in excess of \$60,000 during the previous fiscal year, other than compensation for board service, benefits under a tax-qualified retirement plan, or non-discretionary compensation, or who primarily performs services for the Corporation in a capacity other than as a member of the Board of Directors;

(3) a Director who is a member of the immediate family of an individual who is, or has been in any of the past three years, employed by the Corporation or any of its affiliates as an executive officer. Immediate family includes a person's spouse, parents, children, siblings, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law and anyone who resides in such person's home;

(4) a Director who is a partner in, or a controlling stockholder or an executive officer of, any for-profit business organization to which the Corporation made, or from which the Corporation received, payments that exceed 5% of the Corporation's or business organization's consolidated gross revenues for that year, or \$200,000, whichever is more, in any of the past three years;

(5) a Director who is employed as an executive of another entity where any of the Corporation's executives serve on that entity's compensation committee; and

(6) a Director who is an officer, principal (as defined in the Commodity Exchange Act and applicable Regulations promulgated thereunder) or employee of a firm, which holds a membership either in its own name or through an employee on behalf of the firm.

Section 7. Elective Officers.

(a) Unless and until the Required Approval occurs, the following provisions shall apply:

(1) At the first Annual Election following the Effective Time and at every second Annual Election thereafter, the members of the Corporation shall elect as an officer a Vice Chairman of the Board.

(2) At the first Annual Election following the Effective Time and at every third Annual Election thereafter, the members of the Corporation shall elect the following as officers: three Directors who shall be Full Members (including at least one non-resident as defined in Article SIXTH of the Certificate of Incorporation) and one Director who shall be an Associate Member (and who shall not be a non-resident member as defined in Article SIXTH of this Certificate of Incorporation),

(3) At the first Annual Election following the Effective Time, the members of the Corporation also shall elect, for a two-year term, one Director who shall be a Full Member and a non-resident as defined in Article SIXTH of this Certificate of Incorporation.

(4) At the second Annual Election following the Effective Time and at every second Annual Election thereafter, the members of the Corporation shall elect as an officer a Chairman of the Board,

(5) At the second Annual Election following the Effective Time and at every third Annual Election thereafter, the members of the Corporation shall elect the following as officers: Three Directors who shall be Full Members (including at least one non-resident as defined in Article SIXTH of this Certificate of Incorporation), one Director who shall be an Associate Member (and who shall not be a non-resident member as defined in Article SIXTH of the Certificate of Incorporation).

(6) At the second Annual Election following the Effective Time, the members of the Corporation also shall elect, for one year terms, two Directors who shall be Full Members.

(7) At the third Annual Election following the Effective Time and at every third Annual Election thereafter, the members of the Corporation shall elect the following as officers: Three Directors who shall be Full Members (including at least one non-resident as defined in Article SIXTH of the Certificate of Incorporation).

(b) The following provisions shall apply whether or not the Required Approval has occurred:

(1) At the first Annual Election following the Effective Time and at every third Annual Election thereafter, the members of the Corporation shall elect as officers one member of the Nominating Committee who shall be a Full Member and one member of the Nominating Committee who shall be an Associate Member.

(2) At the first Annual Election following the Effective Time, the members of the Corporation shall elect as an officer, for a two-year term, one member of the Nominating Committee who shall be a Full Member.

(3) At the second Annual Election following the Effective Time and at every third Annual Election thereafter, the members of the Corporation shall elect as officers two members of the Nominating Committee who shall be Full Members.

(4) At the third Annual Election following the Effective Time and at every third Annual Election thereafter, the members of the Corporation shall elect as an officer, one member of the Nominating Committee who shall be a Full Member.